

Report to the Legislature: Annual Report on Students with Disabilities 2012-2013

Chapter 159, Acts of 2000
April 2014

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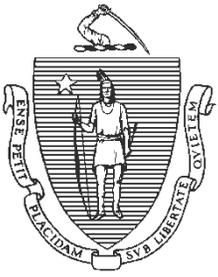
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Dear Members of the General Court:

I am pleased to submit this *Report to the Legislature: Annual Report on Students with Disabilities 2012-2013*. This report has been provided to the Legislature on an annual basis since 2000 when the legislature amended the language of G.L. c. 71B to align Massachusetts special education terminology with the federal *Individuals with Disabilities Education Act (IDEA)*. It should be noted that Massachusetts' compliance with the IDEA is monitored by the federal Office of Special Education Programs (OSEP). As a result, the Department is required to submit an annual report on compliance and performance to OSEP each year on February 1. The federal report may be found on the Department's website at <http://www.doe.mass.edu/sped/spp/>.

This annual state legislative report provides statewide longitudinal enrollment data on students with disabilities. The report also provides data on the percentage of students with disabilities by disability category, educational environment, and other special population status. It is striking to note the high percentage of low-income students who are identified as disabled. This Department is working hard to explore this connection, first identified for us by Dr. Thomas Hehir and highlighted in last year's Legislative report. We continue to be concerned that low income students are more likely to be identified as disabled and, once identified, more likely to be placed in substantially separate settings, with a concomitant negative impact on outcomes. We believe understanding this connection and directly addressing specific actions associated with this connection is integral to closing achievement gaps for low income students, students of color, and students with disabilities.

The report contains descriptions of programs, initiatives, improvement activities, and a brief discussion framing the most recent reports on special education in Massachusetts by Dr. Thomas Hehir and Associates, as well as the Education Development Center, Inc. (EDC). The report also includes an overview of improvement activities such as the Secondary Transition Conference, federally funded grants available to support targeted improvement activities throughout the Commonwealth, and the Transition Endorsement initiative. Additionally, you will find a financial summary of special education expenditures and a summary of the School-Based Medicaid program.

If you have any questions, please feel free to contact me.

Sincerely,

Mitchell D. Chester, Ed.D.
Commissioner of Elementary and Secondary Education

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I. Introduction

The Department of Elementary and Secondary Education (“the Department”) respectfully submits this Report to the Legislature pursuant to Chapter 159 of the Acts of 2000, Section 432, which reads in relevant part:

“The Department shall annually . . . report to the General Court on the implementation of [special education law]. Such report shall include ... cost increases or savings in cities or towns, . . . the extent of the development of educational collaboratives to provide necessary services, the increase or decrease of the number of children served, federal non-compliance issues and other such matters as said Department deems appropriate. Such report shall be filed with the clerks of the House of Representatives and the Senate who shall forward the same to the Joint Committee on Education, Arts and Humanities and the House and Senate Committees on Ways and Means...”

II. Enrollment Data

The Department reports statewide enrollment of students with disabilities based on data collected through its October 1 Student Information Management System (SIMS) collection.

A. Longitudinal Enrollment

Both Massachusetts’ total student enrollment and the number of students receiving special education services increased slightly from school year 2011-2012 (FY12) to 2012-13 (FY13). While there have been small fluctuations in enrollment over the last four years, there has been no proportional change in number of students receiving special education services since FY09 (Table 1). Current data show that seventeen percent of students enrolled in Massachusetts public schools are students with disabilities.

Analysis of enrollment data over a 10 year period from FY04 to FY13 illustrates that there has been a 6.2 percent increase in the number of students receiving special education services over that period, despite to a 2.6 percent decrease in the total enrollment of students.

Table 1: Number and Percentage of Students with Disabilities, FY04–FY13

School Year	Total Special Education Enrollment	Total Enrollment	Percentage of Students with Disabilities
2003-04	154,391	991,478	15.60%
2004-05	157,108	986,662	15.90%
2005-06	160,752	983,439	16.40%
2006-07	163,396	979,851	16.70%
2007-08	164,298	972,178	16.90%
2008-09	166,037	970,059	17.10%
2009-10	164,847	967,951	17.00%
2010-11	164,711	966,395	17.00%
2011-12	163,679	964,198	17.00%
2012-13	163,921	965,602	17.00%

Source: Massachusetts Student Information Management System

B. Percentage of Students with Disabilities Who Receive Services by Educational Environment

Students with disabilities, ages 6-21, placed in full inclusion environments continued to rise as a percentage of the total enrollment of students receiving special education services. In FY13, that total is 59.2 percent. The percentage of students served in partial inclusion models is 18.8 percent, and in substantially separate settings is 15.0 percent. The percentage of students in all other placements (i.e., separate schools, residential facilities, homebound/hospital, and correctional facilities) is, collectively, 7.0 percent. (Figure A.)

There is a trend in the five year data towards a shift from partial inclusion towards full inclusion. From FY2009 to FY2013 full inclusion of students with disabilities has risen by 2.6 percentage points, with a corresponding decrease on partial inclusion of 2.3 percentage points over the same time span. The percentage of students being served in both substantially separate settings and other placements remained stable during the same time period. (Figure A.)

