

STATE OF CONNECTICUT



PERFORMANCE AUDIT

**The State Department of Education's Approval Process of
Private Special Education Programs and Oversight of
Non-approved Programs**

AUDITORS OF PUBLIC ACCOUNTS

JOHN C. GERAGOSIAN ❖ ROBERT J. KANE

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Acronyms

Acronyms	Definition
APA	Auditors of Public Accounts
APSEP	SDE-Approved Private Special Education Program
BSE	Connecticut State Department of Education Bureau of Special Education
IEP	Individualized Education Program
PPT	Planning and Placement Team
SBE	Connecticut State Board of Education
SDE	Connecticut State Department of Education



The State Department of Education's Approval Process of Private Special Education Programs and Oversight of Non-approved Programs

Audit Objectives and Overview

The purpose of the audit was to examine the State Department of Education's (SDE) process for approving private special education programs (APSEP). The audit also determines whether SDE performs a similar function for non-approved schools that receive state or local funds.

In this audit, the findings and recommendations will supplement our office's ongoing audits of all SDE-approved and non-approved private providers of special education that receive state or local funds.

We reviewed relevant statutes and regulations and conducted interviews with SDE staff on the approval process. In addition, we conducted interviews with the private providers to gather their opinions about the approval process. We also shadowed SDE staff on a 2-day site visit to observe the approval/re-approval process.

Findings

1. The SDE directory (published in 2014) describing all SDE-approved private special education programs (APSEP) in Connecticut is out-of-date.
2. Although SDE conducts a comprehensive and thorough review of private special education programs seeking SDE approval to ensure they meet all required standards, SDE only provides the final report to the program seeking approval.
3. Schools cannot apply electronically for SDE approval/re-approval, although many would like to, making it a burdensome, paper-based process for those schools.
4. The SDE review of financial audits, submitted as part of the application process, is insufficient.
5. The schools providing special education programs have no outcome measures on program quality to gauge overall school performance.

Recommendations

1. The State Department of Education should annually update the directory that contains information about each approved private special education program. The directory should also include additional information, such as the school's web address.
2. The State Department of Education should include a link on its website that provides the full SDE approval report for each approved private special education program, the date the APSEP received approval, and the date the school completed any necessary corrective action identified in the report.
3. The State Department of Education should permit private special education schools to apply electronically for SDE approval or re-approval.
4. The State Department of Education Bureau of Special Education should forward financial reports submitted by schools as part of its approval/re-approval application to the SDE Office of Internal Audit for a more comprehensive financial review.
5. Each approved school providing special education programs should develop performance measures that fairly assess its outcomes. Each school should annually post its measures and outcomes on its website.

STATE OF CONNECTICUT



AUDITORS OF PUBLIC ACCOUNTS

State Capitol
210 Capitol Avenue
Hartford, Connecticut 06106-1559

JOHN C. GERAGOSIAN

ROBERT J. KANE

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AUDITORS' REPORT THE STATE DEPARTMENT OF EDUCATION'S APPROVAL PROCESS OF PRIVATE SPECIAL EDUCATION PROGRAMS AND OVERSIGHT OF NON-APPROVED PROGRAMS

Audit Objectives and Overview

We have audited certain aspects of the State Department of Education in fulfillment of our duties under Section 10-91g of the General Statutes, which requires the Auditors of Public Accounts (APA) to conduct audits of all State Department of Education (SDE) approved and non-approved private providers of special education that receive local or state funds. Sections 2-90 (i) and Section 10-91g of the General Statutes specify our duties related to these audits. As APA began to address this statutory requirement, we determined it would be helpful to gain a better understanding of the program approval process and criteria used by the State Department of Education for private special education programs. APA wanted to ensure the process and criteria used incorporated best practices. In addition, our office wanted to determine what level of oversight there is for private special education programs that are not approved by SDE but receive state and local funds under certain limited circumstances. The scope of our audit included, but was not necessarily limited to the fiscal year ended June 30, 2017.

The objectives of our audit were to:

1. Examine Section 10-76a – 10-76h of the General Statutes, Sections 10-76a-1 to 10-76d-18 of the Regulations of State Agencies, and the 1998 SDE document entitled Principles, Procedures and Standards for the Approval of Private Special Education Programs, that schools must meet in order to receive SDE approval; and
2. Determine the level of SDE oversight of non-approved programs receiving public special education funds, and determine whether to expand that oversight.

