



State of New Jersey

DEPARTMENT OF EDUCATION

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March 26, 2018

TO: Clinics and Agencies

FROM: John Worthington, Director
Office of Special Education Policy and Procedure

SUBJECT: Subcontracting and Staff Sharing

I am writing to clarify the requirements for clinic/agency approval pursuant to N.J.A.C. 6A:14-5.2. As you are likely aware, a clinic/agency must obtain approval for each service it provides **prior** to contracting with approved private schools for students with disabilities (APSSD) and school districts. It has come to the attention of the Office of Special Education Policy and Procedure that a number of clinics/agencies are circumventing that regulatory requirement and are subcontracting with another clinic/agency to provide services for which they are not approved and are doing so, by sharing service providers.

For example:

- Clinic/agency "A" is not approved to provide physical therapy as a related service but does employ a physical therapist.
- Clinic/agency "B" is approved to provide physical therapy but does not employ a physical therapist.
- Clinic/agency "A" and clinic/agency: "B" enter into an arrangement with each other:
 - Clinic/agency: "A": pays a fee to clinic/agency "B".
 - Clinic/agency "B" contracts with the APSSD or school district and utilizes the physical therapist employed by clinic/agency "A".
 - Clinic/agency "A" pays the therapist and retains whatever funds remain after clinic/agency "B" deducts its fee.

Both clinics/agencies are in violation of the regulations at N.J.A.C. 6A:14-5.2. Clinic/agency "A" is in violation because it is circumventing the requirement to obtain approval prior to providing any type of service to an APSSD or school district and clinic/agency "B" is in violation because it knowingly is assisting a clinic/agency to circumvent the requirement to obtain such approval.

This memorandum serves as notice to all clinics/agencies that the practice of subcontracting and sharing service providers as described above is prohibited. Any clinic/agency that engages in the practice of subcontracting and sharing service providers in the manner described above will have its approval withdrawn.

JW/KE/ck

C: Kathleen Ehling, Carol Kaufman, Jean Kelly

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