

MASC DAY ON THE HILL

March 30, 2010

State House ■ Boston

Agenda

- 9:00am Registration/Continental Breakfast, Great Hall
- 9:30am Morning Session, Gardner Auditorium
Greetings, Katheen Robey, MASC President
- 9:45am Presentation of MASC Public Policy Agenda/Legislative Priorities
Stephen Finnegan, Esq., MASC General Counsel
Dorothy Presser, MASC President-Elect
- 10:15am Charles Murphy, Chair, House Ways & Means Committee
- 10:45am Senator Steven Panagiotakos, Chair, Senate Ways & Means Committee
- 11:15am Representative Marty Walz, Chair, House Committee on Education
- 11:30am Senator Robert O'Leary, Chair, Senate Committee on Education
- 11:45am Secretary of Education Paul Reville and DESE Commissioner Mitchell Chester
- 12:15pm Wrap-up
- 12:30pm Luncheon Buffet, Great Hall, followed by visits with legislators

■ A NOTE OF THANKS ■

MASC gratefully acknowledges the assistance of Representative Angelo Scaccia and legislative aide Michelle McLaughlin, as well as Suzette Waters of the Bureau of State Office Buildings.

MASC also thanks the culinary arts students and instructors from the following vocational-technical schools for their skillful preparation and service of the breakfast and luncheon buffet: Assabet Valley, Blackstone Valley, Blue Hills, Bristol Plymouth, Cambridge Rindge and Latin, Cape Cod, Everett, Greater Fall River (Diman), Greater Lawrence, Greater Lowell, Greater New Bedford, Minuteman, Nashoba Valley, Northeast Metropolitan, North Shore, Old Colony, Pathfinder, Plymouth South, Shawsheen, Somerville, South Middlesex (Keefe), Southeastern, South Shore, Southern Worcester (Bay Path), Tantasqua, Weymouth, and Whittier. In addition, MASC thanks Chef Lou Trudeau, Assabet Valley, and Chef Steve Miranda, Old Colony, for their help in organizing and coordinating the breakfast and luncheon programs.

Massachusetts Association of School Committees
Public Policy Priorities 2010

Fair Finance

Fair Governance

Fair Oversight

DAY ON THE HILL

March 30, 2010

The State House

Boston

MASC Board of Directors 2010

President

Kathleen D. Robey, Marlborough

President-Elect

Dorothy Presser, Lynnfield

Vice President

Penny Blackwell, Upper Cape Cod
Reg. Voc. Tech.

Secretary-Treasurer

Mary Jo Rossetti, Somerville

Immediate Past President

Debra Bibeau, Amesbury

Division I

Evelyn Thoren, Chelmsford

Division II

Ann Marie Cugno, Medford

Division III

Richard Bath, Brockton

Division IV

Shirley Lundberg, Northborough-
Southborough Reg.

Division V

Angela Thorpe, East Longmeadow

Division VI

Herbert Abelow, Southern
Berkshire Reg.

Division VII

Donald Haynes, Upper Cape Cod
Reg. Voc. Tech.

Division VIII

Mindy Kempner, Southeastern Reg.
Voc. Tech.

Division IX

Jacqueline Doherty, Lowell

MASC Staff

Glenn Koocher

Executive Director

Jenifer Handy

Communications Director

Carol Grazio

Director of Operations

James Hardy

Field Director—Policy

Patricia Correia

Field Director—Training and Development

Michael Gilbert

Field Director—Information and
Technology

Kari MacCormack

Graphic Designer

Jennyfer Cabral

Operations Coordinator

Nanette Olsen

Member Services Coordinator

Stephen Finnegan

General Counsel

Table of Contents

I. Funding for Public Schools

 Background4

 Where We Stand5

II. Use of Federal Education Financial Aid

 Background6

 Where We Stand7

III. New Education Law and State Education Regulation

 Background7

 Where We Stand8

IV. Caring for Children at Risk

 Background8

 Where We Stand8

V. District Structuring

 Background9

 Where We Stand9

Federal Relations Network MASC Position Papers

- Protecting Social Security by Stabilizing Pension Trust Funds/Correcting the Government Pension Offset/ Rescinding the Windfall Elimination Provision
- Support and Funding of Technical Education
- Student Mobility and the Impact on Education
- Reauthorization of Elementary and Secondary Education Act
- Non-Budgetary Priorities

Public Policy Priorities 2010

Fair Finance, Fair Governance, Fair Oversight

MASC's public policy is based on the decisions of the Delegate Assembly. The positions of the Association have evolved over more than 60 years of advocacy for public education including protecting the rights of citizens to oversee the schools in their cities, towns and regions in a democratic system, fair and appropriate funding, and giving stakeholders the ability to ensure the best for the children with whom they live and whom they teach.

We believe that school committees represent the height of civic engagement and ensure that difficult topics are brought to public attention in ways that protect the rights of the people to look after future generations.

I. FUNDING FOR PUBLIC SCHOOLS

Background

The financial picture for education, historically complex, is more difficult to understand in 2010 because of the way temporary relief provided by federal Stimulus funding has been used to offset what would otherwise have been crippling cuts to school funding.

The American Recovery and Reinvestment Act (ARRA), also known as "The Stimulus," cushioned the impact of the recession in significant ways during the last half of FY 2009 and throughout FY 2010. Separate allocations for special education, Title I programs and a general block grant made up the bulk of federal emergency funding under ARRA.

Most of the \$813 million ARRA block grant for education has propped up what would otherwise have been dramatic cuts to Chapter 70 school funding. Of the full amount of the state aggregated grant, most went to K-12 programs including \$322 million to prevent cuts in Chapter 70 in FY 2009 while \$168 million underwrote the program in FY 2010. Other funds were used for early education and the state public college and university system. Little is left for FY 2011.

ARRA included targeted funding for special education and for Title I programs for students in economic distress. Almost \$300 million in special education assistance and nearly \$165 million for Title I were designed to last for 24 months following passage of the law in February 2009, but the economic crisis forced the state and school districts to use the funding sooner, leaving much less for FY 2011.

Stimulus funding has also supported the Special Education Circuit Breaker program as ARRA dollars "back-filled" what would otherwise have been cuts to this state appropriated line item.

There is the strong possibility the state will receive additional Race to the Top (RTTT) funding (tentative, preliminary estimates of as much as \$250 million over 3-4 years), and the more secure School Turnaround Grants (initially called School Improvement Grants) of almost \$70 million to help offset other costs in those districts that are either participating in RTTT initiatives or are eligible for aid to low income students. Economically advantaged school districts are less likely to receive meaningful assistance from the Turnaround program.

Stimulus aid to support Medicaid, another source of federal funding, is also important to schools because of the number of eligible students who receive reimbursable services.

In January 2010 Governor Patrick announced his budget recommendation to request a level funded appropriation for Chapter 70 district aid. This would require both holding harmless those districts already at or above foundation budget levels and adding modestly to the allocation of those districts whose foundation budget increases for FY 11 would require additional state assistance. MASC applauded the governor's action and his recognition that local districts have little option in a fiscal crisis but to reduce sharply services to students without the state aid required by the law.

However, the country in general—and Massachusetts in particular—is only beginning to recover from the economic impact of the recession. In late March a further shortfall in state funding of close to \$200 million was discovered. Legislative leaders, in issuing a consensus estimate of state revenues, have informed communities that although their local aid could be cut by as much as 4%, the schools will be funded at foundation. (The press release said, "According to the agreement, municipalities will receive no more than a 4% cut in their local aid in the upcoming fiscal year and all school districts can count on being funded at their foundation level of support.")

Unfortunately, several other accounts not covered under Chapter 70 remain vulnerable. They include:

Regional Transportation Aid

One of the most important incentives for districts to consider when deciding whether to enter into, or remain part of, regionalization structures is Regional Transportation Aid. Originally, regional aid was designed to provide 100% of transportation costs while local independent school districts were to receive 50%. Various economic recessions have cut into both programs. Local transportation aid evaporated more than a decade ago. Regional transportation aid endured cuts during the recession of 2003-4, but the legislature made progressively larger reinstatements over the following years until the current recession cut into the program.

In the fall of 2009, mid-year cuts to the state budget took about \$20 million from Regional transportation aid, but Governor Patrick reinstated the reduction in January 2010. Initial guidance to regional districts for transportation assistance indicate there may be as little as 45% funding in this account. Regional school districts must then absorb the cuts from elsewhere in their budgets.

Special Education Circuit Breaker

The governor has proposed \$135 million for the Special Education Circuit Breaker program that, when fully funded, would require about \$210 million. This presents an added burden to those districts with students whose education plans exceed four times the state average. It is unclear how this reduction, for which stimulus funding is not available, will be addressed locally.

Despite the federal stimulus and support from state public policy makers to sustain critical line items, responsibilities of public schools continue to increase with cost implications higher than the general consumer price indices.

The recently enacted updates to state education law, signed by the Governor in January 2010, only increase further the regulatory burden, level of accountability, and measures of assessment. Massachusetts continues to produce the nation's highest performing schools and students but its teachers, administrators and local policy makers continue to operate under the nation's broadest and most rancid regulatory climate.

Where We Stand

MASC believes school committee members must alert legislators to the implications of overregulation, inadequate funding to fulfill mandates, and inability to control all of our costs. We believe a multifaceted approach is needed.

1. We urge the legislature to move cautiously on the FY 2011 budget in order to allocate the maximum feasible appropriations to public education and students at risk. We believe that, as the economy improves,

more funding may be available to support children and families. We ask the legislature to consider, to the extent that revenues allow, providing the maximum possible level of Chapter 70 funding to offset even a 4% reduction of local aid.

2. We urge that, upon the return of a healthy economic climate for the Commonwealth, the legislature restore funding for these programs:

- Sufficient appropriation to ensure that every district is able to fund its public schools at the level of the Foundation Budget and that those districts who have exceeded the foundation level are protected from cuts.
- Initiation of the "adequacy study" to determine the current cost of a truly adequate school budget in every community and, once identified, full funding of the newly calibrated Foundation Budget at a sufficient level.
- Full funding of the Special Education Circuit Breaker Program.
- Full funding of the Regional Transportation Program.
- Restoration of Transportation Assistance to local districts.

