



**UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF INSPECTOR GENERAL**

Chicago/Kansas City Audit Region

111 N. Canal St. Ste. 940
Chicago, IL 60606-7297
Phone (312) 886-6503
Fax (312) 353-0244

8930 Ward Parkway, Ste 2401
Kansas City, MO 64114-3302
Phone (816) 268-0500
Fax (816) 823-1398



August 16, 2005

Control Number ED-OIG/A05F0012

Alice Seagren, Education Commissioner
Minnesota Department of Education
1500 Highway 36 West
Roseville, MN 55113-4266

Dear Ms. Seagren:

This **Final Audit Report** presents the results of our audit entitled *Minnesota Department of Education's Maintenance of Effort Under the Individuals with Disabilities Education Act of 1997, Part B, Program*. Our audit objectives were to determine if the Minnesota Department of Education (MDE) (1) maintained a total state-level maintenance of effort; (2) considered all agencies that contribute to the provisions of the services that assist students with disabilities; and (3) monitored local educational agencies' (LEA) maintenance of effort required by the Individuals with Disabilities Education Act (IDEA), Part B (P.L.105-17).¹ Our audit covered the period July 1, 2003, through June 30, 2004 (2003-2004 fiscal year). We also obtained information covering the 2002-2003 fiscal year, which was used as a basis for comparison.

BACKGROUND

The State of Minnesota has 339 public elementary and secondary districts and 162 special, intermediate, charter school, and other districts. The Commissioner of MDE is responsible for articulating and implementing educational policies for the entire K-12 system. During the 2003-2004 school year, 102,968 students, or about 12 percent, received special education services.

IDEA, Part B, was enacted to ensure that all children with disabilities have available to them a free appropriate public education, and to ensure that the rights of children with disabilities and their parents are protected. While states, LEAs, and educational service agencies are responsible for educating all children with disabilities, the federal government has a role in assisting state and local efforts to educate children with disabilities and to improve results for such children. IDEA, Part B, is a formula grant

¹ The Individuals with Disabilities Education Improvement Act Amendments of 2004 (P.L. 108-446), which became effective on July 1, 2005, continue to include maintenance of effort requirements, at Section 612(a)(17)-(18) and 613(a)(2).

program that provides assistance to states, and through them to LEAs, to assist states and localities in their efforts to provide special education and related services to children with disabilities.

The U.S. Department of Education awarded MDE \$96 million in IDEA, Part B, funds for the 2003-2004 fiscal year. During the 2003-2004 fiscal year, LEAs reported approximately \$862 million of state and local special education and related services expenditures to assist students with disabilities. To verify whether MDE was monitoring local-level maintenance of effort, we judgmentally selected two LEAs for testing within the State of Minnesota. The Burnsville Eagan Savage and Saint Paul Public Schools districts' special education expenditures for the 2003-2004 fiscal year totaled \$13 million and \$56 million, respectively.

AUDIT RESULTS

We could not determine if MDE maintained a total state-level maintenance of effort or adequately monitored local maintenance of effort because it had not considered all agencies that contribute to the provisions of the special education and related services that are necessary for students with disabilities to receive a free appropriate public education. MDE did not include non-educational agency data in its maintenance of effort calculation. As a result, MDE cannot demonstrate, on either a total or per capita basis, that total state financial support or LEA expenditures for special education and related services were not reduced below the support for the preceding year. Therefore, children with disabilities residing in Minnesota may not have available to them all the special education and related services needed to ensure a free appropriate public education.

In response to the draft of this report, MDE concurred with the finding and the recommendations. At MDE's suggestion, we revised the total number of non-educational agencies in the final report. MDE's comments on the draft report are included in their entirety as an Attachment.

Finding: MDE Cannot Demonstrate that Support for Special Education Services was Not Reduced

MDE did not consider the state financial support used by non-educational agencies to provide special education and related services specified in interagency agreements with MDE or LEAs when determining compliance with both state and LEA maintenance of effort IDEA, Part B, requirements. MDE had 21 interagency agreements with 11 non-educational agencies to provide special education and related services at the state level. In addition, one LEA received special education and related services from various non-educational agencies that received state funding. MDE did not directly fund non-educational agencies to provide the services specified in the agreements. The Minnesota Governor's Office or another state agency provided funds to the non-educational agencies.