With a few exceptions, school districts are required to send students who need special education services to an SDE-approved private special education program (or in the case of transitional/vocational programs to an SDE-qualified program) in order to be eligible to receive

state excess cost grant reimbursement administered by SDE for high-expense students to help offset school district costs.

There are 4 exceptions to the requirement to utilize an SDE-approved provider and maintain eligibility for state excess cost grant funds. They include: 1) students attending a non-approved Connecticut program as a result of a mediated settlement or formal SDE hearing decision that found the non-approved private special education program best meets the child's needs after the child's parent or guardian disputed the recommendation of the planning and placement team (PPT); 2) students attending an out-of-state private special education program that is not approved by that state's educational agency, but the placement was the result of the parents unilaterally placing the student for other than educational reasons and the school district agreeing to actively participate in the student's individualized education program. It could also be the result of a mediated settlement or formal hearing; 3) the private special education program is located out-of-state and is approved by that state's SDE counterpart; or 4) transition/vocational service providers that are approved as vendors by another state agency and SDE-qualified as programs eligible to receive excess grant funds.

Methodology

We used a variety of sources and methods to conduct research for this audit, including a review of statutory, regulatory, and policy requirements for the private special education program approval process. We reviewed public comments submitted during the 2012 revision of the regulations, and held multiple interviews with SDE staff responsible for approving or reapproving private special education programs. We also reviewed literature to determine if best practices exist regarding state approval process of special education programs. In addition, we:

- Interviewed individuals representing educational associations, including Connecticut Association of Private Special Education Facilities;
- Performed a desk review of applications submitted by two private special education programs at SDE;
- Accompanied SDE staff on a 2-day field visit to observe the approval/re-approval process; and
- Researched websites of state education departments in Maine, Massachusetts, and New Hampshire to review the information published by those states regarding their approval process for private special education programs.

We obtained an understanding of internal controls that we deemed significant within the context of the audit objectives and assessed whether such controls have been properly designed and placed in operation. We tested certain of those controls to obtain evidence regarding the effectiveness of their design and operation. We conducted our audit in accordance with the standards applicable to performance audits contained in Government Auditing Standards, issued by the Comptroller General of the United States. These standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides such a basis.

The accompanying overview is presented for informational purposes. The data was obtained from the department's management and was not subjected to the procedures applied to our audit of the department.

For the areas audited, we determined:

1. The State Department of Education directory (published in 2014) describing all SDE-approved private special education programs (APSEP) in Connecticut is out-of-date.
2. Although the State Department of Education conducts a comprehensive and thorough review of private special education programs seeking its approval to ensure they meet all required standards, SDE only provides the final report to the program seeking approval.
3. Schools cannot apply electronically to the State Department of Education for approval/re-approval although many would like to do so, making it a burdensome, paper-based process for those schools.
4. The State Department of Education review of financial audits, submitted as part of the application process, is insufficient.
5. The schools providing special education programs have no outcome measures on program quality to gauge overall school performance.

BACKGROUND

SDE Authority

The State Department of Education Bureau of Special Education (BSE) conducts the program approval process to ensure that the program complies with federal and state laws before providing state excess cost grant funds to school districts for students placed in a private special education program. Sections 10-76b and 10-76d of the General Statutes give the State Board of Education (SBE) the authority to regulate and supervise the education of all children requiring special education who are residing in or attending any private or public facility receiving money from the state. Section 10-76d-17(d) of the Regulations of Connecticut State Agencies further describes the process that private special education programs must follow, along with some of the criteria that must be met in order to submit an application and receive approval of their programs by the state board. SDE acts on behalf of the board in conducting the review.

Many of the standards contained in the 1998 SDE Principles, Procedures and Standards for the Approval of Private Special Education Programs are incorporated into revised regulations adopted in 2012 and implemented on July 1, 2013. Although SDE is currently updating the 1998 standards, according to department staff, most of the requirements in the document remain unchanged. When finalized, SDE staff will present the document to the SBE for approval.