Definitions:

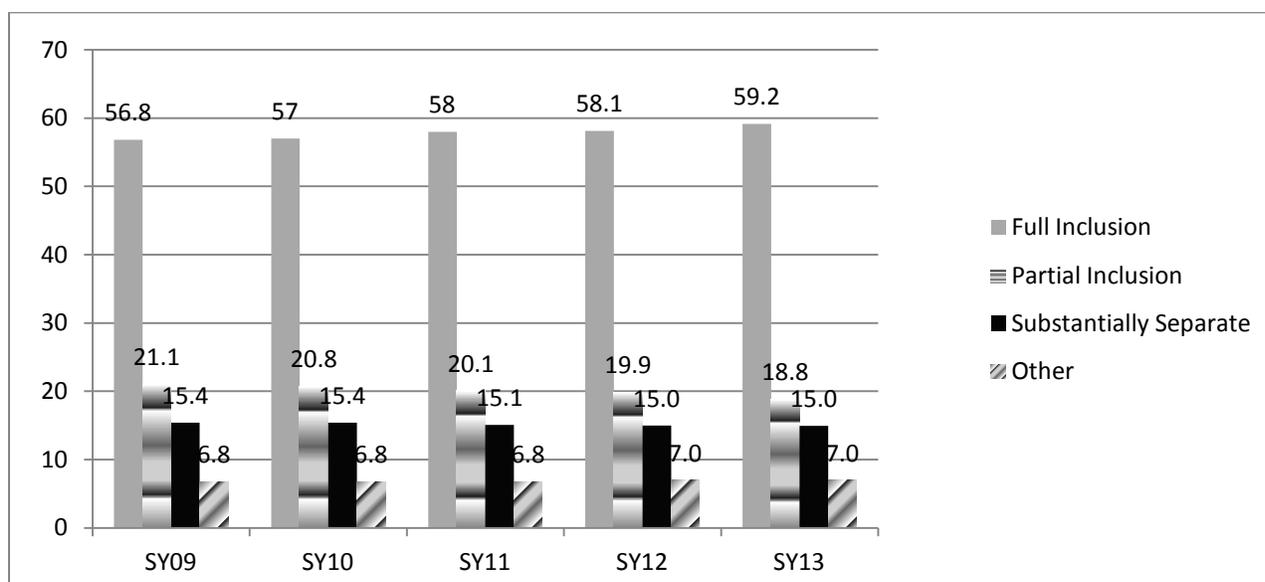
Full Inclusion – at least 80 percent of the time in general education classroom

Partial Inclusion – 40 percent to 79 percent of the time in general education classroom

Substantially Separate – less than 40 percent in general education classroom

Other – separate schools, residential facilities, homebound/hospital and correctional facilities

Figure A: Special Education Students, Ages 6-21, by Educational Environment (FY09-FY13)



Source: Massachusetts Student Information Management System

Note: This chart compares students, ages 6-21, in full inclusion, partial inclusion, and substantially separate environments, as well as out-of-district placements for the past five years, as a percentage of all enrolled students ages 6-21 receiving special education services.

C. Percentage of Students with Disabilities by Other Special Population Status

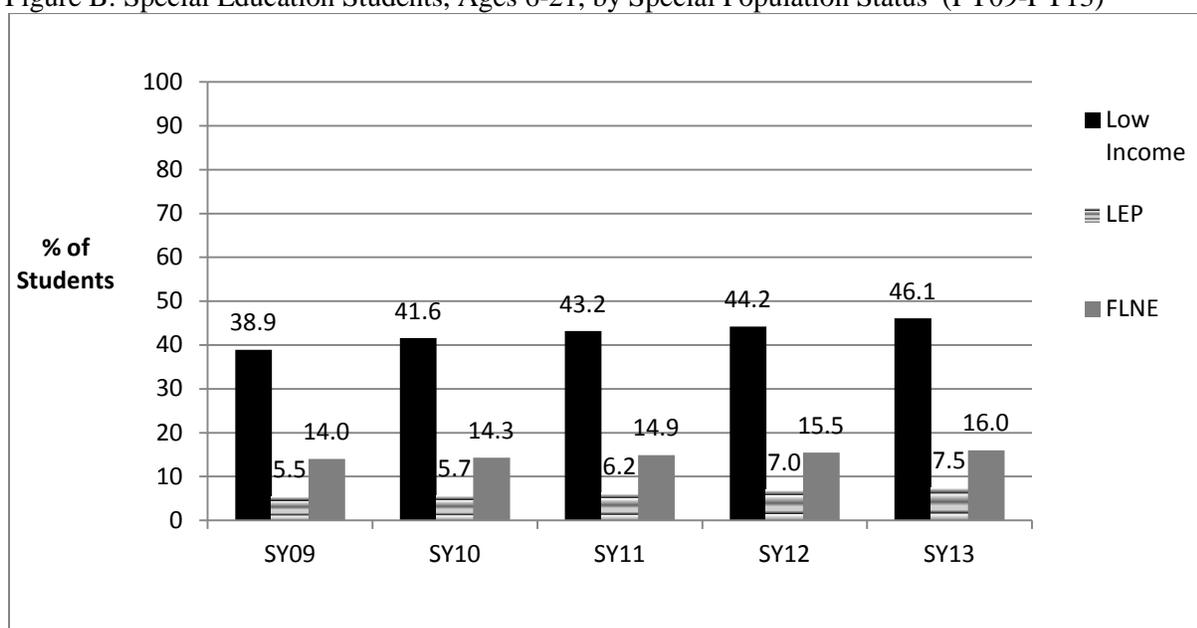
As noted in Figure B below, over the past five years, there have been increases in the percentages of special education students who are also in the categories of low income, limited English proficiency (LEP), and first language not English (FLNE). In FY13, percentages of students with disabilities who are also part of other special populations are:

Low income – 46.1 percent (an increase of 7.2 percentage points since FY09).

LEP – 7.5 percent (an increase of 2.0 percentage points since FY09).

FLNE – 16.0 percent (an increase of 2.0 percentage points since FY09).

Figure B: Special Education Students, Ages 6-21, by Special Population Status (FY09-FY13)



Nearly half the school age students receiving special education services in FY13 – 46.1 percent – come from low income families. The incidence rate of low income students statewide is 37 percent. The data suggest that low income students are more likely to be identified as eligible for special education. This is a finding consistent with the first report prepared by Tom Hehir and Associates, which found that students who are from low income families are more than twice as likely to be identified as eligible for special education as students not from low income families.¹ Conversely, the number of students receiving special education whose first language is not English in Massachusetts (16 percent) is lower than the statewide total of 17.3 percent (FLNE). Representation of students receiving special education services who have limited English proficiency (LEP) is slightly lower than that of the general education, at 7.5 percent and 7.7 percent, respectively.