At least 2 of the 11 non-educational agencies at the state-level used a portion of these state funds to fulfill their interagency agreements with MDE or the LEAs. During our audit, we found 1 non-educational agency that used state funds to fulfill its agreement with MDE. As a result of our finding, MDE contacted 3 additional non-educational agencies that it believed may have received state funds. MDE discovered that 1 of the 3 agencies used state funds to fulfill an interagency agreement. MDE recalculated its state-level maintenance of effort under IDEA, Part B, for the 2003-2004 fiscal year. However, it only included the state financial support used to fulfill interagency agreements for the 4 non-educational agencies contacted. Other agencies may have also used state or local funds to fulfill their interagency agreements with MDE or the LEAs.

According to 34 C.F.R. § 300.154(a),² on either a total or per capita basis, the state will not reduce the amount of state financial support for special education and related services for children with disabilities below the amount of that support for the preceding fiscal year. In addition, 34 C.F.R § 300.231(a) states that funds provided to an LEA under IDEA, Part B, may not be used to reduce the level of expenditures for the education of children with disabilities below the level of those expenditures for the preceding fiscal year. According to 34 C.F.R. § 300.154(b), the Secretary may reduce the allocation of funds for any fiscal year following the fiscal year in which the state fails to comply with the maintenance of effort requirement by the same amount by which the state fails to meet the requirement.

MDE needs to consider all state financial support,³ whether provided to LEAs or non-educational agencies, used to provide special education services when determining compliance with state and local level maintenance of effort requirements. According to MDE, it did not fully understand the IDEA, Part B, maintenance of effort requirements. MDE stated that it did not receive specific instructions from the U.S. Department of Education regarding the calculation of maintenance of effort under the IDEA, Part B, program. Because MDE did not understand the requirements, it had not developed and implemented a reporting system to obtain the data needed to accurately determine compliance with maintenance of effort requirements.

If MDE or LEAs are not maintaining the level of effort required, children with disabilities residing in Minnesota may not have available to them all services needed to ensure a free appropriate public education. According to 34 C.F.R § 300.110(a), a state is eligible for assistance under IDEA, Part B, for a fiscal year if the state demonstrates to the satisfaction of the Secretary that the state has in effect policies and procedures to ensure that it meets the conditions in §§ 300.121-.156. Therefore, for every fiscal year MDE incorrectly calculated its maintenance of effort determinations, the U.S. Department of Education may have awarded and/or MDE may have drawn down an incorrect amount of federal funds under IDEA, Part B.

² All regulatory citations are as of July 1, 2003, unless otherwise noted.

³ Under 34 C.F.R. 300.231(c), a local educational agency's compliance with the maintenance of effort requirement can be based on the expenditure of local funds for special education and related services for students with disabilities or a combination of the expenditure of state and local funds for that purpose.

Recommendations

We recommend that the Assistant Secretary for Special Education and Rehabilitative Services require MDE to

- 1.1. Obtain training to ensure it understands all administrative aspects of the IDEA, Part B, program, including maintenance of effort requirements;
- 1.2. Develop and implement systems to obtain data needed to ensure it can demonstrate, on either a total or per capita basis, that financial support for special education and related services for children with disabilities at both the state and local level meets the IDEA, Part B, maintenance of effort requirements; and
- 1.3. Recalculate its state and local-level maintenance of effort to include state financial support used by all non-educational agencies specified in interagency agreements with MDE or LEAs in accordance with IDEA, Part B, requirements for the 2002-2003 and 2003-2004 fiscal years and report the revised maintenance of effort levels to the U.S Department of Education. If MDE does not meet maintenance of effort based on its recalculation, it should return any required IDEA, Part B, funds to the U.S. Department of Education.

OBJECTIVES, SCOPE, AND METHODOLOGY

Our audit objectives were to determine whether MDE: (1) maintained a total state-level maintenance of effort; (2) considered all agencies that contribute to the provisions of the services that assist students with disabilities; and (3) monitored LEAs' maintenance of effort required by IDEA, Part B. Our audit covered the 2003-2004 fiscal year. We also obtained information covering the 2002-2003 fiscal year, which was used as a basis for comparison.

We performed the following to achieve the audit objectives.