Eligibility

In accordance with state regulations, in order for a private special education school to apply to SBE for approval of a program, the program must have been in operation for at least 1 year and served at least 10 children. Based on fall 2015 data, there were 2,738 students enrolled in 65 SDE approved private special education programs (APSEP). There were an additional 3 APSEP, but they did not have any students enrolled in their programs at that time. Furthermore, an additional 10 private special education programs in Connecticut had not applied to SDE for approval, and those programs served 76 students. Non-approved programs often do not meet the criteria for SBE approval and therefore do not seek the board's approval.

The sole role of APSEP is to implement student individualized education programs (IEP) developed by a planning and placement team (PPT) in students' home school districts. The IEP identifies the appropriate services and supports required for students identified as needing special education.

Population Served

Approved private special education programs serve a wide age range of students from preschool (beginning at age three years old) to individuals up to 21 years old. Some APSEP specialize in educating students with a particular disability, while others provide services to students with a wide range of disabilities.

APPROVAL PROCESS AND CRITERIA

The SDE approval/re-approval process consists of three major components:

- The submission of an application by the private program and the corresponding desk review by SDE staff;
- A 1-day on-site review of the APSEP by an SDE staff person; and
- A 1-day on-site review of the private program by the three-person review team.

Desk Review of Application

State regulations and the 1998 State Department of Education standards apply to private special education programs in Connecticut-based private day and residential schools, hospitals, rehabilitation centers, and treatment centers. A private facility that is either seeking approval or re-approval as an APSEP in Connecticut must meet prerequisites to submit an application and indicate in writing to the SBE its intent to seek approval/re-approval. To initiate the process, the private program must prepare and submit a 30-page application, along with completed forms and other materials demonstrating to SDE that the program met all laws, regulations, and standards.

The application, developed by the State Department of Education, reflects the requirements mandated in statute and regulation, and in the 1998 document outlining the principals, procedures, and standards. In addition, the applicant must provide and implement policies and procedures that ensure compliance with provisions of Individuals with Disabilities Education Act (IDEA), Section

504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. section 794, Connecticut General Statutes, and all other federal and state laws as well as local regulations. The 1998 document covers 11 areas (shown in Table 1) that reflect the standards, adopted by SBE, for approval or re-approval.

Governance	Evaluation of Student Process and Reporting Responsibilities
Administration	Student Management Techniques
Fiscal Management	Qualifications and Requirements for Instructional Administrative and Support Personnel
Admissions	Health and Safety
Individual Student Records	Termination of Enrollment
Program Requirements	

Typically, the approved private special education provider applicant submits the requisite information to the State Department of Education approximately 1 week before department staff conducts an on-site review. If SDE deems that the private program is eligible to apply for approval or re-approval at the desk review phase, it establishes a tentative timeline for conducting the process. SDE staff thoroughly reviews the application and discussions occur between the SDE staff and the school administrator if questions arise or documentation is missing prior to the on-site review.

On-Site Review – Day 1

The first day of the on-site review consists of:

- Meeting with the school administrator to share comments regarding the application;
- Reviewing student files;
- Examining health records;
- Inspecting the school, including any “time-out” areas;
- Reviewing emergency drill records;
- Reviewing the annual compilation of restraints and seclusions;
- Reviewing personnel files, including a check of references, criminal records check, finger prints, performance evaluations, and professional development activities;
- Interviewing the program’s education director;
- Discussing preliminary impressions with the administration; and
- Explaining to the administrator what will occur on the 2nd day of the site visit with the three-person review team.

On-site Review – Day 2

For the second day of the on-site review, State Department of Education staff establish a review team consisting of a staff person, an education administrator from an approved private special education program, and a special education administrator from a school district. SDE distributes notifications of review dates and team duties to the team. This review continues the Day 1 site visit tasks, as well as classroom observations, interviews of teachers and providers of related services, reviews of curriculum and behavior management systems, and an exit interview to share team members' impressions, including any standard deficiencies noted.

Issuance of Preliminary Report

Upon completion of the three-step review process and consultation with other team members, SDE prepares a preliminary report for review by its Bureau Chief of Special Education (BSE). This report consists of 3 sections:

1. Commendations – areas that SDE staff and other team members believed the school did particularly well in and could be considered a best practice;
2. Recommendations – the school is not required to implement these, but the SDE staff and other team members believe they would improve the overall school program; and
3. Required Actions to address any Standard Deficiencies – SDE bases standard deficiencies after a review of all the documents submitted and the data collected during the on-site review process. This report also indicates either a recommendation for approval, conditional approval (if the private program is not already approved), or disapproval. If the BSE recommends approval, the approval may be from 1 to 5 years. If BSE approves the private program for the first time, the approval is conditional for 1 year with another review process scheduled in the following year.

