

LEGISLATIVE AUDIT DIVISION

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MEMORANDUM

TO: Legislative Audit Committee Members

FROM: Angie Grove, Deputy Legislative Auditor, Performance Audits

DATE: February 2009

CC: Denise Juneau, Superintendent of Public Instruction
Tim Harris, Division of Special Education
Joan Anderson, Department of Operations
Denise Ulberg, School Finance Division

RE: Performance Audit Follow-up (09SP-04): Use of Special Education Funds,
Office of Public Instruction (orig. 05P-01B)

ATTACHMENT: Original Performance Audit Summary

INTRODUCTION

In December 2005 we presented our performance audit of Use of Special Education Funds. The audit made three recommendations to the Office of Public Instruction (OPI). In December 2006 we began gathering information from the department on progress in implementing the recommendations. Based on preliminary information, we decided to delay further follow-up audit work in order to allow OPI more time to implement recommendations. In February 2009 we conducted further follow-up work to verify the implementation status of recommendations made in the original audit report. This memo summarizes the results of our follow-up work in addition to presenting background information on the program.

Overview

Audit recommendations focused on strengthening OPI controls for overseeing the use of special education funds. OPI implemented two of the three audit recommendations; the third recommendation was not implemented.

BACKGROUND

Federal law contains the requirements that govern special education. The Individuals with Disabilities Education Act (IDEA) was enacted by Congress in 1997. The purposes of IDEA, among other things, are to ensure all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs, and to ensure the rights of children with disabilities and parents of such children are protected. Section 20-7-401, MCA, defines "special education" as specially designed instruction to meet the unique needs of a child with a

disability, at no cost to the parents or guardians, including but not limited to instruction conducted in a classroom, home, hospital, institution, or other setting and instruction in physical education. This law defines a “child with a disability” as a child evaluated in accordance with the regulations of IDEA as having a disability and who because of the disability needs special education and related services. A disability alone does not qualify a child for special education; a child with a disability must need special education and related services in order to qualify.

In Montana, special education instruction and related services are administered by public school districts, private schools, special education cooperatives, state-operated facilities, residential treatment facilities, and correctional facilities. During the 2007-2008 school year, approximately 18,200 students between the ages of 3-21 were served by special education programs. This count includes students enrolled in public schools, publicly funded schools, residential treatment facilities that are contracted to provide services to those students who are Montana residents, and those in private or home schools and who are receiving services from a public school in accordance with a Services Plan. This count equals 12.7 percent of total student enrollment.

Montana special education program funds are comprised of state and local funding and federal grants. The Office of Public Instruction is a pass-through entity that distributes special education funding and support services to the over 400 public school districts as they carry out the various statutory mandates for special education programs. Allocation of state and federal funding is based on statutory formulas; local funding refers to school district general funds that are required by statute to match a portion of state special education funds received.

FOLLOW-UP AUDIT FINDINGS

The performance audit report included three recommendations to OPI. The following summarizes information relating to follow-up audit work and the implementation status of the recommendations.

Recommendation #1

We recommend OPI:

- A. Expand its analysis of program information to include identification of population trends, expenditure anomalies, district comparisons, and use of Medicaid funds.**
- B. Include this information in its report to the Legislature.**

Implementation Status – Implemented

OPI revised its Special Education Reports to the 2007 and 2009 Legislatures to include information on the areas requested. Specifically, information on population trends is reported in terms of the number of students served by special education programs as compared to the total number of students in the Montana educational system and number of students served, categorized by disability and explanations for changes in these numbers over time. OPI also reports on expenditure anomalies by presenting comparisons of local, state, and federal expenditures over time, the growth in reimbursement of disproportionate costs, and reasons for fluctuations in expenditure levels. Further, comparison is made between school district expenditures per student and per special education student. Detailed information is presented on Medicaid reimbursement to school districts and OPI’s collaboration with the Department of Public Health and Human Services to increase reimbursement to districts for certain special education costs.

Recommendation #2**We recommend OPI:**

- A. Develop specific training for budgeting and use of state special education funds, Medicaid reimbursements, and federal grant dollars.**
- B. Provide additional training to public school district personnel involved in special education program and budget management.**

Implementation Status – Implemented

The School Finance Division of OPI developed special education budget training and provided that training to school district special education directors, business managers, superintendents, trustees, and cooperative personnel. Training has been provided since 2006 and in the past year was presented at ten different conferences and workshops at various locations around the state. The training specifically addresses the financial administration and management of special education funds, including the appropriate use of each type of special education funding source.

Recommendation #3**We recommend OPI seek legislation to establish statutory guidance on:**

- A. The need for state and local fund reserves for special education, and if determined necessary, address the level of reserves needed and the purpose of those reserves.**
- B. Criteria similar to section 17-2-108, MCA, for applying special education expenditures against federal funds prior to using state and local funds whenever possible.**

Implementation Status – Not Implemented

OPI has not pursued legislation to implement this recommendation. The agency did not seek legislation during either the 2007 or 2009 Legislature to implement this recommendation as agency management indicated they believed they would not have legislative support.

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