



*Report to the Legislature on:* The Implementation of  
the Special Education Reimbursement ("Circuit  
Breaker") Program

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Line-item 7061-0012  
February 2008



This document was prepared by the  
Massachusetts Department of Education  
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Jeffrey Nellhaus  
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# The Commonwealth of Massachusetts Department of Education

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February 2008

Dear Members of the General Court:

Pursuant to Chapter 61 of the Acts of 2007, line-item 7061-0012 the Department of Education respectfully submits this report on *The Implementation of the Special Education Reimbursement ("Circuit Breaker") Program* as follows:

*"...provided further, that the department shall conduct audits of fiscal year 2007 claims; provided further, that if the claims are found to be inaccurate, the department shall recalculate the fiscal year 2008 reimbursement amount and adjust the third and fourth quarter payments to the districts to reflect the new reimbursement amount; and provided further, that the department shall file a report with the house and senate committees on ways and means not later than February 15, 2008 on the results of the audits..."*

FY 07 is the fourth year implementing the Circuit Breaker reimbursement program which provides additional state support for student with disabilities. School districts are eligible for a reimbursement of eligible costs of Individualized Education Programs which are greater than four times the statewide foundation budget, this year \$33,700. By law, districts are reimbursed 75% of the costs above four times the statewide foundation budget, subject to appropriation.

The Department has developed an audit protocol and thus far has completed audits of thirty-five districts including a total of 1,939 individual student's claims. In addition, another eleven districts have been audited, with final results not yet completed. So far audit results indicated that costs were over claimed for 545 students and under claimed for 189 students, resulting in a reduction from \$31,031,820 to \$29,229,799, or 5.8%.

The Department is conducting an analysis of common mistakes which will be used to improve the program documentation and training programs for local officials. Our goal is to significantly reduce the number of audit findings in the subsequent years of the program's operation.

If you have questions, please feel free to contact Jeff Wulfson, Associate Commissioner.

Sincerely,

Jeffrey Nellhaus,  
Acting Commissioner

# Report on the Implementation of the Special Education Reimbursement (“Circuit Breaker”) Program

## Introduction

The Circuit Breaker Program was established four years ago to provide additional state support to school districts for extraordinary costs of providing special education programs and services for students with disabilities. Chapter 61 of the Acts of 2007, line-item 7061-0012 calls for:

“... the reimbursement of extraordinary special education costs under section 5A of chapter 71B of the General Laws; provided, that reimbursements shall be prorated so that expenses of this item do not exceed the amount appropriated in this item; provided further, that upon receipt by the department of education of required special education cost reports from school districts, the department shall reimburse districts based on fiscal year 2007 claims;... provided further, that the department shall conduct audits of fiscal year 2007 claims; provided further, that if the claims are found to be inaccurate, the department shall recalculate the fiscal year 2008 reimbursement amount and adjust the third and fourth quarter payments to the districts to reflect the new reimbursement amount; and provided further, that the department shall file a report with the house and senate committees on ways and means not later than February 15, 2008 on the results of the audits...”

## FY 07 Claims Received

School districts are eligible for reimbursements for students with disabilities whose programs cost greater than four times the statewide foundation budget (\$33,700 in FY07). By law, districts are reimbursed for 75% of the costs above four times statewide foundation, subject to appropriation.<sup>1</sup> FY07 claims result in FY08 reimbursements.

|           |          | less        |               |             |
|-----------|----------|-------------|---------------|-------------|
| Districts | Students | Claim       | Foundation    | Net Claim   |
| 294       | 11,708   | 686,000,106 | (349,654,350) | 262,891,278 |

In addition, during FY07, districts were allowed to claim for extraordinary relief if their FY07 eligible costs exceeded their FY06 eligible costs by 25%. Fifty-nine districts claimed for relief and twenty-four were determined eligible. Eligible districts received relief in FY07 totaling \$3M. It should be noted that the districts received a prorated share of relief because eligible claims exceeded the \$3M available by \$300K.

