



Massachusetts

# Administrators for Special Education

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Carla B. Jentz, Executive Director

## *From the Executive Director, ASE*

Dear ASE Members,

I hope your summer is going well and that each of you has or has planned time away from the office doing that which provides you with rejuvenation and relaxation. I also hope and trust that the closing of the FY04 year went smoothly for you and that you accomplished your goals for the year. I also hope you gained insights for the coming year, personally and professionally, that will guide you through the complexities of our national and world issues and the challenges of our ever changing special education administrative mandates. Your leadership, expertise and care for special education within your school districts, is indeed a pivotal and important role. Thank you for all that you do for special education and for your support to ASE.

On behalf of the Executive Board, we look forward to seeing you during the coming year, anticipating a great 2004-2005 ASE Conference Series.

Best regards always,  
Carla B. Jentz, Executive Director  
August 13<sup>th</sup>, 2004

<p><b>NEWS, NOTEWORTHY, NOTABLES</b> <b>Massachusetts Administrators for Special Education (ASE)</b> <b>Summer 2004</b></p>
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<p><b>Circuit Breaker FYI:</b></p>
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In recent discussions with Jeff Wulfson, Associate Commissioner of the MA Department of Education, we have learned that FY05 claims (for Circuit Breaker) will be based upon last year's (FY04) fourth quarter report to the Department of Education- the payments will be a year in arrears. The Department will be reimbursing LEA's directly. The change is a legislative change.

The benefits to school districts are the following:

- Reimbursement monies will be based upon “exact” figures
- Simplification in the process of paperwork for payments to private schools

The difficulty will be for school districts that have faced a significant increase in tuition costs for special education (for residential students) from the FY04 year to the FY05 year.

To offset significant financial difficulties which an LEA may face as a result of this condition, the Legislature is “holding back” \$3,000,000. This money will support the Department of Education’s work to match the need of school districts where there have been “significant” increases in the costs associated with Circuit Breaker reimbursement.

In this context, “significant” increases in costs are costs that are greater than 25% higher than the total reimbursable costs (Circuit Breaker) for a school district. The Commissioner of Education will have discretion for hardship situations, related to increase in costs, not met in the above criterion.

Specific information and further details will be forthcoming from the Department of Education and can be found on the DOE website sometime in mid to late August, 2004. See DOE website: [www.doe.mass.edu](http://www.doe.mass.edu) then go to the school finance section or directly to [finance1.doe.mass.edu](http://finance1.doe.mass.edu).

Additionally, funding for Circuit Breaker has been increased- most school districts can expect the FY05 rate to be a least 60% as compared to the FY04 rate of 35%.

#### **IDEA/Reauthorization: FYI**

On the Federal Level, IDEA/Reauthorization is at a standstill. There has been no appointment of a Conference Committee- Congress is off session the month of August and there is speculation by many that IDEA/Reauthorization will not be a consideration during the election process- this means essentially that (Full) Funding and related matters to IDEA/Reauthorization most likely will not be effected or acted upon in this fiscal year. Discussions with national consultant, Attorney Myrna Mandlawitz and CASE Executive Director, Luann Purcell, Ed.D confirm the notion that most likely IDEA/Reauthorization will not take place in this fiscal year.

On an immediate basis the following would certainly be of great value in advancing the IDEA/Reauthorization. Encourage Federal Legislators to seek:

- Full funding
- Relief of paperwork
- Enforceable language mandating shared fiscal responsibility and programmatic coordination with other federal and state agencies
- Extension of timeframes associated with Highly Qualified / NCLB influencing special education
- Full funding for professional development that matches the need

As we understand it, Senators Gregg and Kennedy and Representatives Boehner and Miller recently met affirming their collective wish to keep the possibility of IDEA on the table and agreeing that this is a priority for September, at which time they will confer on how best to move this legislation forward.

This past March, ASE was very warmly received by Senator Kennedy's Office and Congressman Tierney's Office (in Washington) regarding fruitful and substantive discussion and positions on IDEA.

**BSEA Decision: # 04-3900 FYI: Hamilton / Wenham**

In a May 20th, 2004 decision/finding, BSEA Hearing Officer William Crane upheld the standard of supporting school placement for educational reasons not residential – BSEA decision # 04-3900.

Hearing Officer William Crane wrote “Educational benefit is the touchstone for purposes of determining a school district's responsibility to provide a residential placement. If such a placement is needed for reasons unrelated to Student's educational needs, then the placement is not required in order for the Student to receive the requisite educational benefit under the FAPE standard, and the school district has no legal responsibility to provide it.”

While it is true that each case involving special education, services and programs has a constellation of unique facts affecting the outcome of any one specific decision at the hearing level, this decision is hopeful on behalf of LEA's because of the clarity on educational responsibility.