¹ See Reports by Tom Hehir and Associates at: <http://www.doe.mass.edu/sped/hehir/>

D. Student Identification by Disability Category

The following table identifies numbers and percentages of students with disabilities by disability category. FY09 and FY13 data are used to illustrate change over a five year period within categories.

Table 2: Number and Percentage of Disability Categories Ages 3-21 (FY09 and FY13)

Primary Disability	FY09		FY13	
	#	%	#	%
Autism	9,793	3.9%	14,736	9.0%
Communication	28,701	17.3%	28,802	17.6%
Developmental Delay	16,809	10.1%	17,676	10.8%
Emotional	13,699	8.4%	14,231	8.7%
Health	11,525	6.9%	16,692	10.2%
Intellectual	10,968	6.6%	9,700	5.9%
Multiple Disabilities	4,780	2.9%	4,511	2.8%
Neurological	6,481	3.9%	8,445	5.2%
Physical	1,603	1.0%	1,340	0.8 %
Sensory/Deaf/Blind	219	0.1%	167	0.1%
Sensory/Hard of Hearing	1,194	0.7%	1,208	0.7%
Sensory/Vision Impairment	544	0.3%	622	0.4%
Specific Learning Disability	59,454	35.8%	45,791	27.9%
SPED Total	166,037	100.0%	163,921	100.0%

Source: Massachusetts Student Information Management System

Students with disabilities in the categories of Specific Learning Disability, Communication, and Developmental Delay represent approximately 56.3 percent of all students receiving special education services in Massachusetts. The analysis of the percentage changes over the five year period (FY09 to FY13) shows that the percentage of students indentified under the category of Specific Learning Disability has decreased by 7.9 percentage points during this period. In contrast, several other disability categories have shown increases during this same period. Autism, currently at 9 percent, has increased by 5.1 percentage points over five years. Likewise, Health has increased by 3.3 percentage points, from 6.9 percentage points in 2009 to 10.2 percentage points in the 2013 school year.

III. Massachusetts Comprehensive Assessment System (MCAS)

A. Performance of Students with Disabilities

In 2013, students with disabilities made gains and losses in achievement over 2012 results on the Massachusetts Comprehensive Assessment system (MCAS) tests. The highest gains occurred in English Language Arts (ELA) at grade 10 (6 points). Notably, the grade 10 increase over the past two years (since FY11) is a gain of 17 percentage points. The greatest loss in achievement also occurred in the ELA test, at grade 3 there is a loss of 5 points over the two year period. The Department has increased efforts to

improve results for students with disabilities. All changes in MCAS achievement levels for students with disabilities are illustrated in Table 3 below.

Table 3: Change in MCAS Performance for Students with Disabilities (FY12–13)

Percentage of Students with Disabilities Scoring Proficient and Higher									
	English Language Arts			Mathematics			Science & Tech/Eng.		
	FY12	FY13	Change	FY12	FY13	Change	FY12	FY13	Change
Grade 3	24	19	-5	26	30	+4			
Grade 4	18	14	-4	18	18	0			
Grade 5	21	24	+3	20	22	+2	19	19	0
Grade 6	26	25	-1	21	20	-1			
Grade 7	29	29	-2	14	14	0			
Grade 8	42	38	-4	14	15	+1	12	11	-1
Grade 10	60	66	+6	41	40	-1	32	33	+1
State Total	31	30	-1	21	22	+1	20	20	0

Source: Summary of 2012MCAS State Results

Fewer than 25 percent of students with disabilities scored *Proficient* or higher at grades 3, 4, and 5 in ELA. Students showed improvements of proficiency in Mathematics in grades 3, 5, 8, and 10. Students in grades 5 and 10 demonstrated improved rates of proficiency in ELA.

66 percent of students with disabilities scored *Proficient* or higher in ELA;
 40 percent of students with disabilities scored *Proficient* or higher in Mathematics; and
 33 percent of students with disabilities scored *Proficient* or higher in STE.

B. Performance Gap

Despite the overall gains that students with disabilities have made since the implementation of the Competency Determination standard and the MCAS tests in the core subject areas, there remains a gap in performance between students with and without disabilities. Each year, the Department reports on these results. The most recent report on MCAS results for students, *Spring 2013 MCAS Tests: Summary of State Results*, is available on the Department's website at <http://www.doe.mass.edu/mcas/2013/results/summary.pdf>. An excerpt of that report is included below.

The following tables (Tables 4-6) summarize changes that occurred between 2009 and 2013 in the ELA, Mathematics, and STE proficiency gaps between students with disabilities and all students. Data for 2012 are included to illustrate the four-year trend.

From 2009 to 2013 in ELA, the between-group gap in the percentage of all students scoring *Proficient* or higher as compared to students with disabilities narrowed markedly at grade 10 and widened at all other grades. The greatest widening of the gap occurred at grade 3, where it increased by 4 percentage points.

In Mathematics, the between-group gap for all students as compared to students with disabilities widened at all grades, with gaps at grades 3 and 7 widening the most. In STE, the gap widened at grades 5 and 10, and was unchanged at grade 8. Closing the achievement gap continues to remain a priority for the Department, and is a central focus of all agency initiatives.

Table 4: 2009–2013 Statewide MCAS English Language Arts Results
Change in Percentage of Students Scoring *Proficient* or Higher

Grade	Students with Disabilities			All Students		
	2009	2012	2013	2009	2012	2013
Grade 3	23	24	19	57	61	57
Grade 4	16	18	14	54	57	53
Grade 5	24	21	24	63	61	66
Grade 6	26	26	25	66	66	67
Grade 7	28	29	29	70	71	72
Grade 8	40	42	38	78	81	78
Grade 10	43	60	66	79	88	91

Table 5: 2009–2013 Statewide MCAS English Language Arts Results
Change in *Gap* of Students Scoring *Proficient* or Higher

	2009 Gap	2013 Gap	Gap Change
Grade 3	34	38	+4
Grade 4	38	39	+1
Grade 5	39	42	+3
Grade 6	40	43	+3
Grade 7	42	43	+1
Grade 8	38	40	+2
Grade 10	36	25	-11

Note: Negative value represents narrowing of between-group gap; positive value represents widening of gap.

