

## CHAPTER 67-23-02 STATE FUNDING FOR SPECIAL EDUCATION

### Section

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### **67-23-02-01. Definition.**

As used in this chapter, "contract for services" means a contract between the resident district and another school district or an organization outside the local education agency for services to a student with disabilities or a significant medical condition.

**History:** Effective February 1, 2000; amended effective October 1, 2024.

**General Authority:** NDCC 15.1-32-04, 15.1-32-09, 28-32-02

**Law Implemented:** NDCC 15.1-32-09, 15.1-32-14; 20 USC 1400-1419

### **67-23-02-02. State funding for students with disabilities or students with a significant medical condition.**

The resident district must pay the cost of special education and related services required by law for the student with disabilities or the student with a significant medical condition.

**History:** Effective February 1, 2000; amended effective October 1, 2024.

**General Authority:** NDCC 15.1-32-04, 15.1-32-09, 28-32-02

**Law Implemented:** NDCC 15.1-32-14; 20 USC 1400-1419

### **67-23-02-03. Conditions for contracted services for students with disabilities or a significant medical condition.**

A resident district may enter a contract for services for students with disabilities or students with a significant medical condition if all of the following requirements are met:

1. The IEP or 504 team has developed an educational plan and determined that the least restrictive environment for the education of a student with disabilities or student with a significant medical condition is not available in the resident district.
2. Another setting is available for education in the least restrictive environment in another district or other setting in North Dakota or another state.
3. The educational services provided in the least restrictive setting are approved by the resident school district. The resident district, or the educating district in the event of open enrollment, has notified the superintendent of public instruction using the online application. The student's

current educational plan must be submitted to the department with the contract if it is not in North Dakota's case management system.

4. The school district making the education placement is able to assure the superintendent that alternative public school placements in the state were investigated and that the alternate setting selected is accredited, nonprofit, and nonsectarian and has proper facilities and services for the education of the student. Assurance is made by completing the contract form with required signatures.

**History:** Effective February 1, 2000; amended effective October 1, 2024.

**General Authority:** NDCC 15.1-29-14, 15.1-32-04, 15.1-32-09, 28-32-02

**Law Implemented:** NDCC 15.1-29-14, 15.1-32-14, 15.1-32-15; 20 USC 1400-1419

**67-23-02-03.1. Building contracts for students with disabilities or students with a significant medical condition.**

1. A school district making the school placement of a student with disabilities or significant medical condition shall:
  - a. Participate in development of the educational planning for the student;
  - b. Evaluate the alternate program as defined in subdivision b of subsection 1 of 67-23-02-03 annually and establish an appropriate program for the student with disabilities within the resident district system whenever feasible;
  - c. Maintain a case file, including progress and periodic evaluations of the student with disabilities;
  - d. Provide transportation and when applicable boarding care for the student; and
  - e. Share educational records with other school districts or residential facilities that provide educational services.
2. The school or facility providing the education shall:
  - a. Provide the education program as prescribed in the educational plan developed by the IEP or 504 team including representation from the resident district;
  - b. Report to parents at the same frequency as progress reports are provided for students attending the school during the school year;
  - c. Report progress and summary evaluations to the resident district two times during the school year;
  - d. Share educational records with school districts or other residential facilities that provide educational services for the student; and
  - e. Bill only for direct services in the student's educational plan provided by special education and related services providers.
3. The educating district shall create an electronic contract with educational costs using the online application. Out-of-state contracts and costs may be created with the assistance of the superintendent of public instruction.
4. Submission of the contract is initiated by the educating district, followed by approval from the resident district and the superintendent of public instruction. Electronic mail must be generated with approval or rejection to the educating district, the resident district, and the superintendent of public instruction.

5. The resident district shall make all payments to the school providing the education-related service and boarding care, according to the period of service indicated in the contract.
6. The school providing the education shall invite the resident district to participate in the IEP or 504 or other planning meetings and shall maintain contact regarding the student's progress with the resident district and with the parents of the student during the year.

