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Bureau of Special Education FY'10 Memo #34

Date: May 7, 2010

TO: Superintendents of Schools
Special Education Directors
Business Administrators

FROM: Office of the Commissioner
Division of Instruction
Bureau of Special Education

RE: New Hampshire Rules for the Education of Children with Disabilities

The State Board of Education adopted Ed 1128.08, State Aid for In-District Programs on April 14, 2010 effective April 13, 2010. Ed 1128.08 language reads as follows:

Ed 1128.08 State Aid for In-District Programs

(a) The following definitions shall apply for the purposes of this section:

- (1) "State Aid for Out-of-District Placements" means the funding to establish or support school district based programs for children with disabilities who have been in out-of-district placements in the previous school year under RSA186-C:18, XI;
- (2) "Contributed funds" means funds provided to defray the cost of a special education by any party or agency other than the LEA;
- (3) "Direct costs" means those costs which can be identified specifically with the provision of special education and related services, as included in a child's IEP;
- (4) "Indirect costs" means those costs which have been incurred for common or joint objectives and which cannot be identified with the provision of special education and related services as included in a particular child's IEP;
- (5) "Liable school district" means a school district which is legally responsible for the education of the child with a disability; and
- (6) "Supplemental costs" means the difference between the district's average per pupil cost and the cost of education for the child with a disability.

(b) A liable school district shall be reimbursed for the development or maintenance of an in-district special education program, under this paragraph, if the following requirements are met:

- (1) The costs for which the district is seeking reimbursement shall establish or support a school district-based program for a child with disabilities who was in an out-of-district placement in the previous school year as required in RSA 186-C:18, XI;
- (2) The in-district program shall be approved pursuant to the provisions of Ed 1126.02;
- (3) The child for whom the district is seeking reimbursement shall have been placed in the in-district program pursuant to the provisions of Ed 1111.02;
- (4) The child for whom the district shall be seeking reimbursement is receiving a FAPE;
- (5) The liable school district shall report eligible cost data for a child with a disability pursuant to Ed 1128.04, (a), (1) through (5) and in accordance with Ed 1128.07, if applicable;
- (6) The information entered into NHSEIS under Ed 1128.04 shall be verified on a state aid verification form signed and dated by an individual authorized to make application for state aid on behalf of the liable school district;
- (7) The verification form shall be submitted to the department no later than 4:30 p.m. on August 15 or, if August 15 falls on a weekend, no later than 4:30 p.m. on the next business day; and
- (8) Payment to the school district, under this paragraph, shall be on or before January 1.

(c) Limitations on reimbursement shall be as follows:

- (1) A liable school district shall be eligible for reimbursement, under this paragraph only for children with disabilities whose placement has changed from an out-of-district placement to an in-district program developed or maintained by the responsible school district, and only for:
 - a. The direct costs that are included in the IEP in accordance with (b) (5) above; and
 - b. The direct costs that qualify as special education and related services, that allow the student with disabilities to be educated in the local school district program;
- (2) A liable school district shall not be reimbursed for:
 - a. Costs which exceed rates established by Ed 1129 for tuition, instruction, and related services;
 - b. Indirect costs; or
 - c. Contributed funds;

- (3) The reimbursement amount the school district shall receive shall be the greater of:
- a. The supplemental costs incurred by the school district to educate the child in the in-district program; or
 - b. The amount the school district received for the child in the last year of the out-of-district program, prior to placing the student in the in-district program, under this paragraph;
- (4) The reimbursement under (c) (3) above shall be made for 3 years, as follows:
- a. Reimbursement under (c) (3) a. above the supplemental amount for all 3 years; or
 - b. Reimbursement under (c) (3) b. above:
 1. In year one, 70 percent of the total amount in (c) (3) b. above;
 2. In year 2, 50 percent of the total amount in (c) (3) b. above; and,
 3. In year 3, 30 percent of the total amount in (c) (3) above.
- (d) Funds distributed under RSA 186-C:18, XI shall be:
- (1) Made in accordance with the provisions of (b) above;
 - (2) Prorated in accordance with RSA 186-C:18, III (a), if insufficient funds are appropriated; and
 - (3) Used to assist school districts in meeting catastrophic aid costs in their special education programs to the extent that they are not used to fund the program set out in RSA 186-C:18, XI.

For more information, please contact Santina Thibedeau, sthibedeau@ed.state.nh.us or 271-6693.