

GOVERNMENT OF PUERTO RICO
DEPARTMENT OF EDUCATION
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Associate assistant secretary, assistant secretary for Administration, assistant secretary for Academic and Programmatic Affairs, auxiliary secretaries, division, institutes and office directors, managers and assistant managers, executive directors, area and program directors, regional superintendents, school superintendents, auxiliary superintendents, instruction facilitators, school principals, teachers, student services assistants, parents/guardians, and the community at large.

PUBLIC POLICY ON PROVIDING SERVICES TO STUDENTS PLACED BY PARENTS IN PRIVATE SCHOOLS OR UNDER A HOMESCHOOLING MODALITY WITH AN EQUITABLY FUNDED SERVICE PLAN FOR THE 2023-2024 SCHOOL YEAR

The Puerto Rico Department of Education (“DEPR” in Spanish), under the provisions of the federal law Individuals with Disabilities Education Improvement Act (IDEIA) and its regulations (Sections 300.130 - 300.144), is responsible for locating, identifying, registering, evaluating, and offering appropriate public placement to students determined eligible for the Special Education Program (“PEE” in Spanish) who are placed in public schools, private schools, or under a homeschooling modality. Hence, a proportional amount of funds will be set aside annually to provide services to this population and this information will be provided to parents and caregivers of students with functional diversity, as well as to officials of private institutions.

Legal Basis

Public Law 108-446 of December 3rd, 2004, known as the Individuals with Disabilities Education Improvement Act (IDEIA), amends Public Law 105-17 of June 4, 1997. Sections 300.130-300.144 of the IDEIA regulations establish the responsibility of the DEPR to locate, identify, register, evaluate, and provide appropriate public placement to students determined eligible for the PEE who are placed in public schools, private schools, or under a homeschooling modality. Furthermore, section 300.137(a) of the IDEIA regulations states that this student will no longer have an individual right to receive all special education and related services that the student would receive if enrolled in a public school.

The services these students will receive will be determined annually, based on federal funds allocated for these services, and after having a consultation process, through activities with parents and private school officials.

Act 51- 1996, as amended, known as the "Law of Comprehensive Educational Services for Persons with Disabilities," guarantees the provision of comprehensive educational services for people with functional diversity. It also creates the Auxiliary Secretary for Comprehensive Educational Services for Persons with Disabilities and grants powers and faculties to coordinate the provision of services by executive agencies. It also establishes the responsibilities of the executive agencies, reauthorizes the Advisory Committee, redefines its composition, functions and duties, and provides for the allocation of state funds.

Responsibility to identify, locate, register, evaluate, and provide appropriate public placement for students in need of special education who are placed by their parents in private schools or under a homeschooling modality.

Through the Centers for Special Education Services ("CSEE" in Spanish), each regional office of education ("ORE" in Spanish) is responsible for locating, identifying, registering, and evaluating students with special needs who are enrolled by their parents in private schools, including religious schools, elementary schools, secondary schools, and under the modality of homeschooling within their area. Child identification activities should be similar to those carried out by ORE for public school students. The process of registration, evaluation, eligibility determination, and writing an initial proposal of an Individualized Education Program ("PEI" in Spanish) is the same as for public school children. This means that upon registration of the student, the CSEE has a term of 30 calendar days to evaluate the student and 60 calendar days from registration to determine eligibility and write a PEI proposal. Considering the above, the costs of the initial evaluation process and reevaluations in the disability category will be covered by the DEPR.

When a student placed in a private school by his/her parents or under a homeschooling modality is determined eligible to receive services from the Special Education Program, the DEPR will make an initial PEI proposal to be implemented in a public school. As part of this process, the student will be offered a placement alternative that will address the student's academic needs and a public school where educational and related services are available. Parents may accept or decline the PEI proposal, the educational placement alternative and the public school offered.

If the parents decline public placement and choose to keep the student in private school or under a homeschooling modality, it will be considered a refusal of public placement, and a Service Plan ("PS" in Spanish) will be prepared in lieu of a PEI. IDEIA allows a proportionate share of approved funds to be used to provide special education and related services to students placed by parents in private schools or under a homeschooling modality. In this case, in accordance with section 300.137(a) of the IDEA regulations, this student will no longer have an individual right to receive all the special education and related services that he or she would

receive if enrolled in a public school. The services that these students will receive will be determined annually, based on federal funds allocated for these services, and after a process of consultation is carried out, through activities with parents and private school officials.

