

Joint Legislative Audit and Review Committee (JLARC)



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June 10, 2003

TO: Members of the Joint Legislative Audit and Review Committee

FROM: Tom Sykes, Legislative Auditor *Tom*

RE: **OSPI Follow-Up to JLARC's 2001 K-12 Special Education Study**

In 2001, JLARC completed a study of K-12 Special Education. This study was in response to a budget proviso in the 2000 Supplemental Budget directing JLARC to evaluate the Special Education Safety Net process and assess the methodology school districts use to report their special education expenditures.

Our study found that information necessary to understand the linkages among special education funding, spending, educational services, and educational results is largely missing or unavailable at the statewide level. JLARC made six recommendations aimed at addressing the concerns raised in this study. These recommendations focus on increasing accountability for special education program and student performance, as well as improving the reporting of special education expenditures and revenues. (See the attached 01-11 Report Digest.)

As you may recall, the Committee approved an addendum to this study's final report at its December 2001 meeting. That addendum reinforced the recommendations of the report and directed the Office of the Superintendent of Public Instruction (OSPI) to follow up on these recommendations.

Over the past several months, I have been involved in discussions with OSPI on possibilities for their responding to this JLARC report. Dr. Terry Bergeson has requested time to outline for JLARC the actions OSPI has taken related to the issues raised in our 2001 report. I have made time on our Committee agenda on June 19th for her to do so.

As part of this agenda item, you will find a cover letter from Dr. Bergeson and a copy of the materials she will present to JLARC on the 19th. If you have questions about these materials, or about OSPI's management of Washington's special education programs, you will have an opportunity then to raise these issues with her.

Attachments

K-12 SPECIAL EDUCATION STUDY

Full Report 01-11, click here

REPORT 01 - 11

REPORT DIGEST

DECEMBER 12, 2001



STATE OF WASHINGTON

JOINT LEGISLATIVE AUDIT AND
REVIEW COMMITTEE

STUDY TEAM

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Copies of Final Reports and Digests are
available on the JLARC website at:

<http://jlarc.leg.wa.gov>

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K-12 SPECIAL EDUCATION BACKGROUND

Special Education is instruction that is specially designed to meet the unique needs and abilities of students with disabilities. It must be provided at no cost to the students or parents. In addition to instruction, related services may be needed to assist students in benefiting from Special Education. The education provided to each eligible Special Education student must take place under the guidance of an Individualized Education Program (IEP), in the least restrictive environment possible.

In 1995, the Washington State Legislature changed the state's funding formula for Special Education. Fourteen funding categories, based on student disability categories, were reduced to one; a cap was placed on the percentage of Special Education students that would be funded; the funding change was phased in so as to ease the burden on districts that lost revenue; and a Safety Net process was created so that school districts could apply for additional funding if they could convincingly demonstrate financial need due to factors beyond their control. At the same time the funding formula changed, the State Auditor's Office (SAO) was given the responsibility of supporting the Safety Net Oversight Committee that is responsible for determining Safety Net awards.

STUDY MANDATE

This study was mandated in the 2000 Supplemental to the 1999-01 Budget. According to that mandate, this study:

- Evaluates the feasibility of determining individual school districts' need for Safety Net funds;
- Reviews the State Auditor's Special Education Reports (which, in part, have attempted to address funding need by establishing a baseline, or benchmarks, for program costs); and
- Assesses the methodology school districts use to report their Special Education expenditures and to apply for Safety Net awards.

GENERAL CONCLUSION

In Washington State today, information necessary to understand the linkages among Special Education funding, spending, educational services and educational results is largely missing or unavailable from individual school districts, educational service districts, or the Office of the Superintendent of Public Instruction. In addressing the study mandate, this report makes recommendations to fill some of the informational gaps.

SPECIFIC FINDINGS AND CONCLUSIONS

Our analysis found that school districts' expenditures per student are a function of the amount of services students receive and the cost per minute of providing those services. However, available data do not include factors that explain why some students are receiving more service than others or why some services are more costly than others.

One implication of this finding for the Safety Net Oversight Committee is that, for the present, its members must make funding decisions without being able to verify that differences in spending are due to factors beyond the control of the school districts.

Our review of the work of the State Auditor's Office found that its benchmarking efforts have not provided information the Safety Net Oversight Committee could use to determine whether a district's high costs are due to unique student or program characteristics beyond the district's control. JLARC's conclusion is that further spending on these efforts is not warranted and should cease.

In order to establish cost benchmarks for Special Education, it is necessary to know something about the quality of the services being delivered in the districts chosen for benchmarking purposes. At the outset of this study, we found no agreed upon standards for Special Education service delivery from a review of other states and from discussions with national and local experts. Focus groups that participated in this study suggested, however, that there are key regulations that are essential to achieving minimum standards of service for Special Education. These regulations provide some assurance that essential actions occur, processes are in place, and services are delivered to help Special Education students benefit from their education.