After review and approval by the special education bureau chief, SDE is to issue a preliminary report to the chief administrator of the private special education school. If the private school agrees with the preliminary report, including the required actions, it must notify the SDE bureau chief in writing. SDE can approve a program even when required actions are necessary, as long as the program agrees to implement the actions and provide SDE supporting documentation. For newly approved programs, the same process is used but approval is conditional for 1 year; and SDE must conduct another review prior to the expiration of the one-year approval.

For reapproved programs, the Commissioner of Education issues a letter indicating the program's approval for between 3 to 5 years.

The final step in the approval process is the issuance of the letter from the education commissioner to the private program indicating SDE approval, conditional approval or disapproval, the student capacity and age range of the program's approval, and the duration of the approval. SDE prepares a final evaluation report denoting the major components of the approved program that is on file at SDE.

Ensuring the Implementation of Corrective Action

The SDE staff person assigned to the private program's review process is responsible for tracking the completion of the required actions. The report outlines a timeline that the private program has to complete these actions. There is a connection between the nature of the required action and the timeline set. SDE maintains an internal form for tracking the completion of required actions to document the receipt and adequacy of the evidence submitted.

The SDE staff working with the APSEP sends reminders via e-mail or memoranda if evidence is late or insufficient.

Outcome of Approval Process

According to interviews with SDE staff, all schools that have applied to SDE for program approval have received it. In addition, the department has never terminated a school's approval status. According to SDE staff, this occurs because prior to a school even submitting an initial application, there are several discussions regarding whether the school would likely meet the criteria necessary for approval. This informal discussion prevents some applications from ever being submitted. Additionally, some schools do not seek approval because they do not meet the administrative or statutory special education certification requirement, or other criteria required.

Annual Attestations between Reviews

Finally, in between the review cycle, each APSEP must submit to SDE an annual attestation of its compliance with the standards outlined in the department's "Principals, Procedures, and Standards for the Approval of Private Special Education Programs" by October 15th. This attestation includes copies of the current local fire and health certificate for the APSEP, and any required certifications or licensures for new staff hired by the APSEP. An annual audit report must be available to SDE and sending school districts upon request. Standard deficiencies can result from an APSEP failure to submit this attestation or failure to demonstrate compliance with local fire and health codes.

Additional Required Approval if Programmatic Changes Occur between Review Cycles

SDE requires prior notification and approval, including an on-site review, for the following changes:

- Program location;
- Age of students served;
- Type of educational program provided;
- Type of disabling condition of students served; and
- Number of students served when change is more than 10% in 1 academic year (less than 10% change only requires notification).

Revision to the standards

As noted above, the 1998 standards are currently undergoing revision. Since the revised document was still in draft form at the time of this audit, SDE did not share it with us. SDE staff indicated to us that most of the changes would be minor, including updating the document to include any statutory requirements adopted since 1998, and substituting current terminology for outdated language.

APA OBSERVATION OF SITE VISIT

APA attended part of a 2-day site visit led by State Department of Education staff to observe the process. We believe that it is a thorough process. SDE and the school administrator discuss in detail the application and accompanying documentation. SDE notes any information that is incorrect or lacking documentation and explains which corrections are necessary for approval. The school can correct some of these deficiencies immediately, while others require the school to develop or update certain policies in any of the 11 areas noted above.

On the 2nd day of the site visit, we observed discussion among the 3 team members regarding what they liked and what they thought needed improvement or corrective action. Based on our observations, the review was comprehensive.

STATE AUDITORS' FINDINGS AND RECOMMENDATIONS

The State Department of Education Directory of Approved Private Special Education Programs is Outdated

Finding 1: The State Department of Education directory (published in 2014), describing all SDE-approved private special education programs (APSEP) in Connecticut, is out-of-date.

APA believes the directory is an important resource for parents, guardians and other members of planning and placement teams responsible for recommending outplacements for students. The directory should serve as a guide and be available on the department's website.

