



February 20, 2018

Senator Philip Baruth
Chair, Senate Education Committee
Vermont State House
115 State Street
Montpelier, Vermont 05633-5301

Dear Senator Baruth:

This letter is sent in response to the most recently issued version of S.229 dated 2/15/18: "An act relating to the State Board of education approval of independent schools". Since testifying on February 9 consultation with the VCSEA Legislative Committee and VSBA and VSA has taken place. This letter addresses concerns raised in that context.

The following practical consideration must be satisfied prior to endorsement of S.229:

- A. There is currently no state wide established structure that exists to support the special education staffing collaboration between public and independent schools that would be necessary to implement the requirements reflected in the proposed legislation. Without such a structure, it would be very difficult to ensure consistent application across the state.

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 for up to a year of a student's enrollment as outlined on p. 11, (C)(2) of this bill. As currently written, the staffing obligations to independent schools would prove to be unachievable for the following reasons both operational and fiscal:

1. LEAs have students in multiple independent schools over a broad geographic area. The LEA cannot be expected to hire staff both full and part time over many independent schools, even temporarily.
 2. 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 independent of the others. This would present significant administrative and coordination challenges.
 3. 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 therapist and behavior specialists. LEAs have no known advantage over independent schools with regard to hiring staff or engaging online services.
 4. 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.
 5. There would be a cost burden to LEAs in attempting to fill positions, part or full time, for independent schools including advertising, screening, reference checks, training and support.
 6. The time limit identified in S.229 would be more realistically operationalized in a specific agreement between the LEA and independent school on a case by case basis, but in no case beyond a single school year. The AOE would be a necessary partner in the process for development and implementation of such a protocol.
- B. Circumstances under which Tuition, Room and Board, and/or Excess Cost Accounting procedures apply on pages 7-8 remain unclear. However, all of these involve following the state and federal processes for IEP development and implementation. We recommend a section for each of the following:

- a. students with disabilities enrolled in general education independent schools as day students who costs are subject to established excess cost accounting procedures,
 - b. another section that addresses students with disabilities enrolled in special education specific day programs for whom tuition and excess cost may apply but not room and board, and
 - c. a final section that addresses students who are placed by the IEP Team in a residential program for whom tuition, room and board, and possible additional excess cost procedures might apply.
- C. VCSEA recognizes that the same special education funding structure may not exist in the future. Should the funding system be based on another model, ensuring equity of financial resources to all students eligible for and accessing special education needs to be assured. VCSEA recommends that the same formula for independent school funding and monitoring as LEAs are required to use. On page 8, (C), Lines 13-17, "...parity in terms of the amount of State and local contributions to cover the costs of providing special education services." is unclear regarding implementation. Since costs for services vary significantly, for example, the differing years of experience of staff members impact salary expenditures. Are these lines representing that the dollar amounts for each service must be equal?

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 and parent agree 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 (LEA).
- Language that recognizes the complexities of case management within the independent school and assures for appropriate staff to provide and manage delivery of services.
- 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.

Thank you for the invitation to comment and suggest further changes to S.229. Please contact me at 802-356-2627 or Traci Sawyers at 802-595-5799 if you have questions.

Sincerely,

Jo-Anne Unruh, Ph.D.
for VCSEA

Cc: Traci Sawyers
Meagan Roy