1. Reviewed audit reports and auditor documentation for MDE and the selected LEAs for our audit period.
2. Judgmentally selected the Burnsville Eagan Savage and Saint Paul Public Schools districts to visit by determining the two LEAs that had experienced budget cuts and received the highest amount of federal funding for the 2002-2003 fiscal year⁴ under IDEA, Part B, out of 501 Minnesota school districts. Selecting the two receiving the highest amount of federal funding under IDEA, Part B, allowed us to test LEAs with the highest risk and exposure.
3. Gained an understanding of MDE's and the selected LEAs' management control structure, policies, procedures, and practices applicable to the IDEA, Part B, maintenance of effort requirements.
4. Determined the reliability of computer-processed data. We reviewed a random sample of 20 lines of expenditure data of the total 558 lines of data for Burnsville Eagan Savage and 100 lines of the total 2,038 lines of data for Saint Paul to determine

⁴ This is the most current data available on state revenues.

if expenditures within MDE's Electronic Data Reporting System (EDRS) were sufficiently reliable to meet the audit objectives.

5. Tested state-level maintenance of effort by comparing special education and related services state expenditures for the preceding fiscal year with audit period expenditures.
6. Determined whether MDE considered all agencies with interagency agreements that provided services to assist students with disabilities when monitoring compliance with the IDEA, Part B, maintenance of effort requirements.
7. Determined how MDE monitored LEAs' compliance with IDEA, Part B, maintenance of effort requirements.
8. Tested MDE's monitoring of LEAs' maintenance of effort by determining if its calculations were complete and accurate.
9. Determined if the selected LEAs reported complete and accurate expenditure data to MDE by tracing 20 randomly selected lines from 558 lines of data for Burnsville Eagan Savage District and 50 randomly selected lines⁵ from 2,038 lines of EDRS data for Saint Paul Public Schools District to the LEAs' accounting records.

We relied, in part, on computer-processed special education expenditure data LEAs recorded in MDE's EDRS that MDE used to determine maintenance of effort. We also relied on the special education child count data maintained in MDE's Minnesota Automated Reporting Student System (MARSS). To determine whether the systems' data were reliable, we gained a limited understanding of the related computer system controls and compared the data within EDRS to corresponding data in the selected LEAs' financial systems. In addition, we compared the child count reported in MARSS for the two LEAs to the child count in the actual maintenance of effort calculation. The data generally appeared to be complete and accurate and had corroborating evidence on which we could rely.⁶ Based on our assessment and tests, we concluded that the computer-processed data we were provided was sufficiently reliable for the purposes of our audit.

We performed our fieldwork from February 22, 2005, through April 15, 2005. As part of our audit, we visited MDE's administrative offices in Roseville, Minnesota. We also visited the Burnsville Eagan Savage and Saint Paul Public Schools districts' administrative offices in Burnsville and Saint Paul, Minnesota, respectively. We discussed the results of our audit with MDE officials on May 16, 2005. Our audit was performed in accordance with generally accepted government auditing standards appropriate to the scope of audit described above.

⁵ These were the first 50 lines of the 100 lines of data used for the data reliability assessment.

⁶ Corroborating evidence is evidence such as interviews, prior reports, and data in alternative systems. MDE's Special Education Fiscal Monitoring Team monitors the accuracy and consistency of computer-processed data within its EDRS and MARSS. The monitoring team verifies the consistency across systems and verifies the data in each system to source documents at the LEAs.

ADMINISTRATIVE MATTERS

Statements that managerial practices need improvements, as well as other conclusions and recommendations in this report, represent the opinions of the Office of Inspector General. Determinations of corrective action to be taken will be made by the appropriate Department of Education officials.


In accordance with the Freedom of Information Act (5 U.S.C. § 552), reports issued by the Office of Inspector General are available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act.

This report incorporates the comments you provided in response to the draft report. If you have any additional comments or information that you believe may have a bearing on the resolution of this audit, you should send them directly to the following Education Department official, who will consider them before taking final Departmental action on this audit:

John H. Hager
Assistant Secretary
Office of Special Education and Rehabilitative Services
U.S. Department of Education
Potomac Center Plaza
Room 5103
550 12th Street, S.W.
Washington, DC 20202-2510

It is the policy of the U. S. Department of Education to expedite the resolution of audits by initiating timely action on the findings and recommendations contained therein. Therefore, receipt of your comments within 30 days would be appreciated.

Sincerely,


for Richard J. Dowd
Regional Inspector General
for Audit

Attachment



July 20, 2005

Richard J. Dowd
Regional Inspector General for Audit
Office of the Inspector General
U.S. Department of Education
111 N. Canal Street, Suite 940
Chicago, IL 60606-7204

Dear Mr. Dowd:

Thank you for your draft audit report of June 27, 2005 for the audit entitled *Minnesota Department of Education's Maintenance of Effort Under the Individuals with Disabilities Education Act of 1997, Part B, Program*.