In discussions with Atty. Miriam Freedman and Associate Atty. Andrea Bell (Stoneman, Chandler and Miller LLP), there is a shared perception that BSEA decision #04-3900 is indeed supportive for school districts regarding school districts' responsibilities for educational placement. Albeit, the application of this standard is more complex and challenging.

On another note, in discussion with Jackie Belf-Becker, Director of BSEA, changes in BSEA Hearing Rules are being formulated and will be out for public comment sometime this coming September (from the Bureau), which can be accessed for your input via the new BSEA website. Information on BSEA administrative changes will be highlighted on the website as well. ASE has been informing BSEA of concerns regarding BSEA activities and we are hopeful of anticipated changes. Among some of the beneficial changes we hope to see (and not limited to these) will be better time frames for hearings and length of time for a hearing, and creating enhanced efficiency for special education and student service entitlements. ASE is encouraged by the receptivity to our comments and recommendations from the Bureau Director and Assistant Director- Jackie Belf-Becker and Reece Erlichman.

Trends in BSEA decisions for 2003-2004 are anticipated in early fall. Currently on the new BSEA website are decisions referencing back to 1999.

For further information, please access BSEA new website:

[www.doe.mass.edu/bsea](http://www.doe.mass.edu/bsea)

**Department of Early Education and Care:**

The Department of Early Education and Care is established pursuant to new Chp. 15D and is in effect July 1st, 2005. The purpose and hope of this legislation is to create Universal Access to High Quality Early Childhood Education: a major focus is to support elevated, consolidated and expanded access to first-rate preschool for all children. ASE understands the main intention of the new Department is to consolidate OCCS and DOE activities and integrate DPH services to strengthen and provide services to 3 and 4 year olds and families.

The FY05 year is a planning year with various planning activities including accessing input from stakeholders. Anticipated time frame for implementation of the new Department of

Early Education and Care is FY06; recommendations for the restructuring and the consolidation of state level administration of “existing” early education and care programs and services with OCCS, DOE (Early Learning Services Department only at DOE) and DPH is December 15<sup>th</sup>, 2004: the appointment of the new Commissioner of Early Education and Care is expected by the board by April 1<sup>st</sup>, 2005.

In discussions with Abigail Josephs, the Special Assistant to the Secretary on Children’s Policy, issues related to the impact and effect of the new Department regarding special education are of concern and will be reviewed and taken into account. The Secretary’s office is empathetic to and interested in special education needs in this regard. ASE anticipates future substantive discussions on the matter.

#### **Students with Disabilities Who Fail Grade 10 MCAS:**

The Massachusetts Advocates for Children has new materials available in the following categories: Special Education Options after Grade 12; Remediation and Instructional Opportunities; MCAS Retest Options; GED Options and MCAS Appeals Options.

The materials are specific to entitlements, procedures, required school supports, and appeal procedures for students with disabilities who fail grade 10 MCAS and who will not graduate after grade 12.

Of significance: Students who receive “a certificate of attainment” or “certificate of attendance” remain eligible for special education and do not terminate eligibility for special education services.

Materials can be accessed by the Massachusetts Advocates for Children website at:  
[www.massadvocates.org](http://www.massadvocates.org)

ASE is working with the Massachusetts Advocates for Children (Atty. Julia Landau) and other organizations reviewing the concern related to the 1% of students with disabilities that are not passing MCAS.

#### **Massachusetts Municipal Medicaid Program or also called the MuniMed:**

On June 8<sup>th</sup>, 2004, State Auditor Joseph DeNucci’s Office released a report on the MuniMed Program indicating that Massachusetts Public School Districts are losing between \$50 and \$70 million dollars a year in additional Medicaid reimbursements for special education services- results showing that the lost revenue is a result of the bundled rate and the low rate of reimbursement.

We are pleased to learn that the State Auditor’s report supports our interest of more reimbursement monies for schools and are most appreciative of Emily Cousens, (Director of Division of Local Mandates- State Auditor’s Office) in contacting ASE on the matter and to her receptivity to ASE’s concerns and recommendations (2002- 2003) during the review period and in the final report supporting more money to school districts.

Current status of the MuniMed program is that the Federal Government has mandated to the State that the existence of the “Bundle” rate must terminate. In discussions with Abigail Josephs, Special Assistant to the Secretary on Children’s Policy, considerations are being formulated to design a new rate structure to support the mandate from the Federal Government and balance with the State Auditor’s Office recommendations including how to maximize more reimbursement monies to schools. ASE anticipates continued dialogue with

the Secretary's Office regarding increased reimbursement for special education/schools related to the Muni-Med Program.

