

Report to the Legislature: Annual Report on Students with Disabilities 2014-2015

Chapter 159, Acts of 2000
March 2016

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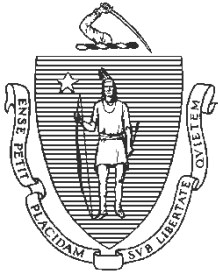
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Mitchell D. Chester, Ed.D.
Commissioner

March 2016

Dear Members of the General Court:

I am pleased to submit this *Report to the Legislature: Annual Report on Students with Disabilities 2014-2015*. This report has been provided to the Legislature on an annual basis since the year 2000.

This report is issued in the context of a change in focus for the U.S. Office of Special Education Programs (OSEP), the federal agency which oversees the Individuals with Disabilities Education Act (IDEA) implementation in each state. OSEP's new accountability framework, Results Driven Accountability (RDA), focuses first and foremost on improved educational results and functional outcomes for students with disabilities, rather than emphasizing procedural requirements only. In June 2015, OSEP notified the Department of Elementary and Secondary Education ("the Department") that, for the second year in a row, Massachusetts meets the requirements of IDEA. This is the highest accolade that a state can receive from OSEP. Such [determinations](#) are based on the totality of the state's data and information, including students with IEPs' participation and performance on the National Assessment of Educational Progress (NAEP), their participation in the MCAS, data and information provided to the U.S. Department of Education from other sources, and the [Federal Fiscal Year \(FFY\) 2013 State Performance Plan/Annual Performance Report \(SPP/APR\)](#).

The Department has also focused on outcomes for students with disabilities in our state initiatives. In our [FY14 Report to the Legislature](#) we examined research by Dr. Thomas Hehir and Associates regarding student placement, services, and outcomes data for special education. Dr. Hehir's research found that students from low income families are almost twice as likely to be eligible for special education services as other students. Additionally, students with IEPs from low income families are almost twice as likely to be educated in separate settings. Given the growth of the numbers of students living in poverty in Massachusetts, I am particularly concerned that our response of disproportionately identifying these students for special education services is inappropriate, and separating them from the general education environment is resulting in poorer outcomes for these already vulnerable students. As a direct response, this past year the Department initiated the new Low-income Education Access Project (LEAP) to reduce the disproportionate special education identification and substantially separate placement of students from low income families. LEAP is directly addressed in this report on page six, and showcases our commitment to collaboration with partners both inside and outside of the Department, thus expanding and deepening partnerships across our offices and with sister agencies, school district personnel, and community members.

This report highlights our current efforts, achievements, and works in progress. 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. Background: Enrollment and Finances

This section on Enrollment and Finances offers data required by the statute and provides context for subsequent discussion of Department activities.

A. Longitudinal Enrollment

Both Massachusetts’ total student enrollment and the number of students receiving special education services increased slightly from school year 2013-2014 (FY14) to 2014-15 (FY15). After five years at 17 percent, the percentage of students with Individualized Education Programs (IEPs) enrolled in Massachusetts public schools increased by 0.1 percentage points in FY15 (Table 1).

Table 1: Number and Percentage of Students with Disabilities, FY06–FY15

School Year	Total Special Education Enrollment	Total Enrollment	Percentage of Students with Disabilities
2005-06	160,752	983,439	16.4%
2006-07	163,396	979,851	16.7%
2007-08	164,298	972,178	16.9%
2008-09	166,037	970,059	17.1%
2009-10	164,847	967,951	17.0%
2010-11	164,711	966,395	17.0%
2011-12	163,679	964,198	17.0%
2012-13	163,921	965,602	17.0%
2013-14	164,336	966,360	17.0%
2014-15	165,060	966,391	17.1%

Source: Massachusetts Student Information Management System

B. Student Identification by Disability Category

The following table identifies numbers and percentages of students with IEPs by disability category. FY11 and FY15 data are used to illustrate change over a five-year period within categories. (Values are rounded to the nearest 0.1.)