II. USE OF FEDERAL EDUCATION FINANCIAL AID

Background

While the decision to use stimulus funding to prop up critical state financial line items like Chapter 70 funding, special education, and support for students at economic risk was important to our ability to avoid some of the most severe implications of the recession, other major elements of federal funding are important sources of support on their own.

MASC has lobbied at the federal level to prevent the block granting of money under the Carl Perkins Vocational Education Act to ensure that Washington offers a stable and predictable stream of support for our outstanding network of technical schools and programs in comprehensive high schools.

Two other major sources of funding are:

"Race to the Top" Grants. Massachusetts is eligible for up to \$250 million in Race to the Top (RTTT) funding as part of the stimulus package. In late 2009 and early 2010, MASC supported efforts to promote district participation in the state application for these funds. We were assured that only a small share of the available funding would be used to build up the state educational bureaucracy.

We are disappointed that state and federal administrations used the economic crisis and the red tape tied to the federal grant applications to impose top-down conditions upon school districts. However, we also believe that some of the goals of the program will have long lasting benefits to our public schools.

As with School Turnaround Grants noted below, we will continue to ask the legislature to oversee spending from all federal sources to ensure that the money is "invested" in schools and districts rather than used to build a bigger state administrative bureaucracy.

School Turnaround Grants (formerly known as School Improvement Grants). There was little discussion of this guaranteed block of funding under the Title I program while the Race to the Top application process was taking place. This funding is designed for districts with Title I programs serving students at risk. More than \$65 million is going to be directed to Massachusetts over several years. During RTTT discussion, DESE officials assured MASC that federal money would go to school districts and only minimal funding to the state agency. However, no one was talking about the School Turnaround Grants. MASC fears that too much of this additional funding may be diverted from school districts to the Department of Elementary and

Secondary Education. Our position is that funding should be provided to school districts where students are educated and not to a state bureaucracy where they are not.

Where We Stand

MASC commends the legislative oversight to date of the stimulus funding. We urge the legislature to continue to monitor the level of federal funding under RTTT, School Turnaround Grants, and all other federal funding sources to ensure that funding supports schools that serve children in contrast with regulatory bureaucracies that do not.

III. NEW EDUCATION LAW AND STATE EDUCATION REGULATION

Background

With the enactment of the 2010 education legislation, the Department of Elementary and Secondary Education began rolling out another extensive set of new regulations to implement the law. The law targets extraordinary interventions in districts labeled as underperforming and chronically underperforming based on definitions prescribed in statute and further defined in regulation by DESE itself.

Because Massachusetts has the nation's highest proficiency requirements, and because the federal No Child Left Behind law mandates that all students in definable groups reach this milestone (roughly the midpoint on the range of MCAS test scores), schools and districts that are labeled and sanctioned in Massachusetts would escape sanctions in other states. Thus, the law gives the Department of Elementary and Secondary Education the ability to impose sanctions, interventions, and even takeovers of more schools than other states would permit.

The statute grants extraordinary power to the commissioner and Board of Elementary and Secondary Education to intervene and impose changes on district policy, union contracts and even management of entire schools and school districts. The new regulations will join the rest of the fifteen-part system of state administrative regulations and oversight programs on local districts. Nothing in the past few years has ameliorated the problems of the top-down regulatory climate that has historically defined the way the Commonwealth oversees public schools.

The new law enacted in January 2010 includes several provisions initiated or advocated by MASC, and we are grateful to legislators for incorporating elements of the bill supported by the Association:

1. The bill required that new accountability regulations must be provided to the legislature for public hearings prior to their promulgation as operating rules. The proposal will allow stakeholders to identify and comment directly to the legislature on problematic provisions of regulation before they are implemented. In the past, we have noted occasions when state regulators have proposed to give themselves power and responsibility not authorized in law. MASC remains grateful to the legislature for supporting our initiative in this matter. It will remain for us to continue to watch DESE as it implements the new statutes.
2. Collective bargaining authority remains with the school committee as the employer of record. MASC remains vigilant in its efforts to prevent any attempt by the educational bureaucracy to strip local boards of the ability to set policy through the negotiations process or through district seizures.
3. For the first time, DESE regulations and oversight must take into account the special challenge for districts who serve mobile students. These are students who migrate in and out of districts during the year or over several years. In some cases, students may move as often as 3-5 times in a single year, making coherent academic planning, support and retention of content major hurdles.
4. New Innovation Schools will require approval by school committees. This will, to a modest degree, give local school committees the ability to create what is, in effect, an in-district charter school or alternative

program, subject to local oversight. Districts will need to determine for themselves if this new school concept will work for them. We continue to watch carefully for efforts to pressure districts to move more quickly than is desirable to implement this new concept for schools – originally proposed as an alternative to lifting the cap on charter schools but included in the final bill even after the cap was lifted in some communities.

5. Stronger new law has been approved to increase oversight of charter school enrollment, retention, accountability, and operational issues. Historically, charters have enrolled lower numbers of students at social, economic and academic risk as well as substantially lower numbers of English Language Learners. Also, some charters have counseled out, expelled, or returned to the sending districts students who do not meet their academic standards. We continue to be concerned that large loopholes remain in the bill, and MASC will monitor carefully efforts of charter schools to avoid enrolling or retaining students at risk.

6. The new charter school review process has been clarified and refined in an attempt to rectify serious problems identified in 2008 and 2009, including significant irregularities identified by the state Inspector General in 2010, with the approval of new charter schools. We also believe the state must come to terms with the inexcusable treatment of the residents of Gloucester in the unambiguously flawed process leading to the approval of a charter school in that city over the near unanimous objections of its residents. We applaud, and we urge school committees to continue to stand with the residents and leaders of Gloucester as they continue their battle against the approval of this school.

7. Important new requirements for departmental accountability have been set for the Department of Elementary and Secondary Education.

Where We Stand

1. MASC will continue to call for legislative oversight of DESE and the charter school approval process as well as intervention to relieve the kinds of regulatory abuse to which school districts have been subjected.

2. We urge the legislature to monitor carefully the implementation of the new law to ensure that: DESE does not exceed its authority; that district rights are protected in the face of threatened school or district takeovers; that charter school operations are in compliance with the standards set to require representative enrollment of students at risk; and, that schools do not continue to operate as drop-out factories for students whom they do not find compatible with their school culture.

IV. CARING FOR CHILDREN AT RISK

Background

Education has fared comparatively well during the recent recession in contrast with other state human and social services programs. MASC has prioritized what we have called the “Children’s Services Safety Net,” the vast array of services from many different agencies that support children and families. There is ample research to explain the link between children in poverty and social distress and the academic achievement gap. In addition, students at economic risk are likely to have undiagnosed and untreated dental, vision, hearing, and general health risks at rates 20-30% higher than their wealthier counterparts.

Closing the achievement gap remains a difficult goal to fulfill when state agencies do not yet mobilize and coordinate the many services needed to help the children at risk.

Where We Stand

1. In support of children, MASC has called for a social services system in Massachusetts that:

- Provides needed family social services to add support and stability to children at risk.
- Guarantees adequate funding for our health insurance for all to ensure that children and other family members have access to the superior medical care that has made Massachusetts a model for the rest of the country.
- Funds adequately both the state's Health Care for All statute and social services for children and families.

2. In addition, we call for faster and more aggressive action by the Readiness Cabinet that brings senior policy makers from the various executive offices together to identify the best strategies to serve children and families.

V. DISTRICT STRUCTURING

Background

Massachusetts has a long history of local control and governance of public education through municipal government and regional school districts. Over many decades, some cities and towns have elected to regionalize. Our state has many high performing and successful regional school districts, each the product of voluntary collaboration among cities and towns.

The economic crisis has given some in government both the challenge and opportunity to explore new economies and efficiencies in school organization. Among the options currently being explored is the multi-district structure concept.

MASC has both supported and assisted our member districts in researching and exploring new regional structures. We believe in the right of communities to determine for themselves the best administrative and governance structure for their public schools.

In early 2010 the Executive Office of Education disclosed principles for legislation that may be proposed later this year to authorize DESE to identify and assess the capacity of school districts to serve students. A major criterion of this assessment will be the relationship of size, structure, resources and other measures of capacity.

MASC is concerned that this legislation may expand even further the power and authority of an appointed commissioner or board to coerce cities and towns into restructuring their public school districts against their will.

Where We Stand

We do not believe that appointed bureaucrats should be allowed to substitute their judgment for that of the people and their elected representatives.

1. MASC will support legislation that enables any agency that has demonstrated the ability to support the work of public schools to provide technical help to districts. We will, however, oppose strongly any effort by appointed officials anywhere to strip from cities, towns, and regional school districts the authority to structure their public schools as they have elected to do under the rules of democratic government.

2. We will support incentives to encourage districts to act in the best interests of their children as seen from the perspective of the communities in which they live.



**Massachusetts Association
of School Committees**

One McKinley Square,
Boston MA, 02109
(617)523-8454 (800)392-6023
FAX: (617)742-4125
www.masc.org

**MASC Board of Directors
January 2010**

President

Kathleen D. Robey, Marlborough

President-Elect

Dorothy Presser, Lynnfield

Vice President

Penny Blackwell, Upper Cape Cod
Reg. Voc. Tech.

Secretary-Treasurer

Mary Jo Rossetti, Somerville

Immediate Past President

Debra Bibeau, Amesbury

Division I

Evelyn Thoren, Chelmsford

Division II

Ann Marie Cugno, Medford

Division III

Richard Bath, Brockton

Division IV

Shirley Lundberg, Northborough-
Southborough Reg.

Division V

Angela Thorpe, East Longmeadow

Division VI

Herbert Abelow, Southern
Berkshire Reg.

Division VII

Donald Haynes, Upper Cape Cod
Reg. Voc. Tech.

Division VIII

Mindy Kempner, Southeastern
Reg. Voc. Tech.

