

Readopt with amendment Ed 1128, effective 3-24-17 (Doc #12141), to read as follows:

PART Ed 1128 SPECIAL EDUCATION AID

Ed 1128.01 Definitions.

(a) “Special education aid” means financial assistance for special education costs distributed under RSA 186-C:18, III to a responsible school district.

(b) “Contributed funds” means funds contributed to defray the cost of a special education and by any party or agency other than the LEA.

(c) “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.

(d) “Emergency assistance” means funds appropriated for special education costs as provided in 186-C:18, III.

(e) “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.

(f) “Responsible school district” means a school district which is responsible for a child with a disability for whom the costs of special education exceed the formula established by RSA 186-C:18, III.

Ed 1128.02 Reimbursement. A responsible school district shall be reimbursed for special education aid if the requirements of this section are met:

(a) The special education costs for which the district is seeking payment shall exceed the statutory threshold established by RSA 186-C:18, III;

(b) Each child with a disability for whom the responsible district is seeking special education aid reimbursement shall be:

(1) Enrolled in an approved special education program that:

a. Provides FAPE; and

b. Meets the requirements established in:

1. Ed 1128.02;
2. Ed 1128.03;
3. Ed 1128.05; or
4. Ed 1117; or

(2) In a placement for which a hearing officer, pursuant to Ed 1123, orders the responsible school district to reimburse parents in accordance with 34 CFR 300.148;

(c) The responsible school district shall report evaluation, placement, and eligible cost data for a child with a disability for special education aid in accordance with Ed 1128.07; and

(d) The information entered into NHSEIS under Ed 1128.04 shall be certified on the “Superintendent’s Verification of SPECIAL EDUCATION AID” form completed, signed and dated by an individual authorized to make application for special education aid on behalf of the responsible school district. The form shall certify the following information: “During the Fiscal Year, the total expenses entered above were incurred by the school district for services provided to the Special Education students who were eligible for Special Education Aid. The cost to the district for fulfilling each student’s Individual Education Program (IEP) during Fiscal Year has exceeded 3-1/2 times the estimated state average expenditure per pupil for the school year preceding the year of distribution. The district is only requesting reimbursement for costs paid by local funds. No reimbursement is being requested for personnel or services paid by IDEA federal funds. Detailed accounting will be maintained by the school district and will include the invoices, as well as checks and payment vouchers on which the payments were made.” The certification 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.

Ed 1128.03 Limitations on Reimbursement. A responsible school district shall:

(a) Be eligible for reimbursement only for those direct costs which are included in the IEP of a child with a disability, and which qualify as special education and related services; and

(b) Not be reimbursed for:

(1) Costs which exceed rates established by Ed 1129 for tuition, instruction, room and board, and related services; or

(2) Indirect costs.

Ed 1128.04 Application for Special Education Aid. To apply for the special education aid, a responsible school district shall:

(a) Enter the following program information into the NHSEIS database system for the current reporting year:

(1) Instructional costs;

(2) Room and board costs;

(3) Tuition costs;

(4) Costs for related services, for which the department has approved a rate under Ed 1129, including:

a. Counseling, both individual and group;

b. Occupational therapy, both individual and group;

c. Physical therapy, both individual and group; and

d. Speech pathology, both individual and group;

(5) Costs for related services for which the department had not approved a rate under Ed 1129, provided such services are included in the IEP of the child with a disability;

(6) Transportation costs;

(7) Exceptional costs, including diagnostic costs for services defined under Ed 1107; and

- (8) Any contributed funds; and
- (b) Send supporting documentation to the department for:
 - (1) Transportation costs under (a)(6) above in excess of \$5,000;
 - (2) Exceptional costs under (a)(7);
 - (3) Instruction, room and board, and tuition costs from out-of-state facilities, if applicable;
 - (4) Instructional costs from public programs; and
 - (5) All related services when no rate is set.

Ed 1128.05 Calculation of Cost of Special Education. The cost of special education for a particular child with a disability shall equal the costs entered into NHSEIS under Ed 1128.04(a)(1) – (7), less contributed funds entered into NHSEIS under Ed 1128.04(a)(8).

Ed 1128.06 Emergency Assistance.

- (a) Emergency assistance shall be available pursuant to RSA 186-C 18, III.
- (b) When a responsible school district applies for emergency assistance, it shall:
 - (1) Enter information into NHSEIS as provided in Ed 1128.04(a); and
 - (2) Supply supporting documentation as provided in Ed 1128.04(b).
- (c) An application for emergency assistance for the school year in progress shall be submitted to the department by a responsible school district no later than 4:30 p.m. on the first Friday of May.
- (d) On applications for emergency assistance, a responsible school district shall document that:
 - (1) The district could not have anticipated the need of this child with a disability for a comprehensive special educational program;
 - (2) The district is experiencing a financial crisis and could not, through line item budget transfers or other financial management techniques, appropriate the funds necessary to provide this child with a disability with FAPE; and
 - (3) There are no other sources of financial support available to assist the district with the funding of this placement.
- (e) If a responsible school district receives emergency assistance funds for certain children with a disability, it shall not receive special education for these same children.

Ed 1128.07 Proration. Pursuant to RSA 186-C:18, IX, when a child with a disability transfers from one responsible school district to another during the school year, the following shall apply to the proration of special education aid and emergency assistance among responsible districts:

- (a) Each district shall be reimbursed for only each school day on which the child was a resident of the district; and
- (b) Each district shall file separate application forms.

Ed 1128.08 State Aid For In-District Programs.

(a) For the purposes of this section, “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 shall be 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 certified on the “Superintendent’s Verification of SPECIAL EDUCATION AID” 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; and
- (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 special education 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.

RULE	STATUTE
Ed 1128.01-1128.07	RSA 186-C:18
Ed 1128.08	RSA 186-C:18, XI(b)