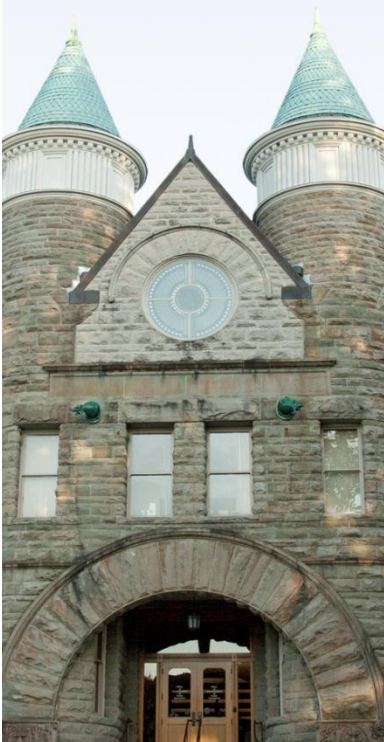


REPORT TO THE LEGISLATURE

# Safety Net Survey 2011–12

December 2012



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**REPORT TO THE LEGISLAUTRE**

# Safety Net Survey Annual Report 2011–12

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## Executive Summary

Since 2007, the Legislature has required the Office of Superintendent of Public Instruction (OSPI) to annually survey school districts about improving the special education Safety Net process. In October 2012, an electronic survey was distributed to districts that participated in the Safety Net program during 2011–12. The results section of this report graphically displays the responses to the questions in the survey for the years 2008–09, 2009–10, 2010–11, and 2011–12. Overall, districts that received supplemental special education funding through Safety Net were generally supportive of the process, and districts that did not receive additional funding through Safety Net were less supportive.

Many of the respondents perceive Safety Net funding as an entitlement, and have become reliant upon the supplemental funding available from the Safety Net to back-fill on-going financial commitments. For example, most districts applying for Safety Net funding project a designated amount of revenue at the beginning of each year from the Safety Net in their F-195 budgeting process. If the final year-end Safety Net award does not meet or exceed the budgeted target, districts indicate that the process of applying for reimbursement for Safety Net under any of the conditions imposed by the Legislature or the court system is “cumbersome,” “inconvenient,” and “frustrating.”

Survey responses for 2011–12 also indicated that the reduction in number of Safety Net application rounds was a disadvantage because it did not provide districts with the opportunity to submit an application, have the Safety Net committee “correct” the application, and then allow them to resubmit it at a later date during the year. Another area of concern was a change in the provider requirements for school-based personnel imposed by the state Health Care Authority and the federal Center for Medicaid Services during 2011–12. This change in provider requirements negatively affected the reimbursement rates and amounts recovered for many districts. Given that both state and federal legislation require that Safety Net not reimburse districts for children that are also eligible for Medicaid, districts expressed concerns that due to factors beyond their control, their awards were adjusted to reflect their inability to bill for Medicaid services at the same rate as in years past.

It should also be noted that many of the respondents were positive about the amount of support they received in their applications, the training available to them, and the fact that the Safety Net process improved the overall development of Individualized Education Programs (IEPs) at the district level.

# Background

In 1995, the Legislature mandated the development of a “Safety Net” to accompany legislative changes to the state funding formula for special education. The special education Safety Net was implemented in the 1996–97 school year and has continued to operate each year since that time.

The funding formula change for special education in 1995 was in response to numerous public policy issues, various studies and a Thurston County Superior Court decision in 1988 in which plaintiffs argued that the state limitation on a category of special education students (specific learning disabled) for state funding purposes was unconstitutional. Judge Robert Doran ruled the funding formula constitutional, but did conclude that the state *could choose* to make provisions in addition to the funding formula such as a “Safety Net” whereby districts could apply for supplemental funding when districts could demonstrate, within parameters established by the Legislature, that they were unable to provide an appropriate program of special education using all available resources.

The Safety Net created a way for districts to apply for supplemental state and federal funding. The Legislature has consistently agreed that Safety Net funding is not an entitlement. It is a supplement to the state funding formula and includes conditions, derived from the Doran decision in 1988, for accessing the funds which exceed the regular apportionment formula criteria. In order to receive supplemental Safety Net funding, districts are required to demonstrate that they:

- (a) Provided a reasonably efficient program.
- (b) Utilized all available state and federal funding.
- (c) Had properly formulated Individualized Education Programs (IEPs) for eligible students in the applicant districts.