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<sup>1</sup> For certain students who are wards of the state, the statutory reimbursement rate is 100% rather than 75%.

## Audits

Chapter 61 of the Acts of 2007 also required the Department to conduct audits of FY07 claims. Department staff developed an audit protocol to verify individual student claims submitted by the districts and to ensure that the amounts of the claims were in accordance with the program's regulations. Verification consisted of examining student's individualized education programs (IEP's) as well as tuition bills paid by the districts for students placed out of district. Overpayments and underpayments identified during the audit process will result in adjustments to reimbursements paid to school districts in the third and fourth quarter of this fiscal year.

Thus far the Department has completed audits of thirty-five districts and a total of 1,939 individual student's claims. In addition, another eleven districts have been audited but the results of these audits are not yet final. Completed audit results indicated that costs were overclaimed for 545 students and underclaimed for 189 students.

The following chart shows the reasons for the variances:

|  |       |
|--|-------|
| Services claimed not included on student's IEP | 443   |
| Incorrect classification/claiming of services  | 334   |
| Incorrect dates of service                     | 206   |
| Claimed incorrect tuition                      | 155   |
| Did not claim all services rendered            | 123   |
| Student's cost less than the threshold         | 111   |
| Did not include or incorrect cost share        | 27    |
| Did not claim an eligible student              | 12    |
| Total  | 1428* |

(\*Some claims had more than one error)

As stated above, claims for seven hundred thirty four students (545 over claimed + 189 under claimed) required adjustment. Of those adjusted, 448 were for \$1,000 or less. These small differences occurred for a number of reasons: district didn't reconcile the actual tuition paid with the amount claimed; district overpaid private schools by one day's tuition; district paid a different tuition rate than the one established by Operational Services Division (OSD) of the Executive Office of Administration and Finance; district entered incorrect dates on the claim form; etc.

The audit process resulted in a reduction of reimbursement for these students from \$31,031,820 to \$29,229,799, or a reduction of 5.8%. The audit process will continue on an on-going basis. In addition, the analysis of common mistakes will be used to improve the program documentation and training programs for local officials. The Department's goal is to significantly reduce the number of audit findings in the subsequent years of the program's operation.

**Actual and Estimated Program Costs – FY04 through FY08**

The following chart summarizes the program's costs in its first four years of operation:

| (\$ millions)         | FY 04  | FY 05  | FY 06  | FY 07  | FY 08     |
|-----------------------|--------|--------|--------|--------|-----------|
|                       | Actual | Actual | Actual | Actual | Estimated |
| Appropriation         | 121.6  | 201.6  | 201.6  | 207.7  | 220       |
| Net Claims            | 258    | 248.5  | 241.4  | 250.6  | 262.9     |
| Payments to districts | 105.8  | 187.4  | 182    | 189.3  | 199       |
| Reimbursement rate    | 40.50% | 75%    | 75%    | 75%    | 75%       |
| Other earmarked costs | 9.7    | 13.8   | 14.7   | 14.8   | 17.1      |

The Department will continue to provide a significant amount of training and technical assistance throughout the year to district business and special education personnel to help them understand the program's requirements and to improve the accuracy of their filings.