Table 6: 2009–2013 Statewide MCAS Mathematics Results
Change in Percentage of Students Scoring *Proficient* or Higher

Grade	Students with Disabilities			All Students		
	2009	2012	2013	2009	2012	2013
Grade 3	28	26	30	60	61	67
Grade 4	16	18	18	48	51	52
Grade 5	18	20	22	54	57	61
Grade 6	19	21	20	57	60	61
Grade 7	13	14	14	46	51	52
Grade 8	12	14	15	48	52	55
Grade 10	37	41	40	75	78	80

Table 7: 2009–2013 Statewide MCAS Mathematics Results
Change in *Gap* of Students Scoring *Proficient* or Higher

	2009 Gap	2013 Gap	Gap Change
Grade 3	32	37	+5
Grade 4	32	34	+2
Grade 5	36	39	+3
Grade 6	38	41	+3
Grade 7	33	38	+5
Grade 8	36	40	+4
Grade 10	38	40	+2

Note: Negative value represents narrowing of between-group gap; positive value represents widening of gap.

Table 8: 2009–2013 Statewide MCAS Science and Technology/Engineering Results
Change in Percentage of Students Scoring *Proficient* or Higher

Grade	Students with Disabilities			All Students		
	2009	2012	2013	2009	2012	2013
Grade 5	20	19	19	49	52	51
Grade 8	11	12	11	39	43	39
Grade 10	25	32	33	61	69	71

Table 9: 2009–2013 Statewide MCAS Science and Technology/Engineering *Gap* of Students
Scoring *Proficient* or Higher

	2009 Gap	2013 Gap	Gap Change
Grade 5	29	32	+3
Grade 8	28	28	0
Grade 10	36	38	+2

Note: Negative value represents narrowing of between-group gap; positive value represents widening of gap.
Grade 10 STE results are reported based on students' best performance on any STE test taken in grade 9 or grade 10; only students continuously enrolled in Massachusetts public schools from fall of grade 9 through spring of grade 10 are included.

IV. Improvement Activities

A. Office of Tiered System of Supports (OTSS)

In its second year, the Office of Tiered system of Supports (OTSS) has continued to raise awareness and provide technical assistance around the Massachusetts Tiered system of Support (MTSS).

MTSS is a blueprint for school improvement that focuses on system structures and supports across the district, school, and classroom to meet the academic and non-academic needs of all students, including students with disabilities, English language learners, and students who have already demonstrated mastery of the concepts and skills being taught. Collaboration between special education and general education is a key component of MTSS, and staff from the Department's Special Education, Planning and Policy Development (SEPP) office and OTSS continue to collaborate on many initiatives and improvement activities.

In the fall of 2012, the Department submitted a proposal to the federal State Personnel Development Grant (SPDG) program and was awarded a five-year professional development grant. OTSS is the managing office for this iteration of the SPDG, The Partnership Project (TPP). The goal of TPP is to expand the statewide system of professional development by creating model sites in each of the Commonwealth's six regions to demonstrate the implementation of evidence-based practices within a tiered System of supports. These model sites will provide opportunities for educators and families from around the Commonwealth to observe the different stages of implementing a tiered system of supports in each region. To support the model sites, the Department/OTSS is partnering with the Department of Public Health/Early Intervention (DPH/EI), the Department of Early Education and Care (EEC), the Federation for Children with Special Needs (FCSN), the Massachusetts Rehabilitation Commission (MRC), and the Massachusetts Readiness Centers with their affiliated Institutes of Higher Education (IHEs).

The TPP districts – Attleboro, Beverly, Chelsea, Pittsfield, West Springfield, and Winchendon – were chosen through a competitive grant program. They represent a diverse group of high-needs districts that

demonstrated a high level of interest and readiness for implementing and sustaining the components of a tiered system of supports. These districts will benefit from grant activities that include developing and delivering new evidence-based face-to-face and online training and technical assistance, products, web-based tools, services, and activities, and creating opportunities for educators to apply newly acquired skills and knowledge with fidelity to classrooms, schools and districts. The content areas for the newly developed professional development will include Universal Design for Learning (UDL), Positive Behavioral Interventions and Supports (PBIS), developing district-level structures and supports, academic content areas including literacy and mathematics, secondary transition and post secondary planning, family engagement, and evidence-based professional development methods, including instructional rounds, coaching and mentoring, and professional learning communities (PLCs).

In addition to overseeing TPP, OTSS continues to provide technical assistance, develop tools and guidance documents, administer grants, and establish and maintain communication with key stakeholders representing general and special education populations. During the 2013 school year, OTSS supported the following activities, in addition to monitoring State Performance Plan (SPP) performance indicators 3 (assessment), 4 (suspension/expulsion), 5 (least restrictive environment), and 14 (post-secondary outcomes):

- The UDL Academy, a year-long series of face-to-face professional development days on Universal Design for Learning (UDL);
- Massachusetts Licensure Academy for special educators on waivers;
- Massachusetts Focus Academy, an online academy of 3-credit professional development courses for educators; and
- Protocols for Mathematics and Special Education Leadership Teams, designed to improve mathematics instruction for students with disabilities.

OTSS has also developed several resources for districts to support the implementation of a tiered system of supports, including an MTSS resource website for Massachusetts educators, which includes filmed presentations by content area experts and accompanying materials, as well as a video case study of a district that has been engaged in implementing the components of MTSS for several years.

To view the MTSS website and read more about the MTSS initiative, please visit:

<http://www.doe.mass.edu/mtss/>.

B. Special Education Improvement Grants

A number of federally funded grants were available to support targeted professional development and other improvement activities throughout the Commonwealth in FY13. Among these were:

1. Fund Code 274: Special Education Program Improvement Grants

The purpose of the Special Education: Program Improvement grant program, which is available to all public school districts in the Commonwealth, is to fund professional development activities for educators (working with students with disabilities) that are aligned with the [Massachusetts Standards for Professional Development](#). Activities focused on advancing the knowledge, skills, and capacity of educators to meet the diverse needs of students with disabilities, ages 3 through 21, in order to support improved educational results and functional outcomes for these students. Approximately 400 school districts used \$7.3 million to support professional development in one or more of the following priority areas: strengthening curriculum and instruction, non-academic supports in classrooms, early childhood inclusive practices, and secondary transition.

