

Senate Education Committee

Ryan Meleedy 271-4151

HB 222, repealing the requirement for a memorandum of understanding between a chartered public school and school district regarding how students with disabilities will receive special education services.

Hearing Date: March 25, 2025

Members of the Committee Present: Senators Ward, Sullivan, Abbas, Prentiss and Altschiller

Members of the Committee Absent : None

Bill Analysis: This bill repeals the requirement for a memorandum of understanding between a chartered public school and school district regarding how students with disabilities will receive special education services.

Sponsors:

Rep. Balboni

Rep. Mooney

Rep. Luneau

Who supports the bill: 20 People signed in support of HB 222. To see the full list of sign-ins, please email the committee aide (ryan.meleedy@gc.nh.gov).

Who opposes the bill: 70 People signed in opposition of HB 222. To see the full list of sign-ins, please email the committee aide (ryan.meleedy@gc.nh.gov).

Who is neutral on the bill: 1 person signed in neutrality on this bill. To see the full list of sign-ins, please email the committee aide (ryan.meleedy@gc.nh.gov).

Summary of testimony presented in support:

Representative Balboni

- Representative Balboni introduced House Bill 222.
- She explained that the bill would repeal the requirement for Memorandums of Understanding (MOU) between a charter public school and their local school districts regarding how students with disabilities receive special education services.
- She established that the bill was requested by the New Hampshire Association of Special Education Administrators (NHASEA) and the New Hampshire Alliance for Chartered Public Schools (Alliance). She explained that these two groups are the ones responsible for producing the MOUs in question.

- Representative Balboni provided background information, explaining that chartered schools, though exempt from many state regulations that standard public schools are governed by, are still technically public schools, and are therefore required to accept special needs students. She explained that school districts are responsible for making sure that each student, even those with special needs, is provided an adequate education.
- She explained that a student's IEP is developed by the resident district, and it is up to the local education agencies and the charter schools to determine how these services will be properly provided.
- Representative Balboni pointed out that in 2016, a legislative commission was formed to identify challenges related to special education in New Hampshire public charter schools and to provide recommended solutions for the perceived challenges. One recommendation that came out of this committee was that the New Hampshire Department of Education (DOE) requires local education agencies (LEA) and public charter schools to formally detail how students with IEPs will receive required services.
- She explained that this recommendation led to the passage of legislation years later, which required MOUs to address this recommendation.
- Representative Balboni explained that, though well intentioned, the MOUs only created an excess of administrative work and increased legal costs for all parties involved.
- She explained that many MOUs are never actually signed, citing statistics from the DOE, which showed that 94 MOUs remained unsigned for the 2024-2025 academic year.
- Due to the amount of time and money that is allotted to developing the MOUs, coupled with their perceived lack of use or impact, LEAs and charter school administrative staff have requested the repeal of their requirement.
- She explained that no school district has denied special education services to any child attending a charter school, even if the MOU is unsigned.
- She added that there have been no increases or decreases in the number of annual special education complaints filed, indicating that the MOUs are not serving their intended purpose.
- Senator Sullivan stated that she has received a large amount of constituent opposition to the bill, prompting her to take a stance of opposition.

Beth McClure – Principal, Strong Foundations Charter School, Board Member, Alliance of Public Chartered Schools, New Hampshire Association of Special Educators

- Ms. McClure testified in support of House Bill 222.
- She explained that in 2023, the first year that MOUs were required, she spent roughly 45 hours sorting through the different variations of the MOUs, despite there being a state-issued template.
- She said that the explanation provided to her and her staff members was that the purpose of MOUs was to ensure provision for IEP services for every special needs student.
- When she joined the NHASEA-Alliance work group, she learned that the members of the work group, who were special education administrators, were opposed to the MOUs as well.
- She established that the MOU requirement creates more work for both sides involved and provides no tangible benefit to either side.
- She provided her understanding that the DOE was in favor of the MOU requirement for oversight purposes.
- She listed various ways that oversight of charter school administration of special education services is already in place. She added that the MOUs do not provide any real mechanism of oversight.
- Senator Altschiller asked, without MOUs, if students are still provided with the same degree of special education services and if these services are still audited extensively. Ms. McClure said that this was correct.
- Senator Abbas asked how long the MOUs typically are. Ms. McClure explained that the MOUs typically range from 4 to 6 pages and usually have multiple attachments.
- Senator Prentiss asked if there are any issues that the MOUs address despite the administrative issues that they create. Ms. McClure explained that they do not solve any problems and that the Alliance supported this opinion in recent surveys.
- Senator Sullivan asked if Ms. McClure agreed with the notion that the DOE has experienced a significant decrease in parents bringing forward concerns over the administration of special education services in charter schools. Ms. McClure said this was not her understanding.
- Senator Ward asked if the parents have been involved and understand the reasoning for the memorandums. Ms. McClure confirmed that parents have had extensive involvement, and if a child is not receiving services, the parent can file a complaint, but the charter school cannot file the complaint.
- Senator Ward asked if Ms. McClure has received complaints from parents. Ms. McClure responded that she has not experienced complaints from parents and

established that her school provides services even if the memorandum is not signed.