Division IX

Jacqueline Doherty, Lowell

Massachusetts Association of School Committees Position Paper

**PROTECTING SOCIAL SECURITY BY STABILIZING
PENSION TRUST FUNDS**

**CORRECTING THE GOVERNMENT PENSION OFFSET
and RESCINDING THE WINDFALL ELIMINATION
PROVISION**

The Massachusetts Association of School Committees (MASC) urges the Massachusetts Congressional delegation to oppose the privatization of Social Security, and support repeal of the Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP) of the Social Security Act. We recognize that thousands of school district employees are disadvantaged by the GPO and WEP, and we believe that sound public policy calls for the repeal.

However, we also recognize the potential of a future assault on Social Security as we know it, by allowing some workers to divert a portion of their payroll tax to private retirement savings instruments, which would put the system in jeopardy. Privatization, even in part, is, in the opinion of MASC, an imprudent strategy that will undermine the actuarial soundness of the program, threaten the entire system, and make further benefit reforms impossible. On behalf of thousands of Massachusetts students who are surviving dependent children or families of disabled workers, their surviving parents, and their grandparents who depend on their retirement security, we urge that Congress focus, not on privatization, but on strengthening the Social Security System.

We also note that Social Security benefits are usually spent quickly in the community by beneficiaries and function as a constant "stimulus" to local economies. In this way, the benefits act as a boost to local economies while they bring economic stability and strength to families.

WEP and GPO Provisions

Massachusetts is one of fifteen states where many or all public employees do not participate in the Social Security old age and survivors pension system¹. While public educators, therefore, do not pay into the system as employees of the state or local

¹ These states include Alaska, California, Colorado, Connecticut, Georgia (some localities), Illinois, Louisiana, Kentucky, Maine, Massachusetts, Missouri, Nevada, Ohio, Rhode Island (some localities) and Texas (some localities).

² Workers under Social Security earn a "worker's benefit" determined by a formula based on covered earnings. In addition, their spouses are eligible for a "spouse's benefit" equal to as much as 50% of the worker's benefit. Upon the death of the worker, the spouse then receives the higher, but not both, of the two benefits. Spouses who work in the private sector, however, may also earn their own worker's benefit. The spouse may elect to receive either their own worker's benefit or the spouse's benefit, whichever is higher.

Many spouses who did not work under the Social Security System or who were minimally employed, if at all, during their pre-retirement have elected to receive this spouse's benefit. Prior to the implementation of the 1983 Social Security Amendments, many government employees in states not participating in Social Security enjoyed not only their own public pensions, but also a Social Security spouse's benefit because they were not eligible for a Social Security worker's benefit on their own. In the event of death of the worker, Social Security also provides survivors benefits to dependent widows and children. The 1983 Amendments also eliminated benefits for children over 18 including college age students.

school district, they would otherwise earn Social Security through their own non-public covered employment or as spouses of workers in the Social Security System². Unfortunately, these public employees are disadvantaged in two ways by the 1983 Amendments to the Social Security Act.

- First, they may lose some or all of their “spouses benefit” which is paid to spouses of workers who earned a Social Security benefit through private sector employment (WEP).
- Second, they may lose part of their own earned Social Security benefit from work in the private sector through an “offset” determined by the size of their public pensions (GPO)³.

Advocates for working Americans have made powerful arguments to repeal these provisions that were necessary to preserve and strengthen the Social Security system when the Old Age Survivors and Disability Insurance Trust Funds were near bankruptcy in 1983. However, with the trust funds now stable and strong, new and vital arguments support repeal. **Doing so will have an immediate and positive impact on public education by removing the barrier that discourages many potentially outstanding individuals from pursuing careers, or second careers, in public school teaching and administration.**

Many of our current school district employees entered public education from private sector jobs where they had paid into the Social Security system and under which they anticipated not only retirement benefits for themselves, but also for their spouses and dependents. This changed when the GPO and WEP were enacted and went into effect two decades ago.

The formula for calculating Social Security benefits is complex, especially when determining the lower benefit for people who also worked in the public sector. In short, a Massachusetts public employee who also has worked in the private sector may receive a Social Security pension for his or her private sector employment of as much as \$381 less than someone who worked at the identical

private sector job for the very same period. (See footnote.)

WHY PUBLIC SCHOOL DISTRICTS CARE ABOUT THE GPO AND WEP

The GPO and WEP will continue to pose a special challenge to school districts trying to recruit vocational and technical faculty as well as teachers in mathematics, science, fine arts, and several other disciplines where the private sector offered more lucrative but less rewarding careers.

For example, vocational technical schools attract many able teachers who bring years of private experience in the trades with them to the classroom. They are among our finest teachers because they share years of expert on-the-job training and skills with young students aspiring to enter their trades. Because Massachusetts public school employees have their own public pension system and do not participate as faculty in the Social Security retirement system under which many of them worked prior to teaching, many of our vocational teachers find their Social Security pension benefits reduced under WEP. Unfortunately, many mature workers did not anticipate or even know this impact when they entered the teaching profession. Their successors, however, are much more mindful of the impact.

In the past we have always been able to recruit excellent teachers for vocational technical schools from the ranks of skilled tradespersons who were willing to retrain as educators. However, now we recruit craftspersons of all ages, but they are workers who engage in retirement planning earlier than did a previous generation. We are discovering that they are unwilling to risk the loss of their hard earned Social Security pension benefits for themselves, spouses, or dependent children should they elect to enter a public retirement system.

Tradespersons who might consider entering teaching in their mid 40s or 50s will, at best earn a public pension equal to 30 to 40% of their pre-retirement wage. Many will earn less. They would consider this career change seriously if they knew they could count on the full Social

In the event of death of the worker, Social Security also provides survivors benefits to dependent widows and children. The 1983 Amendments eliminated benefits for children over 18, including college age students who had previously received monthly checks from Social Security.

³ Social Security benefits are based on an “average indexed monthly earnings” figure representing the inflation-adjusted average monthly wages for a worker’s highest 35 years of covered employment. The benefit calculation formula is designed to favor low wage earners by providing them with a higher share of the first earning step than the second or third step. Consider the case of a worker whose AIME is calculated at \$5,000 per month (\$60,000 per year):

Step 1:	90% of the first \$761	\$ 685
Step 2:	32% of the next \$3,925	\$ 1,256
Step 3:	15% of the remainder (\$ 414)	\$ 62
	TOTAL BENEFIT	\$ 2,003

*For individuals with public employment, the factor in Step 1 would be reduced incrementally to as low as 40% of the AIME or \$304 instead of \$685, for a potential net loss of benefits of \$381.

Security benefit to which they would be entitled had they not earned a separate Massachusetts public pension in their second careers.

When they confront having to sacrifice a significant share of their Social Security benefit to earn a public pension, they are reluctant to make a career switch to work with young students.

In the same situation are highly skilled workers in other professions, including those proficient in mathematics and sciences and other transferable subject matters who are also reluctant to give up Social Security to enter public employment when it results in a meaningful reduction to their retirement benefits.

We also note the impact of the Government Pension Offset for spouses which establishes a similar disincentive for people to change careers to work in public schools. By offsetting the spouse's Social Security benefit based on that spouse's public pension earnings, a two-tiered system is created. Workers in identical jobs covered by Social Security might generate substantially different pensions for their spouses based solely on where those spouses worked or did not work.

SUMMARY

Social Security is not the primary retirement source for Massachusetts public employees. However, the economic security of our workforce, students, and their families is linked strongly to the strength of the Social Security System. At a time when so many of our constituents rely on the social safety net that includes Social Security, Medicare, Medicaid, public health, and many other federal programs to promote the public welfare, we urge the Congress to begin the process of strengthening the Social Security System.

As part of this strengthening, we urge the Congress to repeal the Windfall Elimination Provision and the Government Pension Offset to the Social Security Act.

Contact:

Mindy Kempner, Chair, MASC Division VIII (Southeastern Regional Vocational Technical School Committee)

Penny Blackwell, Vice President, MASC (Upper Cape Cod Regional Vocational Technical School Committee)



**Massachusetts Association
of School Committees**

One McKinley Square,
Boston MA, 02109
(617)523-8454 (800)392-6023
FAX: (617)742-4125
www.masc.org

**MASC Board of Directors
January 2010**

President
Kathleen D. Robey, Marlborough

President-Elect
Dorothy Presser, Lynnfield

Vice President
Penny Blackwell, Upper Cape Cod
Reg. Voc. Tech.

Secretary-Treasurer
Mary Jo Rossetti, Somerville

Immediate Past President
Debra Bibeau, Amesbury

Division I
Evelyn Thoren, Chelmsford

Division II
Ann Marie Cugno, Medford

Division III
Richard Bath, Brockton

Division IV
Shirley Lundberg, Northborough-
Southborough Reg.

Division V
Angela Thorpe, East Longmeadow

Division VI
Herbert Abelow, Southern
Berkshire Reg.

Division VII
Donald Haynes, Upper Cape Cod
Reg. Voc. Tech.

Division VIII
Mindy Kempner, Southeastern
Reg. Voc. Tech.

Division IX
Jacqueline Doherty, Lowell

Massachusetts Association of School Committees Position Paper

**SUPPORTING AND FUNDING OF TECHNICAL
EDUCATION**

**Carl D. Perkins Career and Technical Education
Improvement Act of 2006 (PL-109-270)**

The Massachusetts Association of School Committees (MASC) urges the Massachusetts Congressional delegation to support full funding of the Carl D. Perkins Career and Technical Education Improvement Act. Over the past several years the Congress reaffirmed its support of the act by funding it with a discrete budgetary line item and resisting the proposal to fold vocational and technical funding into a block grant proposal. **In 2010 the Perkins Act appropriation should be increased.**

For over twenty years, the "Perkins Act" has provided financial assistance to Massachusetts public schools, including funds to the state's higher education system. The law not only provides resources to foster innovation and program improvement, but also encourages state level support with a "maintenance of effort" provision. Perkins Act funding is available to all Massachusetts public schools with approved vocational and technical programs.

During Fiscal Year 2010 Massachusetts receives Perkins Act funds under two Perkins categories, a "Basic Grant" and a "Technology-Preparatory" Program. Total funding to Massachusetts for the current fiscal year is over \$20 million.

