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STATE COMPTROLLER



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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

March 7, 1997

Mr. Carl T. Hayden
Chancellor
The University of the State of New York
Education Building
Albany, NY 12234

Re: Report 96-F-31

Dear Mr. Hayden:

According to the State Comptroller's authority as set forth in Section 1, Article V of the State Constitution and Section 8, Article 2 of the State Finance Law, we reviewed the actions taken by officials of the State Education Department (Department) as of February 4, 1997 to implement the recommendations contained in our prior audit report 93-S-23. The prior report, issued on February 10, 1994, focused on the Department's management and oversight of the Preschool Handicapped Education Program (Program). The Program has been renamed the Preschool Special Education Program for Children With Disabilities.

Background

The Program was established to provide special education services to three and four year old children with handicapping conditions. Effective July 1, 1989, legislation transferred responsibility for the Program from the Family Court system to the school districts. In accordance with the legislation, each school district's Board of Education must establish a Committee on Preschool Special Education (CPSE), which has primary responsibility for the evaluation and placement of preschool children with handicapping conditions.

The counties and the Department also have responsibilities. The counties are responsible for contracting with service providers and arranging for transportation of children. The Department's Office For Special Education Service is responsible for approving service providers and ensuring that providers comply with related laws and regulations. The Department's Program Services Reimbursement Unit establishes tuition rates for approved preschools. These rates must be approved by the State Division of the Budget. The State reimburses the counties 59.5 percent of the allowable costs incurred. Counties are also eligible for reimbursement of administrative costs of up to \$50 per child served.

Program costs are increasing rapidly. During the 1990-91 fiscal year, the State and counties spent approximately \$327 million for 26,974 children enrolled statewide in the Program. By the 1994-95 fiscal year these numbers had increased to approximately \$529 million, and 50,760 children.

Summary Conclusions

In our prior audit, we determined that Program costs were increasing at an alarming rate. We found that increases in enrollment and costs were attributable to weaknesses in the design, implementation and administration of the Program.

In our follow-up review, we found that recent legislative changes have helped to improve the design of the Program. These legislative changes have also improved the Department's implementation and administration of the Program. However, because most of these changes in legislation were not in effect until the 1996-97 fiscal year, it is too early to determine their effect on Program costs.

Summary of Status of Implementation

Department officials have fully implemented four, and partially implemented three of our seven prior audit recommendations.

Follow-up Observations

Recommendation 1

Provide the districts with technical guidance:

(a) to help ensure the consistent, objective assessment of the degree of handicapping condition(s) that a preschool child may have. Priority should be given to guidelines relating to children who may be speech impaired.

(b) that helps to relate the varying degrees of handicapping conditions to the appropriate types and levels of educational programs for handicapped preschool children. Again, priority should be placed on guidance for children who are speech impaired.

Status - Partially Implemented

Agency Action - Department officials developed criteria for what constitutes a handicapped (disabled) preschooler in April 1993, effective July 1993. This included criteria for determining if a child is speech impaired. The Department has also provided training regarding these revised criteria. However officials have not yet provided school districts with technical guidance that helps to relate the varying degrees of handicapping conditions to the

appropriate level of service. The 1996 legislative changes addressed this issue by requiring Department officials to develop clinical practice guidelines to assist evaluators with respect to appropriate diagnosis and evaluation, and CPSEs with respect to the type, frequency and duration of services. This would include clinical practice guidelines for children who are speech impaired.

Auditors' Comment - Department officials began working on clinical practice guidelines in January 1997, and they estimate it will take approximately six months to one year to complete the initial set of guidelines.

Recommendation 2

Ensure that district officials sufficiently consider itinerant services before they place children in full-time programs. Documentation that itinerant services were considered should be maintained in case files.

Status - Fully Implemented

Agency Action - Chapter 474 of the Laws of 1996 addressed this recommendation. The Law states that a CPSE must consider the appropriateness of services to meet the child's needs in the least restrictive environment, in the following order:

- related services only
- special education itinerant services
- related services in combination with special education itinerant services
- a half-day program
- a full-day program

Furthermore, if the CPSE determines that a child needs a single service, that service must be provided only as a related service or only as a special education itinerant service. The CPSE's recommendation shall include a statement of the reasons why less restrictive placements were not recommended.