**History:** Effective October 1, 2024.

**General Authority:** NDCC 15.1-32-04, 15.1-32-09, 28-32-02

**Law Implemented:** NDCC 15.1-29-14, 15.1-32-14, 15.1-32-15, 15.1-32-16; 20 USC 1400-1419

**67-23-02-04. Excess costs allowed under school-placed contracts for students with disabilities or students with a significant medical condition attending an in-state private or public school or an out-of-state public or private school.**

1. Excess costs allowed under school-placed contracts for students with disabilities or students with a significant medical condition partially reimbursable from state special education funds include:
  - a. Boarding care costs, including:
    - (1) Room costs;
    - (2) Nursing service (unless billed directly to the student);
    - (3) Child care;
    - (4) Central services and supply;
    - (5) Dietary services;
    - (6) Plant operation;
    - (7) Building maintenance and grounds;
    - (8) Housekeeping;
    - (9) Laundry and linen;
    - (10) Depreciation; and
    - (11) Insurance.
  - b. Education, including salaries and employee benefits, which include teacher, coordinator, and instructional aide or general education paraprofessional.
  - c. Related services, including:
    - (1) Speech therapy;
    - (2) Physical therapy;
    - (3) Occupational therapy; and
    - (4) Any other service required to assist a child with a disability designed to meet their individual needs.
  - d. Administrative salaries and benefits for:

- (1) Special education director;
- (2) Special education assistant director; and
- (3) Other special education central office staff.

**History:** Effective February 1, 2000; amended effective October 1, 2024.

**General Authority:** NDCC 15.1-32-04, 15.1-32-09, 15.1-32-18, 28-32-02

**Law Implemented:** NDCC 15.1-29-14, 15.1-32-14, 15.1-32-15, 15.1-32-19; 20 USC 1400-1419

**67-23-02-05. Additional staff for students with disabilities or a significant medical condition.**

The full cost of a paraprofessional, speech-language pathology paraprofessional, registered behavior technician, and special education may be claimed as an allowable cost under a school-placed contract as defined in the student's educational plan.

**History:** Effective February 1, 2000; amended effective October 1, 2024.

**General Authority:** NDCC 15.1-32-04, 15.1-32-09, 28-32-02

**Law Implemented:** NDCC 15.1-29-14, 15.1-32-14, 15.1-32-15; 20 USC 1400-1419

**67-23-02-06. Special education boarding care placement and reimbursement for students with disabilities or students with a significant medical condition.**

Educational boarding care placement for a student with disabilities or a student with a significant medical condition may be accomplished only through the recommendation of the IEP or 504 team. Boarding care placement must be in a state-registered home or institution. Reimbursement is requested by the resident district through the local education agency for eighty percent of the cost of boarding care for the student.

**History:** Effective February 1, 2000; amended effective October 1, 2024.

**General Authority:** NDCC 15.1-32-04, 15.1-32-09, 28-32-02

**Law Implemented:** NDCC 15.1-29-14, 15.1-32-14, 15.1-32-15, 15.1-32-19; 20 USC 1400-1419

**67-23-02-07. Costs not allowed under school-placed contracts.**

Costs not allowed under contracts for school-placed students with disabilities or students with a significant medical condition are:

1. Medical services provided by a physician beyond diagnostic procedures;
2. Drugs and medication;
3. Incidental fees or personal equipment that are the responsibility of the parents of the students such as eyeglasses, a prosthesis, entertainment, or driver's education fees; and
4. Staff expenses including staff:
  - a. Travel; and
  - b. Education and training.

**History:** Effective February 1, 2000; amended effective October 1, 2024.

**General Authority:** NDCC 15.1-32-04, 15.1-32-09, 15.1-32-18, 28-32-02

**Law Implemented:** NDCC 15.1-29-14, 15.1-32-14, 15.1-32-15, 15.1-32-19; 20 USC 1400-1419