Table 2: Number and Percentage of Disability Categories Ages 3-21 (FY11 and FY15)

Primary Disability	FY11		FY15		Percentage Change
	#	%	#	%	
Specific Learning Disability	51,900	31.5	42,339	25.7	- 5.8
Communication	29,173	17.7	27,486	16.7	- 1.0
Health	13,966	8.5	19,559	11.9	+ 3.4
Developmental Delay	17,635	10.7	17,896	10.8	+ 0.1
Autism	12,058	7.3	17,365	10.5	+ 3.2
Emotional	13,964	8.5	14,761	8.9	+ 0.4
Neurological	7,436	4.5	9,077	5.5	+ 1.0
Intellectual	10,374	6.3	8,995	5.5	- 0.8
Multiple Disabilities	4,726	2.9	4,357	2.6	- 0.3
Physical	1,460	0.9	1,232	0.8	- 0.1
Sensory/Hard of Hearing	1,226	0.7	1,221	0.7	---
Sensory/Vision Impairment	592	0.4	616	0.4	---
Sensory/Deaf/Blind	201	0.1	156	0.1	---
SWD Total	164,711	100	165,060	100	

Source: Massachusetts Student Information Management System

Collectively, Specific Learning Disability, Communication Impairment, and Health Impairment are often referred to as “high incidence disabilities” and are the disabilities most commonly found in the general population. Dr. Thomas Hehir and Associates, in their 2012 [Review of Special Education in the Commonwealth of Massachusetts](#), observed, “Nearly two out of every three Massachusetts students with a disability are identified as belonging in one of these three categories and due to the potentially subjective nature of their diagnosis, rates of identification for these categories may be more sensitive to policy decisions than rates for the more strictly defined categories. Further, we see evidence throughout the commonwealth that indicates that children with similar profiles may fall differentially into one of these three categories, depending on the designation conventions of different school districts.”¹ Thus, the percentage of students in each of these three categories may rise and fall relative to each other in any given year. For FY15, Specific Learning Disability has decreased by 5.8 percent and Communication by 1.0 percent when compared with the FY11 rate, whereas Health has risen by 3.4 percent. However, when combined, students with IEPs in the categories of Specific Learning Disability, Communication Impairment, and Health Impairment represent approximately 54.3 percent of all students receiving special education services in Massachusetts. This overall number is 3.4 percentage points lower than it was in 2011.

¹ Hehir, T., Grindal, T., & Eidelman, H. (2012, April 1). Review of Special Education in the Commonwealth of Massachusetts. Retrieved January 11, 2016, from <http://www.doe.mass.edu/sped/2012/0412sped.pdf>

Consistent with national trends², Autism has increased by 3.2 percentage points over five years and is currently at 10.5 percent of all students with a disability.

For most other disability categories, the percentages have stayed mostly constant over the last five years.

C. Financial Summary

Special education expenditures are reported by public school districts at the end of the year to the Department. Table 3 below shows the most recent available data (FY15 data were not available at the time of this writing) and indicates that both total school operating budgets and combined special education expenditures have increased over the past ten years. Expenditures from the district [Special Education Reimbursement \(“Circuit Breaker”\) Program](#) revolving accounts are included. The operating budget includes municipal indirect spending for schools but excludes capital expenditures and transportation. Other than circuit breaker spending, the operating budget does not include expenditures from grants, revolving funds, or other non-appropriated revenue sources. (Values are rounded to the nearest \$100,000.)

Definitions and notes:

- *Direct special education expenditures* include only those that can be related specifically to pupils receiving special education services.
- *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 3: Direct Special Education Expenditures, FY08–FY14, In Dollars

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			
2008	1,132,805,073	209,235,235	223,288,119	451,779,440	2,017,107,867	10,172,987,581	19.8
2009	1,199,704,253	212,959,915	223,839,279	417,844,303	2,054,347,750	10,243,839,754	20.1
2010	1,221,013,989	218,417,498	227,720,315	422,154,922	2,089,306,724	10,530,690,533	19.8
2011	1,214,794,187	228,193,919	247,601,162	435,878,519	2,126,467,787	10,710,955,988	19.9
2012	1,290,077,738	239,336,243	258,571,816	475,131,655	2,263,117,452	11,034,255,332	20.5
2013	1,391,956,887	248,357,794	257,350,184	507,772,958	2,405,437,823	11,486,135,702	20.9
2014	1,459,789,905	257,489,030	259,934,327	511,132,743	2,488,346,005	11,926,430,635	20.9

