

## Memorandum

To: NH Commission Studying School Funding

Re: Special Education Aid

Date: October 25, 2020

From: Richard Ames, Jane Bergeron-Beaulieu, Commission Members

As requested by the Commission, below is a summary of key facts/findings on the topic of Special Education Aid as it relates the work of the NH Commission Studying School Funding.

Overview: Funding special education.

Below is a quick overview of the varied funding sources meant to assist in covering the costs related to special education in NH School Districts. Part of the assistance is Special Education Aid, for statutory reference: 186-C18 State Aid

New Hampshire school districts receive some federal and state financial assistance to help defray the cost of special education and related services, but the amount of assistance is small relative to the cost of providing a FAPE.

Nowadays, school districts typically receive from the federal government approximately \$1,500 annually per IDEA-eligible student. This is far less than what Congress promised in 1975 when it enacted the IDEA and induced states to participate.

Under New Hampshire's educational adequacy statute, the State pays the school district in which a student resides \$3,561.27 annually regardless of whether the student qualifies for special education. RSA 198:40-a, II(a). However, if the student receives special education, the state pays the school district an additional \$1,915.86 annually as "differentiated aid." RSA 198:40-a, II(d).

1. **Special Education Aid** (In FY 2020 the state provided the same level of Special Education Aid that it provided in 2007. It often funds well below the 2007 level).

### School District Placed Students and High Cost Services Deployed in the Neighborhood School

If a school district places an IDEA-eligible child in an out-of-district program (e.g., a specialized private school), the school district fronts all costs. The state is then supposed to reimburse the school district for 80 percent of the child's costs in excess of 3.5 times the state average annual per pupil cost up to 10 times the estimated state average expenditure per pupil for the school year preceding the year of distribution. The department of education is then supposed to be liable for all costs in excess of 10 times the estimated state average expenditure per pupil for the school year preceding the year of distribution. RSA 186-C:18, III. <sup>1</sup> (3.5 times the state average annual per pupil cost is approximately \$52,500.)

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<sup>1</sup>

However, the State often reimburses school districts less than the 80 percent this statute promises, because the legislature frequently fails to appropriate sufficient funds (Special Education Aid).

Additionally, the NHDOE further limits reimbursements by declining to reimburse if data is not entered into NHSEIS as required by the annually updated NHDOE Special Education Manual. For example, if the parent refused to sign the IEP the district may not receive reimbursement.

**2. Court Ordered Placement** of Students with Disabilities in out-of-district placements  
(In 2020 the state provided half the funding provided in 2007)

If a juvenile court places an IDEA-eligible child in a residential facility, the school district's annual liability is capped at three times the state average per pupil cost. The responsible school district pays tuition up to 3 times the state average annual per pupil cost and the State pays the balance, RSA 186-C:19-b. the NHDOE further limits reimbursements by declining to reimburse if data is not entered into NHSEIS as required by the annually updated NHDOE Special Education Manual. For example, if the parent refused to sign the IEP the district may not receive reimbursement.

**3. Foster Students**

If DCYF places an IDEA-eligible child in a foster home, group, residential school, or similar facility, the "receiving district" (where that facility is located) may be responsible for providing special education pursuant to RSA 186-C:13, I, and 193:28, II, but the "sending district" (where the student formerly resided or where the student's parents currently reside) may have to reimburse the receiving district for special education costs. RSA 193:27 and 29.

**4. Charter Schools**

If parents enroll an IDEA-eligible child in a charter school, the school district in which the student resides is responsible for providing and funding a FAPE. RSA 194-B:11, III. All state adequacy funds (including differentiated aid) tied to that pupil go to the charter school, with the following exception. The differentiated aid arising from the student's eligibility for special education, \$1,915.86 annually, goes to the school district. RSA 194-B:11, I(b)(1)(A). The Charter Schools set their own rate for the costs of the services provided by the local school district.

**5. Medicaid**

Lastly, if an IDEA-eligible student qualifies for Medicaid, the school district may be entitled to partial reimbursement for certain costs under the Medicaid-to-Schools program. Money a school district receives under that program comes from federal, not state, funds.

**6. Rate Setting Ed 1129**

While state and Federal funding has plateaued or decreased over the past decade, costs have continued to increase annually.

A recent change to rate setting allows private programs to increase tuition 5% annually. The cost of placing a student in a private school has risen sharply over the past few years as the annual 5% compounds annually.

### Recommendations to The Commission Relative to Special Education Aid:

- Affirm that Special Education Aid remain outside of the funding formula proposed by the Commission, similar to other states across the country
- There must be a clear commitment on the part of the state of NH to fully fund Special Education Aid
- Special Education Aid should be a part of the state's commitment to provide an opportunity to an adequate education
- Any Administrative Rules established by the New Hampshire Department of Education must be in alignment with the state's commitment to an adequate education
- The state of NH must appropriate sufficient funds in order to pay its full 80% share of excess cost under RSA 186-C:18 (State Aid)
- Suggest that a Task Force be established to look more closely at the complicated issues related to IDEA eligible students who are placed by the juvenile court in private special education facilities or foster homes and the related fiscal costs to school districts.