The Perkins Act, last reauthorized in 2006, and the relatively modest but essential appropriation that supports it are in jeopardy as Congress determines whether to renew the statute and fund it adequately. Last year the Congress rejected again an Administration proposal to consolidate funding into a block grant – a measure that would have effectively placed all Perkins programs in jeopardy.

Perkins Act funding supports program improvement, career and technical education student activities. The appropriation provided in the Act also fosters initiatives to integrate technical education with career development and basic academic curricula, as well as support for appropriate guidance and career counseling services. Modest allocations for capital equipment are available. The Act also encourages and supports professional development for faculty in vocational and technical education. As with the Elementary and Secondary Education Act, there is a detailed accountability system.

As with any federal program, the law is complex and incorporates many provisions. MASC is particularly concerned with maintaining the current structure and supporting the critical goals and objectives. More specifically, we also support maintaining the Act and its appropriation as a discrete set of programs and line items, as opposed to incorporating its provisions within other, more broad federal education laws – a strategy that could, if adopted – dilute the strength and focus of the program.

We anticipate that the Administration will pursue once again its plan to cut significantly the federal appropriation for the Perkins Act, or make detrimental adjustments to it. We have learned an important lesson with the recent reauthorization of the Elementary and Secondary Education Act, also known as No Child Left Behind. Any change in public education law should be scrutinized carefully for the full impact, short term or in the long run.

MASC is working closely with our membership in the Association for Career and Technical Education (ACTE) so that we can articulate carefully for you more specific information and alert the Congressional delegation about the potential budget reductions and conceptual changes that may be proposed by advocates for students and the Administration.

However, in the meantime, we urge members of the Massachusetts Congressional Delegation to support a full appropriation for the Perkins Act and to weigh carefully any proposals to re-focus the law from its current mission, reduce the level of federal resources available to vocational technical programs, and weaken the administrative support for Massachusetts school districts.

The network of vocational technical schools in Massachusetts represents a successful model of education for many students who become among the state's most productive citizens. As with school districts in general, the combined forces of an economic recession, state budget cuts, local fiscal crises, and a virtual assault of not less than five current and often conflicting assessment systems from various state and federal laws are straining further the ability of the many local policy makers, administrators, teachers, parents, and advocates to cultivate a strong vocational and career program in Massachusetts.

However, we have always enjoyed the strong support of the Massachusetts Congressional Delegation.

We remain ready and eager to provide whatever assistance and support our delegation requires in 2010.

Contact:

Mindy Kempner, Chair, MASC Division VIII (Southeastern Regional Vocational Technical School Committee)

Penny Blackwell, Vice President, MASC (Upper Cape Regional Vocational Technical School Committee)



**Massachusetts Association
of School Committees**

One McKinley Square,
Boston MA, 02109
(617)523-8454 (800)392-6023
FAX: (617)742-4125
www.masc.org

**MASC Board of Directors
January 2010**

President
Kathleen D. Robey, Marlborough

President-Elect
Dorothy Presser, Lynnfield

Vice President
Penny Blackwell, Upper Cape Cod
Reg. Voc. Tech.

Secretary-Treasurer
Mary Jo Rossetti, Somerville

Immediate Past President
Debra Bibeau, Amesbury

Division I
Evelyn Thoren, Chelmsford

Division II
Ann Marie Cugno, Medford

Division III
Richard Bath, Brockton

Division IV
Shirley Lundberg, Northborough-
Southborough Reg.

Division V
Angela Thorpe, East Longmeadow

Division VI
Herbert Abelow, Southern
Berkshire Reg.

Division VII
Donald Haynes, Upper Cape Cod
Reg. Voc. Tech.

Division VIII
Mindy Kempner, Southeastern
Reg. Voc. Tech.

Division IX
Jacqueline Doherty, Lowell

Massachusetts Association of School Committees Position Paper

**STUDENT MOBILITY AND THE IMPACT ON
EDUCATION**

(ADDRESSING THE MCKINNEY-VENTO ACT AND NO CHILD LEFT BEHIND)

The issues surrounding students who, for a variety of reasons, move between and among school districts during the year present special challenges for school districts.

The task of orienting a new student to the school and gauging the student's academic strengths and weaknesses take valuable resources from the school system. School districts that have higher levels of mobile students find themselves stretched particularly thin trying to meet the needs of the mobile student population.

This also has an impact on non-mobile students, as teacher time and resources are diverted to the mobile student population. While growth data on student achievement has been well received by all, it does not address as specifically as needed the long awaited focus of attention of the impact of student mobility.

Massachusetts school districts have researched and identified several implications and special needs for districts that will help them serve these students, many of whom are at high risk for underperformance.

MASC is pleased to present outstanding research and clear explanations of some of the challenges we face and a solid rationale for the Congress and the state legislatures to respond.

We believe the Congress can help by enacting and supporting the cost of provisions to the Elementary and Secondary Education Act (No Child Left Behind) that:

- Directs state departments of education to track and report mobile student populations and account for the additional cost of education of the mobile student population by taking steps to fund these expenses.
- Creates a pilot program to provide financial assistance to high-mobility school districts.
- Directs state departments of education to track and report standardized test results for the mobile student population.

We are particularly grateful to our colleagues in Somerville and Chelsea, Massachusetts for taking the initiative on behalf of many Bay State school districts.

For further information, please note the attachments and contact:
Mary Jo Rossetti, MASC Secretary/Treasurer (Somerville School Committee)

Attachment: Research Data on Student Mobility, reprinted with permission of Mary Bourque, Assistant Superintendent, Chelsea Public Schools

Swapping Desks:

The Impact of Mobility on Student Achievement

What happens when students change schools? What happens within a school district if a third of its students either move into the district or out of the district within a given school year? Why is the flux of students more common in urban districts? What happens to the students who are not moving? How does student mobility affect the achievement and potential achievement of students? And, who are the students who seem always to be moving from one school to another?

“Student mobility” is the term that describes students’ movement in and out of classrooms, schools, and school districts throughout a school year. The impact of high student mobility plagues public school districts and is a primary contributor to the low academic achievement of many urban students. The correlation between students who move frequently and those who live below or near poverty is very high. There is also a high correlation between mobile students and immigrant students and students of limited English proficiency. When given the opportunity to move out of poverty and substandard housing, families seize it and become upwardly mobile. In many communities, however, mobility does not arise because of better economic opportunity; but, instead, families and students—and, in particular, immigrant families—become mobile because of financial difficulties or because of a need (often recurring) to revisit their country of origin. In immigrant gateway communities such as Chelsea, Massachusetts, where the population is predominantly poor and predominantly immigrant, student mobility dramatically impacts student achievement in the schools. The main causes of student mobility in Chelsea are typically related to housing, poverty, immigration, and family crises.

The constant flux of student populations caused by high rates of mobility in urban schools impedes schools’ attempts to engage in consistent educational reform and to provide coherent instruction both to mobile and non-mobile students. Because there is a correlation between high student mobility and lower student academic performance, a high percentage of mobile students within a district tends to depreciate a school’s or a district’s average student performance scores on state assessments.

The public school system in Chelsea, Massachusetts, is a prototypical urban district that educates a highly mobile, low-income, second-language student population. Chelsea is densely populated with a 2000 United States Census official population of 35,080. Most demographers believe this figure is underestimated due to significant numbers of unreported immigrants in the city. The median Chelsea household income in 2005 was \$33,100, compared to the state’s median income of \$57,176. Additional data indicate that 20.6 percent of Chelsea families live below the poverty line, compared to 6.7 percent statewide. In the 2007-2008 school year, 80.3 percent of Chelsea’s students qualified for free or reduced lunch, compared to the state’s average of 29.5 percent; 7.2 percent of Chelsea’s residents were unemployed in 2002, compared to 5.3

Swapping Desks:

The Impact of Mobility on Student Achievement

What happens when students change schools? What happens within a school district if a third of its students either move into the district or out of the district within a given school year? Why is the flux of students more common in urban districts? What happens to the students who are not moving? How does student mobility affect the achievement and potential achievement of students? And, who are the students who seem always to be moving from one school to another?

“Student mobility” is the term that describes students’ movement in and out of classrooms, schools, and school districts throughout a school year. The impact of high student mobility plagues public school districts and is a primary contributor to the low academic achievement of many urban students. The correlation between students who move frequently and those who live below or near poverty is very high. There is also a high correlation between mobile students and immigrant students and students of limited English proficiency. When given the opportunity to move out of poverty and substandard housing, families seize it and become upwardly mobile. In many communities, however, mobility does not arise because of better economic opportunity; but, instead, families and students—and, in particular, immigrant families—become mobile because of financial difficulties or because of a need (often recurring) to revisit their country of origin. In immigrant gateway communities such as Chelsea, Massachusetts, where the population is predominantly poor and predominantly immigrant, student mobility dramatically impacts student achievement in the schools. The main causes of student mobility in Chelsea are typically related to housing, poverty, immigration, and family crises.

The constant flux of student populations caused by high rates of mobility in urban schools impedes schools’ attempts to engage in consistent educational reform and to provide coherent instruction both to mobile and non-mobile students. Because there is a correlation between high student mobility and lower student academic performance, a high percentage of mobile students within a district tends to depreciate a school’s or a district’s average student performance scores on state assessments.

