



State of New Mexico
OFFICE OF THE STATE AUDITOR

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Auditor Keller Releases Special Audit of Historical Shortfall in Special Education Funding
*Auditor Urges Public Education Department to Ensure the Needs of Our State's
Most Vulnerable Children Are Met*

SANTA FE – Today, the New Mexico Office of the State Auditor (OSA) released a Special Audit of New Mexico's special education funding. The audit, which was conducted by the independent public accounting firm Atkinson & Co., found an historical shortfall of over \$100 million in the amount of money our state has allocated for special education. This significant problem places federal funding at risk.

“This report highlights serious shortcomings in our state's ability to serve special education students, who are some of the most vulnerable participants in our education system and deserve better,” stated Auditor Keller. “We have made recommendations to the Public Education Department to fix the systemic issues that were revealed. This is another piece of the puzzle of system-wide challenges that plague our educational system and should be addressed.”

The report and letter from Auditor Keller to PED and members of the Legislature are available here: [http://osanm.org/media/audits/924 -
Public Education Department Examination Report Sept 1 2015.pdf](http://osanm.org/media/audits/924_-_Public_Education_Department_Examination_Report_Sept_1_2015.pdf)

The federal Individuals with Disabilities Education Act – Part B, commonly known as IDEA-B, is a critical piece of the complex special education funding system. In order to receive this federal funding, each state must demonstrate that in the current year, it has met or exceeded the level of special education funding for the previous year. This requirement is generally known as “maintenance of effort” or “MOE.” If a state fails to meet the MOE requirement in a specific year, the federal government may impose penalties that include fines and a decrease in future federal funding.

The following are among the most concerning items in the Special Audit:

- The potential cumulative shortfall in special education funding from July 1, 2009 to June 30, 2012, based on the Public Education Department's (PED) calculations, is \$110,872,925.
- PED “checked the box” on federal reporting, saying the state had met MOE levels in 2010, 2011 and 2012. However, the audit states, “The positive assurances were based on uncertain calculation methodology and were not ultimately accurate.”

- Despite awareness of problems with the calculation of maintenance of effort in 2009 and identification of maintenance of effort as an issue to be addressed in the transition of administrations in 2010, the Special Audit found “no communication with the Legislature in [fiscal year] 2010 or [fiscal year] 2011.”
- The state continues to struggle to demonstrate compliance with MOE requirements because it does not have accurate and consistently available documentation from schools and state and local education agencies.

PED is currently in a legal dispute with the U.S. Department of Education as to how to calculate New Mexico’s special education funding level, given the unique nature of New Mexico’s funding formula for education. However, it is not disputed that during the audited period, our State failed to maintain a steady level of funding for special education under any method of calculation, even if that failure does not constitute a violation of federal laws or regulations. For fiscal years 2013 and 2014, the legislature authorized special appropriations to help address a shortfall in MOE.

“No matter which method you use to run the numbers, the state failed to maintain a steady level of funding for special education, and that puts our most vulnerable children at risk,” stated Auditor Keller. “Like other finance issues in state government, it’s time to address the root cause and stop relying on emergency stop gaps from the legislature.”

Fiscal Year	Amount of Shortfall based on Final NM PED unapproved methodology (under appeal)
Fiscal Year 2010	\$ 46,305,917.00
Fiscal Year 2011	\$ 35,196,129.00
Fiscal Year 2012	\$ 29,370,879.00
Subtotal for Special Audit Period Fiscal Years 2010-2012	\$ 110,872,925.00

The OSA makes the following recommendations to address the concerns:

- PED and all local education agencies are strongly encouraged to modernize and systematize all reporting related to special education MOE. The OSA will test reporting at the state and local level on an ongoing basis through the annual audit process.
- The legislature should continue close monitoring of special education funding in general, and maintenance of effort in particular at the district and school level.
- Local districts and schools educational entities should foster an open dialogue with the families of special education students about the realities of funding and day-to-day services.

“Parents of special education students work so hard to advocate for their kids in the system, and our educational system owes it to them to get their kids the resources they need,” concluded Auditor Keller.