

CYBER SCHOOLS AND SPECIAL EDUCATION FUNDING



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Background

- ❑ Several Schools of Excellence which are cyber schools
- ❑ One physical location, houses administration, not students.
- ❑ Enrolling students around the state who log in from their homes.
- ❑ Some of those students are students with disabilities.



Background



- ❑ Presumption: Resident ISD provides services and programs for students enrolled in a school in another ISD.
- ❑ A few years ago, cybers started sending letters with invoices to ISDs across the State, seeking reimbursement for costs of providing special education services to students resident in the ISD.
- ❑ Often this was the first an ISD knew about the student. Sometimes the student actually lived in a 3rd ISD.

Responses by ISDs Varied

- ❑ PSAs, enrolling ISDs and Resident ISDs all have responsibilities to assure students enrolled in a PSA receive FAPE in a least restrictive environment.
- ❑ Several ISDs started working together to evaluate how these responsibilities could and should be met in the context of a cyber school located up to hundreds of miles from the student with disabilities.



Existing School Aid Act Requirements

Sec 51a

- (14) If a public school academy enrolls pursuant to this section a pupil who resides outside of the intermediate district in which the public school academy is located and who is eligible for special education programs and services according to statute or rule, or who is a child with disabilities, as defined under the individuals with disabilities education act, Public Law 108-446, the provision of special education programs and services and the payment of the added costs of special education programs and services for the pupil are the responsibility of the district and intermediate district in which the pupil resides unless the enrolling district or intermediate district has a written agreement with the district or intermediate district in which the pupil resides or the public school academy for the purpose of providing the pupil with a free appropriate public education and the written agreement includes at least an agreement on the responsibility for the payment of the added costs of special education programs and services for the pupil.
- (15) Beginning in 2016-2017, a district, public school academy, or intermediate district that fails to comply with subsection (14) or with the requirements of federal regulations regarding the treatment of public school academies and public school academy pupils for the purposes of special education, 34 CFR 300.209, forfeits from its total state aid an amount equal to 10% of its total state aid.

School Code - PSA Responsibilities

Sec. 1701a.

For the purposes of ensuring that a student with a disability enrolled in a public school academy is provided with special education programs and services, the public school academy is considered to be a local school district under this article. [Special education provisions.]

See also sections which apply to local districts:

1703 (special education personnel qualifications; curriculum)

1704 (visually impaired standards)

1751 (provide in accordance with resident ISD plan)

1752 (due process); 1756 (transportation); 1757 (room and board)

School Code – Resident ISD Responsibilities

Sec. 1711.

- (a) Develop, establish, and continually evaluate and modify ... a plan... that provides for the delivery of special education programs and services designed to develop the maximum potential of each student with a disability of whom the intermediate school board is required to maintain a record under subdivision (f). * * *
- (f) Maintain a record of each student with a disability under 26 years of age, who is a resident of 1 of its constituent districts and the special education programs or services in which the student with a disability is participating....
- (g) Have the authority to place in appropriate special education programs or services a student with a disability for whom a constituent district is required to provide special education programs or services under section 1751.
- (j) Receive [reports from a parent or expert]... who in good faith believes that a person under 26 years of age examined by the professional is or may be a student with a disability, and immediately evaluate the person pursuant to rules promulgated by the superintendent of public instruction.
- (k) Evaluate pupils in accordance with section 1311 [suspended or expelled pupils].

Special Education Funds

IDEA – Currently goes to enrolling ISD; distributions per enrolling ISD plan and 1998 baseline

Foundation – Goes to PSA

Act 18 – Stays with ISD

In most ISDs, special education dollars do not cover the full cost of programs and services.



Current Legislation Situation Fluid

Four (or more) approaches in play:

- ❑ ISD work group (MAISA, Ingham, Calhoun, Macomb, Wayne)
 - ❑ Funds tied to compliance, Resident ISD Plan
- ❑ Cybers – Distribute 100% of IDEA to cybers, state monitors, or no monitoring.
- ❑ MDE – Rebase IDEA, distribute 100% of formula
- ❑ Senator Hansen – goal of simplicity

Key Points and Open Questions

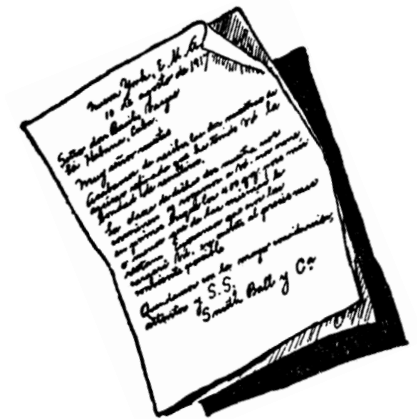
- ❑ Distribution of IDEA dollars may change
- ❑ MDE and Hansen approaches:
 - Disregard ISD plans
 - Treat cybers and brick and mortar PSAs differently
 - Monitoring for FAPE and incentives for cyber compliance unclear
 - IDEA funds available to ISDs may shrink if IDEA is rebased, or 100% to cybers



Key Points and Open Questions

United States Department of Education August 2016 “Dear Colleague” Letter

- Cautions about need to assure compliance by cybers
- Lack of proximity of cybers to student a concern



ISD Working Group Solutions

- ❑ Same rules for cybers as everyone else
- ❑ Guidelines for compliance, checklist (distributed by MAISA to all ISDs)
- ❑ Include both enrolling ISD and resident ISD in IEP meeting
- ❑ Both ISDs and PSAs enter into agreement which ID's student, programs and services, who provides and who pays, and documentation to be provided to resident ISD to confirm compliance.



ISD Solution, Distribution of Funds

- ❑ No PA 18 money leaves the county
- ❑ IDEA
 - Use existing formula
 - Distribute buckets 2 and 3 (all but baseline) to resident ISD, OR to enrolling ISD which transfers to resident ISD
 - Resident ISD confirms compliance



Where Will This End Up?



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Amanda Van Dusen

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Principal



Amanda Van Dusen represents several public law clients including City of Detroit, schools (K-12 and higher), airports, counties and solid waste management authorities.

With an extensive background in all aspects of public-sector finance, she also counsels her clients on the business side of their operations, helping them understand options and develop approaches for achieving their objectives, balancing the risks and the opportunities associated with each choice, so that the administration and the board can make informed decisions.

In addition to serving as bond counsel in financing transactions, Amanda focuses on such areas as elections, campaign finance compliance, state and federal tax issues, and general finance (budgets, revenue sources and cash flow). In serving her clients, Amanda has frequent contact with state officials. She particularly enjoys developing new products to meet her clients' evolving needs. Amanda has also held numerous leadership positions with the firm and, as a member of a number of nonprofits and their boards, is actively engaged in the arts, public policy and philanthropic efforts across Michigan.

Services

Industries

Education

Public Finance

Airports

Cash Flow and Working Capital

Education Finance

Higher Education

K-12

Infrastructure

Solid Waste Management

Related Government Services

Election and Campaigns

Intergovernmental Cooperation Agreements

Local Government Restructuring

Millage Planning

Education

University of Michigan Law School, J.D. 1979

Williams College, B.A. 1975

Bar Admissions

Michigan

Thank you! Any Questions?

- This document is not intended to give legal advice and does not establish any attorney-client relationship. It is comprised of general information. School Districts facing specific issues should seek the assistance of an attorney.

