



Vermont Council of Special Education Administrators Testimony Regarding Section 21, Approved Independent Schools of H.897: "An act relating to enhancing the effectiveness, availability, and equity of services provided to students who require additional support"
April 12, 2018

Thank you for the opportunity to testify on this important bill. VCSEA submits the following considerations and concerns with regard to H.897, Section 21 (in the current version of the Senate bill). We remain committed to positive and productive working relationships with approved independent school in Vermont. Significant concerns with Section 21 (S.229) as written remain.

Focus of H.897:

VCSEA recommends the same formula for independent school funding and monitoring as LEAs are required to use. Vermont is moving to a census-based model for special education funding with a goal of ensuring effectiveness, availability and equity of financial resources to all students eligible for and accessing special education. This census model is heavily informed by District Management Group's report: "Expanding and Strengthening Best-Practice Supports for Students Who Struggle" and by UVM's "Study of Vermont State funding for Special Education". The inclusion of Section 21 "Approved Independent Schools" is inconsistent with the findings of both study reports and with the goals of H.897 in noteworthy ways:

- A focus on core instruction, creating systems-wide approaches to support positive student behavior, and ensuring students who struggle receive all instruction from highly skilled teachers are strongly emphasized in the DMG report. These foundational principles for all students are not included in the responsibilities of Independent Schools in Section 21. Nor is Section 21 aligned with a tiered system of supports and cost containment and predictability, priorities of the UVM funding study report and of H.897.
- Both the pressure and supports for public schools to provide a tiered system of supports, that requires the full engagement of the entire educational system, apply to public schools alone. Special education is not a standalone system alongside general education but rather operates within an effective and inclusive educational system as a whole, a commitment that is underscored in H.897.
- Section 21 establishes tuition rates by the AOE for independent schools in providing special education services, beyond those covered by regular education tuition. Any rate setting needs careful further study with the goal of parity and consistency with the goals of H.897.
- The following statement is included in Section 21, "...the Secretary shall apply the principles of treating an approved independent school and public school with parity in the amount of federal, state and local contributions to cover the costs of providing special education services." Vermont's current administration as well is clear in its messaging that education costs must be lowered and that taxes not increase. A model that does include independent schools in addressing the goal of parity is contrary to the concepts within Section 21 as well.

Special Education Staff in Independent Schools:

No state wide established structure currently exists to support the special education staffing collaboration between public and independent schools that would be necessary to implement requirements in Section 21 - that the LEA provide special education staff for up to nine months to the independent schools if they haven't such staff available.

A tremendous amount of pressure is placed in the public schools' system to create efficiencies and improve effectiveness through consolidation, questioning the continued existence of its smallest schools, and reducing special education funding and costs through improved best practices in all components of the general and special educational system as cited above. These expectations do not apply to independent schools. Without the pressure of regulation on rising costs for providing special education services in independent schools, special education costs in those schools will likely continue to rise. The impact of rising reimbursement costs would put tremendous pressure on the public schools' budgets in districts that send students in some grades to independent schools.

VCSEA supports independent school access to Local Education Agency (LEA) staff that can be released for a time as determined by the LEA. However, LEAs cannot be expected to provide special education staff to independent schools as outlined of this bill. The LEA staffing obligations for independent schools as written would prove to be unachievable both operationally and fiscally:

1. A nine-month time limit identified in H.897, Section 21 is onerous and in no case should the LEA be given this responsibility without the LEA agreement. Shared hiring could only be operationalized in a specific agreement between the LEA and independent school on a case by case basis. The AOE should be a party to the development of any such protocol.
2. LEAs have students in multiple independent schools over broad geographic areas. The LEA cannot be expected to hire staff both full and part time over many independent schools, even temporarily.

3. Multiple LEAs have special education students in the same independent school. These staff members would need to be integrated within the functioning of the independent school, and yet no one LEA and independent school could do so independently of the others. Significant coordination challenges would result.
4. LEAs are no exception to the reality of a state shortage of special educators and some related services therapists such as speech language pathologists, occupational and physical therapists and behavior specialists. LEAs have no known advantage over independent schools with regard to hiring staff or engaging online services.
5. There would be an additional cost burden to LEAs in attempting to fill positions, part or full time, for independent schools including advertising, screening and interviewing, reference checks, training and support.
6. LEAs would be challenged to make decisions around how to prioritize its own staffing needs within the public school (for which it has primary responsibility) with its new responsibilities to provide supports to independent schools as outlined in this bill. Local public education needs could, at times, likely need take a back seat to the needs of "independent" schools.
7. Hiring for special education staff in independent schools where the delivery of services follows practices other than those recommended in H.897 (and in the UVM and DMG studies) creates demands upon the support, training and oversight of those staff by the LEA that may not be consistent with the independent schools' practices.

We appreciate the work that has been initiated to address these challenging issues over the past several years and through the study committee in 2017. These include:

- Admission of students with disabilities whom the IEP Team agrees would be appropriately placed in an independent school.
- Clear articulation and inclusion of the responsibilities under state and federal law regarding students with disabilities in the areas of IEP development, least restrictive environment, free appropriate education, discipline and communication with the Local Education Agency.
- Language that recognizes the complexities of case management within the independent school and assures for appropriate staff to provide and manage delivery of services. Administrative commitment is essential.
- Efforts to make enrollment less complex through recognition of a general special education license as a foundational requirement for allowing independent schools to serve students with disabilities. A review and update of current special education approval processes in independent schools would need to be undertaken by AOE; any changes to current regulation would have to be consistent with federal law.

Recommendations:

S.229 should be removed from H.897 and addressed separately. Since the addition of S.229 to H.897, no opportunity has been allowed for additional testimony on the combined bill in Senate Education and the committee vote on S.229 was not unanimous. Attaching S.229 to a bill that reforms practice and funding in public education and doesn't include independent schools in this reform is not in the best interest of the state or, most importantly, to Vermont's children. We all want and need to do better at getting students the services they need and streamlining and improving practice and costs; it takes both incentives and support to get there.

VCSEA does not want to lose the progress that has been made in the work with independent schools. Beyond removing S.229, language could be added in H.897 to have AOE and other critical stakeholders propose how to continue this progress.

Critical questions/issues include:

- How independent schools will participate in goals of H.897 and implement the DMG recommendations regarding a best practice including tiered delivery system, first instruction, early literacy, and the other DMG recommendations;
- How parity in special education between public and independent school funding can be operationalized under the census-based model. Specific models need to be explored.
- The special education approval process for independent schools needs review and further work as to how a less cumbersome and more timely approval for permitting services to students with special education can be achieved. The role of special educator licensure, consistent with federal and state law, is vital as is the administrative and school wide commitment to state and federal special education requirements.

Thank you for the opportunity to testify.