The Safety Net process as authorized by the Legislature and administered by OSPI has evolved during the last 18 years. Since the 1996–97 school year, the state Safety Net oversight committee (authorized by the Legislature), has approved over \$311 million in state and federal Safety Net funding. Annual adjustments have been made consistent with changes in public policy to both the Safety Net and the state special education funding formula. The categories and sources of funding for Safety Net have changed over time. Initially, the primary category of Safety Net relief was a formula driven amount known as Maintenance of Effort State Revenue, or MOESR. This category of state funding was a buffer for changes to the state funding formula when the Legislature transitioned from a categorical funding formula to a non-categorical funding formula in 1995–96. MOESR funding was essentially “hold harmless” funding for the first four years after the formula changed. Demographics, percentage, and other categories of state funding have also been available at one time or another during the past 15 years. Federal Safety Net funding has been available to support individual high need students since 1995.

In 2005, an alliance of 12 school districts sued the state in Thurston County Superior Court claiming that the state special education funding formula was unconstitutional. Judge Thomas McPhee ruled that the formula was constitutional. He also concluded that the state could not limit access to Safety Net funding on the basis of whether or not a district exceeded the 12.7 percent index in the apportionment formula. In response, the 2007 Legislature created the community impact category for state Safety Net funding. The community impact category

allows districts to identify and quantify unique characteristics of their school communities that have an adverse fiscal impact on the district's provision of special education services. Although the Superior Court opinion was upheld by the Court of Appeals in March of 2009, the case was accepted for review by the State Supreme Court in September of 2009. In December of 2010, the Washington State Supreme Court upheld the Superior and Court of Appeals rulings by a margin of eight to one.

The only category of Safety Net funding that has been available for each of the years in which Safety Net has operated is the high need individual student category. The high need individual student category essentially costs out the IEP for each student the district submits for supplemental funding. Federal funding has always been the principal, if not sole source, for this Safety Net category.

Adjustments to the calculation of the state funding formula for special education to reflect 12.7 percent of the total district K–12 enrollment, and expanded and enhanced state funding for students with disabilities aged 0–5 from students aged 0–2 are two adjustments made over the years. The “excess cost” accounting requirements associated with special education have also been adjusted by the Legislature in recent years.