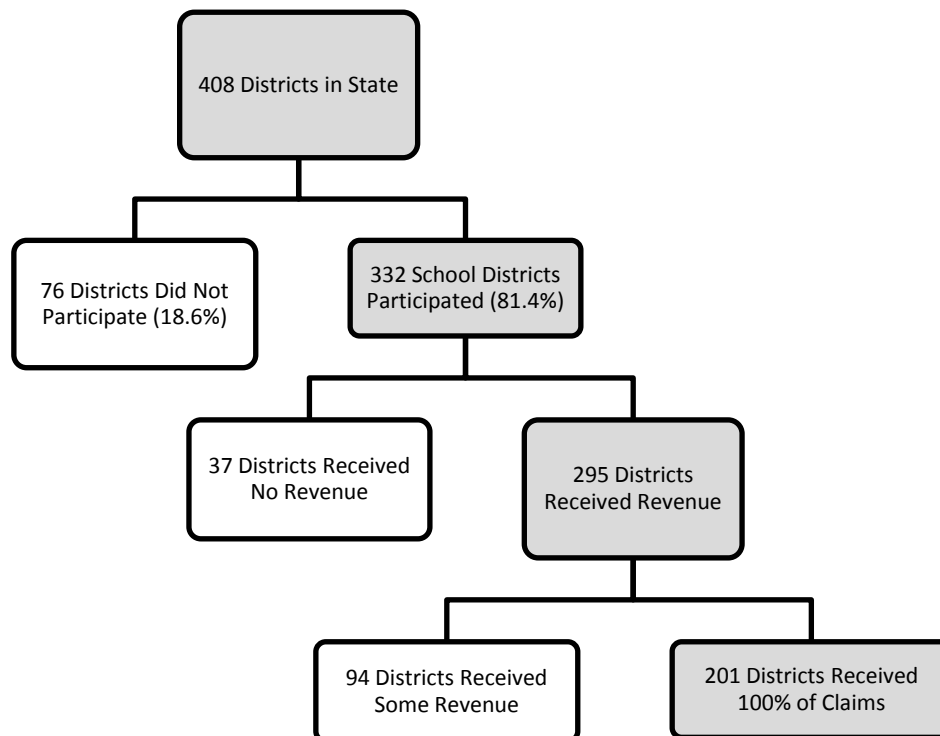
Source: *End of Year Pupil and Financial Report, Schedule 4 – Special Education Expenditures*

² 10 Things to Know About New Autism Data. (2014, March 31). Retrieved January 7, 2016, from <http://www.cdc.gov/features/dsautismdata/index.html>

D. 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 includes outreach and those activities that aid the delivery of direct services to Medicaid-enrolled children with IEPs. State law allows LEAs to participate in the School-Based Medicaid program and to seek payment for either direct services or administrative activities or both. In order to participate in the program, LEAs must sign provider contracts with the state Medicaid agency. School-Based Medicaid providers can bill MassHealth in accordance with the contract terms. Federal revenues are returned directly to the municipality which, in turn, can choose to share such revenue with the school districts, in whole or in part. Figure A below seeks to provide an overview of the scale of Massachusetts' districts receiving Medicaid revenue from municipalities. Districts may apply for and receive revenues in different fiscal years, but this is a close approximation of FY14 activity. Typically, municipalities that do not share the Medicaid revenue with the school district usually provide some alternative service (such as property maintenance or snow-plowing), so Figure A must be viewed with some caution. Data for FY14 represents the most recent available information.

