



## VCSEA Testimony to House Education Committee

1-17-18

Thank you for the opportunity to testify to this committee. I want to talk with you about VCSEA's priorities with regard to students with disabilities within independent schools, and to share some preliminary thoughts about the UVM Special Education Funding Study and the District Management Group's report to AOE on Expanding and Strengthening Best-Practice Supports for Students.

I will start by introducing VCSEA's current Executive Director, Traci Sawyers, a position I held until my retirement in June 2017. I am here today, at Chairman Sharpe's request as I was VCSEA's representative on the Approved Independent Schools Study Committee from May to December, 2017. The committee was formed as a result of Act 49 which charged this committee to seek a way forward on three areas of concern regarding independent schools: whether receiving state tuition dollars should be conditioned on open enrollment; how independent schools should deliver special education services, and in which categories; and what forms of financial disclosure should be mandatory for approved independent schools. VSA, VSBA and VCSEA worked together to present to the committee a shared perspective on the charge given the committee. The presentation to the Committee took place on August 14, 2017 and focused on key areas identified as essential to moving forward.

I will not testify on our shared work with the Independent School's Study Committee as I believe that presentation should include VSA and VSBA as well. However, I will share briefly the five major areas of VCSEA concern and testimony regarding students with disabilities and independent schools over the past six years.

### 1. Background:

- VCSEA believes strongly in the rights of students with disabilities and in their need for protection against discrimination.. Access to publicly funded community independent schools for students with disabilities needs to be firmly in place when that opportunity is available to peers without disabilities.
- Data from AOE demonstrates disparities in publicly-funded independent school enrollment between low-income students and students with disabilities and their higher income, non-disabled peers. This data deserves further attention.

### 2. Variations in Approved Independent Schools:

- Approved independent schools providing general education to publicly funded students through tuition. Special education students so funded are entitled to a free, appropriate public education (FAPE) in these schools as described in federal and state law.
- Approved independent schools serving students with disabilities only – these are schools that fall within the continuum of placements required by state and federal law to address the needs of some students with specialized and complex disabilities.
- Approved independent schools that serve only students who are privately funded. In these school students with disabilities lose entitlement to FAPE but remain eligible, by federal law, for very limited funding under an Individual Services Plan (ISP). Services delivered to these students are determined and provided by the district where the independent school is located after consultation and input from the independent schools.

### 3. Access:

- Public schools are required by IDEA and state special education regulations to serve all students. And all students who have been identified and found eligible for special education must be provided a free, appropriate public education (FAPE) meaning that the services must be appropriate to meet the student's needs and at no cost to the parent.
- The services must take place in the least restrictive environment (LRE) meaning that "A student eligible for special education services shall be educated with his or her non-disabled chronological age peers to maximum extent appropriate in the school he or she would attend if he or she did not have a disability..." However, publicly-tuitioned students with disabilities do not

have access to the same independent schools that their non-disabled peers have access to. Independent schools are not required to accept these students, and independent schools must be approved in any category of disability the student is identified as having.

- Public and independent schools share the difficulty in locating appropriately licensed and skilled special educators.

#### **4. Special Education Supervision:**

- Clarification of the expectations of the Local Education Agency Representative from the responsible school district and of the special education case manager within the independent school is needed. The LEA representative assures for appropriate services, allowable costs and assuring for compliance with special education law.
- The Case Manager in the independent school should be held responsible for ensuring services are being delivered as written in the IEP, and that the classroom teacher is appropriately supported and held accountable for their responsibilities with regard to IEP goals, accommodations and progress data.
- Reimbursement of costs for special education services in independent schools should align with requirements made of public schools allowing for fiscal accountability. This means invoices need to be detailed, at reasonable cost in relationship to the service, and timely.

#### **5. Enrollment, Retention and Discipline:**

- Applications and admittance processes vary among independent schools and in some cases barriers to admission are evident.
- Retention of students admitted to independent schools is a concern in relation to public school requirements. Students can be refused admission, counseled out and the same disciplinary protections for student with disabilities that are required in public schools are not required in independent schools. To our knowledge data regarding retention is not available.
- VCSEA recommends an open enrollment process such as is in place for enrollments in career and technology centers which requires the school to administer a lottery if there are more students applying than can be admitted.
- Reporting requirements to the sending district or to the AOE for disciplinary action in independent schools are not consistent, and due process established within Vermont statutes for students who are suspended or expelled is not required. Publicly funded students should have access to protections similar to those in public schools and reporting to the sending school should be expected.

