



*John Bretschneider, President*  
*Carolyn Smith-Gerdes, President-Elect*  
*Janis Weckstein, Past President*

*Anthony S. Thaxton, Ph.D., Executive Director,*  
*4769 Crestridge Ct. Holland, Mi 49423*  
*Phone: 616.283-0597 Fax: 616.335.2811*  
*E-Mail: anthonythaxton@mac.com*

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January 23, 2013

Mr. Peter Rudell  
Oxford Foundation  
201 Townsend St., Suite 900  
Lansing, MI 48933

Dear Mr. Rudell,

Thank you for your request for clarification. The additional information provided below is meant to assist you in your further deliberations of proposed changes.

1. The definition of pupil has been corrected to include Special Education pupils up to age 26.
  - The version we have has the PUPIL described as being in Kindergarten and beyond. While there is language regarding membership reimbursement for younger students in pre-school programs, it would be prudent to modify the definition to Birth to age 26. Michigan Special Education rules mandate services beginning at Birth. This was an oversight on our part in the first comments submitted.
2. The definition of "receiving instruction" has been left intentionally open-ended and is broader than "in attendance." Could a Special Education student who is medically fragile and not attending school actually be receiving instruction in some form in the home or hospital?
  - The Michigan Administrative Rules for Special Education (MARSE) give responsibility to the district to provide instruction to the student within 15 days of verification by a physician that the student must be confined to the home. This verification may occur after the student has been out of school for any number of days, and the expiration of '15 days without instruction' causing disenrollment could occur prior to the system's mandatory response.
3. Should each educating district have the responsibility to report discipline issues, and not the enrollment district?
  - The IDEA (Individuals with Disabilities Education Act) requires districts within the state to be held to measurement standards for multiple indicators of student performance and district compliance. Discipline is just one of these indicators. All districts educating a student must be responsible for the role they play in the student's education, inclusive of disciplinary measures, achievement, IEP compliance, transition planning and activities, family involvement, identification of eligible students, and timely reporting of data.
4. Section 18 data reporting changes – I want to make sure I understand your point, which seems to contradict the business officers and school administrators. Is your point that you would prefer that the Special Education report NOT be consolidated with the November 15 data submission to the Center? Your belief is that having another report to submit is less cumbersome than consolidating reports?
  - The implication of holding off collection of the Special Education 4096 and 4094 data impacts the MDE Office of Special Education in its work in meeting required timelines. If the collection of data were delayed, the cost adjustments due to districts under Sections 52 & 53 and transportation would be delayed by over a month and a half. This would also have a major impact on the calculation of Maintenance Of Effort (MOE) as required under IDEA and would cause significant issues with regard to submission of Table 8 and its May deadline.

5. More explanation on your points regarding Sections 24 & 53 are necessary for me to appreciate your point.
  - Michigan operates under an added cost calculation model for Special Education services. For that model to be effective, it requires the costs and the FTE to be aligned. If the FTE is paid to a district that is not incurring the educational cost of the student, you have either an overpayment or underpayment of state school aid. If the students move frequently and the FTE becomes diluted it will be hard to calculate the correct added cost. The potential complexity of this calculation increases when students are receiving services across multiple districts and move frequently within the year resulting in FTE changes. There are also additional costs that will be incurred by districts for the tracking, calculation and paperwork this could involve.
  - In the case of a student eligible for Section 53 costs, he/she may be moved for educational purposes that may change the student's status for funding.
6. If the current section 105c (19) were included in the revised section 105, would that satisfy your final topic/concerns (Section 105)?
  - 105c has its own inherent faults that often catch students in the cross hairs. Due to the language of the necessary agreements the student and family are often enrolling, un-enrolling, and enrolling elsewhere costing the student precious learning time.
  - The use of 105 in and by itself is not objectionable IF the funding for provision of Special Education is increased to assure districts that whomever they serve will not take funds from the general account lines. We recommend keeping the 105c/19, 20 & 23 languages so when districts decide to take students from outside the county there is protection from creating a burden on the general fund of the enrolling district.
  - As further clarification, local county Special Education plans required by MARSE may have prohibitive language that excludes spending county generated millage dollars on non-county resident students receiving Special Education.

#### OVERALL COMMENT:

While the Oxford Foundation report did not directly address Special Education, when school funding is addressed in general, there are many implications for Special Education both in terms of funding and in terms of responsibility for FAPE in MARSE and IDEA.

Overall, if the foundation monies are 'belonging to the student' then it will not be unreasonable to think that a student needing Special Education programs and/or services may have an educational plan that involves multiple districts.

The IDEA defines a course of action for determination and provision of Special Education programs and services. The cornerstone of the process includes eligibility based on establishment of a disability, evidence of need that cannot be met without Special Education, the setting of student goals, determination of services and programs necessary to meet those goals, and lastly, the district's responsibility to determine where these services and/or programs will be provided.

The proposed scenario where the student chooses districts and the money follows conflicts with the IDEA. The scenario also raises multiple additional questions that are critical to implementation: Who holds the IEP? Are all districts that serve the student bound by that IEP? Who provides the Special Education transportation? Which district must offer the Free and Appropriate Education that they feel is necessary vs. what the student/parent wants? What costs belong to whom? Who may the parent file complaints against? When a due process hearing is requested, who bears the burden of the costs in money and personnel?

As an organization of administrators who advocate for the provision of services that students with disabilities need, MAASE supports continuing to improve the proposed redesign as regards Special Education. A key understanding needed for this improvement is that the Special Education system is interwoven within all of the other components of the revision being considered and students receiving Special Education are general education students first.

MAASE respectfully requests that you reconsider and change the message that 'we are not touching Special Education.' As you can see from our input the implications that we have been able to identify to date are significant and we cannot assure that we have identified all of them! We appreciate your questions and welcome the additional opportunity to add insight and feedback to this continuing work.

Thank you for the opportunity to provide this comment.

For the Executive Board,

John Bretschneider, President  
Michigan Assoc. of Administrators of Special Education  
Director of Special Education  
Wexford-Missaukee ISD  
9907 E. 13th Street  
Cadillac, MI 49601  
Email: [jbret@wmisd.org](mailto:jbret@wmisd.org)  
Phone: (231) 876-2279

Anthony S. Thaxton, Executive Director  
Michigan Association of Administrators of Special Education  
4769 Crestridge Court  
Holland, MI 49423  
Email: [anthonythaxton@mac.com](mailto:anthonythaxton@mac.com)  
Phone: 616-283-0597