

Frequently Asked Questions Regarding the Claiming of Federal Reimbursement Funds available to School Districts that Provide Services to Special Education Students, and the Costs they incur in Conjunction with Claimable Administrative Outreach Activities

How and why are certain children deemed to be Special Education students¹?

Per the *Individuals With Disabilities Education Act*, School Districts² must evaluate each student who appears to have one or more of thirteen (13) disabilities³. The request for such an evaluation may come from the student's parent(s) – or from any School District staff who interact with the student. If this evaluation indicates that a student does, in fact, have any of those disabilities, then the student must be classified as a Special Education student.

What are a School District's responsibilities with respect to its Special Education students?

As set forth in the *Individuals with Disabilities Education Act*, School Districts must provide a "free and appropriate education" ("FAPE") to all of their Special Education students. In addition to providing appropriate educational services to those students, School Districts must also provide whatever related assistance, equipment, services, etc. that they need in order to receive those educational services. The related services that are most commonly provided include the following: Audiology Services; Counseling Services; Medical Services; Occupational Therapy; Physical Therapy; Psychological Services; Social Work; Speech/Language Therapy and Transportation.

How do School Districts pay for all of the assistance, equipment and services that they provide to their Special Education students?

The Federal government – and each individual State – provides some of the funds that School Districts utilize to pay for this assistance, equipment and services. The vast majority of these costs, however, are paid for via the School Districts' own funds. Most School Districts generate their own funds via local property taxes and/or local sales taxes.

¹ The term "Special Education student" is used in a generic sense throughout this document. In this regard, the term includes, but is not necessarily limited to, the following types of students: "Gifted"; "Exceptional"; "Special Populations"; Etc.

² The term "School Districts" is used in a generic sense throughout this document. In this regard, the term includes, but is not necessarily limited to, the following: Education Service Centers; Education Service Units; Local Education Agencies; Local School Districts; Unified School Districts; Etc.

³ Those thirteen disabilities are as follows: Autism; Deaf/Blindness; Deafness; Emotional Disturbance; Hearing Impairment; Mental Retardation; Multiple Disabilities; Orthopedic Impairment; Other Health Impairment; Specific Learning Disability; Speech/Language Impairment; Traumatic Brain Injury; and Visual Impairment/Blindness.

Are School Districts entitled to receive any other Federal funds with respect to the assistance, equipment and services that they provide to their Special Education students?

If a Special Education student is eligible for the Title XIX/Medicaid program or the Title XXI/State Children’s Health Insurance Program (SCHIP) program, then her/his School District is entitled to claim Federal reimbursement for some of the assistance, equipment and services that it provides to that student⁴. In order to qualify for such reimbursement, the assistance, equipment and service must be included in the applicable State’s “Title XIX/Medicaid State Plan” or its “Title XXI/SCHIP State Plan”; it must be specified in the student’s “Individual Education Plan”; it must be provided by a properly certified/licensed professional who is employed by – or under contract to – the School District; and it must be properly documented.

In addition to the above, School Districts are also entitled to claim Federal reimbursement with respect to some of the costs they incur in undertaking claimable Administrative Outreach-related activities. Examples of such claimable activities include, but are not limited to, the following: Application Assistance; Coordination and Monitoring of Health Services; Eligibility Outreach; Information Dissemination; Interagency Coordination; and Service Referral.

Are there any other applicable Federal statutes with respect to the assistance, products and services that School Districts provide to their Special Education students?

In addition to the *Individuals with Disabilities Education Act*, School Districts must also comply with all of the applicable provisions of the *Family Educational Rights & Privacy Act*, the *Health Insurance Portability & Accountability Act*, and the *Deficit Reduction Act of 2005*. In this regard, those Statutes impose the following additional requirements on School Districts:

- RE: *Family Educational Rights & Privacy Act (FERPA)*:

This statute was enacted by Congress to protect the privacy of student educational records. In this regard, School Districts are generally required to obtain permission from the student in order to release any such information concerning the student’s educational records to any third party. *FERPA* allows access to such information by School District staff who have a “legitimate educational interest” in same.

- RE: *Health Insurance Portability & Accountability Act (HIPAA)*:

HIPPA requires the U.S Department of Health and Human Services to develop a series of rules concerning health-related data. In this regard, these rules are intended to standardize the communication of electronic information between health care providers and insurers – and to protect the privacy of this information.

- RE: *Deficit Reduction Action of 2005 (DEFRA 2005)*:

⁴ School Districts generally receive only the Federal portion of the approved reimbursement rate for the assistance, equipment and services that they provide to Special Education students who are eligible to receive Title XIX/Medicaid benefits or Title XXI/SCHIP benefits. That reimbursement rate varies State-by-State – and it currently ranges from 56% to 82%. As a result, there are generally no State funds involved in this reimbursement process. Several States actually retain a portion of the Federal reimbursement funds to cover the administrative costs they incur in processing their School Districts’ claims.



Phone: 888.9ACCELIFY Fax: 877.9ACCELIFY
www.accelify.com

DEFRA contains several provisions that are intended to reform the Medicare program and the Medicaid program – and to reduce the Federal government’s related costs by \$11 billion over five (5) years. Under Section 6032 of *DEFRA 2005*, every entity that receives at least Five Million Dollars (\$5,000,000) per year of Title XIX/Medicaid funds must establish, by January 1, 2007, written policies for all of its employees – and for all of the employees of its agents and/or contractors. In addition, all such entities must provide detailed information about false claims, false statements and whistleblower protections under the applicable Federal and State fraud and abuse laws.