Figure A: Municipal Medicaid Funding Breakdown, FY14

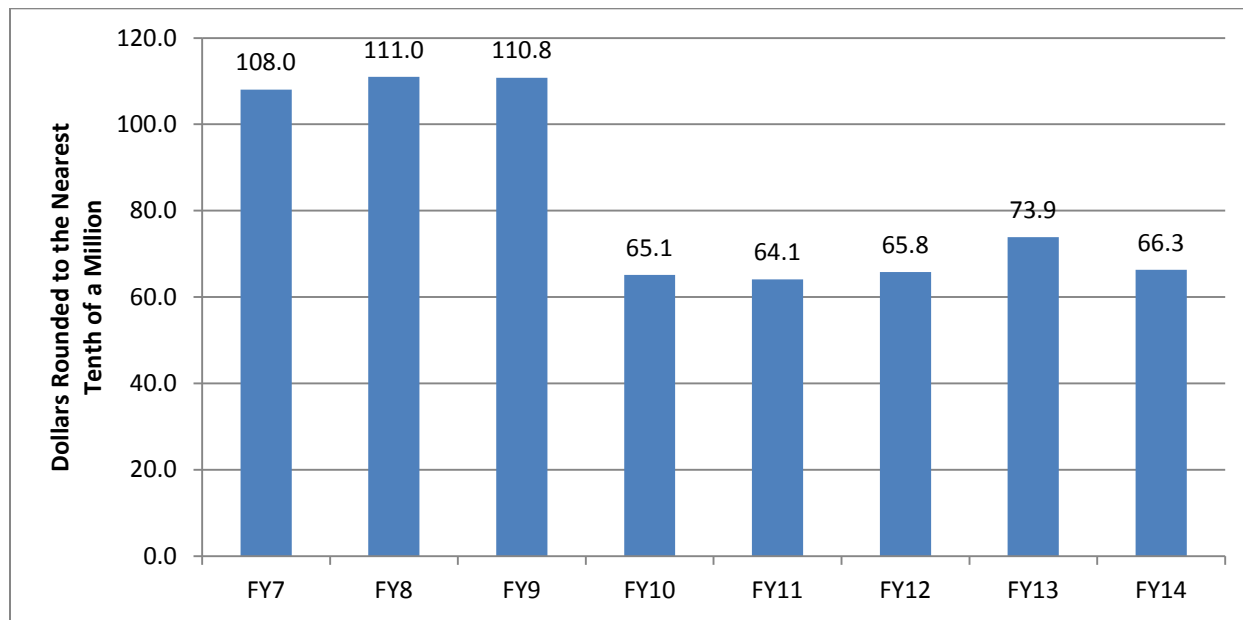


Source: MA EOHHS Office of School-Based Medicaid

The figures for the School-Based Medicaid program for FY07 through FY14 are provided below in Figure B. The sharp decline from FY9 to FY10 represents a change in the claiming mechanism required by the federal Medicaid office. Total Municipal Medicaid Claims for FY14 were \$66.3 million. Total revenue received by providers in FY14 was \$60.6 million ; \$38.7

million was for Direct Services Claims and \$27.7 million for Administrative Activity Claiming. In FY14, 295 school districts received Medicaid revenue.

Figure B: Total Municipal Medicaid Claims in Dollars FY07-FY14



Source: MA EOHHS Office of School-Based Medicaid

E. 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 Department 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.

Annual reports on statewide circuit breaker claims and reimbursement can be found at <http://www.doe.mass.edu/finance/circuitbreaker>. [Data from June 2015](#) show district claims submitted in FY14 and reimbursed in FY15 at a rate of 73.5 percent.

III. FY15 in Review

This section highlights specific strategies, initiatives, activities, and planning conducted by the Department during FY15.

A. Office of Special Education Planning & Policy Development

The Office of Special Education Planning & Policy Development (SEPP) is the lead unit at the Department for planning and delivering targeted supports and resources to continuously improve the education of students receiving special education services. SEPP’s mission is to strengthen the Commonwealth’s public education system so that every student, and most especially every student with disabilities, is prepared to succeed in postsecondary education, compete in the

global economy, and understand the rights and responsibilities of American citizens, and in so doing, to close all proficiency gaps. With a results-driven focus, the office seeks to increase public knowledge regarding special education and students with disabilities; engage in strategic planning and use of funds; develop, model, and disseminate best practices; promote communication and collaboration within the Department and among external stakeholders; and support effective compliance to improve student outcomes. The following FY15 highlights exemplify these strategies.

