



Vermont Council of Special Education Administrators Testimony Regarding S.229 of 2/20/18: “An act relating to the State Board of education approval of independent schools”

Thank you for the opportunity to testify again on this important bill. Consultation with the VCSEA Legislative Committee and VSBA and VSA informs this testimony.

The following practical considerations remain and need to be addressed 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.

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 including first instruction, targeted group interventions, behavior supports and significant data reporting. These expectations do not apply 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 for up to a year of a student's enrollment as outlined on p. 11, (C)(2) of this bill. The staffing obligations to independent schools as written would prove to be unachievable for the following reasons both operational and fiscal:

1. 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.
 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 independently of the others. Significant coordination challenges would result.
 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, on occasion 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?

Additionally, if parity in costs is the standard (p. 8 (C) Lines 17-21) why are we not also considering parity with public schools in regard to best practice including for example, implementing a system of comprehensive supports prior to referral to special education, extensive reporting on progress, and collecting data regarding discipline practices, committing to open enrollment practices, and positive behavior interventions support to support all students. Special education is not a standalone system alongside general education but rather operates within the educational system as a whole.

- D. "Notwithstanding any provision of law to the contrary, an approved independent school shall enroll any student requiring special education services who is placed in or referred to the approved independent school as an appropriate placement and least restrictive environment for the student by the local education agency." P. 2, line 20.

The LEA and parent can only agree to a placement in an independent school through a decision-making process in which the independent school is involved. We recommend that a sentence be added after line 20 to affirm that the federal and state IEP process must be followed in order for the LEA to make an independent school placement.

Vermont Special education regulations under 2363.10 IEP Requirements for Placements by LEAs in Independent Schools of Tutorial Programs requires that:

- (a) Before a LEA places a student eligible for special education services in, or refers a student to, an independent school, or tutorial program, the LEA shall initiate and conduct a meeting to develop an IEP for the student that reflects the change in placement.
 - (c) The LEA shall ensure that a representative of the independent school or tutorial program either attends the meeting or is able to participate by other methods including individual or conference telephone call.
- E. "Approval" by SBE is required, not certification as stated in lines 11 and 21 on p. 11, and line 1 on p. 12.

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 (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. 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.

Thank you for the opportunity to testify on this important bill.