TRANSFER STUDENTS WITH DISABILITIES

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Intra-State Transfers (same state)

☐ If a child with a disability (who had an IEP that was in effect in a previous public agency in the same State) transfers to a new public agency in the same State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide FAPE to the child (including services comparable to those described in the child’s IEP from the previous public agency), until the new public agency either—

☐ (1) Adopts the child’s IEP from the previous public agency; or

☐ (2) Develops, adopts, and implements a new IEP that meets the applicable requirements.

34 C.F.R. §300.323(e)

Intra-State Transfers (same state)

☐ In Texas, after verifying from the parents or previous district, the receiving district must either adopt the IEP from the prior district or develop, adopt, and implement a new IEP within 30 school days of the date of verification. 19 TAC §89.1050(j)(1).

☐ The prior school district must provide the new school district with a copy of the student’s records, including special education records, not later than 10 working days from the date the new district requests them. 19 TAC § 89.1050(j)(3).
### Inter-State Transfers (new state)

- **If a child with a disability (who had an IEP that was in effect in a previous public agency in another State) transfers to a public agency in a new State, and enrols in a new school within the same school year, the new public agency [in consultation with the parents] must provide the child with FAPE (including services comparable to those described in the child’s IEP from the previous public agency), until the new public agency—**
  - (1) Conducts an evaluation (if determined to be necessary by the new public agency); and
  - (2) Develops, adopts, and implements a new IEP, if appropriate, that meets the applicable requirements.

  34 C.F.R. § 300.323(f)

### Inter-State Transfers (new state)

- **In Texas, if no new evaluation is needed, the receiving district must develop, adopt and implement a new IEP within 30 school days from the date the new district verifies the student is eligible for special education.**

- **If the new district determines a new evaluation is needed, the receiving district must complete the initial FIE within the timelines established in the Commissioner’s Rules and develop, adopt and implement a new IEP within 30 school days from the completion of the initial FIE report if the student is determined to be eligible for special education.**

  19 TAC 89.1050(j)(2).

### Inter-State Transfers (new state)

- **What if the parent does not have a copy of the IEP and the district is unable to get a copy of the IEP from the previous district?**

  After taking reasonable steps to obtain the child’s records from the public agency in which the child was previously enrolled, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, if the new public agency is not able to obtain the IEP from the previous public agency or from the parent, the new public agency is not required to provide special education and related services to the child pursuant to 34 CFR § 300.323(f). Questions and Answers on Individualized Education Programs (IEPs), Evaluations, and Reevaluations, 111 LRP 63322 (OSERS 2011), Q/A IA-2.
Inter-State Transfers (new state)

If the district is unable to get a copy of the IEP from the previous district, can the district provide temporary services pending an evaluation? Even if the parent is unable to provide the child’s IEP from the previous public agency, if the new public agency decides that an evaluation is necessary because it has reason to suspect that the child has a disability, nothing in the IDEA or its implementing regulations would prevent the new public agency from providing special education services to the child while the evaluation is pending, subject to an agreement between the parent and the new public agency. Questions and Answers on Individualized Education Programs (IEPs), Evaluations, and Reevaluations, 111 LRP 63322 (OSERS 2011), Q/A RA-2.

Comparable Services

What does “comparable” mean?

“We do not believe it is necessary to define ‘comparable services’ in these regulations because the Department interprets ‘comparable’ to have the plain meaning of the word, which is ‘similar’ or ‘equivalent.’ Therefore, when used with respect to a child who transfers to a new public agency from a previous public agency in the same State (or from another State), ‘comparable’ services means services that are ‘similar’ or ‘equivalent’ to those that were described in the child’s IEP from the previous public agency....” 71 Fed. Reg. 46681 (August 14, 2006).