We found that the current process for monitoring compliance with regulations, called the Consolidated Program Review, could be an improvement over the preceding monitoring process, but is not up to the task of providing sufficient information about school districts' Special Education programs for any of the following purposes:

- Establishing benchmarks for cost-effective services
- Allowing for fair comparisons of districts' compliance performance
- Providing the foundation for a system of continuous program improvement

Finally, we found that the methodology for reporting school district Special Education expenditures falls within the legislative intent as stated in the Appropriations Act. However, the Office of the Superintendent of Public Instruction (OSPI) needs to

clarify its policy concerning how the amount of Basic Education spending within Special Education is to be determined and calculated. Once this policy is clarified, OSPI will be in a position to help solve another problem, which relates to making more visible the amount of funding received and expenditures made by school districts for Special Education.

SUMMARY OF RECOMMENDATIONS

1. **The State Auditor's Office should discontinue the Special Education Audit Team.**
2. **OSPI should work with stakeholder groups to evaluate the current monitoring criteria, consider how those criteria might be strengthened to ensure minimum standards of service for Special Education students, and report back to the Legislature and OFM with the results of its evaluation.**
3. **OSPI, with the assistance of stakeholders, should develop options for modifying the Consolidated Program Review to ensure that its findings are reasonably representative of individual districts, allow for a fair comparison of districts, and can be made available on the OSPI website. OSPI should present these options, with accompanying fiscal impacts, in a report to the Legislature and OFM.**
4. **Upon implementation of Recommendation 3 and any follow up actions to strengthen the monitoring process, OSPI should develop options for incorporating program monitoring results into the screening process for Safety Net award applications.**
5. **OSPI should clarify the policy concerning how the amount of Basic Education spending within Special Education is to be determined and calculated.**
6. **OSPI should report information on the full allocation of funds (i.e., both Basic Education and Special Education dollars) to school districts' Special Education programs, and in turn require districts to report the full costs (i.e., expenditures of both Basic Education and Special Education dollars) of their Special Education programs.**

COMMITTEE ADDENDUM:

The Committee approved this addendum to the final report at its December 12, 2001 meeting.

The Joint Legislative Audit and Review committee (JLARC) reinforces the recommendations in its K-12 Special Education Study, especially Recommendations 2 through 6 directed to the Office of the Superintendent of Public Instruction (OSPI), and gives advance notice now that it intends to follow up on these recommendations. The Committee believes that when OSPI implements these recommendations, this will strengthen compliance monitoring to provide useful information to school districts, the public and OSPI, and develop options for improving Washington's special education programs. The Committee requests OSPI to report by July 1, 2002 on the following:

- ▶ A status report on OSPI's implementation of Recommendations 2 through 6;
- ▶ A fiscal analysis of additional impacts, if any, from implementing Recommendation 3;
- ▶ For any recommendation not yet implemented, a time frame for implementation; and
- ▶ Major problems OSPI has encountered in implementing these recommendations.



SUPERINTENDENT OF PUBLIC INSTRUCTION

DR. TERRY BERGESON

OLD CAPITOL BUILDING • PO BOX 47200 • OLYMPIA WA 98504-7200

June 9, 2003

Dear JLARC Members:

Thank you for the opportunity to present to the Joint Legislative Audit and Review Committee (JLARC). The purpose of this report is to update you on actions that we have taken at OSPI related to the concerns you raised in your report dated December 12, 2001.

OSPI's mission is to provide statewide leadership to help ensure that **ALL** students have "the opportunity to become responsible citizens to contribute to their own economic well-being their families and communities and to enjoy productive and satisfying lives." Ten years of education reform in Washington State continues to have a positive impact on improving student learning for all students, including kids with disabilities. However, we have long way to go to maximize the academic potential for students facing these challenges.

U.S. Secretary of Education Rod Paige stated on February 25, 2003 that "every child in America deserves the highest-quality education, including our children with disabilities." The alignment of IDEA with the principles of the "No Child Left Behind" Act will add more accountability for results with students having special needs. We have made several changes in our system to build a better information base related to learning outcomes in special education and to help build capacity among educators to better serve these students.

I hope the enclosed information and our discussion on June 19 will help you gain insight into these complex issues and help us work together effectively in the future.

I look forward to our discussion next week.

Sincerely,

Dr. Terry Bergeson
State Superintendent
Of Public Instruction



JLARC UPDATE



Dr. Terry Bergeson
State Superintendent
Office of Superintendent of Public Instruction

June 2003





Focus of the JLARC Study

- Evaluate how to determine individual school districts' needs for Safety Net funds
- Review the State Auditor's Special Education Reports (which, in part, have attempted to address funding need by establishing baseline program costs)
Mutually Agreed to discontinue
- Assess the adequacy of OSPI's excess cost methodology, which is used in the Safety Net process for comparing districts' expenditures



Response to JLARC Study

- OSPI revised Safety Net process based on high-cost individual student needs
- OSPI implemented excess cost methodology requirement statewide



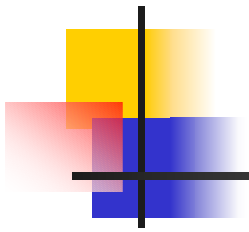
JLARC's General Conclusion

“Information necessary to understand the linkages among Special Education funding, spending, educational services and educational results is largely missing or unavailable at this time.”