The public school system in Chelsea, Massachusetts, is a prototypical urban district that educates a highly mobile, low-income, second-language student population. Chelsea is densely populated with a 2000 United States Census official population of 35,080. Most demographers believe this figure is underestimated due to significant numbers of unreported immigrants in the city. The median Chelsea household income in 2005 was \$33,100, compared to the state’s median income of \$57,176. Additional data indicate that 20.6 percent of Chelsea families live below the poverty line, compared to 6.7 percent statewide. In the 2007-2008 school year, 80.3 percent of Chelsea’s students qualified for free or reduced lunch, compared to the state’s average of 29.5 percent; 7.2 percent of Chelsea’s residents were unemployed in 2002, compared to 5.3

Mobility rates in any year for any one school district may vary markedly because of economic trends, housing and rental prices, new immigrant groups, and other variants. In Chelsea, for example, the mobility rate for the 2003-2004 school year reached an all-time high because of a large influx of Somali refugees. The following table summarizes the mobility trends over a ten-year period in Chelsea, Massachusetts:

Table 2
Chelsea Public Schools Annual Mobility Data

Year	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Mobility Rate	33.7%	33.5%	23.9%	36.0%	28.6%	37.5%	23.6%	32.0%	28.5%	27.2%

(Boston University/Chelsea Partnership Annual Legislative Report, 2008)

For the school year 2005-2006, the Massachusetts Department of Elementary and Secondary Education Student Information Management System documented 390 educational units functioning as independent public school districts. Out of the 390 educational organizations, the Department identified 24 as meeting the criteria to be deemed “urban” school districts. All school districts not identified as urban are categorized as non-urban. Therefore, there were 366 school districts that are non-urban. To pare down that number for the sake of building a credible and comparable study between urban and non-urban districts, Chelsea Deputy Superintendent Mary Bourque in a controlled quantifiable research study excluded regional and charter school districts. Additionally, all non-urban school districts with a student enrollment less than 2,500 were excluded from the sample. The result was a control group of 91 non-urban districts for her study.

Overall, the 2005-2006 student enrollment for the 115 urban and non-urban school districts in the study was 646,761, about two-thirds of the total public school population in Massachusetts. From October 1 to June 30, a nine-month calculation, fully 69,122 students or 10 percent of all the students were mobile, that is, they moved from one residence to another, from one school to another. The total urban student population (47,202 students) that was mobile during the nine-month period was more than double that of the non-urban school districts (21,920 students). The average mobility rate, calculated in the aggregate, was 9.8 percentage points larger in the urban school districts compared to the non-urban school districts. Mobility rates in the sample year ranged in the urban school districts from a high of 26.2 percent (Holyoke) to a low of 9.6 percent (Pittsfield and Leominster). The non-urban school districts ranged from a high of 15.2 percent (Randolph and Gardner) to a low of 1.5 percent (Duxbury). The following table summarizes the comparisons:

Table 3
Student Mobility in Massachusetts Urban to Non-Urban Comparisons
2005-2006: October 1st –June 30th

9-Month (N=115)	Urban N=24	Non-Urban N=91
Total students entered	28,485	12,343
Total students left	18,717	9,577
Total mobile students	47,202	21,920
Enrollment on October 1	278,259	368,502
Average mobility rate	15.6	5.8
Maximum mobility rate	26.2	15.2
Minimum mobility rate	9.6	1.5

(Bourque, 2008)

The data reveal that across Massachusetts there is a spectrum of mobility among students of some magnitude. All districts have some degree of student mobility. School districts have highly mobile students if the nine-month mobility rate is 10 percent to 19.9 percent. School districts have hypermobile populations if the annual student mobility rate is 20 percent or more¹.

Of the 24 urban school districts in the data set, 21 documented mobility rates of more than 10 percent; and three documented a mobility rate of just under 10 percent. (Two districts had rates of 9.6 percent, and a third district had a rate of 9.7 percent.) The student mobility rates of the urban school districts in Massachusetts overwhelmingly indicate that in the vast majority of students are likely to be Highly Mobile (18 districts) or Hypermobile (3 districts).

Chelsea's nine-month student mobility rate for 2005-2006 was 25.4 percent; its overall twelve-year average mobility rate is 31 percent. The school district is consistently in the hypermobile category. Chelsea's mobile student population for the 2005-2006 school year was 28.4 percent Limited English Proficient, 76.1 percent First Language Not English, and 73.7 percent low income. Anyone of these socio-demographic characteristics places a student at-risk academically for lower performance. However, in Chelsea, most students in any one category also may be claimed in another. Adding a fragmented educational experience because of frequent school moves compounds the number of obstacles both the student and Chelsea educators must overcome in order to close gaps in achievement.

Of added concern is that few public school districts understand student mobility as a longitudinal problem. The mathematical calculation for student mobility does not address the cumulative impact of high mobility rates over time (Kerbow, 1996). Of the Chelsea High School graduating class of 2005, only 30 percent of the graduates began their schooling career in

¹ The collective student population of a school or school district is hypermobile if the nine-month, October 1st-June 30th student mobility rate exceeds 20 percent (Bourque, 2008). This research on hypermobile student populations builds upon the work of Popp, Strong, & Hindman, 2003, p. 12; Crowley, 2003, p. 24; and, Rhodes, 2007.

Chelsea's kindergarten. In the graduating class of 2006, only 31 percent of the graduates began their schooling career in Chelsea's kindergarten. Conversely, within the kindergarten class of 1992-1993 (the high school class of 2005), only 14.7 percent graduated from Chelsea High School thirteen years later. Within the kindergarten class of 1993-1994 (class of 2006), only 15.1 percent of kindergarteners graduated from Chelsea High School thirteen years later.

A closer examination of the mobile student population in Chelsea highlights another important issue: Mobile students are often also limited English proficient and therefore have second language learning needs. Between July 1, 2005, and June 30, 2006, the Chelsea Public Schools enrolled 503 students district-wide. Of the 503 students new to the district, 265 were immigrants. Of those 265 students, 251 (50 percent of all new enrollees) were not proficient in English at the time of registration. Traditionally, while adapting to the American way of life, families frequently move before they settle into one residence for any extended period of time. The instability that is a consequence of such frequent moves impacts the educational experience of the immigrant student, as well as the school or school district that the immigrant student enters and leaves. Further complicating matters for schools is the fact that modern immigrants may have a different view of immigration than their twentieth-century counterparts; many do not immigrate with a commitment to constructing a new and permanent life within the United States. In addition to sending money and goods to families in the home country, the modern immigrant family may frequently travel back to the home country and stay for long periods of time. Such extended leaves can disrupt the formal education of immigrant children. Moreover, such leaves fragment the school's and school district's ability to provide a coherent and longitudinal educational experience for all students. The movement undeniably also contributes to lower overall student performance scores.

Table 4
Students New To District During the 2005-2006 School Year

Chelsea Public Schools- Students New to District			
	Enrolled	From within the U.S.	From outside the U.S.
Grades 1-12 (new)	503	238	265
Fluent in English	208 (41.3%)	194 (38.5% of the 503)	14 (2.7% of the 503)
Not fluent in English	295 (58.6%)	44 (8.7% of the 503)	251 (49.9% of the 503)

(Bourque & Lapuma,
2006)

There is extant research that establishes a causal relationship between mobility and lower student academic performance. In 1994 the federal Government Accountability Office (GAO) reported the following:

- Of the nation's third graders who have changed schools frequently, forty-one percent are low achievers, that is, below grade level in reading, compared with twenty-six percent of third-graders who have never changed schools.

- Results are similar for math; thirty-three percent of children who have changed schools frequently are below grade level, compared with seventeen percent of those who have never changed schools.
- Overall, third-graders who have changed schools frequently are two-and-a-half times as likely to repeat a grade as third-graders who have never changed schools.

In the two Massachusetts smaller urban public school districts of Chelsea and Somerville, comparative data establish a correlation between student mobility and academic achievement. The Performance Index (PI) for the stabile student cohort, the cohort of students enrolled in the Chelsea and Somerville Public Schools for a minimum of two years and who took the 2004 MCAS (Massachusetts Comprehensive Assessment System) exams in mathematics, was compared to the non-stabile (mobile) cohort of students. The non-stabile cohort consisted of students who were not in, and did not take, the 2004 mathematics MCAS in Chelsea or Somerville schools but who were registered as students to take the 2006 tests. The stabile cohort scored significantly higher than did the non-stabile cohort. The following table demonstrates the differences:

Table 5
Performance Index (PI) of Stabile Cohort Compared To Non-stabile Student Cohort:
MCAS Mathematics

Chelsea-2006 MCAS-Mathematics						
Stabile Cohort	Grade	PI	Non-stabile Cohort (new)	Grade	PI	Differential
227	10	69.6	138	10	48.4	-21.2
297	8	51.3	81	8	32.7	-18.6
274	6	50.3	70	6	32.1	-18.2

(Bourque & Lapuma,
2006)

Somerville-2006 MCAS-Mathematics						
Stabile Cohort	Grade	PI	Non-stabile Cohort (new)	Grade	PI	Differential
251	10	81.2	81	10	64.8	-16.4
291	8	62.3	81	8	55.6	-6.7

(Pierontozzi, 2006)

Most often, research about student mobility centers on the impact frequent school moves have on the academic achievement of the single mobile student. However, student mobility is detrimental to the academic achievement of non-mobile, or stable, student populations as well. Test scores for non-mobile California students were significantly lower in high schools that had high mobility rates compared to high school test scores for non-mobile students attending high schools with high stability rates (Rumberger, Larson, Ream, & Palardy, 1999). Educators in the highly mobile California high schools deemed the effect on both mobile and non-mobile student populations as a “chaos factor that impacts classroom learning activities, teacher morale, and administrative burdens—all of which can impact the learning and achievement of all students in the school” (Rumberger, Larson, Ream, & Palardy, 1999). In order to address the academic needs of all new students, teachers report that they frequently spend time “doubling-back,” reviewing and remediating course material in order to “integrate new students into the classroom” (Williams, 2003). This doubling-back slows curricula pacing and has an impact on the stable student population (Hirsch, 2006; Kerbow, 1996; Rumberger, Larson, Ream, & Palardy, 1999). Over time, this lag in curricular pacing impacts the vertical progression of subjects across the grades and the amount of academic material to which a student is exposed. This phenomenon is referred to as a “flattening of curriculum pacing” (Kerbow, 1996). In his 1996 study of the Chicago Public Schools, Kerbow concluded that distinct patterns of lags within the curriculum were evident by the end of second grade. By the end of fifth grade, the academic emphasis and rigor were “equal to a fourth grade emphasis in a stable school,” (Kerbow, 1996) a full year behind.

Urban school districts educating highly mobile students face financial burdens that are exacerbated by state policies and the federal Title I Act of 2002, *No Child Left Behind* (NCLB). Within state-implemented NCLB accountability measures, average student performance scores are the single most important factor that determines the amount of progress a school or district has made toward reaching 100 percent proficiency. Consequently, urban schools and school districts with highly mobile student populations have disproportionately failed to make significant annual gains in student achievement. The NCLB accountability framework unjustly and negatively sanctions highly mobile urban schools and school districts based upon population factors that are beyond the districts’ control.

