**MASC/MASS Joint Conference**

**November 2023**

**Special Education**

**Quick Facts and Key Issues**

1. **One out of every five public school students in Massachusetts require special education services. Approximately 10% of children in Massachusetts from birth to age three are receiving early intervention services compared with a national average of 3% according to the National Institute for Early Education Research.**
2. **The cost of special education is substantial and growing. In addition to local funding the Commonwealth and Federal Governments provide financial support for these services through four main funding streams: Chapter 70; circuit breaker; IDEA; and MuniMed. Many school systems used ESSER funding as well. The bulk of ESSER funds will be expended by the September 2024. The possibility of federal cutbacks to IDEA is real given current debates in the US Congress. OSD inflation increases could flatten the value of increased circuit breaker allocations. The current eligibility threshold is $49,494. When the program was first approved it was approximately $28,000. The 75% reimbursement rate is subject to state appropriation. (See the DESE Primer on Financial Aspect of Special Education).**
3. **The Federal Government has launched an inquiry into whether the Massachusetts special education system has failed to comply with the law. On September 29th USDOE initiated the review questioning if Massachusetts adequate supports students with disabilities and whether the state provides proper oversight of public schools or its network of private special education schools. The state must reply by early December.**
4. **Special Education licensed faculty and staff shortages are real. This requires substantial planning for unanticipated personnel issues. Districts should continuously advertise for teachers, specialists and substitutes. Create a “Bench.”**
5. **Compensatory Services should be anticipated. IEPs are contracts and must be fulfilled, but meeting with parents and working out a mutually acceptable plan should be done proactively. Identify contract service providers as a back-up.**
6. **Adverse Student Behaviors and Mental Health Issues are getting more prevalent and require sensitive and effective responses. Students may qualify under special education law or under Section 504. When students exhibit behaviors that interfere with learning, districts should conduct a Functional Behavioral Assessment (FBA) and put a Behavioral Intervention Plan (BIP) in place. Consistent with the above and other related student behavior matters, districts need to review the practice of suspensions and develop alternative learning opportunities. The use of Restorative Justice techniques may provide an effective approach.**
7. **When a student (with or without a determined disability) is viewed as a threat to others, it is vital for the district to have a threat assessment procedure and trained personnel to analyze the situation. Students with disabilities who are disciplined for making threats are entitled to a manifestation determination review to decide if the behavior is related to the disability. Depriving a student of his/her education via long term suspension and/or expulsion is a very serious matter. Consult your attorney for an appropriate action.**
8. **Service Animal requests are getting more frequent. Two questions: Is the animal necessary for the student’s disability and what task is the animal trained to do? If the answers are affirmative there is very little wiggle room. The right to a service animal is covered by a distinct set of rights under the American with Disabilities Act (ADA) independent of any requirements/rights under the IDEA. After the animal has been admitted to school, the district will be in a better position to determine if the animal is necessary and not an untenable distraction/threat to others.**
9. **Use of Assistive Technology can be very helpful but it may also be ineffectual. Proper assessment of student needs and proven technological equipment/software must be properly researched. What works for one student may not work for another. One size does not fit all. The same is true for any program.**

**Inclusivity is highly desirable but Teams must determine what is the best learning environment for each child. The goal is always to place the student in the least restrictive effective learning environment.**