OSPI Response to JLARC Conclusion

- Shift from **compliance** to student-focused **learning outcomes**
- Shift monitoring focus to “**outcomes**” and away from “**access to eligibility**”



OSPI Response to the JLARC Conclusion, cont.

- Integrated special education into Consolidated Program Reviews (CPR)
- Obtained A State Improvement Grant
- Developed training to improve educational results through monitoring and better instruction
- Annually analyze and share results of special education students participating in WASL and WAAS

PART ONE- Safety Net





Safety Net - 2002 and Beyond

- All Safety Net awards are funded with federal dollars
- Previously state funded categories of Maintenance of State Revenue, Percentage, and Other Factors were eliminated
- High-cost individuals (traditionally funded with federal appropriation) is the only remaining fundable category



Safety Net Steps

1. All districts are required to use the 1077 excess cost methodology
2. Districts must demonstrate financial need beyond state, federal, and local funding
3. Districts must submit for high-cost services provided on student's current individualized education program (IEP)



Safety Net Application Requirements

- High-cost individual applications must:
 - Have a current, properly formulated IEP
 - Report enrollment correctly
 - Include goals & objectives related to the student's present level of educational performance
 - Include evidence of specially designed instruction



OSPI Special Education

**1. Student
Evaluation**

**2. Development
of IEP**



**3. Delivery of Specially
Designed Instruction**



Safety Net Decision Review

- Safety Net applications are:
 - Reviewed by program specialists on the Safety Net Oversight Committee
 - Reviewed by OSPI staff
 - Selectively reviewed by the Consolidated Program Review team



2002-03 Safety Net Awards

- 932 high-cost individual applications from 89 districts were funded
- Applicant districts ranged in size from Dixie (39 FTE) to Tacoma (31,084 FTE)
- Expected award amounts range from under \$1,000 per student to a high of \$250,453 for one student!



Typical high-cost student

- Receives in excess of \$13-16,000 in services
 - Has a 1:1 aide, nursing services, brailist, or interpreter; OR
 - Participates in a specialized program; OR
 - Receives contracted service from an out of district provider

PART TWO- WASL and State Improvement Grant



Purpose of Education Reform

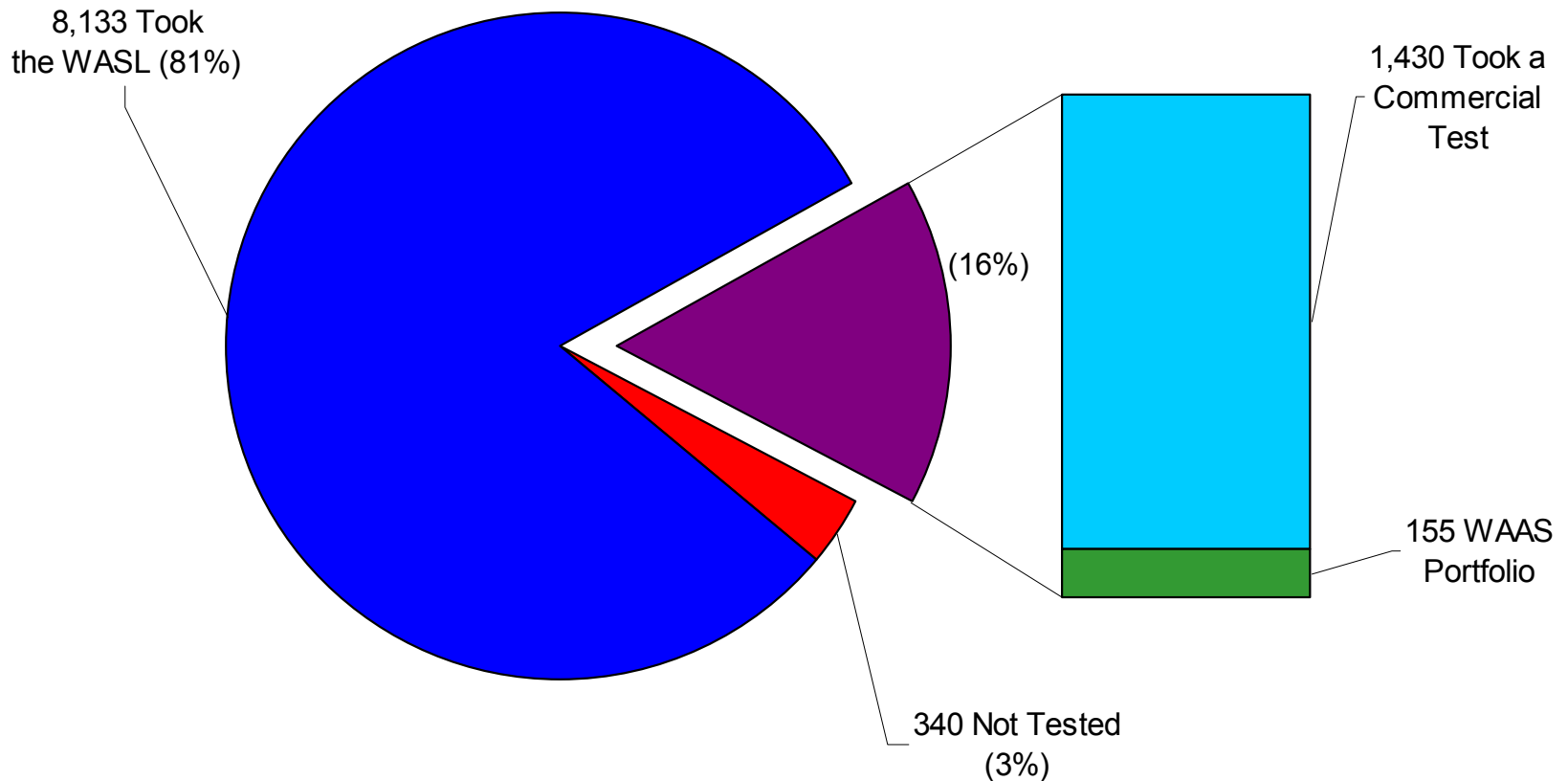
“... to provide students with the opportunity to become responsible citizens, to contribute to their own economic well-being and to that of their families and communities, and to enjoy productive and satisfying lives.”