NCLB sanctions for schools that fail to make adequate yearly progress in one or several categories result in punitive fiscal consequences that include the diversion of Title I funds; that is, when a school fails to make progress for a pre-determined amount of time, funds that could once be used to hire extra reading or math teachers for intervention or remediation with mobile students must be diverted to activities that NCLB requires, such as the provision of supplemental education services to students and families who may—or who may not—elect such services. For a variety of reasons, this diversion of Title I funds often exacerbates the difficult task of moving all students to proficiency by 2014 and impedes closing the achievement gap for minority and low-income students. In this sense, NCLB unintentionally penalizes the very students it was designed to help.

Furthermore, the accountability framework approved for Massachusetts and other states holds schools and school districts with highly mobile student populations liable for academic performance gains based on a measurement system that implicitly presumes stable student

populations. Instead of evaluating individual student progress over an educational lifetime or from the moment a student arrives into the system until he or she leaves, the accountability framework measures the academic progress of student groups in any given year against student groups of the same grade level in previous years. The compared cohorts consist of entirely different individuals. This accountability framework, without any adjustment to take into account individual student mobility, disproportionately labels effective urban schools and school districts as failing and results in Title I funds being diverted from otherwise successful educational programs. Furthermore, in smaller urban districts like Chelsea, the disparities among annual cohorts are magnified because of the smaller numbers of students in each annual group.

As part of its overall efforts to provide educational opportunities for its students and to increase academic achievement, the teachers and administrators of the Chelsea Public Schools have strived to design policies and programming that address the impact of student mobility. In addition to relying on a clearly articulated district-wide curriculum that is aligned with the Massachusetts Curriculum Frameworks (as required under the Massachusetts Education Reform Act and NCLB), the district has defined for teachers what they are to teach during each quarter of the year, when they are to teach it, and what constitutes student mastery of curricular content. Moreover, the district has continued to administer common quarterly benchmark assessments in all academic areas to measure student performance against common criteria. These assessments, coupled with core instructional practices that all teachers must adopt, provide a curricular coherence and consistency district-wide that allows educators to make as much headway as possible with mobile students in the short time that they may reside in the district. These efforts constitute a means to mitigate the already fragmented education that most mobile students receive.

Additionally, the district has adopted a model of central student registration and requires that all students be placed in a school and a classroom within 48 hours of registration. Students are no longer permitted to change schools for intra-district moves, and the registrars at the Parent Information Center place students in a school even if they lack full information about the student at the time of new registration. The district has adopted a philosophy of reassigning students if needed once full academic information is available. The district works from the premise that to have a student placed within a school system quickly is inevitably better than to deny a child's schooling for any period of time because of insufficient information about a student's academic background.

While the district cannot prevent students from transferring from or into other districts, it has adopted a policy that seeks to diminish the negative impacts of such a move on the mobile student. If, for example, parents indicate that they wish to transfer their students to another school district within the last half of the school year, district administrators make it a point to speak with parents and encourage them to stay in the district through the end of the year. Failing to persuade parents otherwise, district officers strive to convince parents and students to make changes only at the end of an academic quarter. While, as district administrators point out, this attempt to keep the mobile student within the district benefits the new, receiving school district more than it does Chelsea, administrators believe they have a moral obligation to do everything possible to soften the negative impact that an inter-district move can have on students. In this same vein, the district has adopted a policy of actively discouraging parents from taking

extended vacations to their native country if the vacation would mean a student's extended absence from school. The district disenrolls students who have been absent from school for more than 15 straight days. The burden that parents face of having to re-register a child for school after an extended absence has convinced many parents to reconsider travel plans and to schedule extended vacations at times school is out of session. For many students, this policy has resulted in the provision of an education that is less fragmented and more coherent.

Despite these new policies, much remains to be done if the Chelsea School District and other urban districts in Massachusetts are to make headway in combating the negative effects of student mobility on both individual and overall student achievement. The Chelsea School District will continue to employ techniques for triage with entering students to provide appropriate intervention and remediation for highly mobile students who are below appropriate levels of proficiency. At the same time, state and federal policies must change the ways present mandates effectively penalize urban districts by measuring student progress on a stable, suburban model. Furthermore, there needs to be an acknowledgment about the realities of urban migration and mobility and an appropriate redefinition of equitable educational funding that takes into account the real costs of mitigating the detrimental effects of high mobility for real urban students. The nearly half-century old Title I Program has long recognized the detrimental impact of poverty upon student achievement. Federal and state policies must now also recognize the impact of mobility on achievement.

© 2009

Mary M. Bourque, Ed. D.
Deputy Superintendent
Chelsea Public Schools
Chelsea, Massachusetts 02150

REFERENCES

- Boston University/Chelsea Partnership Seventeenth Annual Report to the Massachusetts State Legislature. (2008).
- Bourque, M. (2008). *The Impact of Student Mobility on Urban School Districts*. Boston University. Dissertation.
- Bourque, M. & LaPuma, A. (2006) [Chelsea Public Schools student mobility data]. Unpublished raw data.
- Commonwealth of Massachusetts Department of Education. (2006) [Student Performance Data provided to Urban Superintendents Network Association]. (October meeting). Unpublished raw data.
- Commonwealth of Massachusetts, Department of Elementary and Secondary Education (2009) Directory Profiles. Retrieved January 20, 2009, from <http://profiles.doe.mass.edu/profiles/student.aspx?orgcode=00570000&orgtypecode=5&leftNavId=30>.
- Commonwealth of Massachusetts, Department of Housing and Community Development (2000) Profile of General Demographic Characteristics. Retrieved January 7, 2007, from <http://www.mass.gov/dhcd/ipfiles/057.pdf>.
- Crowley, S. (2003). The affordable housing crisis: residential mobility of poor families and school mobility of poor children. *Journal of Negro Education*, 72(1), 22-38. E-link: http://www.findarticles.com/p/articles/mi_qa3626/is_200301/ai_9186151/print.
- Hirsch, E. D., Jr. (2006). *The Knowledge Deficit*. New York, NY: Houghton Mifflin Company.
- Holyoke Public School District. (2005). [District Transience Reports 2002-2005]. Unpublished raw data.
- Kerbow, D. (1996). Patterns of urban student mobility and local school reform. *Journal of Education For Students Placed At Risk*, 1(2), 147-169.
- Pierontozzi, A. (2006), Somerville Public School District (2005). [Student mobility data]. Unpublished raw data.
- Popp, P., Stronge, J., & Hindman, J. (2003). Students on the move: Reaching and teaching highly mobile children and youth. (Urban Diversity Series Report No. 116). Greensboro, N.C.: National Center for Homeless Education at SERVE and ERIC Clearinghouse on Urban Education (ERIC Document Reproduction Service No. ED482661).
- Rhodes, Virginia, L. (2007). Student mobility: *The elephant in NCLB's living room*. ERS Spectrum, 25(1), 1-10.
- Rumberger, R., Larson, K., Ream, R., & Palardy, G. (1999). The educational consequences of mobility for California students and schools. Report prepared for Policy Analysis for California Education, PACE, Berkeley, CA: University of California, Berkeley & Stanford University.
- U.S. Census Bureau. (2001). Annual geographical mobility population characteristics. Retrieved October 7, 2006, from <http://www.census.gov/prod/2001/pubs/p20-538.pdf>
- U. S. General Accounting Office. (1994). Elementary school children: Many change schools frequently, harming their education (GAO/HEHS 94-95). Washington, D.C.: U.S. Department of Health, Education, and Human Services Division.
- Williams, L. (2003). *Fragmented: Improving education for mobile students*. Report of Poverty & Race Research Action Council PRRAC. Washington, D. C.
- Worcester Public School District (2005). [Student mobility data]. Unpublished raw data.



**Massachusetts Association
of School Committees**

One McKinley Square,
Boston MA, 02109
(617)523-8454 (800)392-6023
FAX: (617)742-4125
www.masc.org

**MASC Board of Directors
January 2010**

President

Kathleen D. Robey, Marlborough

President-Elect

Dorothy Presser, Lynnfield

Vice President

Penny Blackwell, Upper Cape Cod
Reg. Voc. Tech.

Secretary-Treasurer

Mary Jo Rossetti, Somerville

Immediate Past President

Debra Bibeau, Amesbury

Division I

Evelyn Thoren, Chelmsford

Division II

Ann Marie Cugno, Medford

Division III

Richard Bath, Brockton

Division IV

Shirley Lundberg, Northborough-
Southborough Reg.

Division V

Angela Thorpe, East Longmeadow

Division VI

Herbert Abelow, Southern
Berkshire Reg.

Division VII

Donald Haynes, Upper Cape Cod
Reg. Voc. Tech.

Division VIII

Mindy Kempner, Southeastern
Reg. Voc. Tech.

Division IX

Jacqueline Doherty, Lowell

Massachusetts Association of School Committees Position Paper

REAUTHORIZATION OF ELEMENTARY AND SECONDARY EDUCATION ACT

The Elementary and Secondary Education Act (ESEA), also known as "No Child Left Behind," is expected to be the subject of reauthorization by the U.S. Congress in 2010. MASC and principled critics of the original legislation, including many Massachusetts educators have discussed and debated the merits of various elements of the bill. In addition, the assembled representatives of Massachusetts School Committees have approved a series of principles that we believe should direct the reauthorization of ESEA.

Based on our collaboration with our members, we propose several important reforms that will create an improved federal education policy.

Accountability

The Congress should improve state accountability systems to more accurately evaluate the performance of schools and districts. This should be done by establishing vertically aligned state content and performance standards that permit using either adequate yearly progress as a measure of success or benchmarks for student progress that establish annual expectations for growth in achievement, based on progress of a sample of other students across the state.

These accountability systems should measure the academic growth of each student using a comprehensive battery of various assessment tools¹.