Recommendation: The State Department of Education should annually update the directory that contains information about each approved private special education program. The directory should also include additional information, such as the school's web address. **(See Recommendation 1.)**

Agency Response: "We agree. Collaboration is underway to enhance the information available regarding each APSEP listed on EdSight (the Department's data warehouse tool) to include a link to each APSEP's Website. Each APSEP would also have the opportunity to directly update key material and contact information in real time, ensuring that the information available to the public via EdSight is continually updated and therefore current. The current link to the APSEP Directory on the BSE Webpage will be removed and replaced by a list of current programs and their Websites, and/or a link to EdSight."

The Report Issued by the State Department of Education Regarding Program Approval Should be More Widely Available

Finding 2: Although the State Department of Education conducts a comprehensive and thorough review of private special education programs seeking SDE approval to ensure they meet all required standards, SDE only provides the final report to the program seeking approval.

SDE requires that all programs that seek re-approval must undergo a review every 3 to 5 years, while new schools receive conditional approval for 1 year and then undergo another review before the approval expires. SDE finalizes the report once the private special education school director agrees, in writing, to implement the recommendations contained in the report based on a timeline established by SDE and approved by the state board.

Currently, SDE shares the report only with the private special education school seeking approval or re-approval, although it is public information.

The websites of 2 other New England states provided more information about the approval process for private special education programs in those states than Connecticut provided. Those

websites include links to each school’s website, the most recent report issued by the state agency conducting the review, and the date that the private special education school implemented required corrective action.

APA believes that the SDE report should include greater transparency by publishing the findings and recommendations documented during the approval process for each program. The additional information would benefit planning and placement teams making student placement decisions. Publishing this type of information would increase transparency and better inform decision makers.

Recommendation: The State Department of Education should include a link on its website that provides the full SDE approval report for each approved private special education program, the date the APSEP received approval, and the date the school completed any necessary corrective action identified in the report. **(See Recommendation 2.)**

Agency Response: “We agree. BSE staff will collaborate with personnel in the Communications Office to develop a system for posting on CSDE’s Web site the date of the most recent approval and the full approval preliminary evaluation report which is currently available upon request.”

The State Department of Education Should Allow Programs to Submit Applications Electronically

Finding 3: Schools cannot apply electronically for the State Department of Education’s approval/re-approval, although many would like to, making it a burdensome, paper-based process for those schools.

In meetings with private special education providers, several expressed the desire to submit portions of the re-approval application online. They indicated that the application process involves significant paper and believe it would be more environmentally friendly and convenient if SDE instituted an electronic application process. Although there may be costs associated with implementing an electronic application process, it would create efficiencies by introducing a more streamlined approach.

Recommendation: The State Department of Education should permit private special education schools to apply electronically for SDE approval or re-approval. **(See Recommendation 3.)**

Agency Response: “We agree. The approval application is currently available to programs as a fillable PDF document and is disseminated to programs electronically. In addition to completing the fillable document, there are in excess of 20 multiple page documents, which make up the required submissions. The completed application and attachments, along with the annual audit report (submitted separately), are then printed and submitted to the BSE for review and comment. The implementation of a full paperless electronic application process would, over time, provide for greater efficiency in the submission and

review of each application. As resources become available, the Department will work to convert all parts of the application from paper to electronic.”

SDE Financial Review of Programs should be more Comprehensive at Time of Application

Finding 4: The State Department of Education review of financial audits, submitted as part of the application process, is insufficient.

SDE standards require that private special education schools submit the most recent financial audit as part of the application packet, and requires SDE to determine whether the facility has the fiscal resources to carry out the educational program for 1 year. Currently, the Bureau of Special Education ensures that the school provides the audit as part of the application, but does not forward these audits to financial experts within the agency for a more complete financial review.

Recommendation: The State Department of Education Bureau of Special Education should forward financial reports submitted by schools as part of its approval/re-approval application to the SDE Office of Internal Audit for a more comprehensive financial review. (See **Recommendation 4.**)

Agency Response: “We agree. The Department will develop a process to include the SDE Office of Internal Audit for a more comprehensive financial review. However, attention must be paid to established timelines for review by that office, as there are specific approval expiration dates that must be observed to ensure the placement of students in APSEPs with a current approval.”

Programs Should Develop and Report on Outcomes

Finding 5: The schools providing special education programs have no outcome measures on program quality to gauge overall school performance.