2. Fund Code 298: Early Childhood Special Education Program Improvement

In FY13, Fund Code 298 was used to support school district activities to ensure that eligible children with disabilities, ages 3-5, receive a free and appropriate public education that includes special education and related service(s) designed to meet their individual needs and is provided in natural/least restrictive environments. Grantees focused on one or more of following activities to improve school district processes and support performance of young children with IEPs in early childhood settings: policies, practices and procedures to support systemic use of data analysis and progress monitoring to support instruction and continuous improvement to outcomes; targeted training and technical assistance relating to effective program planning; systematic practices to promote family engagement, with specific attention to support cultural and linguistic diversity, and systematic support for collaboration among professionals across all domains to develop individualized IEPs based on assessments and effective practices; and improvement of data collection processes and supports for improved data quality in order to analyze district, school, and classroom trends.

3. Fund Code 249: Special Education - Program Improvement

Fund Code 249 supports professional development activities for educators in Massachusetts approved private special education schools and programs to increase their capacity to meet the diverse needs of their students. The priority of this grant program in FY13 was to enhance program-based induction, mentoring, and retention programs and to advance the skills of educators through professional development activities. Grantees were required to focus activities on at least one of the following priorities, aligned with the priorities of Fund Code 274: strengthening curriculum and instruction; non-academic supports; early childhood, inclusive practices for students with disabilities; and secondary transition.

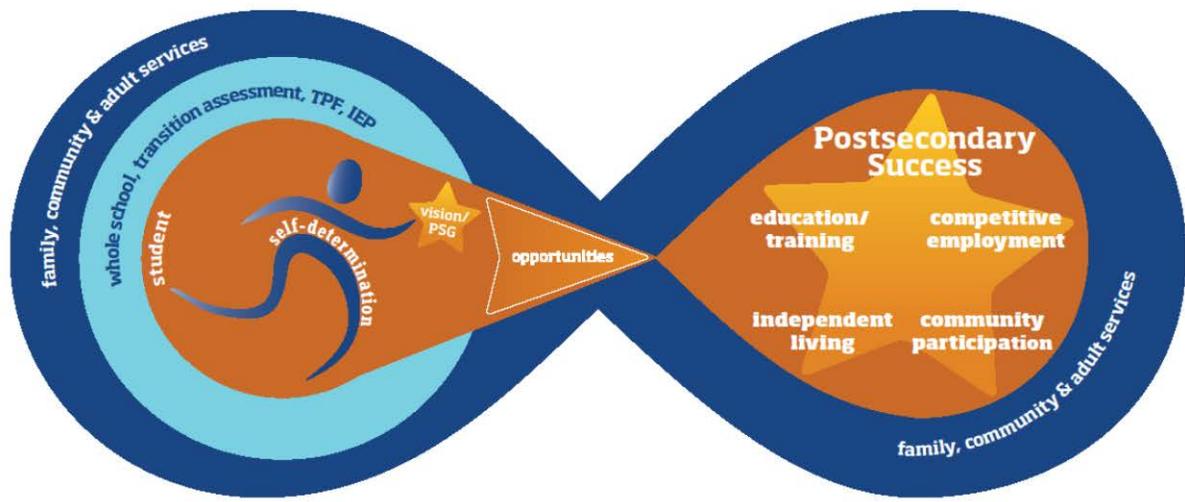
C. Massachusetts Secondary Transition Capacity-Building Conference

In April 2013, SEPP held a capacity-building conference on secondary transition for 120 four-person leadership teams representing Massachusetts districts, special educational collaboratives, vocational-technical schools, and approved private schools. The conference focused on providing district leadership teams with essential knowledge about the transition planning process, both as a cohesive, integrated system and from the perspective of evidence-based practices in the following areas: self determination; transition assessment; career development; postsecondary education and training; and family engagement and community collaboration. The conference also engaged district leadership teams in a data-based planning process designed to improve postsecondary outcomes for all students with disabilities.

Keynotes included Dr. Michael Wehmeyer, University of Kansas, and Dr. Thomas Hehir, Harvard University. Introduced at this conference was the new Massachusetts Student-Driven Secondary Transition Model (Figure C), which visually illustrates the secondary transition process. The model was developed over a period of several months with the involvement of stakeholders from districts, special educational collaboratives, family and advocacy organizations, and universities. The model, illustrating the key elements of successful transition, will be used as the basis for the development of and dissemination of best practice strategies and resources to support transition planning for students.

Figure C:

Massachusetts Student-Driven Secondary Transition Model



V. Initiatives

A. Transition Specialist Endorsement

On March 9, 2012, in acknowledgement of the critical role of educators to effectively address transition, the Massachusetts legislature enacted [Chapter 51 of the Acts of 2012, An Act Relative to Students with Disabilities in Post-Secondary Education, Employment and Independent Living](#), legislation authorizing the creation of a new specialist teacher endorsement in transition services for qualified licensed Massachusetts special educators and rehabilitation counselors.

During FY13, the Department developed the framework for the Transition Specialist Endorsement, an optional credential that may be earned by licensed special education teachers and rehabilitation counselors, to include required coursework and field experiences. Based on the authorizing legislation, the Department also developed the framework for professionals who have had previous employment experiences coordinating school-based transition services to demonstrate that they meet the subject matter knowledge and skills requirements for the endorsement. This “grandfathering” provision is effective through December 31, 2014. The endorsement’s required subject matter knowledge and skills necessary to address the transition needs of youth with disabilities are codified in the educator licensure regulations at 603 CMR 7.14(4). The Department has also developed guidelines, in consultations with stakeholders, to be used by educator preparation programs in preparing educators working with transition-age youth who are seeking the optional endorsement credential. (See <http://www.doe.mass.edu/edprep/advisories/TSEguidelines.pdf>.)