Proficiency must be redefined as possessing the skills and knowledge necessary to be productive, informed, independent citizens in a global society. These skills and bases of knowledge should be defined at the state and local level and include ELA, math and other academic subjects such as the STEM subjects as well as 21st century skills that students need to be competitive in the global job market such as creativity, collaborative and interpersonal skills, tolerance, technology and media literacy, and problem-solving skills².

Adequate Yearly Progress³

We urge maintaining a system of reporting on student achievement by subgroup in order to have meaningful measures of advancement. However, we warn against a system now in place that gives schools numerous ways to fail and only one way to "make" AYP.

¹The "growth model" of accountability measurement is viewed as more helpful to educators in measuring real student progress as opposed to more standardized tests that offer snapshots of specific students at a specific point in time.

²This recognizes the importance of 21st century skills including creative, collaborative, and social skills in addition to those curriculum mastery skills now required.

³This addresses complaints that the current AYP measurements are rigid, punitive, and unreflective of more important measures of success. Currently, it is virtually impossible for schools in Massachusetts, with the highest proficiency standard in the country, to escape sanctions and, eventually, to suffer penalties under NCLB.

We support offering students with disabilities an alternate assessment for the purpose of determining AYP, provided that any such assessment is reflected in the student's Individual Education Plan and is based on the IEP team's evaluation and the services to be provided for that student and meets parent consent requirements for IEP's.

We would allow students with disabilities access to alternate assessments to include out of grade-level tests and we support basing AYP on gain/growth or adjusted scores.

We support judging the success of districts and schools based on the achievement of students served under Title I of ESEA and limit sanctions only to those served under Title I. In the alternative, we support allowing drastic school wide sanctions such as school choice to apply only to schools who have not met AYP in the aggregate for three consecutive years based on a "growth model" method of determination of AYP.

We urge counting the performance within the subgroup, for an appropriate period of time, those students who recently transitioned out of an applicable student subgroup in the subgroup accountability determinations.

High School Graduation

We believe a more reasonable measure is to extend measurement of graduation rates to within five years of entering high school and to 21 years of age for special education students who complete high school with a state-approved exit document⁴.

Educator Credentials⁵

States should set the appropriate educator standards, not the Federal government.

The Federal government should encourage states to adopt reciprocity agreements with other states to allow educators to easily transfer employment across state lines.

⁴This recognizes that districts should not be penalized for students who graduate eventually, rather than in four years. Advocates for students note that some students require more time.

⁵This asserts state rights to set teacher credentialing standards and encourages states to accept credentials of educators certified in other states.

⁶This addresses the federal mandate to use ESEA funding for private schools and applies pressure to private schools receiving federal money to perform at higher levels.

⁷This would require involvement of actual educators in setting of voluntary national standards applicable at the state level.

⁸This addresses delays in reporting of scores. Currently, students tested in May may not receive scores until after the start of the next school year, delaying important remedial services.

⁹This would be an expansion of the US Education Secretary's "Race to the Top" grant process.

Funding⁶

We support requiring all public schools, charter schools and nonpublic schools receiving federal funds to use the same state assessment and meet the same state criteria for determining AYP.

We urge allowing states to authorize a cessation of Title I support to a nonpublic school whose Title I students as a whole do not make AYP and perform at lower levels than the area public school(s) for three years or more.

National Standards

The Federal government should encourage states to adopt voluntary national standards developed by professionally qualified national organizations and practitioners.⁷

Data Systems and Reporting

The Congress should target federal funds on upgrading test delivery and scoring technology to yield quicker and more accurate data to districts, parents and schools⁸.

Best Practice Districts⁹

Grants should be available to districts willing, able and capable of becoming Best Practice Districts. Such districts must be demonstrating high quality practices that improve student learning and are able to be replicated in other districts. Furthermore, the district must possess the requisite capacity to promote the dissemination and implementation of the practices to other schools and districts.

Contact:

Kathleen D. Robey, President, MASC (Marlborough School Committee)

Elaine Webb, Member, Reading School Committee



**Massachusetts Association
of School Committees**

One McKinley Square,
Boston MA, 02109
(617)523-8454 (800)392-6023
FAX: (617)742-4125
www.masc.org

**MASC Board of Directors
January 2010**

President

Kathleen D. Robey, Marlborough

President-Elect

Dorothy Presser, Lynnfield

Vice President

Penny Blackwell, Upper Cape Cod
Reg. Voc. Tech.

Secretary-Treasurer

Mary Jo Rossetti, Somerville

Immediate Past President

Debra Bibeau, Amesbury

Division I

Evelyn Thoren, Chelmsford

Division II

Ann Marie Cugno, Medford

Division III

Richard Bath, Brockton

Division IV

Shirley Lundberg, Northborough-
Southborough Reg.

Division V

Angela Thorpe, East Longmeadow

Division VI

Herbert Abelow, Southern
Berkshire Reg.

Division VII

Donald Haynes, Upper Cape Cod
Reg. Voc. Tech.

Division VIII

Mindy Kempner, Southeastern
Reg. Voc. Tech.

Division IX

Jacqueline Doherty, Lowell

Massachusetts Association of School Committees Position Paper

Non-Budgetary Priorities

Thanks to the Massachusetts Congressional Delegation

Once again, public education can boast no better friends than the members of the Massachusetts congressional delegation. It is second to none in its commitment to public schools, high standards, reasonable linkage between mandates and regulation, and a keen sense of how to put its values into action.

Moreover, over the past five years, the support of our congressional delegation has been critical to achieve three major public policy priorities supported by MASC:

- Defeating proposals to cripple the Perkins Act. As a result, our vocational technical high schools will continue to receive federal financial support for important initiatives and support from a discrete line item in the budget.
- Attempting to make improvements to the poorly crafted "No Child Left Behind Act," a voluminous piece of legislation that, particularly as implemented in Massachusetts, has undermined efforts of local educators.
- Opposing the privatization of Social Security and articulating so forcefully the arguments in favor of the program for retiree benefits, protection for disabled workers and surviving spouses, and preservation of benefits for dependent children – most of whom are public school students at economic and social risk. Massachusetts lawmakers were among those most articulating the need to resist tampering with Social Security and or to promote privatization alternatives.

In addition, Congress is acting to bring access to health care to most Americans through a system of insurance and health and medical service reforms. Children at risk cannot learn if they and their families are at risk for undiagnosed and untreated vision, dental, hearing, general and mental health problems. We applaud the members of the Massachusetts congressional delegation for working tirelessly to insure every child and adult in 2009 and 2010.

MASC recognizes that the Congress confronts a serious federal budget crisis. The combination of tax cuts, military and defense appropriations, and demands for public safety and social services have created an unprecedented federal deficit without the resources to resolve all the critical issues in a short time frame.

The options available are limited by the realities for the budget and the political alignment that runs contrary to what we believe is a forward looking agenda for public schools.

Accordingly, we have provided a Position Paper to identify several strategies that do not involve the budget. We believe that there are some important steps that Congress can take that have no cost implications and which may, if approved, ameliorate the hostile regulatory climate for education and replace it with a system of incentives and support.

1. No Child Left Behind – Securing Important Administrative and Regulatory Changes to the Law.

The regulatory burden for schools under the law, coupled with already significant state regulation make NCLB problematic. Even if the law were not over \$90 billion underfunded, the administrative burden is crushing. We have included in an informational packet recommendations from the National School Boards Association that will identify some of the cumbersome, counterintuitive, and overwhelming regulatory requirements of the law that serve no real educational purpose. We have developed a separate position paper related to NCLB.

2. Perkins Act - Protect Vocational Technical High Schools by Opposing Any Effort to Incorporate Perkins Act Funding Into Block Grants.

We commend to you more detailed recommendations dealing with a range of federal legislative proposals developed in collaboration with the National School Boards Association.

3. Establish Prerequisites for Promulgation of Federal Regulations Related to Education

We believe that the equivalent of a "Paperwork Reduction Act" should be enacted to measure the dollar and time costs of compliance with federal education regulations before such regulations may be promulgated. It

was recently disclosed that simply responding to the Race to the Top application at the state level requires about 650 person hours. Local applications for school districts to collaborate in planning for federal RTTT funds will take hundreds of person-hours. In Massachusetts, it is estimated that every educator in a public school system diverts on average 160 person hours per year to comply with federal and state regulatory requirements.

If our schools are to educate children, we see little value in spending dozens of hours in regulatory compliance that do not affect or relate to the delivery of services directly to children or in supporting the teacher specialists, counselors, therapists, other professionals and administrative personnel who assist classroom teachers in their work.

For further information contact:

Kathleen D. Robey, President, MASC (Marlborough School Committee)

Debra Bibeau, Immediate Past President, MASC (Amesbury School Committee)

Dorothy Presser, President-Elect, MASC (Lynnfield School Committee)

Penelope Blackwell, Vice President, MASC (Upper Cape Cod Regional Vocational Technical School Committee)

Mary Jo Rossetti, Secretary-Treasurer, MASC (Somerville School Committee)

LEGISLATIVE HIGHLIGHTS

On March 16, 2010 the Joint Committee on Education issued their final report on all bills heard by the Committee with the exception of a few bills for which the time for reporting was extended. The following is a summary of various legislation of importance to school committees:

1.) H.487 Special Education Attorneys' Fees

The Education Committee reported H.487 favorably. This bill has enormous ramifications for school committees.

- IDEA provides a comprehensive framework for the delivery of services to special education students and for protecting the procedural rights of parents and students. Since, 1986, IDEA has provided that parents are entitled to fees if they “prevail” in a “proceeding” about disputed services. The federal courts have interpreted the attorneys’ fee language in IDEA consistent with other similar statues allowing winning plaintiffs to recover attorneys’ fees: fees can be recovered if you win at a hearing. H.487 will dramatically expand the rights of parents in special education disputes who recover fees to include resolutions achieved by mediations, settlement discussions and other pre hearing situations.
- This expansion of the attorneys’ fees rules will not “level the playing field”. It will give parents in special education disputes far greater rights than any other plaintiffs under civil rights or entitlement laws similar to IDEA which contain attorneys’ fees provisions.
- IDEA 2004 procedures encourage resolution of special education disputes at the earliest stages; for example, the law mandates a “Resolution Meeting” and encourages mediation to afford the parties an opportunity to work out their differences. Attorneys are very rarely involved in these meetings, and they are often very productive. Expanding the availability of attorneys’ fees to the pre-hearing phases of the statutory due process procedures will have a chilling effect on resolution of due process claims prior to hearing.
- Expanding the right to recover attorneys’ fees will have a significant financial impact on each and every school district in the Commonwealth. It will not only expose the districts to costs of parents attorneys far in excess of what the federal law requires, it will also increase the district’s own legal fees, as schools will have to get their attorneys involved much earlier in the process. It is important to note that generally the rate for legal services charged by parents’ counsel is significantly higher than the rate charged by schools’ attorneys.
- House 487 will dramatically increase special education costs for virtually every school district and also the Commonwealth of Massachusetts. Costs will increase at a time when the Circuit Breaker account contained in the state budget has recently been cut nearly in half.
- It is important that you contact your legislators to request their opposition to House 487.

