

**Windham Central Supervisory Union Special Education Concerns with
S.229: An act relating to State Board of Education approval of independent schools**

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Appreciate:

- The increased flexibility it would afford LEAs (Local Education Agency Representatives) and teams in making placement decisions but wonder if the independent school representative would be part of the IEP process. *If so, could their attendance be considered a predetermined placement decision?*
- The benefit for students with special education needs for whom these types of placements have not been an option

Concerns:

- Potential for voiding the need for schools to become Approved Special Education Schools or will they be contractually obligated to work toward state approval for Special Education programs upon accepting a student in special education?
 - If so, is there a specific timeline of accountability if they fail to meet expectations? The wording on page 14, Section 3d of “good faith and reasonable efforts” seem unclear and unmeasurable. Pages 3-4, Section 5 outline the consequences for independent schools who fail to comply, which ultimately results in a student being required to be placed elsewhere. This presents a significant issue for students who would be forced to transition 9 months into the school year.
- Opens potential issues for placement decisions:
 - Parents/Guardians could request placement at *any* location (approved or otherwise) and the LEA could no longer say it is not a special education approved school (for whichever applicable disability category) since the LEA would be charged with providing the necessary services for up to 9 months, thus *making* the school become the appropriate placement in a piecemeal manner
 - Refusal of parent/Guardian requests for placement in independent schools may lead to a higher number of Administrative Complaints and Due Process situations, resulting in an increase in legal costs
- There is already a pathway in place through Series 2200 (2228.2 under Placement Prohibition) (p. 7) that states “...the Commissioner [Secretary] may permit, in exceptional circumstances, a special education placement in an independent school that is approved...but has not received approval for special education purposes.” Since this pathway is already in place, I am uncertain as to the reason for making changes.
- Burden is placed on the LEA to hire staff to cover positions required to supplement independent school for up to 9 months, which will be extremely difficult, especially considering the school could be located in any states contiguous to Vermont. Of note,

the draft merely states “interstate compacts” and does not specify contiguous which could be an even more significant issue resulting in increase of cost

- Concerns with securing staff
- Concerns with supervision and evaluation
- Concerns that a piecemeal program is not cohesive enough
- Concern that our primary responsibility is and should be to maintain a public-school system and not utilize decreasing resources on increasing the ability of independent schools to meet the needs of students
- Potential for extreme increase of cost for special education services (in addition to current costs). Services such as transportation, Occupational Therapy, Physical Therapy, Speech and Language Therapy, Paraprofessionals, Special Educators, Supervision, and more would be required by the LEA for up to 9 months. This is in direct conflict with the intent of the special education funding bill (H.897) which is to reduce costs.
- The Bill is being attached to H.897, meaning it will not have the same level of review in the House as other bills.

Requests:

- Clarification and emphasis that determination of least restrictive educational setting for a student is determined through the IEP process and ultimately the LEA’s responsibility for determining
- Reduce the length of time the LEA is required to provide staffing or eliminate altogether the burden placed on the LEA to provide services
- Request to postpone implementation until a study is conducted to determine ramifications of this Bill