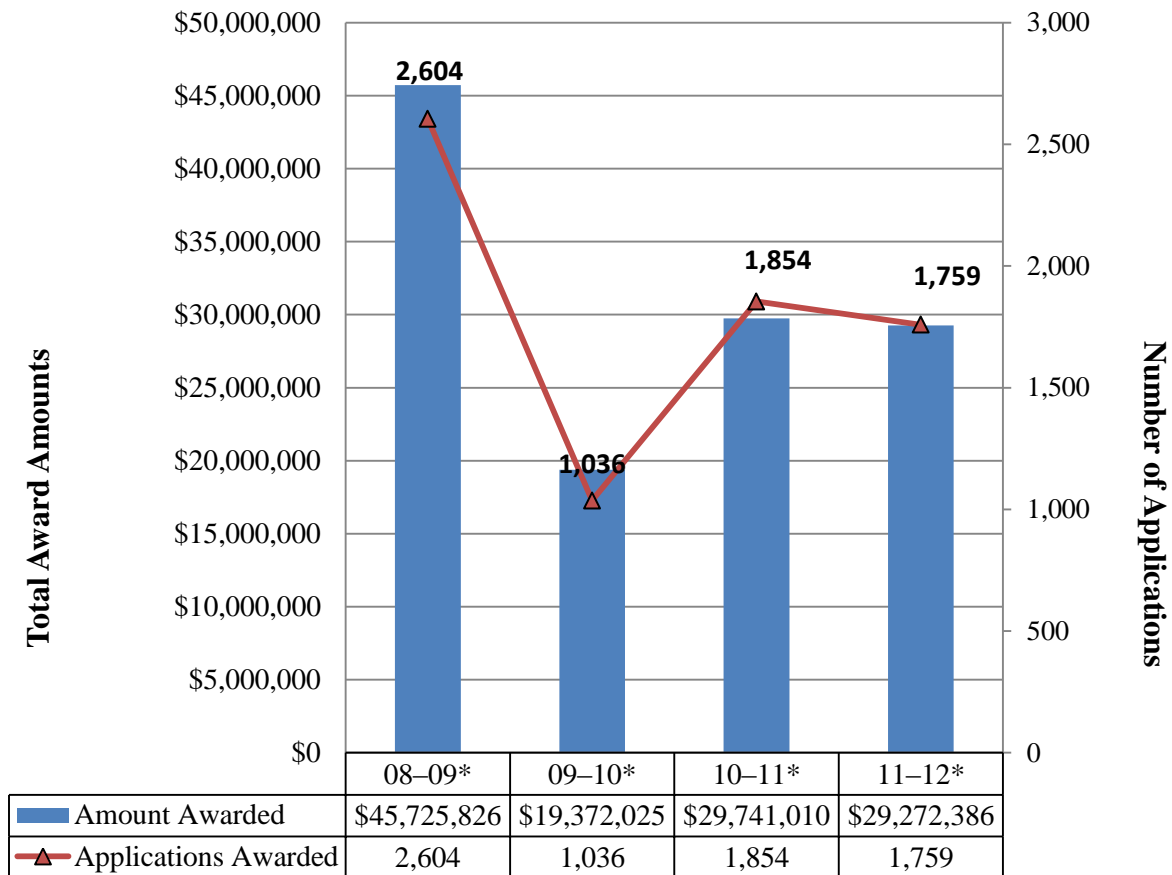
In 2011, the Legislature modified the Safety Net language in the Appropriations Act to require that all Safety Net applications needed to be verified in August of each year. The requirement to make Safety Net determinations based on an analysis of actual expenditure data from the most current school year has the effect of restricting applications until the end of the school year when a more accurate picture of annualized services can be presented.

The Safety Net process will be further impacted in the future by the most recent decision by the State Supreme Court in the *McCleary* case. If basic education is fully funded by the Legislature by 2018 as ordered, state funding for special education will correspondingly increase because the .9309 “excess cost” factor up to 12.7 percent of a district's resident K–12 population will be driven based on a higher basic education allocation for each district. Increased state funding for special education will theoretically decrease a district's reliance on supplemental Safety Net funding from year to year.

## 2011–12 Safety Net Award Results

In 2011–12, the state Safety Net committee approved one hundred (100) districts for Safety Net awards. The committee awarded 1,759 high need individual student applications and six community impact applications for a total of \$29,272,386 (see Table 1.1). State-sponsored Safety Net training was provided to 197 school district and educational service district (ESD) staff in nine ESDs prior to the initial 2011–12 submission dates.

Table 1.1 displays a four-year history of Safety Net awards.



\*Includes High Need Individual Student and Community Impact applications

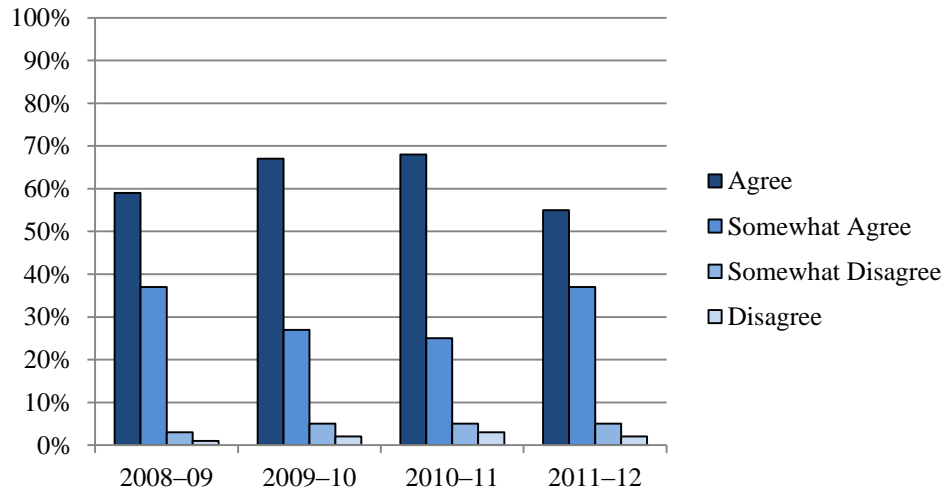
## Survey Demographics

The survey was sent to all superintendents, special education directors, and business managers of districts that applied for Safety Net funding. The survey included ten specific questions related to the Safety Net process and an opportunity for respondents to comment and suggest improvements to the process. One question was eliminated this year because it was no longer relevant. A total of 110 respondents completed the survey, and fifty-four (54) comments were received.