- Basic Education Act (Goal)

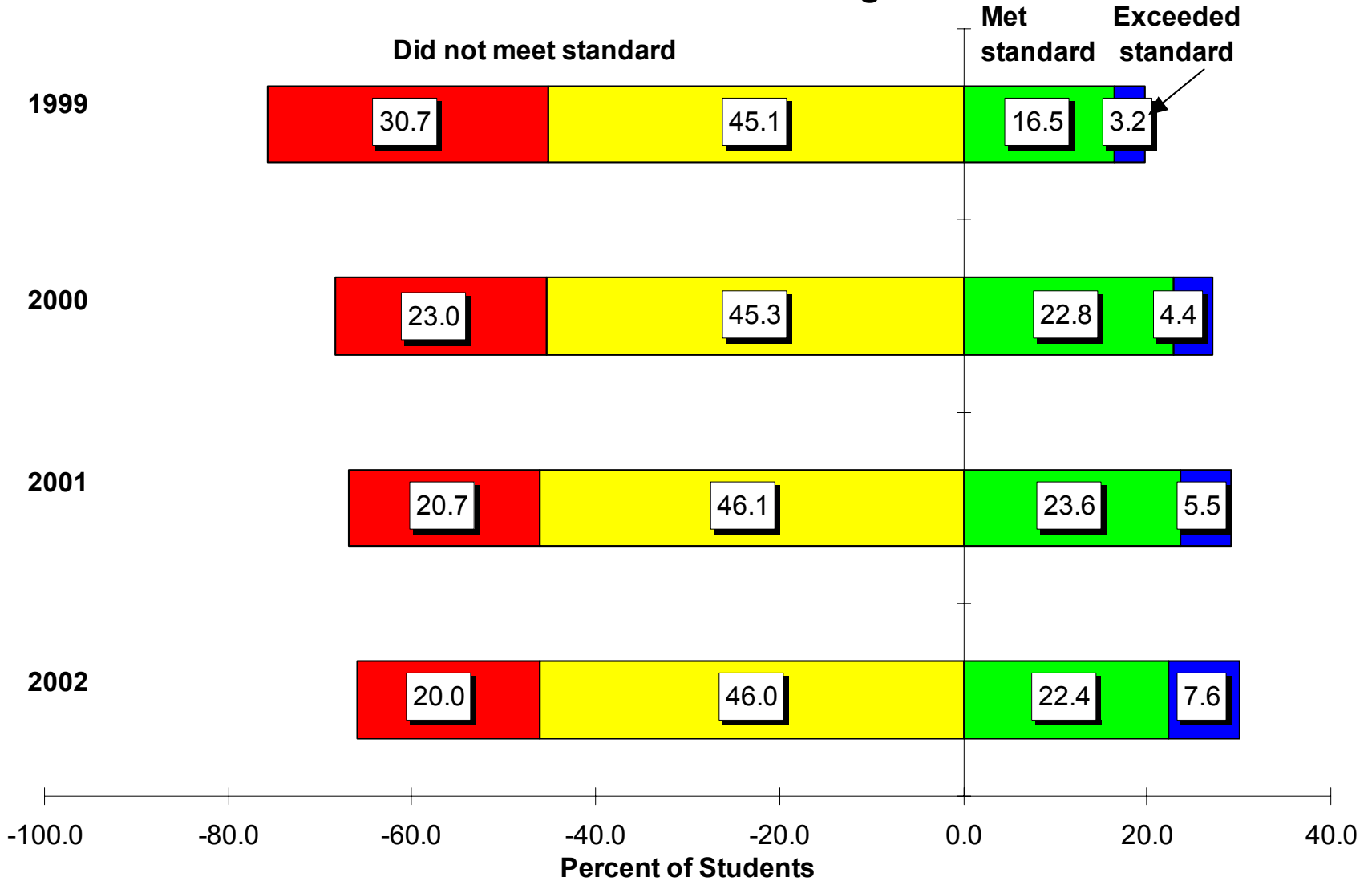


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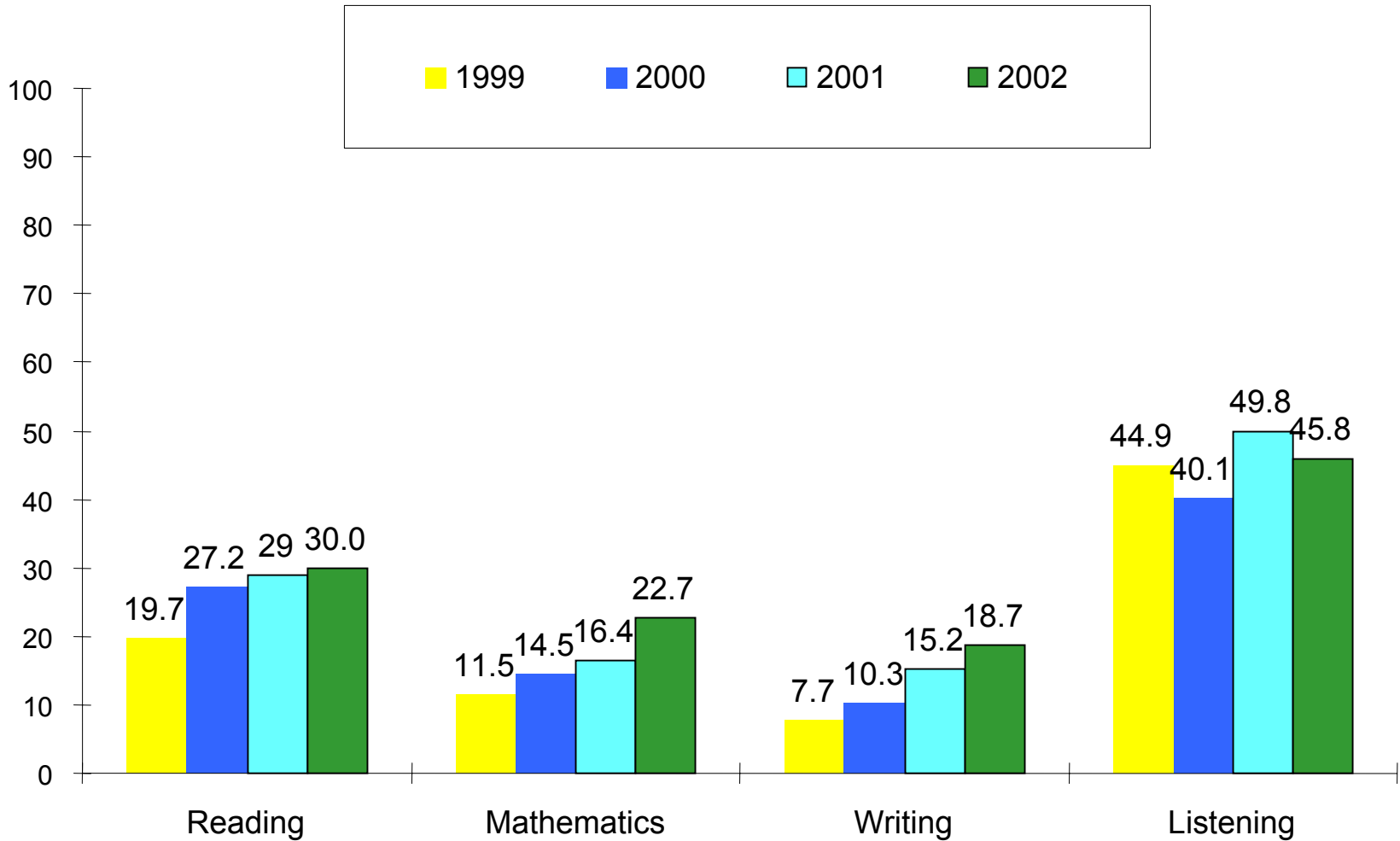
**97% of the Students in Special Education
Participated in the Washington Assessment System
*4th Grade Reading***



Percent of Tested Special Education Students Scoring in Each Level Grade 4 Reading



Percent of Special Education Students Meeting Standards Grade 4 WASL



State Improvement Grant Connecting IDEAS Project



- ***Incentive Award Program to increase the number of qualified special education teachers in Washington.***
- **Nine demonstration site partnerships with community college/universities to enhance preservice & inservice training for teaching staff.**
 - Partnership between Clover Park School District & Seattle University to teach students with significant behavioral disorders.
 - Partnership between Richland, Pasco, and Prosser School Districts to implement a performance-based special education teaching endorsement.
 - Partnership between Tacoma School District and the University of Washington to provide pre-service research-based teaching and management skills

PART THREE- Changes in Monitoring





Special Education Federal Monitoring

- Federal monitoring included 257 compliance data points; approval received for 18 core questions to replace data points
- IDEA reauthorization expected to support the focus on student learning outcomes for special education compliance monitoring
- OSPI movement from compliance to outcomes:
 - Statewide monitoring results
 - Consolidate Program Review (CPR)
 - Professional Development / Technical Assistance
 - Focus on School Improvement Planning