This work underscores the deep commitment of the Department and its partners in fostering self-determination and self-reliance in all students, and supporting improved post-secondary outcomes for students with disabilities.

B. Independent Reviews

1. The Status of Special Education in the Commonwealth

As reported in the FY12 legislative report, at the request of the Department, Dr. Thomas Hehir and his associates from Harvard University's School of Education used available data from the Department to prepare reports on the status of special education in the Commonwealth. Dr. Hehir, formerly the Director of the Office of Special Education Programs at the U.S. Department of Education and the former director of special education for the Boston and Chicago Public Schools, continued this work in FY13, issuing the following reports:

- Students with Disabilities in Massachusetts Career and Technical Education Programs (July 2013)
- Use of Out of District Programs by Massachusetts Students with Disabilities (October 2013)

One of the major findings of the career and technical education (CTE) report was that there is strong evidence that students with high-incidence disabilities who attended regional vocational and technical schools graduate from high school in four years at substantially higher rates than students with high-incidence disabilities who attended traditional high school programs. In the report focusing on out-of-district programs, Dr. Hehir emphasizes a strong correlation between levels of income and special education services provided to students in Massachusetts. Dr. Hehir found that low-income students with disabilities are much less likely to be placed out-of-district in private special education schools than their non-low income peers.

Copies of these reports, which include additional findings and recommendations for policy considerations, are available on the Department's website at: <http://www.doe.mass.edu/sped/hehir/>.

2. English Language Learners with Disabilities

The Department contracted with researchers at Education Development Center, Inc. (EDC), to study current practices in identifying disabilities among English language learners (ELL) and in meeting their instructional needs. The overall findings suggest that, although Massachusetts schools and districts face challenges in meeting the instructional needs of ELLs with disabilities, there are also many practices and processes led by highly committed individuals with extensive expertise that are being implemented to meet the needs of these students. This report also makes recommendations to improve identification and support of students with disabilities who are English language learners. A copy of the report is available at <http://www.doe.mass.edu/sped/2013/disabilities-report.html>.

C. Massachusetts Part B State Performance Plan (MA SPP) and Annual Performance Report (MA APR)

Annually, as required by the 2004 Amendments to the federal Individuals with Disabilities Education Act (IDEA), each state must report statewide data and information documenting efforts to implement the requirements and purposes of the IDEA in 20 indicators that measure rates of compliance and performance. States must also describe improvement activities focused on meeting established performance and compliance targets in these areas. The State Performance Plan (SPP) reports baseline data, measurable and rigorous targets, and planned improvement activities for the indicators, and the Annual Performance Report (APR) documents the year's progress in meeting those targets.

Table 10: SPP Performance and Compliance Indicators

Indicator 1: Graduation Rate	Indicator 12: Early Childhood Transition
Indicator 2: Dropout Rate	Indicator 13: Secondary Transition
Indicator 3: Assessment	Indicator 14: Post-School Outcomes
Indicator 4: Suspension/Expulsion	Indicator 15: ID and Correction of Noncompliance
Indicators 5 & 6: Least Restrictive Environment (LRE)	Indicator 16: Complaint Resolution within Timelines
Indicator 7: Preschool Outcomes	Indicator 17: Due Process within Timelines
Indicator 8: Parent Involvement	Indicator 18: Use of Resolution Sessions
Indicators 9 & 10: Disproportionality	Indicator 19: Mediation Agreements
Indicator 11: Initial Evaluation within Timelines	Indicator 20: Timely State Reported Data

Based on data from 2011-2012 reported in February 2013 in the FFY2011 SPP/APR and other available information, the U.S. Department of Education (ED) determined that Massachusetts “needs assistance” in implementing the requirements of Part B of the IDEA. This determination was based largely on a few instances in which the Department was unable to verify within one year of identifying noncompliance that some school districts had corrected the noncompliance consistent with federal requirements. In most instances, the Department had failed to send proper documentation verifying that required corrective actions had been taken and that the districts were now implementing the regulatory requirements appropriately. The Department has addressed these issues, and will be reporting updated information in the FFY2012 SPP/APR, to be filed in February 2014.

VI. Finances

A. Financial Summary

Special education expenditures are reported by public school districts at the end of the year to the Department. As shown in Table 8 below, both total school operating budgets and combined special education expenditures have increased over the past eight years. Spending from state "circuit breaker" funds is included. Otherwise, spending from grants, revolving funds, or other non-appropriated revenue sources (totaling less than four percent of total special education spending statewide) is excluded.

Definitions and Notes:

- *Direct special education expenditures* include only those that can be related specifically to special education pupils.
- *Other instructional* includes supervisory, textbooks and instructional equipment, guidance, and psychological services.
- *MA Public Schools and Collaboratives* includes other public school districts, educational collaboratives, and charter schools.

Table 11: Direct Special Education Expenditures, FY04–FY12

Fiscal Year	<i>In-district Instruction</i>		<i>Out-of-district Tuition</i>		E Combined Special Ed Expenditures (A+B+C+D)	F Total School Operating Budget	G Special Education % of Budget (E as % of F)
	A Teaching	B Other Instructional	C MA Public Schools and Collaboratives	D MA Private and Out-of-State Schools			
2004	876,700,000	165,000,000	182,200,000	324,900,000	1,548,800,000	8,329,900,000	18.6
2005	925,000,000	179,000,000	184,100,000	368,600,000	1,656,900,000	8,773,600,000	18.9
2006	989,500,000	188,000,000	194,400,000	389,900,000	1,761,900,000	9,206,200,000	19.1
2007	1,054,400,000	196,300,000	207,700,000	422,300,000	1,880,700,000	9,703,100,000	19.4
2008	1,132,800,000	209,200,000	223,300,000	451,800,000	2,017,100,000	10,173,000,000	19.8
2009	1,199,700,000	213,000, 000	223,800,000	417,800,000	2,054,300,000	10,243,700,000	20.1
2010	1,221,000,000	218,000,000	227,700,000	422,200,000	2,089,300,000	10,530,700,000	19.8
2011	1,214,800,000	228,200,000	247,600,000	435,900,000	2,126,500,000	10,711,000,000	19.9
2012	1,256,100,000	235,000,000	253,600,000	458,700,000	2,203,600,000	10,717,800,000	20.6

Note: Values rounded to nearest 100,000.