Of the 110 respondents, 53.64 percent identified themselves as special education administrators. Another 17.27 percent indicated they were the district superintendent, and 29.09 percent stated they were the district business manager or business services administrator. The percentage of respondents for each of the nine ESDs was as follows: ESD 101 (Spokane) 1.82 percent, ESD 105 (Yakima) 1.82 percent, ESD 112 (Vancouver) 8.18 percent, ESD 113 (Olympia) 16.36 percent, ESD 114 (Bremerton) 9.09 percent, ESD 121 (Seattle-Tacoma) 35.45 percent, ESD 123 (Tri-Cities) 2.72 percent, ESD 171 (Wenatchee) 7.27 percent, and ESD 189 (Anacortes) 17.27 percent.

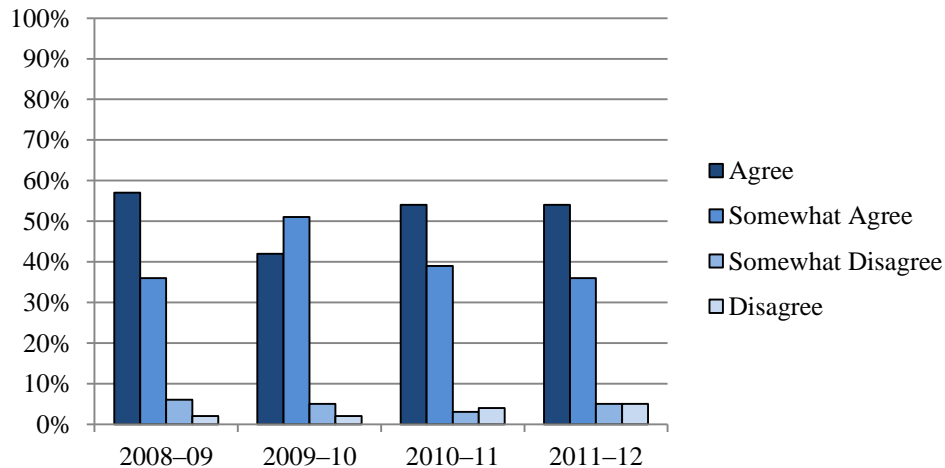
# Survey Results

## 1. The 2011–12 Safety Net Bulletin, which outlined the process changes, application criteria, and submission deadlines, was clear.



Ninety-two (92) percent of the respondents either agree or somewhat agree that the 2011–12 Safety Net bulletin was clear. This is consistent with the survey results for 2010–11, which indicated that ninety-three (93) percent of the respondents either agreed or somewhat agreed that the bulletin and instructions were clear.

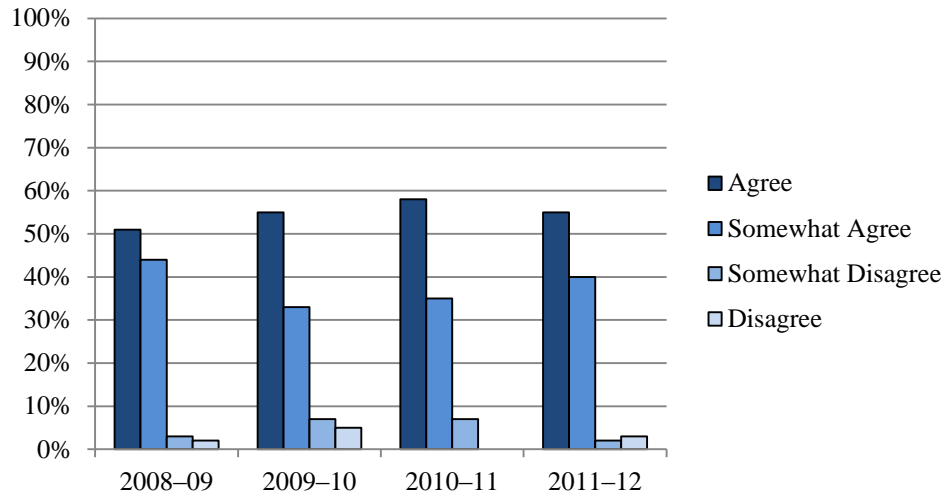
## 2. OSPI-sponsored training for the 2011–12 Safety Net process was helpful.



