

# Special Education

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By Michael Starn, Editor

The cost of special education has spiraled upward in the last decade, and state, municipal and school officials are looking for ways to get their hands around this costly, complex and confusing federal mandate.

A 2002 report by the Maine Education Policy Research Institute states, "Over the past decade, special education program expenses increased 87.4% when total education expenses increased 47.6%."

The cost of providing special education services in individual school systems ranges from less than 1% to over 20% of total education expenditures, according to the Task Force on Increasing Efficiency and Equity in the Use of K-12 Education Resources (*see article in this issue*).

The Task Force also reported that special education identification rates in Maine averaged 17.3% of the total student population. This identification rate varies considerably by school system ranging between 6 and 27 percent. The national average is around 14%.

In 2002-03, average K-12 per pupil operating expenditures, including the special ed costs, were \$7,018 statewide, according to the Maine Department of Education's Data Center. If you subtract special ed costs from total education spending, statewide per pupil expenditures are approximately \$5,880.

Of the approximate 208,000 K-12 students in Maine, about 37,000 are enrolled in special education programs. The cost of the special ed was \$236.5 million in FY 03, according to DOE. A quick calculation shows the per student (enrolled in special ed) cost at about \$6,400. In other words, the average special education student costs about \$12,280 (\$5,880 plus \$6,400).

Does it actually cost twice as much, on average, to educate the special ed student? It is difficult to say because we do not know what total education costs would be if special education did not exist.

What is known is that individual special education situations can greatly exceed the \$6,400 average. For example the town of Richmond has had to schedule a special town meeting in March to appropriate \$70,000 to meet the special ed needs of a kindergarten student, whose family recently moved there. And, in Lamoine the town may have to reimburse a parent \$78,000 for sending a child to an out-of-state adventure school and then a boarding school, all without the consent of school officials.

## UNANTICIPATED COSTS

In Richmond, an autistic child became the responsibility of the school department last fall. A kindergarten student, this child was new to the school system and the cost of providing the high level of special education services that the child requires was not included in the school budget, adopted last spring.

The family of the child requested a hearing before the Department of Education on September 25, 2003. The child was attending Merrymeeting Child Development Center in Waldoboro, and the parents sought continued placement at the facility, with the cost to be picked up by the Richmond School Department because the parents and child were now residents of Richmond.

The DOE hearing officer ordered the Richmond School Department to reimburse the family for tuition and other related costs to attend the Merrymeeting Child Development Center. Those costs totaled about \$70,000.

Without sufficient funds in the school budget to meet this unforeseen expense, school officials requested that the selectmen call a special town meeting to raise the necessary funds. That special town meeting has been set for March 16.

In addition to the extraordinary high cost of certain special ed students, the unpredictability of special ed costs is also a serious problem.

High cost special ed students that transfer and children with special ed needs who are just entering school can wreak havoc on the school budget. These situations are difficult to anticipate or budget for, and even if the costs are reimbursed under the GPA circuit breaker for program costs, those reimbursements aren't received for two years forcing the town to front the expense.

Richmond's school system has about 620 students, 120 of whom receive special education services. Those 120 students represent about 18 percent of the student population, which is about average in Maine.

Of the \$4.6 million Richmond school budget about \$702,000 goes for special education programs, of which the federal government contributes about \$119,000. The federal contribution does not come close to its promise to pay 40% of those costs when this federal mandate was enacted in the mid-1970s.

## OUT-OF-STATE PLACEMENT

According to the *Lamoine Quarterly*, a town newsletter, the Lamoine School Department has filed suit in U.S. District Court challenging a decision of a case hearing officer for the State Department of Education regarding a special education student.

The decision, filed October 6, 2003, involves a special needs student whose mother sent him to an outdoor adventure school and then a boarding school without the school department's approval.

The lawsuit was filed in November of 2003.

According to the suit, a pupil evaluation team (PET) met with the child's mother and suggested a residential treatment program at KidsPeace in Ellsworth for the child who was identified as having multiple disabilities, including learning and emotional disabilities.

The child's mother apparently rejected the program suggested by the PET and entered into an agreement with an out-of-state consultant and enrolled the child at an adventure school in North Carolina followed by enrolling the child at a boarding school in Utah. According to the lawsuit, neither facility is licensed for special education students under state or federal laws.

The mother asked that the school department pay for the child's enrollment at both schools and that she be reimbursed for the consultant that she hired.

The DOE hearing officer ordered the school department to reimburse the mother for payments to the consultant and for costs related to the student's attendance at the North Carolina adventure school. Additionally, the hearing officer also ordered that the school reimburse the Utah boarding school an amount equal to what the department would have spent if the child had attended the Ellsworth KidsPeace program.

The school committee, through its attorney, has asked the court to find that it offered an appropriate educational program for the child. The suit also request that the Department of Education ruling ordering reimbursement of the mother be vacated and find that the department and its (hearing) officer violated federal laws by ordering the payment.

If the hearing officer's decision is upheld, Lamoine property taxpayers could be on the hook for as much as \$78,000. So far, no payment have been made by the town. A decision from the federal court is expected sometime this summer.

## WORKING ON SPECIAL ED

The State Board of Education is working to sharpen Maine's focus on its special education program, learn why Maine has a higher special ed identification rate than the U.S. average, and begin managing more aggressively Maine's special education costs.

With respect to the high identification rate and the sharply different identification rates from school to school, one strategy is to improve the clarity of the standards of eligibility that govern the identification of a student who should receive special ed services.

To that end, a working group has been formed by the Department of Education to review the 13 federally-defined categories of disability and see if some guidelines can be established underneath those definitions to assist parents, school practitioners and the Pupil Evaluation

Terms in understanding more precisely the circumstances that trigger the special education entitlement.

With respect to the goal of more aggressively managing special education costs, all eyes are focused on the efforts of the State Board of Education and the Department of Education to move special education into the new Essential Programs and Services (EPS) school funding model.

Currently, all approved special ed expenditures are rolled into a category of any school's expenditure budget called "program costs" (special education, transportation, vocational education and early childhood education), and the local responsibility to pay those program costs is capped at a specified mill rate effort of about 1.4 mills. Expenditures over that level of financial effort are ultimately reimbursed by the state.

With the emergence of the EPS school funding model, the state is poised to repeal that actual cost/"circuit breaker" funding model and replace it with a formula that assumes each school has a certain percentage of special education students and that the average special education student costs X dollars to educate. Once that formula is designed and moved into the EPS model, the overall EPS "allocation" for each school system in Maine will presumptively take into account that school's special education expenditures. The schools and municipalities are obviously very anxious about the design of that model because it could easily fail to recognize actual, federally-mandated special education expenditures similar to the cases in Richmond and Lemoine described in this article.

To that end, there has been some discussion about a direct state reimbursement for a much larger percentage share of the very high cost special ed cases. Designed along the lines of a catastrophic insurance plan, the state would directly participate at an 80% level or higher for the special education enrollments, defined in a certain way, that can blow huge holes in a school budget. The thinking is that the EPS modeling will be easier to design if the highest-cost enrollments are pulled out of the mix. Much of this design is still at the discussion stage. *(AUTHOR'S NOTE: Geoff Herman, MMA's Director of State & Federal Relations contributed to this article).*