2.) H.424 An Act Relating to School Improvement Plans.

This MASC legislation requires that school committees as well as superintendents review and approve school improvement plans. Recently, the longstanding requirement for school committee review and approval of such plans was removed through the State Budget. MASC believes that this authority is within the policy role of school committees. This bill was reported favorably by the Education Committee and is currently in the House Committee on third reading.

3.) H.480 An Act Relating to Third Party Payments

This bill as filed by MASC and MASS directs that school districts shall receive 100% of municipal Medicaid reimbursements granted by special education diagnostic services. On March 16th the Joint Committee on Education reported favorably S.265 with H.480 attached. S.265, An Act Relating to Equitable School Reimbursement Funds requires that school committees will receive not less than 50% of Medicaid funds to be held in a separate account subject to appropriation by the committee. MASC supports the compromise language and urges you to communicate your support of S.265 to your legislators.

4.) H.481 An Act Relative to Special Education

This MASC sponsored bill requires that the Department of Children and Family Services pay for a residential placement mandated by them, until an individualized education plan concludes that a current day collaborative or public entity placement no longer meets the needs of the child. The Education Committee, at the request of MASC, has extended the time for reporting on this legislation until June 4th. Please contact your legislators to support this bill.

5.) H.501 An Act Relative to Mobile Student Population

MASC filed S.280 sponsored by Sen. Jehlen, to address problems caused by educating a mobile population. S.280 was attached to H.501, sponsored by Rep. Sciortino that received a favorable report, as redrafted from the Education Committee. Mobile students are defined as any student who enrolled in the district for less than one academic year. H.501, subject to appropriation, requires that DESE shall develop a pilot grant program for school districts with high mobile student enrolment for the purpose of implementing programs to ensure the successful transition and academic success of mobile students. Please ask your legislators to support H.501.

6.) H.3435 An Act to Help Students Stay in School

H.3435 received an extension of time until June 4th for the Education Committee to issue a report. MASC, and other associations representing professional school personnel, strongly opposed the passage of this bill. This bill would, if passed, radically rewrite school exclusions statutes by, among other matters, limiting the exclusion to 90

school days. Furthermore, the current statute allows an exclusion from school for possession of a controlled substance rather than "trafficking" in a controlled substance. Also, this bill will convert school hearings into judicial trials. Principals, superintendents and school committees testified in opposition to this bill and we request that you record your opposition with your legislators.

7.) S.210 An Act Relative to Ensuring the Safety of Children

S.210, as drafted, was given a favorable report by the Education Committee on March 16, 2010. This bill allows a superintendent access to criminal offender record information from a national criminal background check of any prospective employee or contractor of the school department, who may have direct and unmonitored contact with children. This bill will correct a loophole in current law that limits access to the Massachusetts Criminal History Systems Board. The MASC Legislative Committee has endorsed this legislation. Please ask your legislators to support S.210.

8.) H.415 An Act Relative to Pricing for Chapter 71B Approved Private School Programs

H.415 promotes the recruitment and retention of all approved special education private schools direct care staff, by allowing the division of purchased services, in their rate setting capacity, to ensure that benefits and salaries are comparable to the benefits and salaries of similar employees in public schools or relevant agencies of the Commonwealth. At a time when public schools will be laying off thousands of employees MASC does not support a dramatic expansion of rates paid to private 766 schools. This bill received a favorable report, as redrafted, from the Education Committee. We urge you to communicate your opposition to H.415 to your legislators.

9.) H.385 An Act Relative to Student Dress Codes

H.385 concerning student dress codes received a favorable report from the Education Committee. This bill makes it easier to establish student dress codes than is currently allowed under Massachusetts law. The MASC Legislative Committee voted to support this bill and we request that you support its passage when talking with your legislators.

legislative bulletin

Massachusetts Association of School Committees, Inc. One McKinley Square, Boston MA 02109
(617) 523-8454 (800) 392-6023 fax: (617) 742-4125 www.masc.org

To: All School Committee Members and Superintendents

From: Stephen J. Finnegan, Esq.

Date: March 12, 2010

SUBJECT: SPECIAL EDUCATION LEGISLATION INCLUDING H. 487 ATTORNEYS' FEES AND S. 223 TO IMPROVE AUGMENTATIVE COMMUNICATION OPPORTUNITIES FOR SPECIAL EDUCATION STUDENTS

BRIEF OVERVIEW OF RECENT SPECIAL EDUCATION HEARING

Based upon the substantial number of special education bills that received a favorable report from the Joint Committee on Education in 2008, I suggested to Association for Special Educators (ASE-Massachusetts), directors of special education, and MASS that we prepare for the October 20, 2009 special education hearing as a group and solicit several people to testify on each bill that we either jointly support or oppose. As a result of the above-referenced group's collaboration we were able to have several individuals testify on various bills and the quality of the testimony from SPED directors, superintendents, school committees and attorneys was substantive and persuasive. Recently a favorable report was issued on House 487, concerning the payment by school committees of attorneys' fees for parents who prevail concerning a special education placement. MASC, MASS, and ASE have mutually agreed on the below-referenced talking points regarding House 487. In summary, this bill moves the current attorneys' fees standard from prevailing at a hearing to a much earlier and less adversarial time in the process; such as, mediation, settlement, resolution meetings etc. The hourly rates charged by attorneys for parents are frequently double those charged by school attorneys.

Please confer with your superintendent and special education director, who have also received the bullet points below-referenced, and try to establish a reasonable estimate of the potential cost of this bill for your district. MASC urges you to contact your legislators registering your opposition to House 487 using the bullet points and relevant information concerning the impact to your district of the passage of this bill. Also we request that you email to MASC the correspondence and the position of your legislators on House 487.

Our efforts before the Joint Committee paid dividends with S. 227 and H. 489 being placed in a study committee, which is a polite way of killing a bill. S. 227, which was given a favorable report in 2008, would have shifted the burden of proof to the school committee in any BSEA or court hearing, and H. 489 would have given SPED students or their parents the right to accept or reject graduation so that they could receive services from the system until they reach the age of 22.

Finally, S. 223, now S. 2293, was reported favorably as amended by the Joint Committee on Education. Section 1 of this bill requires that teachers prior to their initial certification be trained in augmentative and alternative communication opportunities for children with disabilities. Presumably this training would take place in their undergraduate institution. Section 2 of S. 2293 amends G.L.c. 71, S. 38Q by requiring every school district to provide professional development for their staff to address the needs of sped students "including those students who are nonverbal or who have limited speech and rely on augmentative and alternative communication." We are concerned about the cost of this professional development or in the alternative the possibility of bumping some other aspect of required professional development. Therefore, MASC is opposed to section 2 of S. 2293. Your support of our position with your legislators would be appreciated.

HOUSE 487 ATTORNEYS' FEES

- IDEA provides a comprehensive framework for the delivery of services to special education students and for protecting the procedural rights of parents and students. Since 1986, IDEA has provided that parents are entitled to fees if they "prevail" in a "proceeding" about disputes.

over

services. The federal courts have interpreted the attorneys' fee language in IDEA consistent with other similar statutes allowing winning plaintiffs to recover attorneys' fees: fees can be recovered if you win at a hearing. H487 will dramatically expand the rights of parents in special education disputes who recover fees to include resolutions achieved by mediations, settlement discussions and other pre hearing situations.

- This expansion of the attorneys' fees rules will not "level the playing field". It will give parents in special education disputes far greater rights than any other plaintiffs under civil rights or entitlement laws similar to IDEA which contain attorneys' fees provisions.
- IDEA 2004 procedures encourage resolution of special education disputes at the earliest stages; for example, the law mandates a "Resolution Meeting" and encourages mediation to afford the parties an opportunity to work out their differences. Attorneys are very rarely involved in these meetings, and they are often very productive. Expanding the availability of attorneys fees to the pre-hearing phases of the statutory due

process procedures will have a chilling effect on resolution of due process claims prior to hearing.

- Expanding the right to recover attorneys' fees will have a significant financial impact on each and every school district in the Commonwealth. It will not only expose the districts to costs of parents' attorneys far in excess of what the federal law requires, it will also increase the district's own legal fees, as schools will have to get their attorneys involved much earlier in the process. It is important to note that generally the rate for legal services charged by parents' counsel is significantly higher than the rate charged by schools' attorneys.
- House 487 will dramatically increase special education costs for virtually every school district and also the Commonwealth of Massachusetts. Costs will increase at a time when the Circuit Breaker account contained in the state budget has recently been cut nearly in half.
- It is imperative that you contact your legislators to request their opposition to House 487 as soon as possible. Please let your organization know of your legislative contacts and their responses.

DAY ON THE HILL

March 30, 2010

State House, Boston

**The port for school leaders
in the fiscal storm!**

*Your opportunity to hear from the
legislative leadership and present
your concerns at this critical time.*

Register now: www.masc.org

MASC Staff

Glenn Koocher
Executive Director

Jenifer Handy
Communications Director

Carol Grazio
Director of Operations

James Hardy
Field Director—Policy

Patricia Correira
Field Director—Training and Development

Michael Gilbert
Field Director—Information and Technology

Kari MacCormack
Graphic Designer

Jennyfer Cabral
Operations Coordinator

Nanette Olsen
Member Services Coordinator

Stephen Finnegan
General Counsel