Ninety (90) percent of the respondents either agree or somewhat agree that the OSPI-sponsored training was helpful. This percent has dropped slightly from the survey results for 2010–11, 2009–10, and 2008–09, at which time ninety-three (93) percent agreed or somewhat agreed that the training was helpful. It is important to note that there are numerous Safety Net training opportunities available to districts that are not sponsored or endorsed by OSPI. This question is only intended to evaluate OSPI-sponsored trainings.

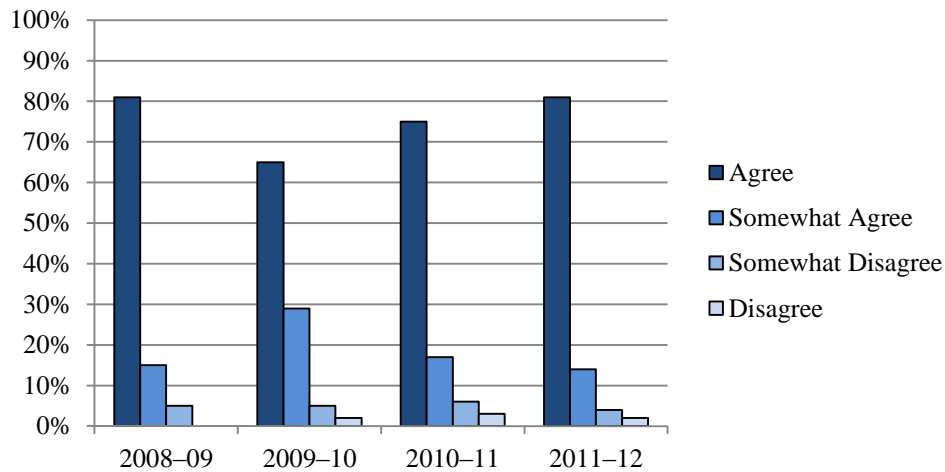


**3. The Safety Net Web site includes information that is helpful to my district in the Safety Net application process.**



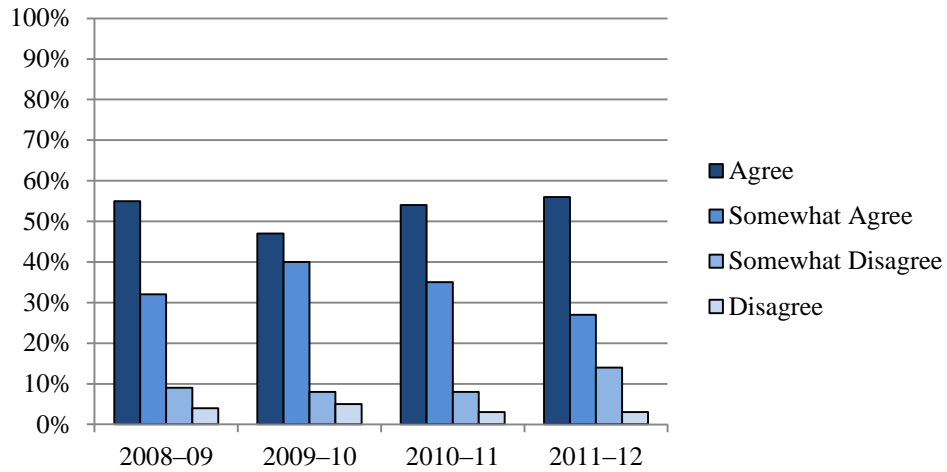
Ninety-five (95) percent of respondents either agree or somewhat agree that information provided on the OSPI Safety Net Web site was helpful to them in the application process. This percentage is up slightly from 2010-11 in which ninety-three (93) percent either agreed or somewhat agreed that the information provided on the OSPI Safety Net Web site was helpful.

