


MEMORANDUM

TO: Superintendents, Headmasters, Special Education Administrators
FROM: Daniel M. French, Ed.D., Secretary of Education 
SUBJECT: Accounting for Certain Special Education Expenses
DATE: November 1, 2019

The Agency of Education (AOE) will not require supervisory unions and school districts (SU/SDs) to separately allocate general education costs from special education costs within tuition in cases where a student's individualized education program (IEP) team has chosen an out-of-district placement at an approved independent school. This memo updates [guidance](#) dated June 6, 2019.

Background

State Board of Education (SBE) Rule 2366.2.1(g) requires special education tuition to exclude general education tuition in order to be an "allowable" cost for special education expenditures for State Formula Reimbursement.

SBE Rule 2228.8(2) provides that the rates at an independent school approved for special education charges "shall be no more than the costs that are reasonably related to the level of services provided to its publicly-placed special education students" using generally accepted accounting principles (GAAP) as set forth in the AOE Handbook for Financial Accounting (now the Technical Guide for Special Education Cost Documentation). This rule has guided and will continue to guide the rate setting process for approved independent schools that serve students pursuant to IEP team placements.

In early June, the AOE sent two memos that, among other issues, sought to bring about compliance with Rule 2366.2.1(g). This portion of the June guidance required SU/SDs to account for general education services separately from special education services within a single tuition charged by an independent school approved for special education purposes. It would have increased local (non-special education reimbursable) costs by shifting a portion of special education tuition out of the statewide appropriation for special education reimbursements and onto SU/SD budgets. On August 8, 2019, the agency [notified](#) LEAs that for FY2020 expenses only, the AOE would maintain previous practice with regard to SBE Rule 2366.2.1(g), and would allow special education reimbursement for full tuition paid on behalf of a student who is placed in an approved independent school by the student's IEP team.

New Guidance

After examining the potential impacts of the June guidance, I have reconsidered the AOE's approach to the requirement to account for general education tuition costs separately from special education tuition costs. It is apparent to me that our system does not have capacity to

enact this change. The distraction and disruption associated with attempts at this change were detrimental to our ability to proceed with funding rules under Act 173. Successful implementation of Act 173 is my priority. Accordingly, in FY 2021 and going forward, **the AOE will not require an SU/SD to separately allocate general education costs from special education costs within tuitions** for students whose IEP team has chosen an out-of-district placement at an approved independent school.

Impacts on Rate Setting

The rate setting process will continue as required by current SBE rules. The AOE will also continue to assist approved independent schools and sending SU/SDs to ensure all students, including students enrolled in out-of-district placements, receive a free and appropriate public education (FAPE) in the least restrictive environment, including “meaningful access to [the] state’s academic content standards.”¹

As allowed by SBE Rule 2228.8, an independent school may, but is not required to, request a new rate for the ensuing school year by making a request with supporting documentation to the agency prior to November 15. Within the rate-setting process, the AOE will not establish a general education and a special education amount within a single approved tuition rate. Those agency-approved tuition rates issued between May 2019 and October 2019 include a separation of general education tuition; only the **total** approved tuition will govern the maximum amount an approved independent school may charge to an SU/SD.

¹ OSEP’s Dear Colleague Letter on Free Appropriate Public Education, released November 16, 2015 and available online [on the U.S. DOE Website](#).