**A Special Education Plan, drafted by the AOE, was provided to VCSEA and to a representative of independents schools during the timeframe when the Independent Schools Study Committee was meeting. Independently, the VCSEA Board chose to review the proposal, make recommended amendments and share this with the Independent School Study Committee through the VCSEA representative to that committee.**

The AOE plan as amended by VCSEA plan addresses a number of the areas concern:

- Approval of independent schools to receive public education funds requires demonstrated ability to serve students with disabilities in a specified manner including knowledge of requirements under state and federal law, documentation of student progress, procedural safeguards, discipline procedures specified in state and federal law, licensed staff, and communication with LEA.
- Funding of independent schools would require open enrollment in all categories of disability.
- Placement and location of services: To be determined by the IEP Team in accordance with Special Education regulations including FAPE and LRE requirements.
- Special Education billing would require assurance of requisite staff and capability to provide special education and related services consistent with the students IEP. The billing process would need be consistent with the AOE Technical Manual for special education excess costs. Coordination with the LEA is necessary.
- State approved independent schools serving exclusively students with disabilities should be subject to some differences in requirements from those applying to general admission independent schools. Differences would include approval for the specific disability categories served, and not being required to serve all categories of disability. In addition, tuition rate setting processes established by AOE would apply.

#### **Implications of District Management Group and UVM's Special Education Funding Studies**

Detailed testimony last week from VCSEA and further testimony from VSA, VSBA and VPA in response to UVM Special Education Funding Study addressed key points in implementing the recommendations of these studies:

- Public dollar responsibility: VCSEA believes that independent schools who wish to accept public dollars have a responsibility for implementing the MTSS framework to support all learners, as is required of public schools. Vermont's current funding design is inadequate to support current knowledge of evidence based practices including Multi-tiered System of Supports (MTSS) in literacy and behavior. The current special education funding structure is at odds with the flexible, responsive and inclusive educational system required to meet the needs of all students efficiently. Timely, responsive instruction and intervention is the goal and this has too often been sacrificed to complex and time consuming special education identification processes implemented when needs have reached a critical level rather than when the need is first evident.
- The practice changes identified in the DMG report, implemented with fidelity are the keys to effectiveness and efficiency of the entire educational system. DMG's report points to comprehensive educational system change in instruction that is not restricted to special education. Therefore, any decreases in special education funding reimbursement must be redirected to Tier 1,( Universal Level) and 2 (Targeted Level) educational supports in both literacy and behavior.
- A census based funding model must not result in increased local educational costs whereby the preventative and early intervention work costs are shifted to the local taxpayers.
- Identification of students with significant emotional and behavioral needs in Vermont is high; enormous pressure on the educational system to address these needs is directly related to inadequate funding for our community mental health centers. Increasing childhood poverty, opiate and alcohol addictions, and better diagnostic skills all result in higher numbers of identified children. It would be a mistake to view Vermont's identification rate as overzealousness. Rather the Interagency System of Care has been a strong source of treatment and support to many children and families. This system is unique to Vermont and has allowed for access to community mental health services with identification that few states have implemented.
- VCSEA also recognizes that that strong Tier 1(Universal) and 2 (Targeted) behavior support and intervention can reduce the referrals to special education to address an emotional disability. Additionally, the implementation of PBIS structures has contributed substantially to increasing stronger first instruction in behavior expectations and supports, and strengthening school climate. Strong bonds between community mental health and schools is a sign of health, and providing access to such services earlier is preventative of larger cost burdens to the state in the future.
- Time needs to be taken to review each of these study reports in detail and to create an implementation plan that involves key stakeholders at both state and district levels to outline steps, educational and cost implications comprehensively.
- The reimbursement model currently in place with respect to Independent General Education Schools will need significant study in considering a census based funding system; there is currently no expectation that the independent schools implement a multi-tiered system of support. How would the current reimbursement system for independent schools' special education costs be impacted in a census based model?
- Finally, the DMG and UVM reports are specific and inter-related within the public policy arena. How the independent schools will be addressed in this context is important but ancillary to the forward movement of public education as a result of these reports.

I respectfully request that the House Education Committee invite VSA and VSBA to present with VCSEA specifically about the Independent School Study Committee work and vision. There is much that can be done. Thank you!

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