Findings

The draft audit report includes one finding, which may be summarized as follows:

OIG Finding: MDE Cannot Demonstrate That Support For Special Education Services Was Not Reduced. Because MDE did not include non-educational agency data in its maintenance of effort calculations, MDE cannot demonstrate, either on a total or per capita basis, that state total financial support or LEA expenditures for special education and related services were not reduced below the support for the preceding year.

MDE Comments on OIG Finding: MDE concurs with this finding. Prior to the audit, MDE did not understand that non-educational agency data must be included in the maintenance of effort calculations. One correction should be made in the supporting data for the finding: MDE did not have interagency agreements with 21 non-educational agencies to provide special education and services at the state level; it had 21 interagency agreements with 11 non-educational agencies. There was more than one agreement with several agencies, as described in the list below:

Department of Corrections – 2 agreements
Department of Administration – 5 agreements
MN Satellite & Technology – 3 agreements
Department of Human Services – 2 agreements
MN Department of Health – 1 agreement
Department of Economic Development – 1 agreement

Moorhead State University – 1 agreement
MN State Academies – 2 agreements
Bemidji State University – 1 agreement
Department of Transportation – 1 agreement
St. Cloud State University – 2 agreements

Of the 11 agencies, MDE included data for the MN State Academies in its initial maintenance of effort calculations, and added data for four other agencies in its preliminary response to the audit finding. Data for the remaining six agencies will be included in the calculations under the final corrective action plan as outlined below.

Recommendations

The draft audit report includes three recommendations, which may be summarized as follows:

OIG Recommendations: OIG recommends that the Assistant Secretary for Special Education and Rehabilitative Service Services require MDE to:

- 1.1 Obtain training to ensure that it understands all administrative aspects of the IDEA, Part B, Program, including maintenance of effort requirements;
- 1.2 Develop and implement systems to obtain data needed to ensure it can demonstrate, either on a total or per capita basis, that financial support for special education and related services for children with disabilities at both the state and local level meet the IDEA, Part B, maintenance of effort requirements; and
- 1.3 Recalculate its state and local-level maintenance of effort to include state financial support used by all non-educational agencies specified in interagency agreements with MDE or LEAs in accordance with IDEA, Part B, requirements for the 2002-2003 and 2003-2004 fiscal years and report the revised maintenance of effort levels to the U.S. Department of Education. If MDE does not meet maintenance of effort based on its recalculation, it should return any required IDEA, Part B, funds to the U.S. Department of Education.

MDE Comments on OIG Recommendations:

MDE concurs with these recommendations.

With regard to Recommendation 1.1, MDE will:

- (1) make staff time available to review current MDE procedures for administering the IDEA, Part B, Program with USDOE officials designated by the Assistant Secretary for Special Education and Rehabilitative Service Services, and receive training from USDOE to ensure that it understands all administrative aspects of the IDEA, Part B, Program, including maintenance of effort requirements, and
- (2) identify topics for training and request clarification of regulations that it believes would be particularly important in attaining this goal. For example, MDE has requested clarification from USDOE regarding whether maintenance of effort

calculations should be done based on services provided for all children with disabilities from birth - age 21, or just for children ages 3 – 21.

With regard to Recommendation 1.2, MDE will:

Expand its data collection to annually collect written information from all of the non-education agencies with which it has interagency agreements to provide special education and services at the state level for state fiscal year 2003 and thereafter, and incorporate the information received from these agencies in its state and local-level maintenance of effort calculations.

With regard to Recommendation 1.3, MDE will:

Recalculate its state and local-level maintenance of effort to include state financial support used by all non-educational agencies specified in interagency agreements with MDE or LEAs in accordance with IDEA, Part B, requirements for the 2002-2003 and 2003-2004 fiscal years and report the revised maintenance of effort levels to the U.S. Department of Education by September 30, 2005. While I do not believe that this will materially affect the calculations done earlier, if MDE does not meet maintenance of effort based on its recalculation, it will return any required IDEA, Part B, funds to the U.S. Department of Education.

Thank you for your audit of Minnesota's State-level maintenance of effort under IDEA, Part B. We appreciate your review of our State-level maintenance of effort procedures and calculations, and the opportunity it has provided for us to better understand the requirements of federal law in this area.

Should you have any questions, please contact Tom Melcher, Program Finance Director, at (651) 582-8828 or tom.melcher@state.mn.us.

Sincerely,

/s/

Chas Anderson

Deputy Commissioner