1. LEAP - Low-income Education Access Project

In 2014, 38.3 percent of all Massachusetts students came from low income families, with the highest levels of poverty in the Pioneer Valley (53.2 percent of all students) and the lowest in the Southeast (34.3 percent of all students). Students from low income families are 1.95 times more likely to be eligible for special education services than other students. Once they receive services, they are then 1.8 times more likely to be educated in separate settings. This is particularly alarming, given evidence from [research](#) conducted by Dr. Thomas Hehir and Associates demonstrating that students with IEPs who have full inclusion placements outperform similar students in more separate placements on the MCAS and are 4.79 times more likely to graduate high school on time. [OSEP's determination letter](#) of June 2014 stresses that "protecting the rights of children with disabilities and their families is a key responsibility of state educational agencies (SEAs) and local educational agencies (LEAs), but it is not sufficient if children are not attaining the knowledge and skills necessary to achieve the goals of IDEA as reflected in Congressional findings in section 601(c)(1) of the IDEA Improvement Act of 2004: equality of opportunity, full participation, independent living, and economic self-sufficiency." To promote adult success for all students, it is incumbent upon the Department and statewide education stakeholders to reduce the number of Massachusetts students inappropriately identified for special education or educated in separate settings.

In response to state data and the Hehir and Associates research, the Low-income Education Access Project (LEAP) was created with a commitment to reduce the rate of disproportionality of the special education identification and substantially separate placement of students from low income families. Project elements include root cause and infrastructure analyses to identify, develop, and disseminate tools, technical assistance, sustainable professional development, and other resources to ultimately support all Massachusetts districts.

Under the direction of SEPP, the Department is creating internal, agency-wide collaborative systems and partnerships with a stakeholder group of districts (known as "LEAP districts") to do this work. These districts include Acton-Boxborough, Andover, Boston, Brookline, Chicopee, Fall River, Holyoke, Hopkinton, Lynn, Malden, Medfield, Nashoba, Needham, and North Attleboro. In March 2015, the Department held a forum for LEAP districts to establish a shared understanding of the determining factors for the special education identification and placement of students with disabilities from low income families and to identify best practices for supporting districts to improve outcomes for students with disabilities from low income families. In April and May 2015, SEPP coordinated onsite visits to each LEAP district.

LEAP partners work collaboratively with SEPP to produce tools, resources, training, and professional development opportunities that can ultimately be scaled up and disseminated to all Massachusetts districts. In addition to LEAP districts and Department offices, LEAP organizational partners include, but are not limited to, the Federation for Children with Special Needs, the Lower Pioneer Valley Educational Collaborative, and a statewide cadre of trainers, including collaboratives. The focus of this project in its first year has been on improving

understanding of the effects of poverty on students generally, and identifying teaching practices that overcome the impact of poverty on learning. This work has involved the LEAP districts and a number of other districts with high poverty concentrations in their student body.