Source: End of Year Pupil and Financial Report.

B. Circuit Breaker

The state Special Education Reimbursement (“Circuit Breaker”) Program, enacted by the Legislature in 2000, c. 159, § 171, was first implemented in FY04. The “Circuit Breaker” program is designed to provide additional state financial assistance to school districts that have incurred exceptionally high costs in educating individual students with disabilities. The law supports shared costs between the state and the school district when costs rise above a certain level, at which point the state will share up to 75 percent of the costs. Massachusetts state funds are available to reimburse a school district for students with disabilities whose special education costs exceed four times the state average foundation budget per pupil. In FY10, and FY11, rates fell well below the statutory maximum, at 42 percent and 43.66 percent, respectively. The reimbursement rate in FY12 jumped to 68.71 percent. Although this is still less than the statutory maximum, this is a significant increase in reimbursements to districts under this program.

In FY13, a total of 287 districts filed 22,376 claims for circuit breaker funds, an increase of more than 8 percent over claims filed in FY12 by the same number of school districts (20,663 claims). The total amount of eligible expenses claimed in FY13 was approximately \$773.1 million. Notably, the percentage of reimbursement increased to 74.5 percent in FY13.

Table 12: Amounts claimed by Placement through Circuit Breaker
(Total amount claimed rounded to nearest million)

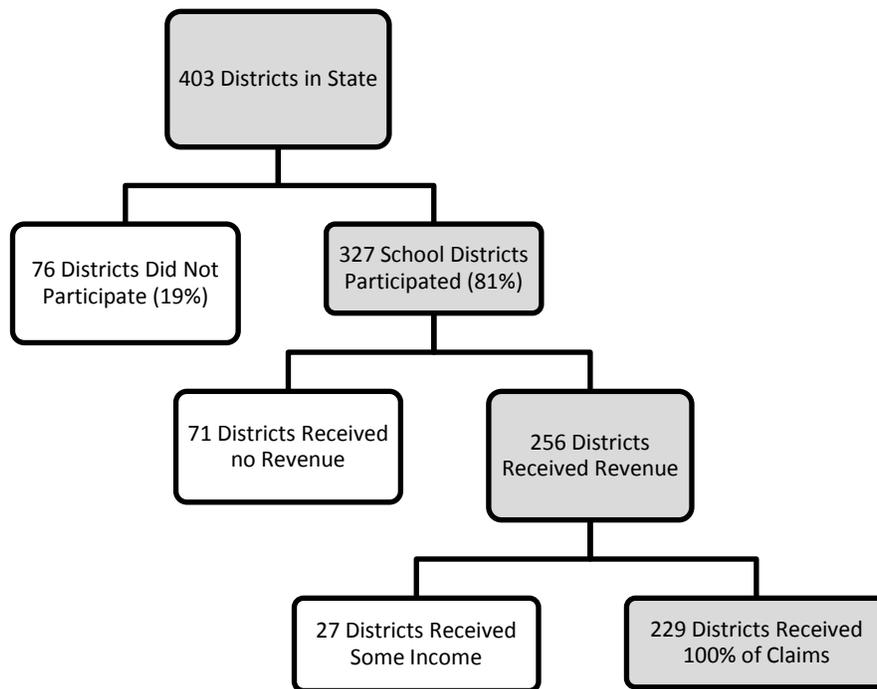
Year	Private Residential	Private Day	Collaborative	In-District
FY06	\$210	\$160	\$114	\$149
FY07	\$206	\$182	\$121	\$146
FY08	\$210	\$202	\$128	\$146
FY09	\$220	\$220	\$112	\$174
FY10	\$228	\$240	\$143	\$142
FY11	\$211	\$242	\$123	\$154
FY12	\$201	\$227	\$150	\$122
FY13	\$199	\$234	\$156	\$130

Additional information can be found in the Implementation of the Special Education Reimbursement (“Circuit Breaker”) Program annual report, which is located at: <http://www.doe.mass.edu/research/reports/legislative.html>.

C. School-Based Medicaid

The School-Based Medicaid program allows local education authorities (LEAs), such as cities and towns, charter schools, public health commissions, and regional school districts, to seek payment for providing medically necessary Medicaid services (direct services) to eligible MassHealth-enrolled children. This program also allows such agencies to seek payment for participating in activities that support the administration of the state's Medicaid program (administrative activities). This would include outreach, and those activities that aid the delivery of direct services to Medicaid-enrolled children with individualized education plans (IEPs). State law allows LEAs to participate in the Municipal Medicaid program and to seek payment for either direct services or administrative activities. In order to participate in the program, LEAs must sign provider contracts with the state Medicaid agency. Municipal Medicaid providers can bill MassHealth in accordance with the contract terms.

