

LEA RESPONSIBILITY FOR IEP STUDENTS ATTENDING INDEPENDENT SCHOOLS

TESTIMONY TO HOUSE EDUCATION COMMITTEE ON S.229 – APRIL 11, 2018

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LEA RELATIONSHIPS AND RESPONSIBILITIES TO INDEPENDENT SCHOOLS – A BRIEF HISTORY

- LEAs have always assumed excess costs for IEP students attending Independent Schools at public expense
- The large academies in Vermont (St Johnsbury Academy, Thetford Academy, Lyndon Institute, et al) have historically provided robust special education services for publically-tuited students
 - Think – “Economies of Scale”
- Smaller Independent Schools have not been able to reach the same economies of scale

CHALLENGES TO STAFFING

- There is a significant shortage State-Wide of qualified – and quality – Special Education teachers, Speech-Language Pathologists, Occupational Therapists, etc.
 - Shortfall is especially intense in rural areas of the State
- This legislation exacerbates the problem in three potential ways:
 - 1) Creates competition between the public and private sector for limited qualified staff;
 - 2) Creates the possibility of unconsidered consequences in rate setting, such as incentivizing an independent school to overpay for staff to meet its obligations, at the expense of the LEA;
 - 3) Or, alternatively, creates a negative incentive for the Independent school to meet its staffing obligations, leaving the responsibility to the LEA

WHAT'S SO BAD ABOUT LEAVING THE STAFFING OBLIGATION TO THE LEA?

- An Independent School can opt to do nothing about staffing for essentially an entire school year.
 - The LEA is then required to meet the IEP service needs with its in-school staff
 - School-based special education staff will spend time in travel that is better utilized serving students
 - Absorbing the travel time requirements, in extreme cases, could require the hiring of additional school-based staff., with the same staff shortage concerns mentioned before
 - We already cannot meet the needs of geographically-dispersed PK students (Act 166) with special needs

WHAT'S SO BAD ABOUT LEAVING THE STAFFING OBLIGATION TO THE LEA?

- Putting special education staff on the road will result in higher costs to the LEA
 - How will this extra cost be reimbursed? WILL this extra cost be reimbursed?
- There is no language to address the almost-certain case where both the LEA and the Independent School cannot adequately meet the obligations to the IEP student.
 - Can I be sued? By whom? The parent? The Independent school? The Agency of Education (in due process)?
 - Can the Independent school be sued?
- As written, it seems that all the risk falls on the LEA. What is the incentive for the Independent school to come into compliance?

IN SUMMARY

- I am not opposed to the aims of this legislation, per se
- Small, rural schools already struggle to meet the needs of its publically-enrolled IEP students
- This legislation may in fact recreate the problem – substitute “Small, independent schools” in the previous sentence.
- To the extent that this adds cost to the public school LEA, that cost has to be reimbursed.

QUESTIONS?

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