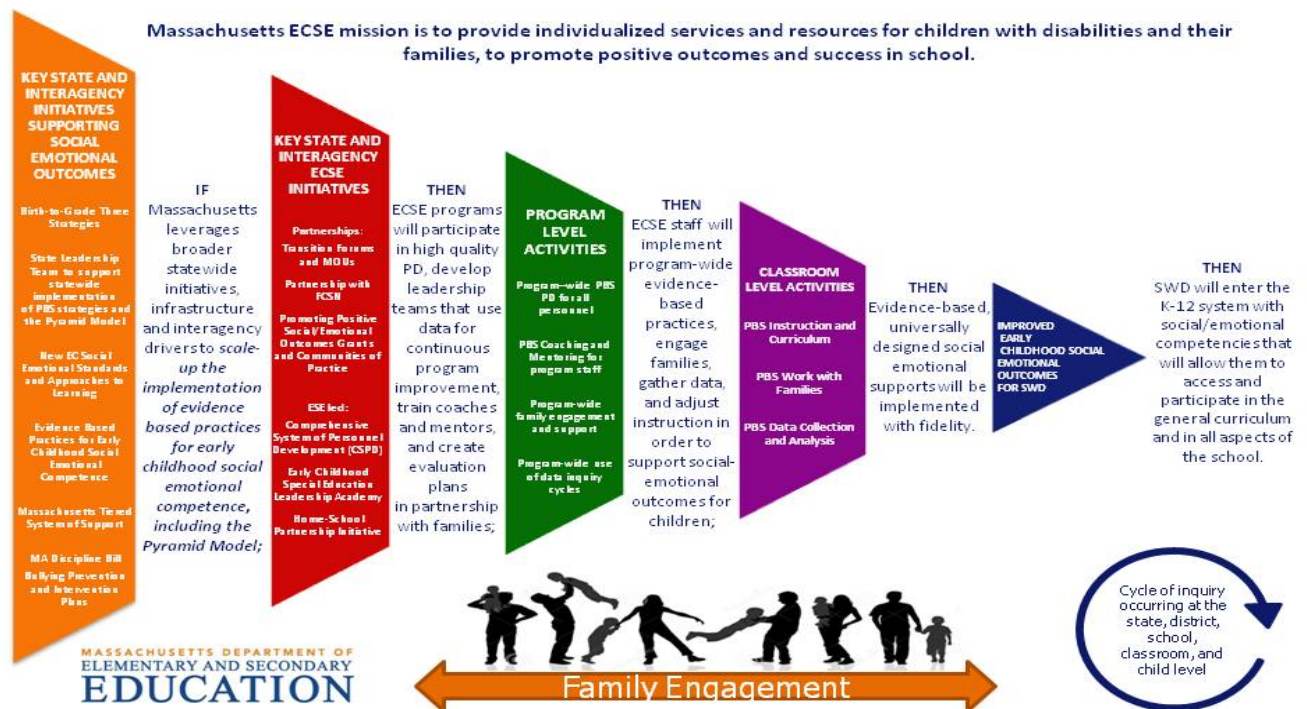
2. State Systemic Improvement Plan (SSIP)

The Massachusetts State Systemic Improvement Plan (SSIP) Phase 1 statewide data and infrastructure analysis was completed and submitted to OSEP in April 2015.³ Based on extensive analyses and in collaboration with Department stakeholders, Massachusetts developed a plan to improve social emotional skills for young children aged 3-5 with IEPs using Positive Behavior Supports (PBS) through Pyramid Strategies. This approach is a research-based framework and curriculum to promote social emotional skills and address challenging behaviors for young children. Throughout FY15 and continuing into FY16, the Department is building state- and local-level capacity to create sustainable leadership systems and infrastructure that will enable an ongoing cycle of improvement and direct technical assistance and training for local staff.

Phase 2 of the SSIP commenced in FY16 and includes the Department’s activities to: a) strengthen systems for sustainability across state agencies in order to build the state infrastructure to promote systemic use of PBS through Pyramid Strategies; b) support LEA implementation of evidence-based practices; and c) develop an evaluation plan for the SSIP. Specifically, the Department has initiated Phase 2 with 18 districts throughout the Commonwealth and will continue to expand the initiative statewide.

Figure C: SSIP Theory of Action

Massachusetts State Identified Measurable Result (SIMR): Improving Early Childhood Special Education (ECSE) Social Emotional Outcomes



Rationale:

- Improved early childhood social emotional outcomes will support academic and personal gains for students with disabilities in K-12 and beyond.

³ For background on the SSIP, please see the [FY14 legislative report](#).

The Department continues to build statewide infrastructure via inter- and intra-agency collaboration, allowing multiple partners to support LEA implementation. These activities include joint trainings with the Departments of Public Health, Early Education and Care, Children and Families, and Mental Health. Additionally, intra-agency collaboration and coordination occurs between SEPP, the Office of Tiered Systems of Support (OTSS) (through its Positive Behavior Intervention and Supports (PBIS) Academies), and the Office of Student Support to ensure the longitudinal and sustainable nature of the initiative is addressed. Finally, the Department is creating an evaluation plan for the project, based on the Theory of Action (Figure C above), in order to identify and measure the inputs, outputs, and outcomes of the initiative based on statewide data. By analyzing the data, the Department will be able to determine the effectiveness of the implementation and make modifications to the implementation or support for LEAs, as needed, thereby promoting improved outcomes for students.

3. The Autism Endorsement

In July 2014 the Legislature passed and the Governor signed into law [Chapter 226 of the Acts of 2014, An Act Relative to Assisting Individuals with Autism and Other Intellectual or Developmental Disabilities](#). This law directs the Board of Elementary and Secondary Education (“BESE”, or “the Board”) to establish a teacher licensure endorsement in Autism in order to meet the unique and complex educational needs of students on the Autism Spectrum.