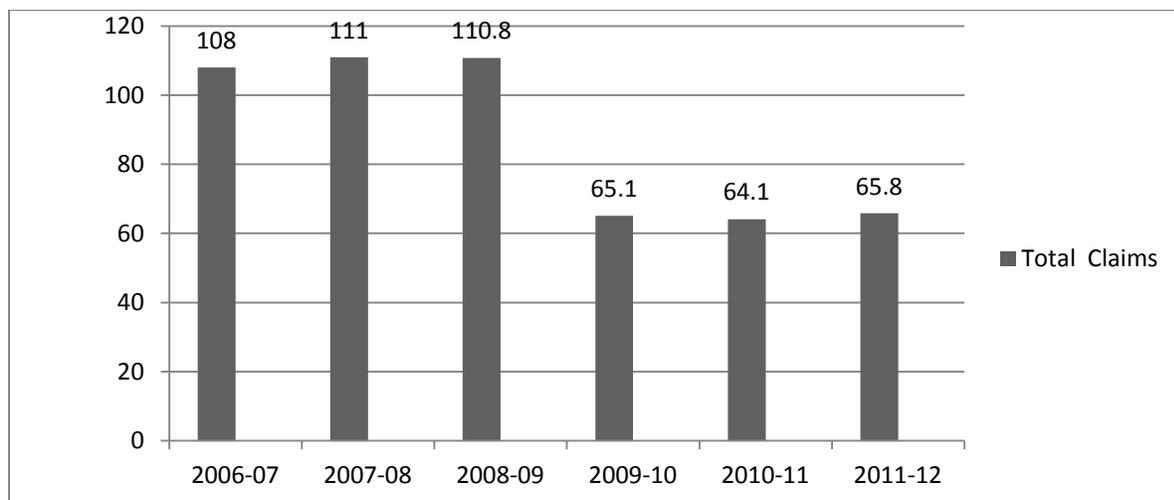
Figure D: Municipal Medicaid Funding Breakdown, FY 12 (does not include charter schools)



Source: MA EOHHS Office of School-Based Medicaid

The figures for the School-Based Medicaid program for FY07 through FY12 are provided below in Figure E. Total Municipal Medicaid Claims for FY2012 were 65.1 million dollars. Total revenue received by providers in FY12 was \$74,117,545; \$48,209,025 is for Direct Services Claims (DSC) and \$25,908,520 for Administrative Activity Claiming (AAC). Two hundred fifty-six school districts received revenue in FY12.

Figure E: Total Municipal Medicaid Claims, FY07-FY12



Note: Values rounded to nearest tenth of a million.

VII. Educational Collaboratives

Educational collaboratives continue to play an important role in delivering special education services to students throughout the Commonwealth, especially in the smallest districts, where capacity to provide extensive services may be limited. During FY13, 4,368 students, with a full range of needs, received direct services through educational collaboratives. Collaboratives collectively served 271 member districts.

New regulations governing educational collaboratives were approved by the Board of Elementary and Secondary Education on January 29, 2013. (Chapter 43 of the Acts of 2012 www.malegislature.gov/Laws/SessionLaws/Acts/2012/Chapter43) The special legislative commission charged with studying the role of collaboratives in the Commonwealth filed its final report in June of 2013 (<http://www.doe.mass.edu/boe/docs/2013-06/item10.html>), and additional legislative action to support the commission recommendations and encourage additional collaborative programming is under consideration.

As a component of increased accountability, each educational collaborative is required to provide an annual report of its activities and an independent audit report to each of the member school committees and the Department. The independent audit must also be provided to the State Auditor. In addition, the Department now maintains students, staffing and MCAS data for each collaborative and continues to include educational collaboratives in the Department's Program Quality Assurance (PQA) six-year cycle of coordinated program reviews.

VIII. Bureau of Special Education Appeals

The Bureau of Special Education Appeals (BSEA), an independent subdivision of the Division of Administrative Law Appeals, conducts mediations and due process hearings to resolve disputes among parents, school districts, private schools and state agencies, consistent with the IDEA and related laws. The BSEA derives its authority from both federal and state laws and regulations.

A parent or a school district may request mediation and/or a due process hearing on any matter concerning the eligibility, evaluation, placement, Individualized Education Program (IEP), provision of special education, or procedural protections for students with disabilities, in accordance with state and

federal law.² In addition, a parent may request a hearing on any issue involving the denial of the free appropriate public education guaranteed by [Section 504 of the Rehabilitation Act of 1973](#).

Mediations and hearings are conducted by impartial mediators and hearing officers who do not have personal or professional interests that would conflict with their objectivity in the proceeding. The BSEA consists of seven hearing officers (all of whom are attorneys), seven mediators, a coordinator of mediation, a scheduling coordinator, administrative staff, and a director.

What follows is a summary of BSEA data for fiscal year FY2013, covering the period July 1, 2012 through June 30, 2013:

- BSEA received notice of approximately 8,860 rejected IEPs, representing an increase from the 8,460 received in the prior year.
- Seven BSEA mediators held 818 mediations concerning special education and Section 504 matters. This is a decrease of 99 mediations from the 917 conducted during the prior fiscal year. Approximately 86.2 percent of the mediations resulted in written agreements.
- BSEA received 552 hearing, during FY2013, representing a slight decrease from the 582 requests in the prior year. The seven (six full-time equivalent or FTE) BSEA hearing officers conducted full hearings resulting in 30 decisions. In addition, hearing officers issued at least 37 substantive written rulings during this period of time, an increase from the 23 substantive rulings issued in FY2012.
- Of the 30 decisions noted above, parents fully prevailed in 6 (20 percent) of the cases. School districts fully prevailed in 19 (approximately 63 percent). Four decisions involved mixed relief, and one decision involved assignment of school district responsibility (known as LEA assignment) for fiscal and/or programmatic responsibility.

Statistics with respect to outcome in relation to representation are as follows:

Of the 6 cases in which parents fully prevailed, parents were represented by counsel in 5, and appeared pro se in 4; the school district was represented by counsel in all matters.

Of the 19 cases in which school districts fully prevailed, the school district was represented by counsel in all matters; parents appeared pro se in 14, were represented by counsel in 3 and by lay advocates

In the LEA assignment case, parents were not a party; school districts were represented by counsel.

For further information about the BSEA and its decisions, please visit <http://www.mass.gov/anf/hearings-and-appeals/bureau-of-special-education-appeals-bsea/fiscal-year-2012-bsea-statistics.html>.

XI Conclusion

The data for this report are a compilation of information from several units within the Department of Elementary and Secondary Education. If you have any questions, please contact the Office of Special Education Planning and Policy at the Department of Elementary and Secondary Education, Marcia Mittnacht, Director, by email at mmmittnacht@doe.mass.edu or by phone at 781-338-3375.

² A school district may not, however, request a hearing on a parent's failure or refusal to consent to initial evaluation or initial placement of a child in a special education program, or to written revocation of parental consent for further provision of special education and related services.