Consultation Process

Under IDEA, consultation is essential to ensure that the DEPR provides an opportunity for children and youth with functional diversity enrolled in private schools or under the modality of homeschooling to participate in services. To do so, the DEPR will consult on an annual basis with parents, caregivers, and private school officials regarding:

- How children suspected of having a disability can participate in program services.
- How parents, teachers, and private school representatives can be informed about program services.
- What type(s) of service(s) are recommended to be offered during the upcoming school year.
- How communication between ORE; parents, caregivers and private schools is recommended to be improved.
- Identify those parents and private school officials who have an interest in serving as part of the central committee on equitable services in charge of discussing the information gathered in the consultation process and providing recommendations of services for private school students and homeschool students.

Once recommendations are collected as a result of the consultation process, the central committee on equitable services is formed, which should be composed by officials and parents representing private schools and parents of homeschool students, as well as the staff of each ORE. The committee's function is to analyze the collected data and offer recommendations in each of the above areas or any others that may be recommended by its members. This information is gathered in a document called Affirmative Letter, which will be submitted to the Secretary of Education for his evaluation and final decision.

Allocation of Federal Funds

The amount of proportional funds to be allocated to provide services to this population will be established after identifying the number of students with functional diversity placed by their parents or guardians in private schools and under the modality of homeschooling. The formula established by the Federal Government is based on the total number of children with functional diversity ages 3 to 21, including those eligible for PEE¹ services placed by their parents in private schools or under a homeschooling modality divided by the total number of eligible children with functional diversity ages 3 to 21, including those placed in public schools, private schools, and under a homeschooling modality. The formula is:

¹ This is not the number of students served.

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| Total federal funding allocation | | | | |
| Total eligible students in public schools, private schools and under homeschooling | x | Number of students placed by parents in private schools and under homeschooling | = | Total funds allocated to provide equitable services |

In addition, the federal government requires each educational agency to determine the mechanism to be used in case these funds are depleted. The DEPR is not prevented from identifying additional funds from its state budget to provide services to this population.

Documentation of services to be provided to eligible students with a PS

The DEPR is responsible for spending its proportionate share of IDEA federal funds on direct services to children and youth, whether provided by agency staff or by contract with a third party. All services to be provided under equitable funding must be documented in a Service Plan (“PS” in Spanish).

The drafting of the PS will be in charge of the COMPU affiliated to the student's ORE of residence, which will have a Special Education teacher and a regular teacher from the private school² in order to identify the educational needs presented by the student and validate if these are addressed by the services available for this group of students. A PS will only reflect those services that the DEPR will provide as determined by the Secretary of Education, after evaluating the Affirmative Letter prepared by the central committee on equitable services. Those services recommended to students not established for the school year will be documented in the minutes of the COMPU meeting.

The guidelines for writing the PS are contained in Section 9 of the Special Education Procedures Manual (2020).

Preschool students (3 to 5 years old)

A student is considered in preschool from when he/she turns 3 until they turn 5 years old, no later than August 31st. The process of identifying, locating, registering, evaluating, and determining eligibility is the same as for school-age public school students. When a preschool student is determined eligible, a PEI will be prepared, which will contain the preschool related services that the DEPR will provide. A preschool student's PEI is designed to be implemented while the student is receiving age-appropriate experiences at home, at a childcare center, or

² Whether in person or an alternative format.

public or private preschool. It is the responsibility of the DEPR to identify the alternative placement in a public school or in a Head Start center near the home. If a public placement is not identified, the placement alternative will be created or purchased from a private school. The student is considered to be in school when he/she turns 5 by August 31st or when his/her parents determine to enroll him/her in kindergarten, and he/she is accepted. From that point on, he/she will be offered PEE services according to that of a school-age student.

The terms of this public policy regarding the provision of services under equitable funding do not apply to preschool age students.