Recommendation 3

The Department should develop formal program guidelines:

(a) which minimize the potential for and effect of the conflict-of-interest which currently exists for service providers who also evaluate the children who are frequently placed in their programs; and

(b) that ensure the districts have representatives on the CPSE who are fully qualified to assess, and when necessary, challenge the findings of the evaluators/providers.

Status - Fully Implemented

Agency Action - Chapter 474 of the Laws of 1996 also addressed this recommendation. Regarding part (a) of the recommendation, the evaluation summary report, prepared by the child's evaluator, can no longer include statements on the type, frequency and duration of special services and the program needed, nor the manner in which they will be provided in the least restrictive environment. Also, if the CPSE is considering placing a child in an approved program of the agency that conducted the evaluation, the CPSE may, at its discretion, obtain a second evaluation. These changes would eliminate the conflict-of-interest that existed when a service provider evaluated a child, and included in the evaluation the type of service required and who would provide the service.

Regarding part (b) of the recommendation, legislation now requires that the chairperson of the CPSE be a professional employed by the school district who is qualified to provide or supervise the provision of special education. The legislation also listed requirements concerning the make-up of the CPSE. For example, the CPSE must include the child's teacher if she/he has one or, if not, an appropriately certified teacher.

Recommendation 4

Develop formalized program goals and objectives. Implement performance standards to measure the successfulness of the program.

Status - Partially Implemented

Agency Action - Department officials have developed goals and objectives for the Program. These goals include such things as reforming the Program to serve a greater proportion of children in integrated settings, and in a cost-effective manner. However, officials have not developed performance standards that assess the effectiveness and cost-benefit of services provided under the Program.

Auditors' Comments - Department officials have begun to develop "outcomes," or data on improvements shown by students in the Program. From this data they plan to develop performance standards to measure Program success.

Recommendation 5

Periodically evaluate the Program effectiveness of individual providers.

Status - Partially Implemented

Agency Action - The 1996 legislation authorizes the Commissioner of Education to periodically review and reapprove programs, including evaluation services. This review is to be done not more than once every three years, unless a more frequent review is deemed necessary by the Commissioner, or is requested by the municipality. The review will be conducted in accordance with regulations to be adopted. The regulations adopted must include reapproval criteria designed to assure that quality services are provided in a necessary and cost-efficient manner.

Auditors' Comments - Department officials have developed a draft version of the regulations to be used in conducting reviews. However, officials believe that without additional staff it is questionable if they will be able to conduct any reviews. They noted that requests for additional staff were denied by the Division of the Budget even though federal funds are available. In light of not receiving funding for additional staff, Department officials should assess whether other Departmental resources might be better used for this purpose.

Recommendation 6

Develop a plan to minimize the number of conditionally approved providers. Place emphasis on the providers with the largest programs.

Status - Fully Implemented

Agency Action - Field visits to almost all conditionally approved providers (which is required before final approval can be granted) have been completed. As a result, almost all providers identified as being conditionally approved in our prior audit have received final approval.

Recommendation 7

Periodically analyze program cost data to identify the counties, districts, providers, or handicapped conditions which varied significantly from a normal range. Conduct appropriate follow-up to determine whether significant cost variances are justified.

Status - Fully Implemented

Agency Action - Department officials have done an analysis of program cost data. This analysis influenced some of the legislative changes noted previously in this report. This analysis also led to changes in the maximum allowable reimbursement rate for transportation costs.

Major contributors to this report were Carmen Maldonado, Frank Russo, Brian Reilly, and Robert Backus.

We would appreciate your response to this report within 30 days, indicating any action planned or taken to address any unresolved matters discussed in this report. We also thank the management and staff of the Department for the courtesies and cooperation extended to our auditors during this review.

Yours truly,

David R. Hancox
Director of State & NYC Audits

cc: Patricia A. Woodworth