Consolidated Program Review

- First implemented in 1998-99
- Consistent with WA Elementary/Secondary Education Act consolidated plan
- Collaborative and comprehensive system
- A team representing numerous federal and state programs [Title I, LAP, Migrant, Carl Perkins (voc ed), and others]
- More efficient, less intrusive for districts
- Opportunity for on-site technical assistance



Incorporating Special Education Monitoring Into CPR

- Special education added to CPR in 2000-01
- District role: self-study review, presentations, interviews, and site visits
- Increased emphasis on student performance and accountability for results
- Supporting **all** students through a uniformly applied compliance verification system
- This 2002-03 school year concluded one cycle of monitoring of all districts
- Committee of practitioners will recommend revisions for next monitoring cycle



18 Core Questions

- 1. Policies**
- 2. Procedures**
- 3. Section 504/Title II**
- 4. Community Involvement**
- 5. Procedural Safeguards**
- 6. Private Schools**
- 7. FERPA/ Confidentiality**
- 8. Child Find**
- 9. Staff Development**
- 10. Citizen Complaints /Due Process**
- 11. Fiscal**
- 12. Medical Funds**
- 13. Continuum Services**
- 14. IEP Implementation**
- 15. FAPE**
- 16. Related Services**
- 17. Parent Participation**
- 18. Transition**



18 Core Questions

- 1. Policies** – *Does the district have on file state-approved and board-adopted policies for the provision of special education services, and are there changes or amendments to the policies since state approval was obtained?*
- 2. Procedures** – *Does the district have on file state-approved and board-adopted or administrative-approved procedures for the provision of special education services, and has there been any changes or amendments to the district procedures since state approval was obtained?*
- 3. Section 504/Title II** – *(a) Does the district have policies and procedures that meet the requirement of Title II of the ADA and Section 504 of the Rehabilitation Act of 1973; and (b) in the case of any project involving construction or alterations, have reasonable accommodations been given to ensure that facilities constructed are accessible to and usable by individuals with disabilities consistent with Title II of the ADA?*



18 Core Questions

- 4. Community Involvement** – *(a) Does the district have on file procedures to provide reasonable opportunities for the participation by teachers, parents, families, other interested agencies, organizations, and individuals in the planning and operation of the district's special education program; and (b) does the district or other public agency have procedures for making Federal Fund Applications (LEAs) and all related documents available to parents and the general public (excluding identifiable student information) for comment and inspection prior to implementation?*
- 5. Procedural Safeguards** – *Does the district implement procedural safeguards for parents and students related to informed consent, assessment (protection in evaluation procedures); confidentiality of records; opportunity to examine records; prior written notice; independent educational evaluation; transfer of parental rights at age of majority; citizen complaints; mediation, impartial due process hearings and student placement pending hearings; surrogate parents, discipline; civil actions; including students subject to placement in an interim alternative educational placement; and attorney's fees?*
- 6. Private Schools** – *Has the district developed and implemented procedures, which comply with all state and federal regulations regarding private school special education students who are unilaterally placed by their parents?*



18 Core Questions

- 7. FERPA/Confidentiality** – *Has the district or other public agency developed and implemented policies and procedures, which ensure the confidentiality of information in accordance with the provisions of the Family Educational Rights and Privacy Act?*
- 8. Child Find** – *Has the district developed and implemented child find procedures to ensure that all students ages birth through 21 with suspected disabilities, including highly mobile eligible children with disabilities and children who are suspected of having a disability and in need of special education even though they are advancing from grade to grade, who are residing within the boundaries of the district and are not currently receiving special education services are identified, located, and evaluated?*
- 9. Staff Development** – *(a) Does the district have policies, procedures and or administrative guidelines in place to ensure that qualified staff in the areas of occupational therapy, physical therapy, and teachers of students with behavioral disabilities are recruited and available so that services appropriate to the unique needs of the child are provided without any undue delay?;(b) has the district approved and implemented effective procedures for (1) acquiring and disseminating to teachers and administrators significant information from educational research, demonstrations, and similar projects, and (2) adopting, if appropriate, promising educational practices developed through those projects?; and (c) does the district provide that all personnel necessary to provide special education and any necessary related services are appropriately and adequately prepared?*



18 Core Questions

- 10. Citizen Complaints/Due Process** – *Has the district developed and implemented any necessary corrective actions associated with a citizen complaint or due process hearing resolution since the last monitoring occurred?*
- 11. Fiscal** – *(a) Does the district have control of the state and federal funds provided for special education and title to any property acquired with these funds?, (b) Have any of the federal special education funds been expended by the district to acquire equipment (including computer software) in any instance in which such acquisition resulted in direct financial benefit to any organization representing the interest of the purchasing entity, or its employees, or any affiliate of such organization?, (c) Are district federal funds received for special education used solely for excess costs, and in no way supplant, state or local funds in the provision of special education and any necessary related services?, (d) Has the district developed and implemented procedures to ensure that each student counted for state and/or federal funding purposes: (1) is enrolled in the district or public agency, (2) has a current IEP, (3) has a current evaluation, and (4) is receiving special education and any necessary related services?; and (e) Does the district have procedures in place to adjust the monthly or annual count of students who do not meet the criteria in the previous question?*
- 12. Medicaid funds** – *Does the district fully participate in the recovery of Medicaid funds for special education eligible students?*



