

POLICY ON GEOGRAPHIC RANGE OF EPE PROGRAMS

BACKGROUND

A number of instances have occurred in which two or more agencies were operating programs in the same geographic area within a school district or BOCES district boundaries. In some instances, this created competition for students. This competition was exacerbated by the fact that the agencies in question could have vastly different EPE rates, making it easier for one agency to operate a program with fewer students. In the 2006 – 07 program year EPE rates range from \$3.70 per contact hour to \$8.28. Agencies requested that SED promulgate guidelines to clarify who is the presumptive provider of services for both traditional and distance learning programs located within a school district or BOCES boundary.

The SED office of Curriculum and Instructional Services asked the Office of Counsel for a ruling based on education law and on the regulations of the Commissioner of Education regarding this issue. The topic was also raised with the Distance Learning Advisory Group, and their comments and suggestions were incorporated into this policy.

TRADITIONAL PROGRAMS

Traditional programs are those in which a teacher in a classroom works directly with students. These programs are academic in nature – Adult Basic Education (ABE), Adult Secondary Education (ASE or GED preparation), or English as a Second Language (ESL). These programs may also contain up to 50% non academic components generally related to workforce preparation or life skills. EPE aid is generated in these programs based on seat time. This means that a teacher in a classroom with 10 students for 1 hour generates 10 contact hours, which is multiplied by their EPE rate to determine how much funding can be claimed.

Traditional Programs in BOCES

A BOCES may operate a program physically located in any school district within its boundaries without written permission from the district. This includes component, independent and Big Five districts. New York City is the exception since it is not within the boundaries of a BOCES. Any BOCES wishing to operate a program within the boundaries of New York City must have written permission from the Chancellor of the Department of Education. A BOCES may operate a program physically located in another BOCES district only with written permission of the BOCES District Superintendent. [format of this - COSER?]. Any BOCES may serve students residing outside of their district without permission, as long as the program site is physically within the BOCES supervisory district boundaries. In all of these cases the BOCES claim these students at their own EPE rate.

Traditional Programs in School Districts

Programs physically located within the boundaries of a school district may serve students residing in other school districts without permission from that district. They claim these students

at their own EPE rate. If a school district wishes to operate a program physically located within the boundaries of another school district, the school district operating the program must have written permission from the superintendent of the other district. [format?] This means that a school district can prevent another school district from operating a program physically located within their boundaries, but cannot prevent a BOCES from operating a program physically located within their boundaries if the district is within the BOCES district boundaries. The exception to this is in cases where the school district can demonstrate that the BOCES program is duplicative of services offered by the district. (See dispute resolution below)

DISTANCE LEARNING PROGRAMS

Distance learning programs are those in which the teacher and student are not in the same location. The initial intake/assessment process and all subsequent testing must be done in person. All time spent with the teacher generates traditional EPE aid. All distance learning programs are structured around a two-week packet model. The teacher assigns twelve hours of work every two weeks for each student. When a packet is received, reviewed and corrected, and a new packet prepared and sent out, the agency may claim 12 contact hours. Packets may be physical (i.e., the actual materials are sent back and forth between the teacher and the student), or electronic (i.e., delivered via a computer and the Internet). As with traditional classroom programs, each packet must have a minimum of 50% or 6 hours in a two-week period of academic work – ABE, ASE or ESL. Each packet can contain a maximum of 50% or 6 hours of non-academic work. Because distance learning is designed to serve students in remote locations, the capability of serving students living in areas far from the agency offering services is greater. For further information regarding distance learning programs, please see the Program Manager and Instructor Guide for Distance Learning and the EPE Manual at: <http://www.emsc.nysed.gov/workforce/offices/adult.html> .

Distance Learning Programs in BOCES

A BOCES may serve students in distance learning residing in every school district within the boundaries of their supervisory district. No permission is needed from these districts. This includes students residing in component, independent and Big 5 districts. BOCES wishing to serve students residing in other BOCES supervisory districts must have a release (format?) signed by the District Superintendent of that district in which the student resides. The release is on the institution level and need not be done for individual students. BOCES wishing to serve students residing in New York City must have a release signed by the Chancellor of the Department of Education of New York City. All distance learning students must be claimed at the BOCES EPE rate.

Distance Learning Programs in School Districts

School districts may only serve students residing in other school districts if they have a release signed by the superintendent of the other district, or, in the case of New York City, by the Chancellor of the Department of Education. The distance learning students must be claimed at the EPE rate of the agency providing the service.

Other Distance Learning Issues

- **Intake Process** - Because students should only participate in distance learning programs if they are unable to attend traditional programs, it is the responsibility of the agency providing distance learning to fully inform the student of traditional programs and services available in their area of residence. The intake process for distance learning programs should be consistent with the intake process for traditional programs offered by the agency. In addition, it is imperative that only appropriate students be enrolled. To ensure this, all potential distance learning students must be given the Project Ideal intake survey. Distance learning students must be able to work independently, have the time and space to work alone and, if necessary, have access to technology including a computer and a phone.
- **Releases** – Releases for students to participate in distance learning programs offered by agencies located in a district other than the one in which he/she resides need not be done annually. Releases can be withdrawn at any time by the agency in which the student resides.
- **Regional Distance Learning Committees** – The State Education Department will convene regional committees comprised of all distance learning providers in each of the seven RAEN areas chaired by the RAEN directors to review the need and availability of distance learning programs in the region. These committees will make recommendations to SED regarding the level and type of distance learning programs offered throughout the region.

DISPUTE RESOLUTION

While BOCES may operate programs located within school districts within the geographic boundaries of their supervisory district without permission, it is recommended that they have signed agreements from all school districts in which they operate programs. It is also recommended that BOCES wishing to provide distance learning programs to students residing within the boundaries of school districts within their region obtain written permission from those districts.

In cases where a BOCES and a school district both wish to operate a traditional program physically located in the school district which is within the BOCES' supervisory district, and the school district feels that the program is not needed and is adversely affecting their program, the State Education Department will decide who will provide the traditional program in that district. Similarly, if a BOCES wishes to provide distance learning to students residing in a district within their supervisory district and the school district feels that the program is not needed and is adversely affecting their program, the State Education Department will decide who will provide the distance learning for students residing in that district. Education Law section 3602(f) states that the Education Department must determine the portions of each comprehensive plan which will "assure maximum effectiveness, geographic availability and lack of duplication of such

programs". The decision will be made after reviewing data on program performance and examining the need for distance learning and the level of services proposed by both entities.