

2016 -- H 7265

=====
LC003805
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

—————
A N A C T

RELATING TO EDUCATION - CHILDREN WITH DISABILITIES

Introduced By: Representatives Amore, Melo, Kazarian, and Hearn

Date Introduced: January 21, 2016

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 16-24-1 of the General Laws in Chapter 16-24 entitled "Children
2 With Disabilities [See Title 16 Chapter 97 - The Rhode Island Board of Education Act]" is hereby
3 amended to read as follows:

4 **16-24-1. Duty of school committee to provide special education.** -- (a) In any city or
5 town where there is a child with a disability within the age range as designated by the regulations
6 of the ~~state board of regents for elementary and secondary education~~ [Rhode Island board of](#)
7 [education](#), who is functionally limited to such an extent that normal educational growth and
8 development is prevented, the school committee of the city or town where the child resides shall
9 provide the type of special education that will best satisfy the needs of the child with a disability,
10 as recommended and approved by the ~~state board of regents for elementary and secondary~~
11 ~~education~~ [Rhode Island board of education](#) in accordance with its regulations governing the
12 education of children with disabilities.

13 (b) Notwithstanding any other federal or state law or regulation, the school committee
14 where a parentally placed child who has or develops a disability in private school resides, shall
15 provide the child with the same free and appropriate education as it provides to children in public
16 schools. These children shall have the same rights and remedies in the regulations of the ~~board of~~
17 ~~regents for elementary and secondary education~~ [Rhode Island board of education](#) governing the
18 education of children with disabilities as children in public school relative to initially determining
19 eligibility, implementation and/or any other rights and remedies relative to any special education

1 services the child may be eligible or receive from the public school district.

2 (c) For the purpose of this statute, a parentally placed child who has or develops a
3 disability in private school is defined as a child enrolled or placed in a private school by the
4 unilateral decision of his or her parents and without consultation of the public school district, who
5 either has, or at some point while at the private school is diagnosed with a learning disability.
6 Parents who unilaterally enroll their child in a private school are required to pay the tuition costs
7 related to the child's education that are unrelated to the child's disability, and the public school
8 district where the child resides is responsible for payment of the services related to the child's
9 disability as developed and determined in the child's individual education plan.

10 (d) For the purpose of this statute, a free and appropriate education is defined as special
11 education services and related services that:

12 (1) Are provided at public expense, under public supervision and direction, and without
13 charge;

14 (2) Meet all of the standards and requirements of the state of Rhode Island department of
15 education and requirements of the regulations of the board of regents for elementary and
16 secondary education governing the education of children with disabilities, which shall include
17 initial evaluation and determination procedures;

18 (3) Include preschool, elementary school or secondary school education in the state; and

19 (4) Are provided in conformity with an individualized education program that meets the
20 requirements of the regulations of the ~~board of regents for elementary and secondary education~~
21 [Rhode Island board of education](#) governing the education of children with disabilities.

22 (e) In those cases that an individual education plan has been adopted for a child and the
23 child moves to another town or city, the plan shall remain in effect until a new plan is adopted for
24 the child in the new town or city.

25 (f) Provided, that as to any child attending the East Providence campus of Bradley
26 Hospital who is not a resident of East Providence, the child's sending district or district where the
27 child resides shall be responsible to reimburse the school department of the city of East
28 Providence for any balance due on monies paid to Bradley Hospital for said child after
29 application of any state aid. If such direct payment would otherwise violate the state school
30 funding formula and/or federal law, then the sending district shall be responsible to reimburse the
31 school department of the city of East Providence for payments made by the city of East
32 Providence for said child.

33 SECTION 2. Sections 16-64-1 and 16-64-1.1 of the General Laws in Chapter 16-64
34 entitled "Residence of Children for School Purposes" are hereby amended to read as follows:

1 **16-64-1. Residency of children for school purposes.** -- Except as provided by law or by
2 agreement, a child shall be enrolled in the school system of the city or town where he or she
3 resides. A child shall be deemed to be a resident of the city or town where his or her parents
4 reside. If the child's parents reside in different cities or towns the child shall be deemed to be a
5 resident of the city or town in which the parent having actual custody of the child resides. In cases
6 where a child has no living parents, has been abandoned by his or her parents, or when parents are
7 unable to care for their child on account of parental illness or family break-up, the child shall be
8 deemed to be a resident of the city or town where the child lives with his or her legal guardian,
9 natural guardian, or other person acting in loco parentis to the child. An emancipated minor shall
10 be deemed to be a resident of the city or town where he or she lives. Children placed in group
11 homes, in foster care, in child caring facilities, or by a Rhode Island state agency or a Rhode
12 Island licensed child placing agency shall be deemed to be residents of the city or town where the
13 group home, child caring facility, or foster home is located for the purposes of enrollment, and
14 this city or town shall be reimbursed or the child's education shall be paid for in accordance with
15 § 16-64-1.1, [except that in the case of a child at the East Providence campus of Bradley Hospital,](#)
16 [the child shall not be considered to be a resident of the city of East Providence unless the child](#)
17 [otherwise qualifies as a resident of said city aside from his or her attendance at Bradley Hospital.](#)
18 In all other cases a child's residence shall be determined in accordance with the applicable rules
19 of the common law. Where a child is a resident in a dwelling which lies in more than one
20 municipality, the parent(s) or guardian shall choose which school district the child shall attend
21 without payment of costs as tuition.

