



**STATE OF CONNECTICUT**  
*DEPARTMENT OF EDUCATION*



To: Directors of Special Education  
Parent Advocates and Attorneys  
Board of Education Attorneys

From: Anne Louise Thompson, Bureau Chief

Date: October 31, 2008

Subject: LEA Excess Cost Grant and State Agency Placement Grant for Placements in Facilities Approved or Not Approved for Special Education

Over the past year, there has been an ongoing review of grant requests submitted by public school districts for local education agency (LEA) excess cost and State agency placement grants. The Bureaus of Special Education and Data Collection, Research and Evaluation have been reviewing grant submissions from districts concerning cases in which a child is receiving special education instruction in approved special education facilities or facilities not approved for special education. In some cases, a school district or State agency made the placement in the facility. In other cases, the parent and the district have been in disagreement over what constitutes an appropriate program and placement for the child and in an effort to resolve the dispute, the parent and the district have negotiated an agreement regarding the child's program and placement.

There are various types of agreements: a settlement agreement from the resolution session associated with a due process hearing, a mediation agreement or a settlement agreement finalized before the case is completed at a due process hearing. There may also be other circumstances where the district and the parent have come to an agreement without utilizing the special education due process procedures.

In order to clarify questions concerning school district eligibility for the excess cost grant and the State agency placement grant, the following applies:

**I. School District Initiated Placements: School District Eligibility for the LEA Excess Cost Grant**

**A. Facilities approved for special education: School District Eligible for the LEA Excess Cost Grant**

A district may qualify for a LEA excess cost grant under Connecticut General Statutes (CGS) Section 10-76g (if the grant threshold is met) when it initiates a placement in an approved special education facility.

**B. Facilities not approved for special education: School District Not Eligible for the Excess Cost Grant**

A district will not qualify for a LEA excess cost grant (even if the grant threshold is met) under CGS Section 10-76g for any placement initiated by the district in a facility not approved for special education. CGS Section 10-76d(d) is clear that in order for a school district to receive payment under CGS Section 10-76g, “each such private school, agency or institution has been approved for special education by the Commissioner of Education or by the appropriate agency for facilities located out of State.”

**C. Facilities not approved for special education: School District Eligible for the Excess Cost Grant**

A school district may utilize preschool programs not approved for special education and receive an excess cost grant if conditions are met for utilizing a preschool program not approved for special education (See CGS Section 10-76d(b)) and the grant threshold is met.

**D. Organizations approved for transition/vocational services: School District Eligible for the Excess Cost Grant**

A school district may utilize a transition/vocational program or services to provide occupational training programs to eligible students and may receive an excess cost grant under the following conditions (See CGS Section 10-76d(d)). The district is eligible for an excess cost grant if the program or services are being provided by an approved vendor of such services, the student is not working on earning credits for a regular high school diploma, the student is between the ages of 16 and 21 and the grant threshold is met. Transition/vocational programs are not approved to be providing academics toward a high school diploma. Any program which is coded as an “82” in the special education data application and collection (SEDAC) system by the Department of Education is not approved to provide academic credit toward a regular high school diploma. A district will not be eligible to receive an excess cost grant if a student is earning academic credit toward a regular high school diploma in a facility coded as an “82”, transition/vocational program.

**II. Parent Initiated Placements: School District Eligibility for the Excess Cost Grant**

**A. Parent initiated placement in a facility approved for special education: School District Eligible for the Excess Cost Grant under certain conditions**

A district may receive a LEA excess cost grant for a placement in a facility approved for special education initiated by a parent if the following conditions are met: (1) the district has accepted programmatic responsibility for the child’s education through the development and implementation of an individualized education program (IEP); (2) the district has accepted fiscal responsibility by paying the costs for the child’s placement by the parent at the approved facility; and (3) the grant threshold is met.

