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## WHAT DOES SECTION 1306 MEAN TO YOUR DISTRICT?

Many districts throughout the commonwealth have resident students placed in facilities outside of the district's geographical boundaries. On the other hand, many districts have within their geographical boundaries, residential placements that house students who would otherwise be non-resident students of the district in which the facility is housed. What are the respective districts' special education obligations with regard to each situation?

In relevant part, Section 1306 of the Pennsylvania Public School Code provides as follows:

- (c) Except as provided in subsection (d), whenever a student described in this section is a suspected or identified eligible student as defined in 22 Pa. Code Chs. 14 (relating to special education services and programs) and 342 (relating to special education services and programs), the school district in which the institution is located is responsible for:
  - (1) providing the student with an appropriate program of special education and training consistent with this act and 22 Pa. Code Chs. 14 and 342; and
  - (2) maintaining contact with the school district of residence of the student for the purpose of keeping the school district of residence informed of its plans for educating the student and seeking the advice of that district with respect to the student.
- (d) The student's school district of residence and the school district in which the institution is located may agree to an arrangement of educational and procedural responsibilities other than as contained in subsection (c), provided that the agreement is in writing and is approved by the Department of Education after notice to and an opportunity to comment by the parents of the student.

When a non-resident student is placed in a residential facility (including group home, psychiatric hospital, therapeutic foster care, etc.), the district in which the facility is located (the host district) is responsible for providing special education and related services to the non-resident student. 24 P.S. §13-1306(c). Host districts have been found to have an affirmative responsibility to "locate" and service students who are placed in those facilities. See, *R.T. v. Tunkhannock Area School District* ODR case #10171-08-09-LS (April 27, 2010) (Jake McElligott). The host district should coordinate with the district of residence regarding the educational services to be provided and also keep the district of residence informed with regard to the student's educational programming. Pursuant to 24 P.S. §13-1309(2), the district in which the facility is located may bill the district of residence for services provided by the host district to the non-resident student, in addition to any tuition that may be charged to the district of residence, as long as the cost billed does not exceed the actual cost of services provided.

Clients who have questions regarding issues discussed in this article, or any education law matter, should feel free to call us at 215-345-9111.

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