18 Core Questions

- 13. Continuum of Services** – *Does the district provide a full continuum of educational placements, including interim alternative educational settings that are individually determined to enable the student to participate in the general education program to the maximum extent appropriate?*
- 14. IEP Implementation** – *Has the district developed and implemented procedures to ensure the development and implementation of the IEP program?*
- 15. FAPE** – *Does the district provide every special education student, ages 3-21, a free appropriate public education consisting of individualized special education and any necessary related services, including extended school year services if determined necessary by the student's IEP team?*

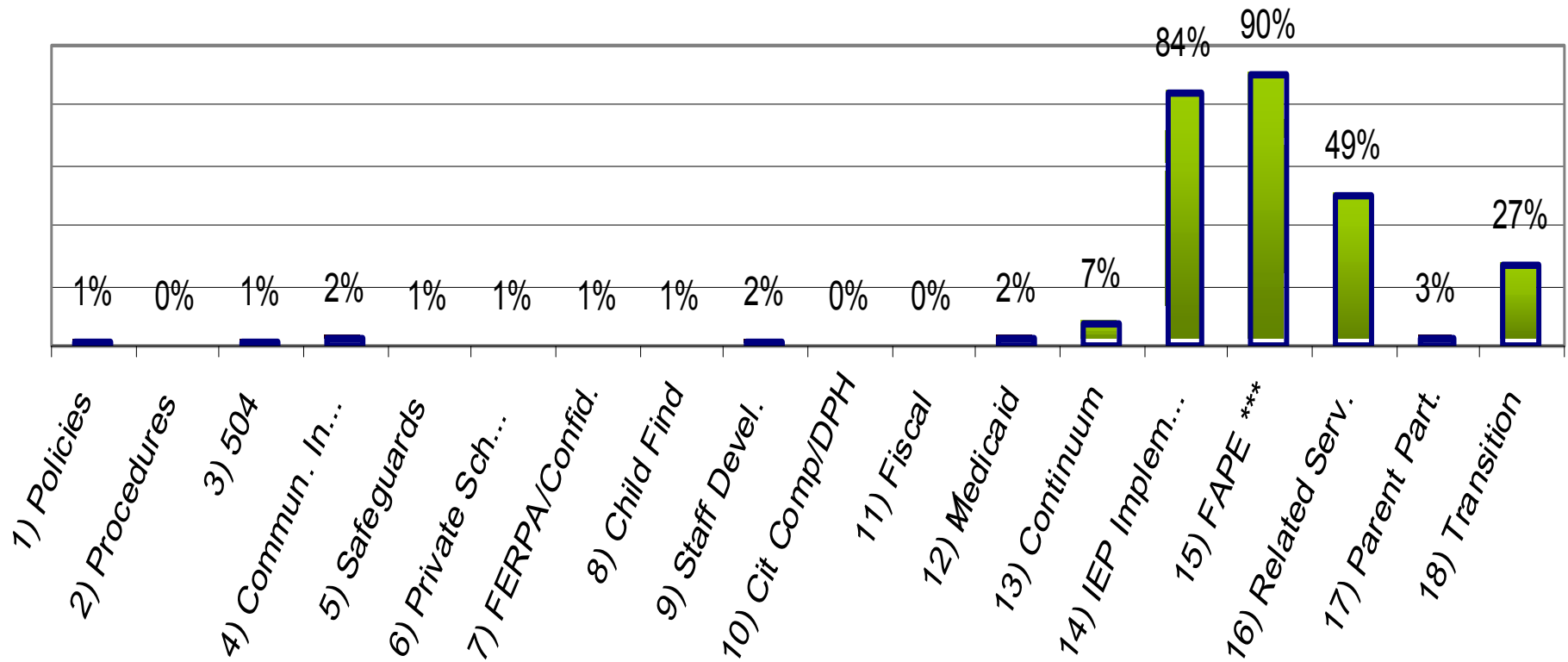


18 Core Questions

- 16. Related Services** – *Does the district provide any necessary related services to enable the student to benefit from special education through the IEP such as psychological counseling under the direction and the supervision of the district or agency at no cost to the parents?*
- 17. Parent Participation** – *Does the district have policies and procedures in place to include parents in the evaluation and placement process?*
- 18. Transition** – *(a) Does the district serve infants and toddlers between the ages of birth through two?; (b) If yes, does the district serve infants and toddlers consistent with part C guidelines established by the lead agency, DSHS?; (c) Has the district developed procedures to ensure implementation of transition planning for infants and toddlers prior to age three?; (d) Has the district developed and implemented policies and procedures to ensure that students are invited to IEP meetings for which the purpose is the consideration of needed transition services?; and (e) Has the district developed and implemented policies and procedures which invite public agencies that are likely to be responsible for providing or paying for needed transition services to IEP meetings?*

Special Education Monitoring

Percent of Districts Statewide
Findings in the 18 Core Questions





Statewide Special Education Monitoring Results

- 90% of the districts and almost 50% of the files reviewed had findings that were a result of the lack of connection between:
 - **student's evaluation**
 - **Individualized Education Program (IEP)**
 - **delivery of services in the classroom or related service environment.**
- This lack of cohesion negatively impacts academic achievement and fosters parent complaints requiring dispute resolution in special education.



