

Selected portions of Rule 2366

2366.2.5 Costs of Placement in Approved Independent Schools

(a) Subject to (b), reasonable and necessary costs, required by a student's IEP, excluding general education tuition, of a placement in an independent school are allowable if either:

(1) The independent school is approved by the State Board of Education for purposes of providing special education pursuant to Rule 2228 for the category of disability under which the student was determined to be eligible for special education and has been reviewed and received reimbursement approval through the residential review process;

(2) The student's placement has been recommended for reimbursement either through the residential review process or as an exception by the Secretary pursuant to Rule 2228.2. of a high cost day or residential placement; or

(3) The student's placement is required by a due process hearing order issued following a hearing on the merits or a court order.

(b) Costs approved by the State Board of Education at an independent school are only allowable if covered by a written agreement pursuant to Rule 2228.4.1 and at a rate approved under Rule 2228.8 or for an out of state placement, the rates approved under that state's approval system.

(c) If the costs relating to a student's attendance at an independent school or program are pursuant to a legally binding settlement agreement, the parties shall, at a minimum, make reference in the IEP to the settlement agreement as the means by which the parties have agreed to resolve placement differences. The agreement shall provide for annual review by the parties of any resolution of placement issues.

2366.2.6 Unallowable Expenditures

The following are not allowable for reimbursement under the State of Vermont special education funding formula:

(1) Attorney's fees and other legal costs;

(2) Overhead costs including building operations, general administration, and business services except that are part of a collaborative tuition attributable to overhead costs, and then only to the extent that overhead costs do not exceed 20% of the total program costs;

(3) Funds paid to union schools or supervisory unions by member school districts as assessments for special education;

(4) Any costs not allowable under Rules 2366.2.1 through 2366.6;

(5) Any costs for financial accounting and auditing; and

(6) Technical Education tuition established under 16 V.S.A. § 1552(a).

(7) Any costs related to the provision of special education to a student that has reached age 22 unless the Secretary has granted an extension under 16 V.S.A. § 2944(e) and

(8) Any costs related to parentally placed independent school students in excess of the proportionate share required by the IDEA except if pursuant to a hearing officer order reached on the merits or a court order.