**4. OSPI staff members are helpful to my district in the Safety Net application process.**



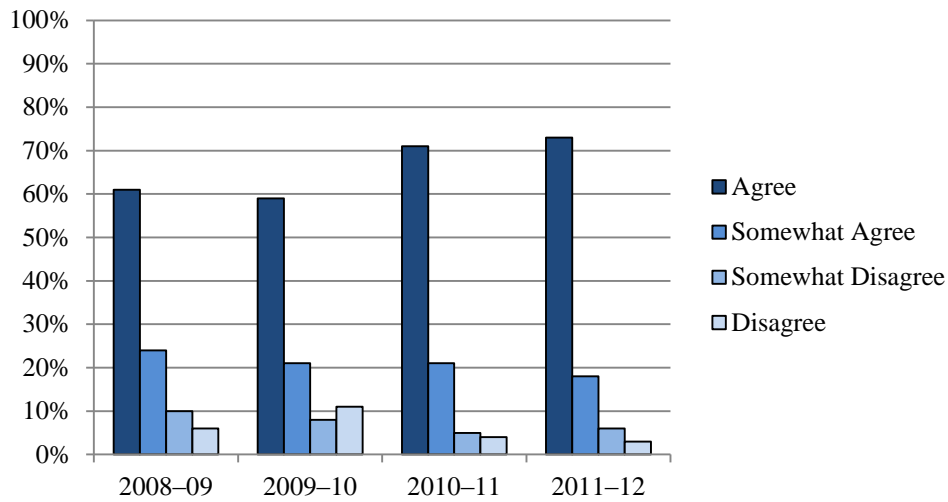
Ninety-five (95) percent of respondents either agree or somewhat agree that OSPI staff members are helpful to their district in the Safety Net application process. This percentage is similar to the 2010-11, 2009-10, and 2008-09 results, which exceeded ninety (90) percent in each year.

**5. The Safety Net committee members are representative of districts in our state and carefully consider the district requests for Safety Net funding.**



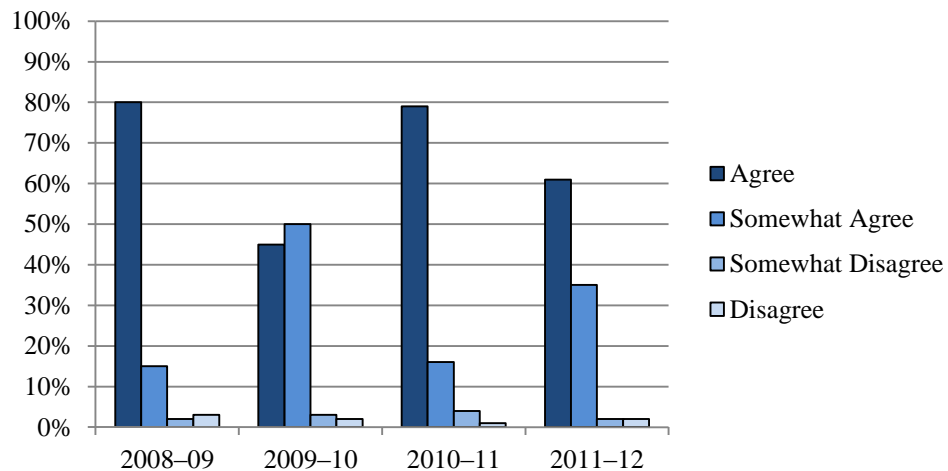
Eighty-three (83) percent of the respondents either agree or somewhat agree that the Safety Net committee members are representative of districts in the state and carefully consider the district requests for Safety Net funding. This percentage has dropped slightly from 2010-11 in which eighty-nine (89) percent agreed or somewhat agreed with the question. During 2011-12, there were 20 voting members of the Safety Net committee. Of this number, nine were local directors of special education, one was an ESD special education director, four were local district business managers or district finance directors, five were either current or former district administrators and one was a district life skills coordinator. The committee also includes two non-voting members from the State Auditor’s Office and staff support from OSPI. It should be noted that four voting members were added to the committee for the 2011-12 Safety Net cycle.