In addition, the Legislature has established a special Commission to explore increased resources for school based Medicaid. ASE will continue its efforts as a member of the Commission.

#### **DOE/ Massachusetts Commission for Deaf and Hard of Hearing Initiative:**

The Department of Education and The Massachusetts Commission For the Deaf and Hard of Hearing (MCDHH) have a Memorandum of Understanding dated July, 2004 for the purpose of continuing the collaborative work begun via an earlier Memorandum of Understanding signed in July, 2001. The continued work will focus on three central activities:

**1. Improving the Quality of Sign Language Communication:**

*DOE and MCDHH agree to continue efforts to improve the quality of sign language communication used by teachers, related service personnel and other staff working in education environments ...*

**2. Improving the Quality of Sign Language Interpretation by Educational Interpreters:**

*DOE and MCDHH jointly agree to continue efforts to improve the quality of sign language interpretation provided by educational interpreters in education environments ...*

**3. Identifying Systemic Improvements:**

*DOE and MCDHH agree to develop capacity in Massachusetts to provide for effective communication and interpretation for students who are deaf or hard of hearing ...*

The Department (DOE) will transfer up to \$150,000 each year via an interagency agreement (ISA) to assist MCDHH in the cooperative efforts, with provisions to determine if additional funds are needed, refine or allocate existing funds.

In comprehensive discussions with Madeline Levine, DOE's Director of Comprehensive System Personnel Development and in her capacity also as Assistant Director of Special Education Planning and Development, ASE is aware of the support from Commissioner Driscoll and State Special Education Director Marcia Mitnacht to MCDHH. The importance of this collaborative work is to further advance the services identified for the deaf and hard of hearing. ASE involvement in the Steering Committee is substantive and committed- we extend a special thank you to Madeline Levine (DOE) and to Heidi Reed (Commissioner, MCDHH) for their outreach to us and inclusion of collaborative efforts as the project moves forward. ASE anticipates future collective activities between ASE, DOE and MCDHH related to the administration and services of students identified as deaf and hard of hearing. Outreach and input with special education administrators is expected during the 2004-2005 year.

In the early fall, information regarding the Memorandum of Understanding, dated July, 2004 can be found on the DOE website: [www.doe.mass.edu/](http://www.doe.mass.edu/)

#### **ASE/DSS Professional Development Event: Partnering to Serve Special Education Students Placed In the Care or Custody of Department of Social Services- June 21<sup>st</sup>, 2004:**

The June 21<sup>st</sup> signature professional development activity (held at the Holiday Inn in Worcester) was a significant state wide event in the history of ASE and the Department of Social Services. This event created an encouraging, supportive environment in which we could elicit input from special education administrators and social service staff relating to our joint work, our respective mandates to serve and our various perspectives across the Commonwealth on how to best service special education students who are in the care or

custody of DSS. The data produced from the event suggests a strong willingness to collaborate on enhancing and developing new pathways in communication, understanding and problem-solving activities to mutually serve students and families. The data also suggests an overwhelming support of the June 21<sup>st</sup> meeting itself and a collective need for continuation of the effort during the 2004-2005 year.

ASE is grateful to Commissioner Spence for “hearing” the concerns as we see the issues, for his substantive participation in the project and for his consummate support to collaborate with ASE. ASE and DSS expect continued activities and follow-up to the June 21<sup>st</sup> event during the 2004-2005 year.

#### **Please Note**

**1. 2004-2005 ASE Conference Series schedule is:**

\* Fall : October 29<sup>th</sup>, 2004 at Holiday Inn , Lincoln Street Worcester, MA ; for directions access website [www.holiday-inn.com/worcesterma](http://www.holiday-inn.com/worcesterma)

\* Winter : March 11<sup>th</sup>, 2005 at Holy Cross, the Hogan Center, Worcester Ma; for directions access <http://www.holycross.edu/about/directions.htm>

\* Spring: May 20<sup>th</sup>, 2005 at Holy Cross, the Hogan Center, Worcester, MA: for directions access <http://www.holycross.edu/about/directions.htm>

**\*\*\* Registration for conferences begins at 7:45 am til 9:00 pm\*\*\***

**2. For applications for ASE memberships, access the ASE website at [www.asepage.org](http://www.asepage.org), complete and fax to 617-354-4926 with Purchase Order information.**

**3. ASE members who are Voting members, are also Active members, and must belong to CASE/CEC (which is a separate membership, applied through CASE/CEC). CASE membership is \$60.00 and CEC is \$93.00 (total \$153.00). See CASE/CEC website for application: [www.cec.sped.org](http://www.cec.sped.org)**

**4. Chapter 766 is now called Chapter 28 -2001 – 603 CMR**