

Vermont Council of Special Education Administrators
S. 175 Testimony to the House Education Committee

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Points of agreement regarding educational consistency:

1. Continuity of educational experiences for children is beneficial. That is particularly true when other areas of their lives are less than predictable.
2. The MOU for students in DCF custody, and the McKinney-Vento legislation for children who are homeless have substantially helped many children maintain educational continuity in the face of current residency laws.
3. Circumstances exist for students beyond those in DCF custody or those who are homeless where access to educational continuity would be beneficial. The provision of continuity through the remainder of a single school year is consistent with the MOU for students in state's custody.
4. A meeting between a representative of the district of origin, new district of residence and the parent and student is important for the parent and student, as decision makers under S.175, to make an informed decision regarding the appropriate educational setting.

Residency is importance in Vermont:

1. Transiency rates vary across the state; knowledge of this range would help determine the scale of impact of the passage of this bill.
2. Vermont has based school assignment, taxation, and LEA determination on the definition of residency. Residency plays a significant role in a multitude of other areas of legal rights and responsibilities, hence the strict application of the definitions historically.
3. Special Education and its complexities are based in residency in many ways. Changing the definition deserves careful consideration of its implications on finances and service delivery.
4. Continuity of instruction in the Revised Guidance for MOU Implementation (FM #09-14) for students who are in state's custody requires that both original and new school administrators must agree that it is in the student's best interests to remain in the school of origin, and the state education agency must agree as well. It is important that the agreement of administrators in exploring the best interest of the student in conjunction with the family is considered.

Given these points it seems important to obtain more information regarding the range and extent of this problem within Vermont, and on how districts and regions address this issue currently. When adverse effect on student progress is predictable because of a move informal district and regional agreements addressing this issue have been operative. Information as to how well these agreements are working would help determine whether the concern that S. 175 addresses is of broad scope and significance.

Potential unintended consequences:

1. Parental responsibility for transportation in S.175 is an important component because of the cost of providing transportation. However, requiring parents to be the source of transportation to access the school of origin may well limit the ability of children living in poverty to access the continuity S.175 is attempting to build, and therefore creates an unintended inequity in access.
2. Though helpful in many situations, continuity of school setting does not guarantee the best placement for student. The district of origin and the new district need to have a significant role in these decisions because of their knowledge of the student, the school curriculum and resources and the responsibility they bear for the education of enrolled students. This understanding is reflected in the MOU for students in state's custody when the district of origin is being considered.
3. The provision of FAPE would be the responsibility of new district under S.175. The potential financial impact will be substantial and need to be considered at time of rising special education costs. Anticipated areas of financial impact are:

- a. Billing to the new LEA for prorated excess costs of providing case management, direct service and related services to the student. If the student were to attend school in the school of new residence the student's needs would be addressed, as appropriate, by including the student in existing service delivery structures.
 - b. Individualized services within the student's IEP may include 1:1 paraprofessionals, intensive related services including psychological, SLP, OT and PT therapies which would be billed to the new LEA.
 - c. LEA representative time and travel required to fulfill mandated LEA responsibilities may be significant particularly if the new district is some distance from the district of origin.
 - d. The district of origin and the new district of residence may have differing mental health or developmental services designated agencies. To obtain mental health or developmental services from a designated agency the student must live in the designated agency's catchment area. If a student is receiving behavior intervention, mental health or developmental services case management, or therapies from the designated agency in the district of origin these services may be interrupted or no longer available because the student no longer lives in the appropriate catchment area. Contracting these services privately may be both disruptive and at high cost.
 - e. Specialized transportation costs for students with significant disabilities to access FAPE can be substantial. If transportation is needed for the student to access IEP services these must be provided. Federal special education statutes supersede state law. Costs can be very high if the district of origin and new district are not in close proximity - costs can run into tens of thousands of dollars. Should an attendant be needed for a student with severe behavioral, communication or medical challenges transportation costs can be prohibitive.
4. This law could potentially create a new level of school choice that could cause faster declining enrollment in some schools with increased enrollment in others placing increased pressure on the funding issues we currently are experiencing.
 5. This law could place a higher level of cost for special education on certain districts based on preference of parents regarding special education programming.
 6. There may be a more significant challenge in budgeting and anticipation of equalized pupil calculations due to the reliance on residency estimates in the budgeting process.

Recommendations:

Further study as to the:

- Scope of the problem state wide that will allow exploration of the educational and financial consequences of the potential implementation of S.175
- Practices currently in place in decision making among school districts, and parents and student when moves are made after the school year has begun and the parent wants the student to remain in the school of origin for the remainder of the school year.
- Potential financial impact of implementation at the Pre-Kindergarten as well as Kindergarten through Grade 12 levels.
- Comparability of existing laws that govern homelessness and students in state's custody. Continuity of instruction in the Revised Guidance for MOU Implementation (FM #09-14) for students who are in state's custody requires that both original and new school administrators must agree that it is in the student's best interests to remain in the school of origin, and the state education agency must agree as well. McKinney-Vento has a dispute resolution process where the parent can appeal the decision of the LEA. Consistency across legal requirements has great value for knowledgeable and consistent application.
- Potential impact of the current governance discussions in the legislature that would have impact on the needs S. 175 is proposed to address.