**6. Although I may not always agree with the results, I was informed why my Safety Net applications were/were not funded.**



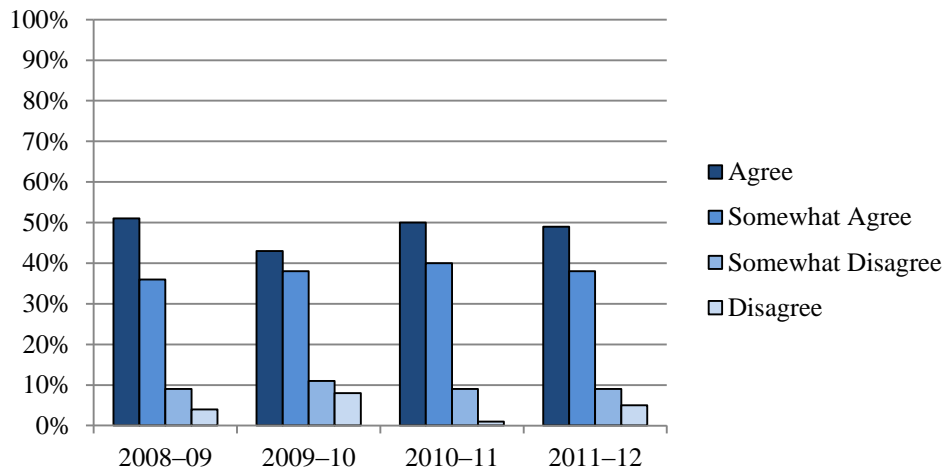
Ninety-one (91) percent of the respondents either agree or somewhat agree that they were informed why their Safety Net applications were/were not funded. This percentage is consistent with results from 2010-11, at which time ninety-two (92) percent either agreed or disagreed that they were informed why their Safety Net applications were/were not funded.

**7. The IEP Review Form was a helpful tool in submitting the Safety Net applications.**



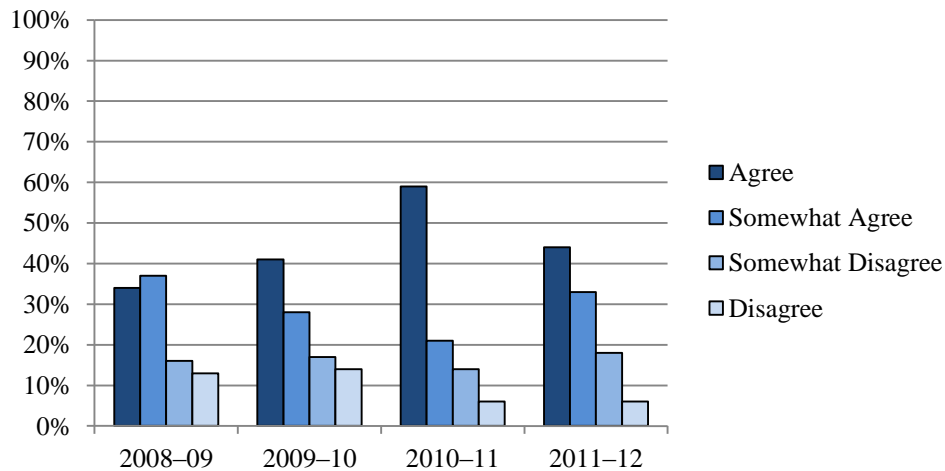
Ninety-six (96) percent of the respondents either agree or somewhat agree that the IEP Review Form was a helpful tool in submitting Safety Net applications. This percentage is consistent with results from 2010-11, 2009-10, and 2008-09, at which time ninety-five (95) percent of respondents agreed or somewhat agreed that the IEP Review Form was helpful.