At the June 23, 2015 meeting, the Board reviewed public comments on proposed amendments to 603 CMR 7.00, Regulations for Educator Licensure and Preparation Program Approval, relating to the new Autism Endorsement. Written through a collaborative process with stakeholders, these regulations describe the knowledge and skills required for the attainment of this endorsement, including an understanding of Autism and related co-morbid conditions, assessment and the use of data, effective educational program design, specialized and individualized instructional strategies and supports, and collaboration with IEP Team members. The Department received 32 comments from individuals and organizations during the public comment period, and three of the original commenters also provided comments at the BESE meeting in June. Over the course of the summer, the Department carefully considered additional stakeholder feedback and comments from the Board and modified the regulations based on that input. In September 2015 the Board passed final regulations to create an Autism Endorsement in Massachusetts. This new endorsement will help special educators to more effectively promote optimal outcomes for the more than 17,000 students with Autism in the Commonwealth.

Between October 2015 and September 2016, as directed by the BESE, the Department has initiated a process of engaging stakeholders to seek feedback in two areas regarding implementation of the credential’s requirements. First, the Department will seek feedback on the development of guidelines for educator preparation program approval for the Autism Endorsement. Second, feedback will be solicited on the use of the endorsement in the field and educators’ experience with the endorsement, including whether and how eligibility for it should be expanded to general education teachers to promote inclusion of students with disabilities in general education programs.

4. Secondary Transition

In FY15, SEPP collaborated with the Office of College and Career Readiness (CCR) to create a [new online secondary transition forum](#), which features discussion and resources in the transition domains of education/training, competitive employment, community participation, and

independent living. This tool is designed to encourage the flow of transition-related information among all interested parties in Massachusetts, including students, families, school professionals, employers, adult agencies, and higher education, in order to improve postsecondary outcomes for students with disabilities. The new forum is sited on CCR's [Contextual Learning Portal](#), a Department-sponsored website that provides opportunity and space for educators, community organizations and other youth-serving agencies to share projects and lessons that involve contextual teaching and learning.

In April 2015, teams of educators from 62 districts and collaboratives participated in training, self-assessment, planning, and networking around promoting student self-determination, as part of professional development activities through the federally-funded special education program improvement [Fund Code: 274 grant](#) and as part of the roll-out of the [Technical Assistance Advisory 2016-2: Promoting Student Self-Determination to Improve Student Outcomes](#). SEPP staff also collaborated with the Arc of Massachusetts and with the Institute for Community Inclusion at UMass Boston to plan and present at their statewide conferences for hundreds of family members and educators. Through the Vocational Special Education Leadership Institute [Fund Code 420 grant](#) (also federally-funded), SEPP and the Office for Career/Vocational Technical Education (CVTE) provided year-long training for vocational technical school administrators to develop and strategically implement a coordinated system of special education service delivery in academic and vocational instruction.

In an example of cross-agency collaboration, the Department worked over the spring and summer of 2015 to draft new Memoranda of Understanding (MOUs) with the Massachusetts Rehabilitation Commission (MRC) and Massachusetts Commission for the Blind (MCB). These MOUs describe enhanced agency partnerships in an era of the new Workforce Innovation and Opportunity Act (WIOA), which took effect on July 1, 2015 (with a few exceptions) and requires states to strategically align workforce development programs. Under WIOA, state vocational rehabilitation (VR) agencies will set aside at least 15 percent of their VR funds to provide transition services to youth with disabilities, including pre-employment transition services delivered in collaboration with local LEAs and intended to help them obtain competitive integrated employment.

B. Educational Collaboratives

Educational collaboratives are formed through an agreement between or among two or more school committees and/or charter school boards (member districts) to provide educational programs or services that will supplement and complement programs and services offered by their member districts. There are 26 collaboratives that have been approved by the Commissioner of Elementary and Secondary Education under the provisions of G.L. c. 40, §4E. These collaboratives collectively served 265 member districts during FY15.