Approved private special education providers (APSEP) do not report overall outcomes for their programs. Many focus on individual student progress based on the individualized education program. While we recognize it may be difficult to establish such measures, we believe it is important to provide benchmarks on performance. Those benchmarks could include program completion rates, number of objectives met/not met in individual education programs aggregated across the entire student population, teacher turnover rates, and the number of corrective actions needed based on the last SDE approval report.

Recommendation: Each approved school providing special education programs should develop performance measures that fairly assess its outcomes. Each school should annually post its measures and outcomes on its website. (See **Recommendation 5.**)

Agency Response: “All students attending APSEPs are assessed based upon their current levels of performance, areas of concern, and related individual goals and objectives within the IEP. As such, it would be reasonable for APSEPs to develop school-

wide performance measures related to their student population. The challenge therein, however, is identifying appropriate and specific metrics and defining successful outcomes for students with disabilities. Additional challenges include the intensity and variability of the needs of students placed within these most restrictive settings, the philosophy and understanding that the team is constantly working to return the student to a lesser restrictive environment (the variability in length of stay within the program), and the unique characteristics within each school to support the population of students they serve. APSEPs may be vulnerable to misinterpretation of outcome data reported by schools without consideration of individual student successes within programs as determined within the PPT process. School-based outcome measures will require careful consideration and stakeholder input in developing the guidance necessary for each program to establish such measures, beginning in October 2020. To work towards this goal, the Department will establish a stakeholders workgroup, which includes a cross representation of APSEPs serving a range of student populations, parents of students attending APSEPs, SDE performance/assessment office personnel, and BSE consultants to address the issues and assist in developing guidance for APSEPs, to support the identification of performance measures that fairly assess the outcomes of each program on an annual basis.”

PRIVATE SPECIAL EDUCATION PROGRAMS NOT APPROVED BY SDE

While school districts that send students to SDE-approved private special education programs are automatically eligible for excess grant funds if the students meet specific high-cost thresholds, school districts placing students in non-approved programs are eligible for grant funds in limited circumstances. Those circumstances include: 1) private special education programs in Connecticut that have not sought SDE approval; 2) out-of-state private special education programs that *are* approved by that state's SDE counterpart; 3) students attending an out-of-state private special education program that *is not* approved by that state's educational agency, but the placement was the result of the parents unilaterally placing the student for other than educational reasons and the school district agreeing to actively participate in the student's individualized education program. It could also be the result of a mediated settlement or formal hearing; 3) the private special education program is located out-of-state and is approved by that state's SDE counterpart; or 4) transition/vocational service providers that are approved as vendors by another state agency and SDE-qualified as programs eligible to receive excess grant funds; and 4) transition/vocational service providers that are approved as vendors by another Connecticut state agency, such as the Department of Developmental Services. It is important to explain these circumstances because they are likely to make these programs qualify for state financing through excess cost share funding or state excess grants funding.

In all four instances, SDE has no review role to ensure similar policies and procedures are in place for non-approved programs. Rather, it is the responsibility of the sending school district to monitor the quality of service and ensure the program is implementing the IEP.

Best Practices

We did not find best practices regarding oversight of approved or non-approved programs in other New England states. Each state is unique in applying its standards to the process, and practices differ by state. Therefore, we make no recommendation in this area.

RECOMMENDATIONS

- 1. The State Department of Education should annually update the directory that contains information about each approved private special education program. The directory should also include additional information, such as the school's web address.**
- 2. The State Department of Education should include a link on its website that provides the full SDE approval report for each approved private special education program, the date the APSEP received approval, and the date the school completed any necessary corrective action identified in the report.**
- 3. The State Department of Education should permit private special education schools to apply electronically for SDE approval or re-approval.**
- 4. The State Department of Education Bureau of Special Education should forward financial reports submitted by schools as part of its approval/re-approval application to the SDE Office of Internal Audit for a more comprehensive financial review.**
- 5. Each approved school providing special education programs should develop performance measures that fairly assess its outcomes. Each school should annually post its measures and outcomes on its website.**

CONCLUSION

In conclusion, we wish to express our appreciation for the cooperation and courtesies extended to our representatives by personnel of the State Departments of Education, and from the Connecticut Association of Private Special Education Facilities during the course of our examination.



Maryellen Duffy
Associate Auditor

Approved:



John C. Geragosian
Auditor of Public Accounts



Robert J. Kane
Auditor of Public Accounts