22 **16-64-1.1. Payment and reimbursement for educational costs of children placed in**
23 **foster care, group homes, or other residential facility by a Rhode Island state agency.** -- (a)
24 Children placed in foster care by a Rhode Island licensed child placing agency or a Rhode Island
25 governmental agency shall be entitled to the same free appropriate public education provided to
26 all other residents of the city or town where the child is placed. The city or town shall pay the cost
27 of the education of the child during the time the child is in foster care in the city or town.

28 (b) Children placed by DCYF in a group home or other residential facility that does not
29 include the delivery of educational services are to be educated by the community in which the
30 group home or other residential facility is located, and those children shall be entitled to the same
31 free appropriate public education provided to all other residents of the city or town where the
32 child is placed. For purposes of payment and reimbursement for educational costs under this
33 chapter, the term "group home or other residential facility" shall not include independent living
34 programs. Each city and town that contains one or more group homes or other residential

1 facilities that do not include delivery of educational services will receive funds as part of state aid
2 to education in accordance with the following provisions:

3 (1) On December 31 of each year the DCYF shall provide the department of elementary
4 and secondary education with a precise count of how many group home or other residential
5 facility "beds" exist in each Rhode Island city or town, counting only those "beds" in facilities
6 that do not include the delivery of educational services. The number of "beds" in each group
7 home or other residential facility shall be equal to the maximum number of children that may be
8 placed in that group home or other residential facility on any given night according to the
9 applicable licensure standards of the DCYF.

10 (2) For the fiscal year beginning July 1, 2007, if the number of beds certified by the
11 Department of Children, Youth and Families for a school district by December 31, 2007 is greater
12 than the number certified March 14, 2007 upon which the education aid for FY 2008 was
13 appropriated, the education aid for that district will be increased by the number of increased beds
14 multiplied by fifteen thousand dollars (\$15,000). Notwithstanding the provisions of this section or
15 any law to the contrary, the education aid for all group home or other residential facility "beds"
16 located or associated with the Children's Residential and Family Treatment (CRAFT) program
17 located on the East Providence campus of Bradley Hospital shall be twenty-two thousand dollars
18 (\$22,000) per bed. The Department of Elementary and Secondary Education shall include the
19 additional aid in equal payments in March, April, May and June, and the Governor's budget
20 recommendations pursuant to § 35-3-8 shall include the amounts required to provide the
21 increased aid.

22 For all fiscal years beginning after June 30, 2008, education aid for each school district
23 shall include fifteen thousand dollars (\$15,000) for each bed certified by the Department of
24 Children, Youth and Families by the preceding December 31. Notwithstanding the provisions of
25 this section or any law to the contrary, the education aid for all group home or other residential
26 facility "beds" located or associated with the Children's Residential and Family Treatment
27 (CRAFT) program located on the East Providence campus of Bradley Hospital shall be twenty-
28 two thousand dollars (\$22,000) per bed. For all fiscal years beginning after June 30, 2008,
29 whenever the number of beds certified by the Department of Children, Youth and Families for a
30 school district by December 31 is greater than the number certified the prior December 31 upon
31 which the education aid for that fiscal year was appropriated, the education aid for that district as
32 enacted by the assembly during the prior legislative session for that fiscal year will be increased
33 by the number of increased beds multiplied by the amount per bed authorized for that fiscal year.
34 The Department of Elementary and Secondary Education shall include the additional aid in equal

1 payments in March, April, May and June, and the Governor's budget recommendations pursuant
2 to § 35-3-8 shall include the amounts required to provide the increased aid.

3 (i) Provided, that as to any child attending the East Providence campus of Bradley
4 Hospital who is not a resident of East Providence, the child's sending district or district where the
5 child resides shall be responsible to reimburse the school department of the city of East
6 Providence for any balance due on monies paid to Bradley Hospital for said child after
7 application of any state aid. If such direct payment would otherwise violate the state school
8 funding formula and/or federal law, then the sending district shall be responsible to reimburse the
9 school department of the city of East Providence for payments made by the city of East
10 Providence for said child.

11 (c) Children placed by DCYF in a residential treatment program, group home, or other
12 residential facility, whether or not located in the state of Rhode Island, which includes the
13 delivery of educational services, provided by that facility (excluding facilities where students are
14 taught on grounds for periods of time by teaching staff provided by the school district in which
15 the facility is located), shall have the cost of their education paid for as provided for in subsection
16 (d) of this section and § 16-64-1.2. The city or town determined to be responsible to DYCF for a
17 per-pupil special education cost pursuant to § 16-64-1.2 shall pay its share of the cost of
18 educational services to DCYF or to the facility providing educational services.

19 (d) Children placed by DCYF in group homes, child caring facilities, community
20 residences, or other residential facilities shall have the entire cost of their education paid for by
21 DCYF if:

22 (1) The facility is operated by the state of Rhode Island or the facility has a contract with
23 DCYF to fund a pre-determined number of placements or part of the facility's program;

24 (2) The facility is state-licensed; and

25 (3) The facility operates an approved on-grounds educational program, whether or not
26 the child attends the on-grounds program.

27 SECTION 3. This act shall take effect upon passage.

=====
LC003805
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO EDUCATION - CHILDREN WITH DISABILITIES

1 This act would provide that for any child attending the East Providence campus of
2 Bradley Hospital, the child's residence district and/or sending district would be responsible for
3 reimbursement to the school department of the city of East Providence for any monies paid to
4 Bradley Hospital after application of any state aid.

5 This act would take effect upon passage.

=====
LC003805
=====