

## Sole Source Placement

When an IEP Team determines that a student should be placed in an out-of-district private special education school, they begin by looking at schools that are approved by the Massachusetts Department of Elementary and Secondary Education (ESE). There are many of these, and most are listed in the Massachusetts Association of 766 Approved Private Schools Directory, available online at [www.spedschools.com](http://www.spedschools.com)

Public school administrators often tell parents that they can only place students at an ESE-approved school, and that unapproved schools are simply not an option. This is incorrect. While preference is always given to ESE-approved schools, if no approved school can be found to meet the student's unique needs, regulations do allow for the placement of students in unapproved private special education schools. Those regulations state in part:

*“A school district that places a student in a program that has not been approved by the Department [ESE] ... must ensure that such programs and services are provided in appropriate settings by appropriately credentialed staff able to deliver the services on the student's IEP.”*

603 CMR 28.06(3)(e)

In much the same way that health care plans allow their members to see doctors who are out-of-network when no suitable in-network doctor is available, ESE allows for the placement of students in non-ESE-approved private special education schools. Such a placement is called a *sole source placement* because it is the only (or sole) placement that can meet the student's needs.

Before placement in an unapproved school can proceed, the public school district must demonstrate that it has made a comprehensive search for an approved school, and be able to explain why the approved programs it explored cannot provide the services the student needs. The public school must send out referral packets to a number of approved schools and the parent and student will need to take the time to visit and be interviewed by those

schools if asked. This is a time consuming, but absolutely necessary, step in the process.

After a number of ESE-approved schools have “rejected” the student, the district can submit a Notification of Intent to Seek Approval for Individual Student Program (ESE form 28M/3) to ESE. This form details all the requirements that must be met by the district before placement in the non-ESE-approved private school can occur. This includes documenting that:

The district conducted a comprehensive search for an ESE-approved placement but could find none that met the student's needs.

The district has located an appropriate non-approved school and has conducted a thorough investigation of that school's capacity to meet the student's needs and comply with state and federal special education law.

The non-approved private school has properly credentialed and licensed staff.

The non-approved private school has permission from the school committee of the town in which it is located to operate a private school.

The district has a plan to monitor the student's progress in the non-approved private school.

The district must also submit information about the cost of the non-approved program, and a signed written contract between it and the private program for placement of the student.

Parents must also be certain that the district completes a Placement Consent Form listing the non-approved private school as the Location for Service Provision on that form. Once that Placement Consent Form is signed (accepted) by the parent, the non-ESE-approved private school then becomes the student's “stay put” placement (see <http://www.spedwatch.org/files/Stay-Put.pdf>)

Copyright © 2010 Ellen M. Chambers. All rights reserved. SPEDWatch is not engaged in rendering legal, educational, medical, therapeutic, or other professional advice.