**B. Parent initiated placement for other than educational reasons in a facility approved or not approved for special education: School District Eligible for the Excess Cost Grant under special circumstances**

CGS Section 10-76d(d) contemplates that children eligible for special education may need services other than educational services such as medical, psychiatric, or institutional care or services even though the district is able to meet the child's educational needs through a program and placement offered by the school district. In this situation, the parent places the child and requests that the school district pay for the cost of special education instruction at a private school, hospital or other institution which may or may not have an approved special education program. The school district *may* meet its obligation to provide special education to the child by agreeing to pay the reasonable costs of special education instruction. In such situations, the school district would be eligible for the LEA excess cost grant if: (1) the parent and the school district enter into an agreement indicating that the child's placement by the parent in the private school, hospital or other institution is proper and no State institution is available to meet the child's needs; (2) the school district assumes responsibility for the provision of special education instruction and provides for such services through a contract with the facility in the form of an IEP which the school district writes and ensures is implemented by the facility; and (3) the grant threshold is met. If there is an agreement between the parent and the school district, the agreement should indicate that the school district continues to be ready and willing to offer an appropriate program to the child.

**Under no circumstances may a school district initiate a child's placement under this provision of the statutes and seek to shift the non-educational costs to the parent.**

**C. Parent initiated placement in a facility not approved for special education: School District Eligible for Excess Cost Grant if placement ordered by Hearing Officer or Court**

If the parent and the district cannot come to an agreement about the child's placement, the parent may seek reimbursement from a school district for a unilateral placement in a facility not approved for special education through a due process hearing or court proceeding. Districts will be eligible to receive the LEA excess cost grant, if the grant threshold is met, for a unilateral placement made by the parent in a facility not approved for special education when a special education hearing officer or court of competent jurisdiction: (1) determines the district did not offer a free and appropriate public education (FAPE); (2) determines the child is receiving FAPE in the unilateral placement; and (3) orders the district to assume responsibility for the child's placement in the facility. An IEP must be developed by the school district and implemented within the facility.

**D. Parent initiated placement in a facility approved or not approved for special education: School District Not Eligible for Excess Cost Grant**

A school district may not receive the LEA excess cost grant under CGS Section 10-76g when the parent rejects the district's IEP and the parent unilaterally places their child in a facility approved or not approved for special education for educational reasons and the school district and parent negotiate an agreement which provides for the school district to assume some or all of the costs of the child's placement. This is true regardless of the forum through which the agreement was negotiated. However, the district may be eligible for the LEA excess cost grant for a unilateral placement in an approved facility if: (1) the district accepts programmatic responsibility for the child's education through the development and implementation of an IEP; (2) the district accepts fiscal responsibility by paying the costs for the child's placement by the parent at the approved facility; and (3) the grant threshold is met.

### **III. State Agency Placement Grant**

#### **A. State agency placement of students eligible for special education and related services in a facility which may or may not be approved for special education: School District Eligible for the State Agency Placement Grant**

When a State agency places a child eligible for special education in a facility under the provisions of CGS Section 10-76d(e)(2), which may or may not be approved for special education, the school district is required by State statute to assume the fiscal and programmatic responsibility for the education of the child. The State agency placement grant under CGS Section 10-76d(e)(2) is available for such placements when the grant threshold is met.

#### **B. State agency placement of students not eligible for special education in a private residential facility: School District Eligible for the State Agency Placement Grant**

When a State agency places a child in a private residential facility which may or may not be approved for special education and the child is not eligible for special education (i.e., receiving regular education instruction only), the State agency placement grant under CGS Section 10-253(b) is available when the grant threshold is met.

#### **C. State agency placement of students not eligible for special education in a day program: School District Not Eligible for the State Agency Placement Grant**

When a State agency places a child in a day program which may or may not be approved for special education and the child is not eligible for special education (i.e., receiving regular education instruction only), the State agency placement grant under CGS Section 10-76d(e)(2) and Section 10-253(b) is not available.

If you have any questions regarding these issues, please contact the Bureau of Special Education at 860-713-6910.