OSPI Special Education

**1. Student
Evaluation**

**2. Development
of IEP**



**3. Delivery of Specially
Designed Instruction**



Challenges / Opportunities for the Next Decade

- No Child Left Behind Implementation
- Individuals with Disabilities Education Act Reauthorization
- New educational approaches
- Integration of special education training in OSPI Summer Institutes / January Conference

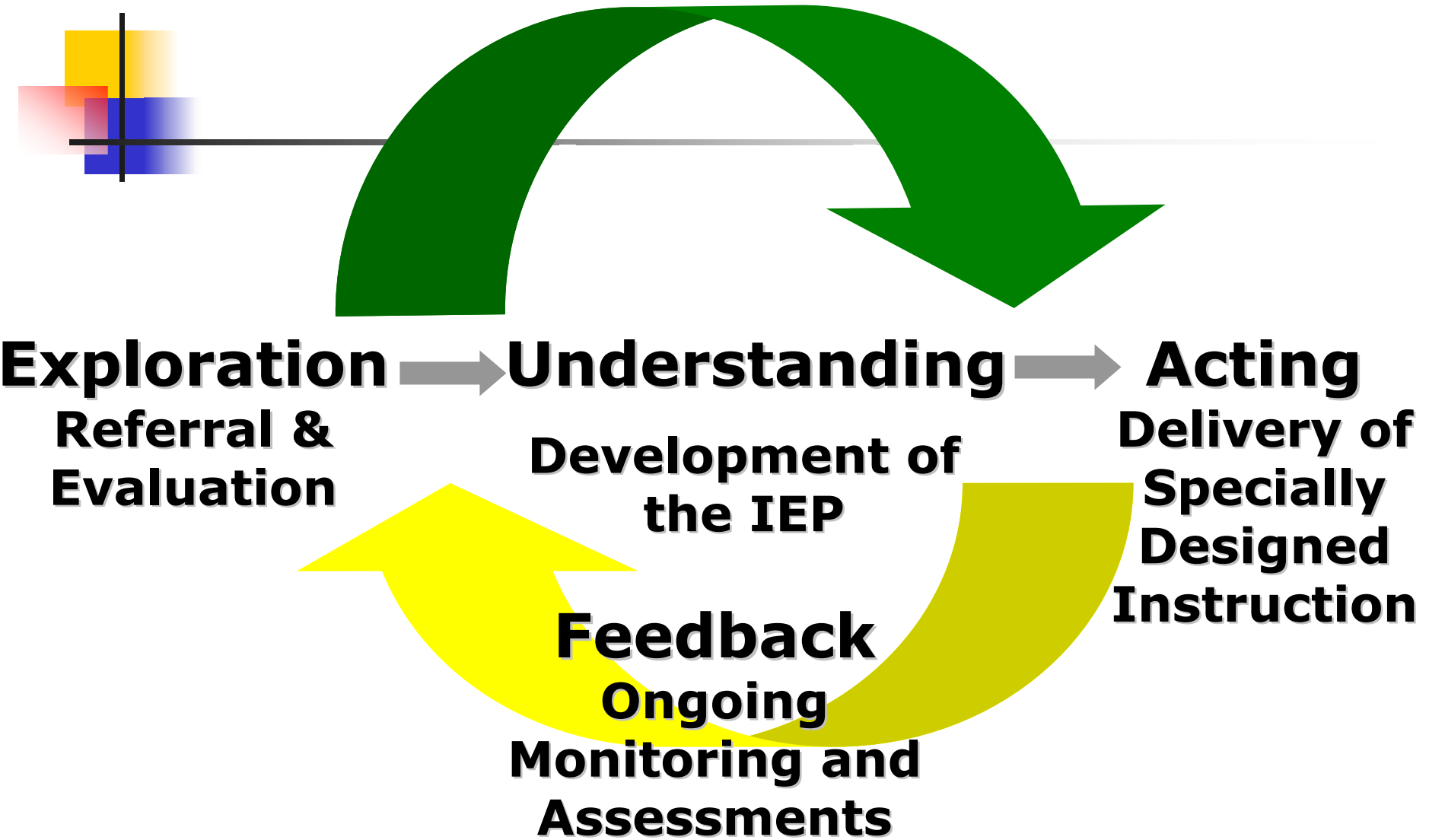


OSPI's Summary Conclusion

- OSPI is building the linkages among Special Education funding, spending, educational services and educational results.

***Thank you for your commitment
to the education of our most
precious resource: our children!***

The IEP Process





State Improvement Grant

In 2000, the Office of Special Education Programs (OSEP) awarded Washington a five-year state improvement grant, Connecting IDEAs Project (CIP), to enhance the support system for students with disabilities.