

MEMORANDUM

TO: Directors of Special Education
FROM: Agency of Education
SUBJECT: Extended School Year (ESY) Services and Independent Schools
DATE: June 12, 2020

Purpose

This memo expands on the guidance described in the AOE's [Initial Considerations for Compensatory Education and Extended School Year](#) memo dated May 8, 2020, and the May 29, 2020 [Memorandum: ESY Summer 2020](#). It provides additional guidance on:

- Considerations for local school systems and Individualized Education Program (IEP) teams to use when contracting with independent schools to provide ESY on behalf of the Local Education Agency (LEA); and
- Expectations for LEA and independent school communication with the Agency of Education (AOE).

Background

LEAs contract with independent schools for school year programs and Extended School Year (ESY) programs. This memorandum is not intended to change those contractual relationships, as to do so will cause disruption to students with disabilities served by independent schools. This memorandum explains the regulatory relationship between AOE and those independent schools for which the Secretary of Education sets maximum tuition rates.

Independent schools servicing special education students establish the following parameters, which are then approved by the State Board of Education:

- Number of school days: 175 or 219. Schools with 219 school days are referred to as “year-round” schools.
- Certain categories of disabilities
- Enrollment capacity

The Secretary of Education determines the maximum tuition rate for independent schools serving primarily special education students using the program or school's total costs divided by the school's SBE-approved capacity. When an LEA contracts with an independent school and

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pays tuition in accordance with rates set by the Secretary and then contracts over and above that rate for ESY services, the independent school must report those amounts over the maximum tuition rate as revenue.

This memorandum does not apply to independent schools which serve primarily general education students. This memorandum only applies to those independent schools which have rates set by AOE.

Regulations

ESY is defined as special education and related services beyond the normal school year of the LEA. SBE Rule 2361.1(16).

Allowable special education expenditures include “[c]ontracted services to provide special education instruction¹ to students with disabilities” and “tuition and all necessary costs of placement, as defined in Rule 2366.2.5, excluding general education tuition in an independent school approved for the purpose of providing special education in accordance with 16 VSA 2958(e) (residential) and Rule 2228, et seq.” SBE Rule 2366.2.1 (c) and (g).

Rule 2228.1 requires independent schools to be approved for the disability categories applicable to the student prior to an LEA placing the student an independent school.

Current Status of Independent Schools

The following schools are approved to operate for 219 days per year (year-round schools)²:

- Faye Honey Knopp³
- New England School for Girls⁴
- Vermont School for Girls⁵
- Bellcate
- Foundations
- INSPIRE
- The New School

The following residential programs⁶ are approved to operate year-round residential programs but also serve day students and offer ESY/summer programming:

- Meadows (at the Retreat)
- Community House
- Brookhaven

¹ The terminology “special education instruction” is not defined in the rules.

² The AOE does not have student-specific information to determine if students attending year-round schools also are eligible (need) ESY.

³ Associated with Howard Center and rates set by Agency of Human Services and Agency of Education.

⁴ Rates by AHS and AOE.

⁵ Rates by AHS and AOE.

⁶ Rates by AHS/PNMI.

The following schools are approved to operate for 175 days AND reported ESY revenue:

- The Greenwood School
- Kindle Farms
- Laraway
- Maplehill School
- The Compass School
- NFI (Arlington, Center Point, Cornerstone, East Meadow and Turning Point)

If LEAs are contracting with schools listed above which reported ESY revenue, LEAs may continue to contract with those independent schools for ESY.

The following schools are affiliated with a Designated Agency (DA) and reported Medicaid revenue⁷:

- Howard Center (Baird and Jean Garvin)
- Laraway
- SOAR Learning Center
- WCMHS (CHOICE schools)
- Kindle Farm
- NFI

If an LEA is contracting with an independent school for which the Secretary determines a maximum tuition rate, any additional costs to an LEA for ESY must be addressed by the Agency's rate-setting team. The team will follow-up with the independent school to determine if adjustments to the maximum rate are required.

This also applies if the independent school enrolls additional students for the time period beyond 175 days, for which it does not already provide school year services (which impacts State Board-approved enrollment capacity). This information will be collected via AOE's existing regulatory process pursuant to SBE Rule 2228.

⁷ The Agency does not have student-specific information to determine if these schools provide ESY and whether those services are eligible for Medicaid.