Provision of services for the 2023-2024 school year to students who have a Service Plan (PS).

Under the IDEIA, the DEPR is responsible for establishing public policy on how federal funds will be used to provide services to students placed by parents in private schools or under the modality of homeschooling. As a result of the conducted survey, it was documented in the Affirmative Letter from the consultation process that parents and officials recommended that the funds be used for the provision of related services, with psychological therapy, speech and language therapy, and occupational therapy being the three most recommended options. Furthermore, during the meeting with the central committee, it was recommended that priority be given to students on the waiting list for services due to the availability of funds, plus services of ABA, dysphagia, transportation, and student service assistant (T1) should be added. In his authority to establish which services will be offered, the Secretary of Education has established that, at this time, the recommendation to offer the services of a student service assistant will not be accepted due to the difficulty in recruitment.

In accordance with the above, and after analyzing the recommendations gathered during the consultation process, the funds allocated for this population, during the 2023-2024 school year, will be to provide services for:

1. Speech and language evaluation and therapy,
2. Occupational evaluation and therapy, including sensory therapy,
3. Psychological evaluation and therapy, and
4. Physical evaluation and therapy.

However, by grant of the secretary and via exception, **students already receiving the following related services under equitable funding** will be authorized to continue them:

1. Speech and language evaluation and therapy,
2. Occupational evaluation and therapy, including sensory occupational therapy,
3. Psychological evaluation and therapy,
4. Physical evaluation and therapy,
5. Educational therapy, and
6. Vision-functional therapy.

This determination will not allow these funds to provide services not contemplated in this public policy, including those provided under the interim remedy mechanism. It should be noted that, pursuant to section 300.139(b) of the IDEA regulations, if transportation is required for the child to benefit from equitable services, it may be provided. In this case, the cost of transportation will be considered in this section in calculating whether the requirement to use funds for the provision of services to students placed by parents in private schools has been met.

The provision of authorized services will begin from August for those PS signed during the period from March to July; and from the signing of the PS, for those completed during the school year, and will end on May 31, 2024, or earlier, if deemed necessary by the specialist providing the service or until the available funds allow.

Mechanisms to address lack of funds

Per IDEA, educational agencies are responsible for establishing the mechanism(s) used if the funds provided to offer services to students with a PS are exhausted. In response, the DEPR will have a waiting list mechanism available. In these cases, the PS will detail the services approved in this public policy, and the **pending funds** status will be assigned while it is on the waiting list. The assigned turn will be valid until June 30 of the school year in which the PS is signed. Parents and guardians will receive a turn for each related pending service. The COMPU minutes will detail the recommended services that are on the waiting list. Once additional funds are identified or new spaces become available due to approvals of services for other students, the ORE will notify parents and guardians, according to their turn, to start the provision of the service.

Transfer of students from public school to private school

If a student receives educational services in a public school and the parents or caregivers decide to transfer the student to a private school, they have the responsibility to notify the DEPR of their intention in writing, 10 business days before removing the student from the public school. Upon notification, the DEPR is responsible for immediately convening the COMPU to discuss the reasons presented by the parents to retain the student in the school. If the parents express their irrevocable intention to move the student, related services will be provided as established in this public policy, except for those students who have an active service as indicated earlier, they will continue to receive them until May of the current year and a turn will not be activated for them in case funds are not available.

Dispute Resolution

In cases where a dispute arises between parents or guardians and DEPR officials, both parties have the right to file an administrative complaint, as provided in the Complaints Regulation and Section 19 of the Special Education Procedure Manual (2020).

Validity

This public policy shall be effective immediately for all students who, from the date of issuance of this communication, request services under these funds.

Additional Information

To clarify doubts about the content of this communication, you can visit the Department of Education's portal: <https://de.pr.gov/educacion-especial/> or contact the Student, Parent, and Community Service Unit / Disclosure attached to the Associate Secretary of Special Education.

This public policy supersedes previous provisions or other established norms that contravene it, through conflicting public policy or memoranda, in whole or in part.

We request faithful compliance with these guidelines.

Signed link
Lcdo. Eliezer Ramos Parés
Secretary

Attachment