



Massachusetts Department of
ELEMENTARY & SECONDARY
EDUCATION

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

November 2011

Massachusetts Department of Elementary and Secondary Education
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Dear Members of the General Court:

I am pleased to submit this Report to the Legislature: *The Implementation of the Special Education Reimbursement (Circuit Breaker) Program*, pursuant to Chapter 131 of the Acts of 2010, line item 7061-0012, that reads in part:

“...provided further, the department shall conduct audits of fiscal year 2010 claims; provided further, that if the claims are found to be inaccurate, the department shall recalculate the fiscal year 2011 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...”

School districts are eligible for reimbursements for students whose special education programs cost greater than four times the statewide per pupil foundation budget, which in FY10 totaled \$38,636 (or 9,659 x 4). By law, districts are reimbursed for 75 percent of the costs above four-times statewide foundation, subject to appropriation. In FY10, 287 school districts submitted claims for over 11,800 students resulting in reimbursements in FY11 totaling over \$128 million.

The Department audited the claims submitted by sixty-one districts. The audit process resulted in a reduction of reimbursement from \$24,708,476 to \$24,418,980, or 1.2 percent. In addition, the analysis of common mistakes will be used to improve program documentation and training for local officials. Our goal for training is always to reduce the number of audit findings in subsequent years.

If you have questions, please feel free to contact Deputy Commissioner Jeff Wulfson at (781) 338-6500.

Sincerely,

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

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Introduction

The Department of Elementary and Secondary Education respectfully submits this Report to the Legislature: *The Implementation of the Special Education Reimbursement (Circuit Breaker) Program*, pursuant to Chapter 131 of the Acts of 2010, the fiscal year 2011 budget. It reports on the progress made on certain aspects of the Special Education Reimbursement (“Circuit Breaker”) Program (line item 7061-0012). This language states, in part,¹ that:

“...the department shall conduct audits of fiscal year 2010 claims; provided further, that if the claims are found to be inaccurate, the department shall recalculate the fiscal year 2011 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...”

FY10 Claims Received

School districts are eligible for reimbursements for students whose special education programs cost greater than four times the statewide per pupil foundation budget (\$38,636 in FY10). By law, districts are reimbursed for 75 percent of the costs above four-times statewide foundation, subject to appropriation.² FY10 claims result in FY11 reimbursements.

Districts	Students	Claim	Less foundation	Net claim
287	11,852	\$656,988,567	(\$374,382,840)	\$282,605,727

In addition, during FY11, districts were allowed to claim for extraordinary relief if their FY11 eligible costs exceeded their FY10 eligible costs by 25 percent. Thirty-one districts claimed for relief. The Department is currently reviewing all claims received to determine eligibility.

Audits

Chapter 131 of the Acts of 2010 also required the Department to conduct audits of FY10 claims. Department staff developed an audit protocol to verify individual student claims submitted by the districts and to ensure that the amount of each claim was in accordance with the program’s regulations. Verification consisted of examining the students’ individualized education programs (IEPs) and 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

¹ The full text of line item 7061-0012 is in Appendix A of this report.

² For certain students who are wards of the state, the statutory reimbursement rate is 100% rather than 75%.

paid in the third and fourth quarters of this fiscal year. This cycle, audit candidates were chosen based on our initial review of district submitted claims and districts that had not attended training in the last two filing cycles.

Sixty-one district audits have been completed with a total of 1,885 individual student claims. Audit results indicate that costs were over-claimed for 465 students and under-claimed for 203 students. The following chart shows the reasons for the variances.

Reason for variance	Number
Incorrect classification/claiming of services	551
Incorrect dates of service	178
Claimed incorrect tuition	235
Did not claim all services rendered	99
Student's program cost less than the threshold	63
Did not include cost share or claimed incorrect cost share	15
Did not claim an eligible student	25
Total	1166 *

**Some claims had more than one error*

As stated above, 668 (465 + 203) claims required adjustment. Of those adjusted, 216 were for \$1,000 or less. These differences occurred for a number of reasons, including: the district did not reconcile the actual tuition paid with the amount claimed; the district overpaid private schools by one day's tuition; the district paid a different tuition rate than the one established by Operational Services Division (OSD); or the district entered incorrect dates on the claim form.

The audit process resulted in a reduction of reimbursement for these students from \$24,708,476 to \$24,418,980, or 1.2 percent. In addition, the Department's analysis of common payment mistakes will be used to improve program documentation and training for local officials. Our goal is to significantly reduce the number of audit findings in subsequent years.

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

The following chart summarizes the program's costs in its last six years of operation.

Actual Program Costs, FY06 Through FY11

(\$ millions)	FY06	FY07	FY08	FY09	FY10	FY11
	Actual	Actual	Actual	Actual	Actual	Actual
Appropriation	\$201.6	\$207.7	\$220.0	\$215.3*	\$133.1**	\$133.1**
Net Claims	\$241.4	\$250.6	\$261.6	\$277.3	\$290	\$282.6
Payments to districts	\$182.0	\$189.3	\$197.9	\$201.8	\$128.3	\$128.6
Reimbursement rate	75%	75%	75%	72%*	42.3%**	43.6%**
Other earmarked costs	\$14.7	\$14.8	\$17.1	\$14.2*	\$4.8	\$4.6

* *After 9C cuts*

** *Districts received an additional \$145M of ARRA IDEA funds not included in this amount.*

Appendix A: Chapter 131 of the Acts of 2010

Line item 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 elementary and secondary education of required special education cost reports from school districts, the department shall reimburse districts based on fiscal year 2010 claims; provided further, that the department may expend funds to continue and expand voluntary residential placement prevention programs between the department of elementary and secondary 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 the department shall make funds available to the department of developmental services for the voluntary residential placement program administered by that department; provided further, that the department shall expend funds to provide books in accessible synthetic audio format made available through the federal NIMAS-NIMAC book repository for the outreach and training of teachers and students for the use of NIMAS-NIMAC and human speech audio digital textbooks; provided further, that the department shall expend funds for the costs of borrowing audio textbooks by special education students; provided further, that funds may 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 funds may be expended to administer the reimbursements funded herein; provided further, that funds may be expended to reimburse districts for extraordinary increases in costs incurred during fiscal year 2011 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 2010 to costs reimbursable under said section 5A of said chapter 71B and incurred during fiscal year 2011 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 2010 claims; provided further, that if the claims are found to be inaccurate, the department shall recalculate the fiscal year 2011 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, 2011, on the results of the audit; and provided further, that upon receipt of a written certification by the secretary of administration and finance, addressed to the chairs of the house and senate committees on ways and means and the comptroller of the commonwealth, that legislation extending the commonwealth's eligibility for an enhanced federal medical assistance percentage pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5, not in

effect as of June 1, 2010, has been duly enacted and signed into law by the President of the United States or that the federal government has otherwise obligated itself to release additional funding not available as of June 1, 2010, to the commonwealth during state fiscal year 2011, the department shall make \$6,500,000 available to the department of developmental services for the voluntary residential placement program administered by that department.....
\$145,673,366*

General Fund..... 91.382%
FMAP Budget Relief Fund..... 8.618%

**Governor's veto reduced this amount to \$133,119,160 and eliminated references to FMAP*