**8. My district's IEPs have improved as a result of the Safety Net process.**



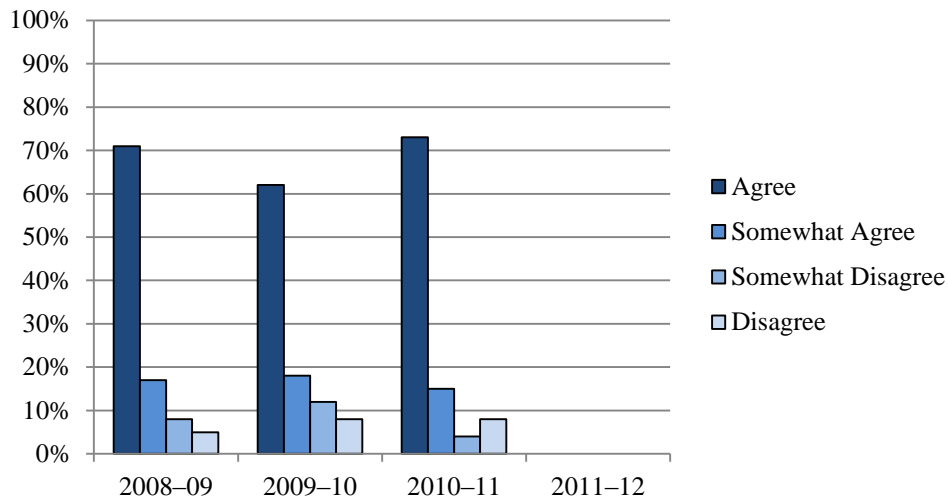
Eighty-seven (87) percent of the respondents either agree or somewhat agree that the district's IEPs have improved as a result of the Safety Net process. This percentage is slightly lower than 2010-11 in which ninety (90) percent either agreed or somewhat agreed with this statement.

**9. Although I may not always agree with the results, I believe the Safety Net standards are uniformly applied to all districts.**



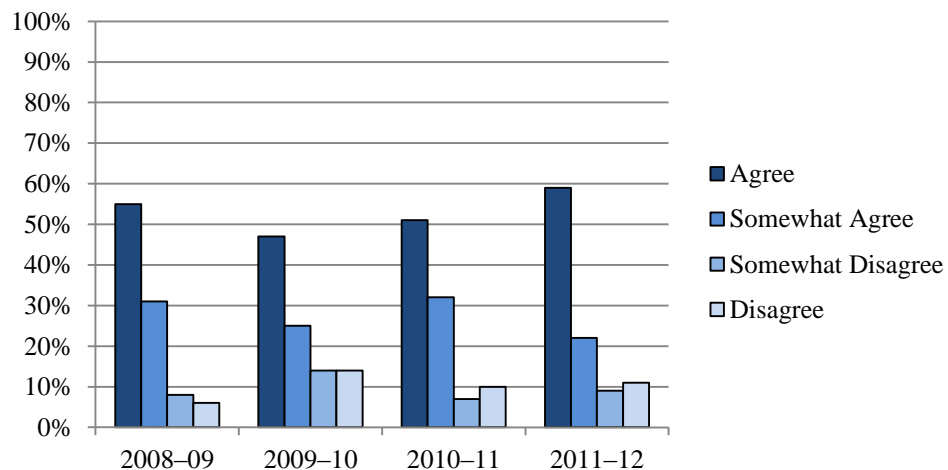
Seventy-seven (77) percent of the respondents agree or somewhat agree that the Safety Net process is fair and that the standards are uniformly applied to all districts. This percentage has dropped slightly from the 2010-11 results in which eighty (80) percent agreed or somewhat agreed with this statement. It should be noted that there is considerable variability in and among the districts that apply for Safety Net funding. For example, of the 107 Local Education Agencies (LEAs) that applied for Safety Net funding in 2011-12, five were non-high districts, 30 were districts with total enrollments of less than 2,000, 77 were districts with greater than 2,000 students, and one was an Educational Service Agency (ESA).

**10. Being able to resubmit an application that has been previously rejected for reasons specified by the Safety Net committee is helpful to me.**



This question was eliminated in the 2011-12 survey because the question was no longer relevant. Districts could not resubmit an application that had been previously rejected in the 2011-12 Safety Net cycle.

**11. Being able to electronically submit my Safety Net application will be helpful to me.**



Eighty-one (81) percent of all respondents agree or somewhat agree that being able to electronically submit their Safety Net applications would be helpful. This percentage has declined slightly from 2010-11, in which eighty-three (83) percent agreed or somewhat agreed that electronic Safety Net submission would be helpful.

## For More Information

If you have additional questions or would like additional information, please contact the OSPI Special Education office at (360) 725-6075 or visit <http://www.k12.wa.us/SpecialEd/default.aspx>.

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