Jessica Bickford - Assistant Superintendent of Student Services SAU53

- Ms. Bickford expressed that the NHASEA sought to emphasize the importance of continued collaboration between New Hampshire School Districts, New Hampshire chartered public schools, and the Department of Education.
- Ms. Bickford established that IEPs serve as the primary legal document for implementation to hold the school districts accountable and that the MOUs have nothing to do with the implementation of special education services. She further explained that the sole purpose of the mandated MOUs is to attempt to strengthen communication between the school district and the charter school. Instead of strengthening this relationship, they have created adverse effects when disagreements arise on the interpretation of the language in the MOU.
- Ms. Bickford explained that the implementation of the MOUs has resulted in hours of meetings, the hiring of additional attorneys, and a financial burden on both school districts and charter schools. She said that the MOUs have created more bureaucracy and viewed their requirement as an unfunded mandate.
- Ms. Bickford established there are no impasse resolutions when disagreements arise, which has led to many unsigned MOUs. The Bureau of Special Education oversees the implementation of the MOU for the school district, but the Bureau does not have the same power over charter schools.
- Ms. Bickford expressed frustration that the MOUs do not cover the challenges of funding the costs of educating the growing number of students in New Hampshire with IEPs enrolled in a public charter school.
- The NHASEA advocated that the resources being tied up because of MOUs would be better directed toward working with students and families.
- Senator Abbas asked if the MOUs are provided to the parents and the student.
- Ms. Bickford explained this was not the case; instead, the MOU is an understanding of how the two districts will work together. Copies go to the LEA, the charter school, and the Special Education Bureau, but could be made available to parents upon request. There are separate contracts that are established to determine funding for different services that will not be seen in an MOU.
- Senator Altschiller clarified that there is a contract between the sending district and the charter school to pay for the services and an IEP signed by all parties and that the MOU is a third layer of agreement. Ms. Bickford agreed with Senator Altschiller's characterization and expressed that some districts have combined the contract and the MOU, but that is not the practice of her local district. She explained that complaints originate from the delivery of services and the lack thereof, which is separate from the MOU.

Neutral Information Presented:

Rebecca Fredette - State Director of Special Education

- Ms. Fredette expressed an understanding of the concerns relating to the amount of time consumed completing MOUs. She also established that if the MOU did not exist, there would be no other oversight in charter schools because the DOE does not oversee special education in charter schools. She further explained that the MOUs may not technically be a form of oversight, but it allows the Department to see what is going on in charter schools and the ability to assist districts.
- Ms. Fredette established that districts do not oversee charter schools; rather, they oversee the implementation of the IEP. This happens in collaboration with the charter school.
- Ms. Fredette said that if an IEP is not implemented by the charter school the sending district is the one that has the complaint filed against them. Complaints can be filed by anyone, including but not limited to parents, charter schools, and school paraprofessionals.
- Ms. Fredette established that there are currently 56 MOUs that were not returned and that the Department's policy is changing to checking the MOUs once every six years in an attempt to make the process less burdensome.
- Senator Sullivan established that the MOU document calls for basic information regarding services in an IEP and asked Ms. Fredette if she has noticed a decline in concerns from parents because the MOU is making the process more streamlined.
- Ms. Fredette explained there have been three complaints related to charter schools this year and none in the previous year. She further explained that when parents call the Department wishing to file a complaint against the charter school, the Department informs the parent the complaint actually needs to be filed against the sending school. The parents typically do not want to file a complaint against the home district because that is not who they had the problem with. Ms. Fredette expressed that the MOU process has helped some districts collaborate with charter schools, but that has not been the case in every district.
- Senator Sullivan asked Ms. Fredette if she would collaborate to improve the MOU system. Ms. Fredette expressed that she would be willing to work with Senator Sullivan on this issue.
- Senator Altschiller asked if the three complaints established in previous testimony were related to the MOUs or the delivery of services. Ms. Fredette responded that the complaints can only be regarding the IEP and its implementation and not about the MOU process.

- Senator Altschiller followed up and clarified that the DOE would now be following a six-year cycle of checking the MOUs as needed. Ms. Fredette established that the Department has a monitoring cycle where the department goes into every district and asks to see all of the MOUs. Policy moving forward would be for all districts already participating in the practice over the last two years to be put on the six-year cycle. Any new district participating in the program would be asked to start with complying with current practice and then, after the two-year window, be moved to the six-year cycle.
- Senator Ward asked if the MOUs were being used and if the Department is checking them. Ms. Fredette answered that the Department can see that the parties have come up with agreements and agreed that the MOUs are helping some districts while not helping others.
- Senator Ward asked what eliminating the MOUs would look like in practice. Ms. Fredette replied that it would not allow for the department to assist districts in working with charter schools.