

160-5-2-.06 RESIDENTIAL FACILITY GRANT.

(1) PURPOSE.

(a) This rule is designed to provide grants to local units of administration and facilities serving eligible children, as defined in this Rule. Under the law, the local unit of administration of the school district in which such child is present shall be responsible for the provision of all educational programs, including special education and related services, at no charge as long as the child is physically present in the school district.

(2) DEFINITIONS.

(a) **Direct costs** – all costs incurred for activities directly associated with the education of eligible children, including salaries, wages and benefits for teachers and paraprofessionals; costs for instructional materials and supplies; costs associated with classroom-related activities and equipment; and any other appropriate instructional expenses.

(b) **DHS or DBHDD-contracted facility** – a facility that is contracted by the Department of Human Services (DHS) or the Department of Behavioral Health and Developmental Disabilities (DBHDD) to serve clients placed by DHS or DBHDD. This includes public and private facilities for which DHS or DBHDD contracts on a client-by-client basis for a residential placement for an individual client.

(c) **DJJ-contracted facility** – a facility that is contracted by the Department of Juvenile Justice (DJJ) to serve clients placed by DJJ. This includes public and private facilities for which DJJ contracts on a client-by-client basis for a residential placement for an individual client.

(d) **Eligible child** – a child in the physical or legal custody of DJJ, DBHDD or DHS or any of its divisions, or in a placement operated by DHS or DBHDD, or in a facility or placement paid for by DJJ or DHS or any of its divisions, or DBHDD; or placed in a psychiatric residential treatment facility by his or her parent or legal guardian pursuant to a physician's order, if such child is not a home study, private school, or out-of-state student and who is physically present within the geographical area served by a local unit of administration for any length of time. While the child is enrolled in the local school system in which the DHS, DBHDD- or DJJ-contracted facility is located, the child is placed in the DHS, DBHDD or DJJ-operated or contracted facility and is unable to leave that facility.

1. A child is considered to be in the physical or legal custody of DJJ or DHS or any of its divisions if custody has been awarded either temporarily or permanently by

court order or by voluntary agreement, or if the child has been admitted or placed according to an individualized treatment or service plan of DHS.

2. No child or youth in the custody of the Department of Corrections or the DJJ and confined in a Youth Detention Center as a result of a sentence imposed by a court shall be eligible for enrollment in the educational programs of the local unit of administration of the school district where such child or youth is being held.

3. Parentally placed Georgia public school students are eligible for education services from the local school system in which the psychiatric residential treatment facility is located.

(e) **Indirect costs** – costs incurred for administration, plant operations and maintenance, food services, transportation, instructional support including media centers, teacher training, and student support such as nurses and guidance counselors.

(f) **Local unit of administration** – all local school systems, boards of control of regional educational service agencies established pursuant to O.C.G.A. § 20-2-272, and any other local or regional public education agencies established pursuant to law.

(g) **Memorandum of Understanding** – a document negotiated in good faith that contains mutual promises, agreements, covenants and benefits, as well as the relevant duties and obligations of the two parties involved: the residential facility and the local unit of administration/local school system.. The agreement provides for collaborative procedures between the two agencies to ensure that the educational requirements for students placed by DHS and DJJ pursuant to O.C.G.A. § 20-2-133 are met while the students are receiving educational services at the residential facility.

(3) REQUIREMENTS.

(a) The State Board shall have the authority to provide grant funds, if appropriated by the General Assembly, for the difference between the actual state funds received for that eligible child pursuant to O.C.G.A. § 20-2-161, and the reasonable and necessary expenses incurred in educating that eligible child. The State Board shall distribute the funds based upon the appropriation made by the General Assembly in an equitable manner.

(b) Local units of administration or facilities in receipt of these grant funds shall ensure adherence to and implementation of the provisions set forth in this rule and the executed Memorandum of Understanding (MOU).

(c) Local units of administration and the residential treatment facility that is located within the boundaries of the LEA shall enter into a MOU that will be reviewed and renewed at least every two years.

(d) The Georgia Department of Education shall develop a sample MOU that will be placed on the GaDOE website.

(e) If an MOU other than that developed by the GaDOE is used, it must include the following requirements, which are listed in the sample MOU:

1. Regular and Special Education Personnel;
2. IEP Implementation;
3. IEP Meetings;
4. Special Education Monitoring and Complaints;
5. Student Information and Data Entry;
6. Records;
7. Assessments;
8. Georgia's Single Statewide Accountability System;
9. Non-Discrimination;
10. Grant Funding;
11. Timeframe of Grant Distribution;
12. Expenditure Controls;
13. Transition to Public School;
14. Title I;
15. Out-of-State Students;
16. Term;
17. Renewals;
18. Termination;
19. Point of Contact;
20. Notices;
21. Amendments;
22. No Agency;
23. Indemnification, Litigation, and Settlement;
24. Severability;
25. Assignment;
26. Governing Law; and
27. Counterparts.

(f) Application Process.

1. Applicants seeking a grant under this rule shall submit an application at a time that the Georgia Department of Education shall specify in the application instructions.

2. Applicants shall submit all parts of the application and attest to a list of assurances.

3. Residential facility applicants shall secure the signature of the superintendent, or designee, of the local unit of administration within which they are located. The local unit of administration shall either sign off on the application or document in writing the reasons for which it is not signing off on the application within 30 days after the residential facility has submitted the application to it for signature.

(g) Reasonable and Necessary Expenses.

1. All direct and indirect costs that have been expended during the current fiscal year, and for which the residential facility or local unit of administration has documentation, including receipts and/or invoices, shall be eligible for consideration for reimbursement if the costs exceed the allocation under O.C.G.A. § 20-2-161 and will not be covered by another applicable federal law.

2. All direct and indirect costs that have not yet been incurred or expended during the current fiscal year, but that the residential facility or local unit of administration can demonstrate it will incur and has a demonstrated need in order to educate its eligible children may be eligible for reimbursement. In addition, these costs must be in excess of any allocation under O.C.G.A. § 20-2-161 or any allocation covered by an applicable federal law.

(4) LOCAL BOARDS OF EDUCATION HELD HARMLESS.

(a) Under the law, local boards of education shall be held harmless by the state from expending local funds for educating eligible children; provided, however, that this shall only apply to children who are unable to leave the facility in which they have been placed.

(b) Children who reside at the facility but who are able to transition to and attend the appropriate school within the school system shall receive the local fair share of QBE funding similar to any other child attending a public school. This occurs once a student is stepped down within the DHS system and in accordance with the decisionmaking authority of either the student's IEP team or, if the student is not a student with a disability, by the teacher(s) and caseworker(s) most familiar with the student.

Authority: O.C.G.A. §§ 20-2-133; 20-2-242; 20-2-411.

Adopted: December 13, 2018

Effective: January 2, 2019