Collaboratives are managed by a Board of Directors, comprised of the superintendent or a school committee or charter board member from each member district, and are primarily funded through local school committee and/or charter school budgets to serve public school students. During FY15, 4,159 students with a full range of needs received direct services through educational collaboratives. Collaboratives serve other students and adults by providing therapy services, professional development, and vocational training for member and non-member districts.

Collaboratives have operated as public entities in Massachusetts for over forty years. While they were initially formed in order to operate joint special education programs in which students from member districts (and some non-member districts) could be served, they have evolved since that

time in order to meet additional needs of public school districts, such as cooperative purchasing, transportation and in-service training. Collaboratives, however, 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 or low-incidence services may be limited.

Following a major amendment in the authorizing legislation enacted in 2012, new regulations governing collaboratives were approved by the Board of Elementary and Secondary Education on January 29, 2013. As a component of increased accountability, each collaborative is required to provide an annual report of its activities and an independent audit report to each of its member school committees and the Department. The independent audit must also be provided to the State Auditor. In addition, the collaborative board representatives must participate in training provided or approved by the Department on the public records law, conflict of interest law, special education law, the budgetary process, procurement, fraud prevention and awareness, and the fiduciary and management oversight responsibilities of the collaborative Board of Directors. The Department now also maintains students, staffing and MCAS data for each collaborative and continues to include collaboratives in the Department's Program Quality Assurance (PQA) six-year cycle of coordinated program reviews.

Additional information on collaboratives, including the authorizing law and companion regulations (603 CMR 50.00) may be accessed on the Department's website at: <http://www.doe.mass.edu/finance/collaboratives/>.

C. 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.⁴ The BSEA derives its authority from both federal law and regulations (the Individuals with Disabilities Education Act, "IDEA") and Massachusetts law and regulations (G.L. c.71B). BSEA operations are supported with federal special education funds.

A parent or a school district may file with the BSEA a request for mediation and/or a due process hearing on any matter concerning the eligibility, evaluation, placement, IEP, provision of special education, or procedural protections for students with disabilities, in accordance with state and federal law.⁵ In addition, BSEA has jurisdiction over matters related to a parent's request for a hearing on any issue involving the denial of a 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. BSEA staff comprises seven (six full-time equivalent) hearing officers (all of whom are attorneys), seven mediators, a coordinator of mediation, a scheduling coordinator, administrative staff, and a director.

⁴ In addition to mediation and due process hearings (both of which must be offered pursuant to federal law), the BSEA offers the following alternative dispute resolution options: IEP Team meeting facilitations; settlement conferences; and advisory opinions.

⁵ 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.

What follows is a summary of BSEA data for FY15.

1. Facilitated IEP TEAM Meetings

This year the BSEA facilitated 127 IEP Team meetings, a decrease from the 150 conducted during the previous year. The BSEA was unable to offer its services in response to fifteen additional requests for Team meeting facilitations because of staff unavailability.

2. Mediation

There were 733 mediations conducted in FY15. This represents a decrease of seven percent from the 790 conducted during the prior year. The percent of mediations held that resulted in mediation agreements remained consistent this year at 84.4 percent.

3. Due Process Hearings

The BSEA received 492 hearing requests during FY15, a decrease of nearly 17 percent from the 590 requests made in the prior year. BSEA hearing officers conducted full hearings resulting in 18 decisions, which is a decrease from the 25 decisions issued in the previous year. Additionally, hearing officers issued 48 substantive written rulings, compared to 53 such rulings in the prior year.

4. Prevailing Party and Representation

Of the 18 hearing decisions noted above, parents fully prevailed in three, school districts fully prevailed in 11, and mixed relief was awarded in three. One decision involved an LEA assignment case.

5. Settlement Conferences

The settlement conference is a voluntary alternative dispute resolution process available to litigants only after a hearing request has been filed, affording the parties one last opportunity to resolve the matter through the BSEA without proceeding to a due process hearing. Settlement conferences were held in 63 of the cases that were filed for hearing in FY15.

IV. For More Information

The information in this report is a compilation of data and narrative contributions from several units within the Department, as well as input from the Massachusetts Organization of Education Collaboratives, the state Office of Medicaid, and the Division of Administration Law Appeals. 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.