

State Shifts Residential Costs For Intellectually Disabled Children To Local School Systems

DDS Pulling Funding For Residential Placements

The \$4.4 million cost will shift to local school boards, setting up a showdown between budget-strapped districts and parents who want to preserve the placements.

Josh Kovner
December 16, 2016

The agency serving people with intellectual disabilities will stop paying room and board for up to 19 children who live at specialized residential schools -- a budget-motivated shift that has schools districts worried they will have to pick up the housing costs.

Advocates go further. They are concerned that the districts will refuse to pay, disrupting well established residential placements for the students.

The total cost of the room and board is \$4.4 million, or an average of \$231,578 per child, the Department of Developmental Services said Monday. DDS did not provide the students' hometowns.

The move affects families of the intellectually disabled children and teenagers who live at these residential schools, or who have plans to apply to their local school districts for what is known as a residential-educational placement. Many of these children also have severe behavioral problems, and having DDS pay for one of these residential placements is a tremendous relief for parents, said advocates and special-education lawyers.

Federal law obligates school districts to cover the room and board only if living at the school contributes to a student's educational gains. Parents may have to go hearings at the Department of Education or to court if school boards decide not to pay. "The school boards' lawyers are going to advise the board not to agree to pay for the residential component," said David Shaw, one of Connecticut's most experienced special-education lawyers.

For a parent to challenge a denial is daunting. Hearings before a state Department of Education hearing officer are long and expensive. Most parents can't afford to pay \$20,000 or more to hire a lawyer and an expert witness, who must prove the residential placement is a necessary for the child to make educational gains, Shaw said. He's argued a half-dozen of these cases to a conclusion and they can take months, he said.

For years, DDS, under its own discretion, had paid for the housing portion for some children, though the agency was never legally obligated to do so. The department recently got an opinion from Attorney General George Jepsen confirming that.

Education Commissioner Dianna R. Wentzell circulated the opinion and DDS's decision in a Dec. 5 letter to school superintendents and special-education directors. "Due to current state budget constraints, DDS has determined it must reevaluate its funding in this area," Wentzell wrote.

The state is facing a \$1.45 billion deficit. DDS has a \$1 billion budget, but funding inequities have forced hundreds of families to wait years for services. Even as the waiting list grows, tens of millions of dollars are spent on overtime at state facilities each year, which serve only 10 percent of DDS's nearly 17,000 clients.

School districts have the obligation under federal law to provide a "free and appropriate education" to all students. For some students with profound disabilities, even specialized day programs with transportation to and from the school every day, aren't enough to assure that the children have a chance to progress in school.

Shaw said children receive therapeutic and behavioral support at these live-in schools, after the school day is done.

If a residential placement is appropriate, the duty to pay for it remains with the school districts even if a long-time funding source backs out, said Bonnie Roswig, a lawyer for the Center for Children's Advocacy in Hartford. The fact that DDS had been paying for some residential placements "has led to confusion" over whether it was legally required to do, Wentzell wrote.

Education officials are pushing back, saying the districts have serious financial problems of their own and will be hard pressed to take on payments that the state had been making. The officials plan to ask the legislature to intervene, said Joseph J. Cirsuolo, executive director of the Connecticut Association of Public School Superintendents.

"Morally, they can't walk away from this," Cirsuolo said of DDS. "This comes out of the clear blue sky." He said if a school district had to take on the housing costs for two or three of the students, it could push the district into a financial crisis.

The state assists school districts when specialized placements exceed the cost of a regular education by 450 percent - but Cirsuolo said the excess-cost account is not fully funded, and that the districts end up shouldering at least a portion of the burden. "We're collecting information now to go to the legislature and ask that the residential cost be placed back with DDS," Cirsuolo said.

Special education typically consumes 22 percent of a school district's budget for 12 percent of the children, said Robert J. Rader, executive director of the Connecticut Association of Boards of Education.

Asking a board to take on another \$230,000 a year to continue a residential placement that was initiated by DDS "could be the final straw ... These school boards are stretched thin financially," said Rader. "We realize money's tight at the state level, but it's just as tight for local districts and towns."

When there has been resistance on the local level, federal courts have periodically ordered school districts to pay the residential portions of these placements - when the housing directly effects the student's educational gains, said Sarah Eagan, the state child advocate.

Eagan said it's important that cities and towns have intensive community- and school-based programs that can serve as alternative to residential placements.

Jepsen, in his opinion, cited court rulings that said a state agency's decision to pay for part of a student's placement for a period of time doesn't lessen a school district's responsibility to meet a child's educational needs.

But Shaw said he believes that since DDS funded these placements for a period of time, the department has obligation to at least grant a hearing to parents. He said the Department of Education also has a responsibility to resolve disputes involving state agencies and school districts over funding issues that affect children. "You don't want children getting ground up and spit out while DDS deals with its budget problems," said Shaw.

The 19 children placed by DDS represent only a portion of the intellectually disabled children who live at residential schools in Connecticut. DDS had decided on a case by case basis that a residential program was best for each of those children, said Kathryn Rock-Burns, a DDS spokeswoman.

The housing and educational costs for the other students with intellectual disabilities are funded either by local school boards, parents, or a combination, said Abbe Smith, spokeswoman for the the Department of Education.

DDS's action may have an immediate impact on some or all of the 19 students.

"We are working to determine how information in the opinion provided by the attorney general's office may affect the 19 children for whom we are currently providing funding for residential school placements," said Rock-Burns.

The department had paid the residential portion out of "our desire to help families in difficult situations in times when funding was available to do so," Rock-Burns said.

Now, those residential placements paid for by DDS are subject to review by school districts.

If a parent learns that DDS is no longer paying room and board, the school district should review the placement, through a planning and placement team meeting, to determine "what services the student will need ... to make educational progress, including whether the student requires a residential placement," Wentzell wrote in the letter to superintendents and special-education directors.