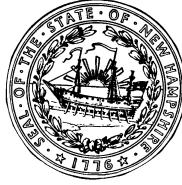


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Bureau of Special Education FY'16 Memo #11

Date: October 20, 2015

To: Superintendents
Special Education Directors
Private Providers

From: Office of the Commissioner of Education

Division of Educational Improvement
Bureau of Special Education

RE: Private Providers ~ New Hampshire Rules for the Education of Children with Disabilities
Ed 1114.19 Insurance Coverage Guidance for Private Provider

The New Hampshire Department of Education (NHDOE), Bureau of Special Education is providing guidance on New Hampshire Rules for the Education of Children with Disabilities Ed 1114.19 Insurance Coverage (a)(b)(c).

Ed 1114.19 Insurance Coverage.

- (a) Each private provider of special education or other non-LEA program which accepts prepayment of public funds, directly or indirectly, shall maintain bonding in an amount adequate to cover the amount of public funds received and expenses associated with the recovery of such funds.
- (b) All persons delegated the authority to sign checks or manage funds shall be bonded at the program's expense.
- (c) Each private provider of special education or other non-LEA program shall carry, for protection of children in care and in amounts as recommended by the facility or program's insurance provider, which provider shall be licensed to do business in the State of New Hampshire:
 - (1) Professional liability and bonding insurance;
 - (2) Vehicle insurance; and
 - (3) Comprehensive property and liability insurance in compliance with Ed 1129.08(a).

Pursuant to Ed 1114.19(a), when a private provider accepts tuition funds from Local Education Agencies (LEA), these are considered public funds. When purchasing bond insurance, the amount of the bond insurance must be greater than or equal to the annual tuition revenue. The annual tuition revenue is calculated by multiplying the NHDOE established capacity number by the NHDOE established annual tuition rate.

Pursuant to Ed 1114.19(b), each private provider should carry a document from their governing board establishing who is authorized to sign checks or manage funds. The individuals that may be granted this authority include but are not limited to:

- Employee, a person employed for wages or salary, especially at nonexecutive levels.
- Chief Financial Officer, a person who writes financial instruments such as checks, drawn or similar written promises, order or direction to pay sum of money, and directs the deposit of funds received by the organization.
- Executive, a person who is a duly elected or appointed director, officer, trustee, or duly constituted committee member, and manager or member of the Board of Managers or equivalent position of the Organization.

The insurance policy should specifically cite the individual that the board has approved for these purposes.

For private providers who contract for financial services, the contract should explicitly state, by way of the contract, the entity that is the authorized agent.

If the insurance binder does not specifically state bonding insurance, the NHDOE will accept Criminal Liability insurance provided that the insurance binder clearly states:

- Forgery coverage
- Fund transfer fraud
- Money orders and counterfeit currency fraud
- Credit card fraud; and
- Computer fraud

Pursuant to Ed 1114.19(c) private providers shall have Professional Liability insurance, Vehicle insurance, and Comprehensive Property and Liability insurance, in compliance with Ed 1129.08(aj)(ak)(al).

Professional Liability insurance, in compliance with Ed 1129.08(aj), shall mean insurance that protects private providers from bearing the full cost of defending against a negligence claim made by a client, as well as damages awarded through a civil lawsuit.

Vehicle insurance, in compliance with Ed 1129(ak), shall mean all vehicles that are owned or leased by the private provider, as well as vehicles used by employees for the purpose of providing school services.

Comprehensive Property and Liability insurance, in compliance with Ed 1129.08(al) shall mean all claims of bodily injury, death, and property damage or loss the private provider might cause to someone else. Pursuant to Ed 1129.08(al) coverage shall be in amount of not less than \$250,000 per claim and \$1,000,000 per incident.

For further clarification, please contact Janelle Cotnoir: Janelle.Cotnoir@doe.nh.gov / (603) 271-3737.