## **Appendix A: Chapter 61 of the Acts of 2007, line-item 7061-0012**

7061-0012.. For the reimbursement of extraordinary special education costs under section 5A of chapter 71B of the General Laws; provided, that reimbursements shall be prorated so that expenses of this item do not exceed the amount appropriated in this item; provided further, that upon receipt by the department of education of required special education cost reports from school districts, the department shall reimburse districts based on fiscal year 2007 claims; provided further, that not more than \$9,250,000 shall be used to continue and expand voluntary residential placement prevention programs between the department of education and other departments within the executive office of health and human services that develop community-based support services for children and their families; provided further, that of this \$9,250,000, not less than \$8,000,000 shall be made available to the department of mental retardation for the voluntary residential placement prevention program administered by that department; provided further, that \$800,000 shall be expended for Recording for the Blind & Dyslexic to provide books in accessible synthetic audio format made available through the federal NIMAS-NIMAC book repository, to do outreach and training of teachers and students for the use of NIMAS-NIMAC and human speech audio digital textbooks, and for human voice recording of MCAS exams; provided further, that, of this \$800,000 \$285,000 shall be expended for the costs of borrowing audio textbooks by special education students; provided further, that \$200,000 of said \$800,000 shall be targeted toward underserved communities in Barnstable, Bristol and Plymouth counties; provided further, that of this \$800,000, not less than \$25,000 shall be expended for the continuation of a pilot program for Recording for the Blind and Dyslexic to provide the tenth grade math and English learning arts MCAS tests in audio digital format; provided further, that no funds shall be expended for the MCAS pilot program until the department of education examines all security issues related to the pilot program and certifies to the legislature that the pilot program may be carried out without jeopardizing the security of the MCAS exams; provided further, that the report shall be completed not later than November 15, 2007 and shall be forwarded to the house and senate chairpersons of the joint committee on education and the chairpersons of the house and senate committees on ways and means; provided further, that \$300,000 shall be expended for the continued funding of the costs of 3 incentive start-up grants to educational collaboratives to provide partial funding for transportation coordination, administrative support, software updates, maintenance and training; provided further, that the funding shall be expended for the purpose of implementing a pilot program to demonstrate that transportation of students to out-of-district special education placements can be accomplished at a lower cost and with improved quality of service by delegating the planning and contracting for such transportation to education collaboratives which would be responsible for the transportation of students to all out-of-district programs located within the pilot program collaborative catchment area; provided further, that \$300,000 shall be expended for the start-up costs for no more than six inter-collaborative transportation networks to provide funding for transportation coordination, administrative support, software upgrades, maintenance and training; provided further that the funding shall be expended for the purpose of replicating the pilot program model of delegating the planning and contracting for student transportation to educational collaboratives for the transportation of students to all out-of-districts programs located within the transportation network catchment area; provided further that the special

education transportation task force shall submit a report, detailing the reduction in routes, vendors, and savings for participating districts and also a cost model for regions served by the collaborative network, by June 30, 2008 to the Joint Committee on Education, and the House and Senate Committees on Ways and Means; provided further, that not more than \$1,000,000 shall be expended for the monitoring and follow-up activities of the department's complaint management system, review and approval of local educational agency applications, and local school districts' compliance with the part B requirements of the federal Special Education Law, known as the Individuals with Disabilities Education Act, in the provision of special education and related services to children with disabilities; provided further, that these monitoring activities shall occur in each school district in cycles of not less than 3 years; provided further, that in order to facilitate such monitoring, the department may allocate funds from this item to item 7061-0029, as necessary, pursuant to allocation plans submitted to the house and senate committees on ways and means 30 days prior to any transfer; provided further, that not more than \$500,000 shall be expended to administer the reimbursements funded herein; provided further, that notwithstanding said section 5A of said chapter 71B, the department, at the discretion of the commissioner, may expend up to \$5,000,000 to reimburse districts for extraordinary increases in costs incurred during fiscal year 2008 which would be reimbursable under said section 5A of said chapter 71B; provided further, that reimbursements for current year costs shall be limited to school districts which experience increases of greater than 25 per cent from costs reimbursable under said section 5A of said chapter 71B and incurred during fiscal year 2007 to costs reimbursable under said section 5A of said chapter 71B and incurred during fiscal year 2008 or other cases of extraordinary hardship where special education costs increase in relationship to total district costs as the department may define through regulation or guidelines; provided further, that reimbursements for current year costs shall be allocated as one-time grants and shall not decrease reimbursements in the following fiscal year; ***provided further, that the department shall conduct audits of fiscal year 2007 claims; provided further, that if the claims are found to be inaccurate, the department shall recalculate the fiscal year 2008 reimbursement amount and adjust the third and fourth quarter payments to the districts to reflect the new reimbursement amount; and provided further, that the department shall file a report with the house and senate committees on ways and means not later than February 15, 2008 on the results of the audits***

..... \$220,000,000