

## MEMORANDUM

**TO:** District Superintendents  
Directors of Programs for Students with Disabilities

**FROM:** Susan D. DuRant, Director  
Office of Exceptional Children

**DATE:** July 28, 2005

**RE:** Affirmation of Consultation with Private and Home School Representatives

The reauthorized Individuals with Disabilities Education Act (IDEA '04) requires each school district to effect timely and meaningful consultation with private school representatives prior to implementing child find activities to determine the number of parentally placed students with disabilities attending private schools located in the school district. Because the state treats students with disabilities in home schools in the same manner as parentally placed students with disabilities in private schools, with regard to the provision of special education and related services, school districts must also effect timely and meaningful consultation with home school representatives and representatives of parents of students in home school programs. To ensure meaningful consultation, the school district must consult with private school and home school representatives and representatives of parents of parentally placed private school students and home school students with disabilities during the design and development of special education and related services and any decision that affects the opportunities of eligible private and home school children. Private and home school representatives who should be included in the consultation process include, but are not limited to, representatives from individual private schools located in the school district, private school organizations, parent groups that involve parents of parentally placed students with disabilities attending private and home schools located in the school district, home school organizations, parents of students with disabilities whose home school programs were approved by the school district, and parents of students with disabilities whose home school programs were approved by home school organizations.

The consultation process must involve discussions on key issues concerning the opportunities for eligible private and home school students to receive special education and related services and provide a genuine opportunity for all parties to express their views and have those views considered. **It is not adequate consultation to send a letter to representatives of private and home schools and representatives of parents of students in private and home schools with a unilateral offer of services by the school district with no opportunity for discussion.** Once a year meetings or contact does not meet the intent of timely and meaningful consultation. The following topics must be discussed during the ongoing consultation process:

- The child find process and how parentally placed private and home school students suspected of having a disability can participate equitably, including how parents, teachers, and private school officials will be informed of the process;
- The consultation process among the school district, private and home school representatives, and representatives of parents of parentally placed private and home school students with

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- disabilities, including how the process will operate throughout the school year to ensure that parentally placed private and home school students with disabilities identified through the child find process can meaningfully participate in special education and related services;
- By whom special education and related services will be provided, including a discussion of types of services, including direct services and alternate service delivery mechanisms, how such services will be apportioned if funds are insufficient to serve all students, and how and when these decisions will be made; and
  - How, if the school district disagrees with the views of the private and home school representatives on the provision of services or the types of services, whether provided directly or through a contract, the school district will provide to the private and home school representatives a written explanation of the reasons why the school district chose not to provide services directly or through a contract.

Each school must maintain a copy and provide to the State Department of Education (SDE) a written affirmation, signed by representatives of each participating private and home school and representatives of private and home schools parents that the required consultation occurred. If representatives of any private or home school or representatives of private and home school parents do not provide and sign the affirmation within a reasonable period of time, the school district must forward documentation of the consultation process to the SDE. Examples of affirmation forms that school districts may use when consultation occurs and when attempts at consultation are unsuccessful are attached and may be used by the school district to document its efforts. Use of the attached forms is not mandatory. School districts may use any forms that include the necessary information to verify the consultation process occurred or was unsuccessfully attempted, and who was involved in the process.

Consultation must occur before child find activities are initiated and each school district must submit copies of the required affirmations from participating private and home school representatives and documentation of the consultation process if unable to obtain the affirmations from a particular private or home school representative no later than September 15, 2005. Affirmations and related documentation must be submitted to

Office of Exceptional Children  
Rutledge Building  
South Carolina Department of Education  
1429 Senate Street, Room 808  
Columbia, South Carolina 29201-3799

In accordance with the IDEA '04, a private or home school representative has the right to submit a complaint to the SDE if it believes that the school district did not engage in timely and meaningful consultation or did not give due consideration to the views of the private and home school representatives. The private or home school representative must provide the basis of the noncompliance by the school district in the complaint to the SDE, and the school district must forward the appropriate documentation requested by the SDE. If the private or home school representative is dissatisfied with the SDE's decision in the matter, the representative may submit a complaint to the United States Department of Education secretary with the basis of the noncompliance by the school district, and the SDE shall forward the appropriate documentation to the secretary.

We hope that this will provide some assistance and clarification. Please contact us at 803-734-8224 if you have questions.

SDD/bad  
Enclosures