



Disability Rights Pennsylvania

Pennsylvania Basic Education Funding Commission Testimony

Provided by:

Jeni Hergenreder  
Staff Attorney  
Disability Rights Pennsylvania  
October 10, 2023

Good Morning Chairwoman Phillips-Hill, Chairman Sturla and members of the Basic Education Funding Commission.

My name is Jeni Hergenreder. I am a Staff Attorney at Disability Rights Pennsylvania. Disability Rights Pennsylvania is the federally mandated protection and advocacy agency designated by the Commonwealth of Pennsylvania. We provide legal and advocacy services to people with disabilities of all ages in Pennsylvania. We are one of only a few organizations in the Commonwealth that families of children with disabilities can call for free legal advice about special education issues. It is typical for us to handle hundreds of calls from parents each year.

On behalf of Disability Rights Pennsylvania, and the individuals that we serve, I would like to thank you for soliciting our views on the educational needs of students with disabilities.

**Overview of Special Education:**

There are both state and federal laws that impose obligations upon public schools to provide students with disabilities a free and appropriate public

education or “FAPE.” Under the Individuals with Disabilities Education Act, public schools must, at no cost to the student or family, develop an individualized educational program (or “IEP”). The IEP itself is a written document that summarizes the student’s educational needs, how the school will meet those needs through accommodations, supports, and services, and where the student will receive those services – for example in a general education classroom, special education classroom, or in a private school placement.

**The IDEA requires schools to educate students with disabilities in inclusive settings, where they can learn alongside their nondisabled peers to the maximum extent possible.** This takes both careful planning and significant resources. Under the IDEA, all students with disabilities are legally entitled to an individualized educational program that is reasonably calculated to allow the student to make appropriate progress in light of the student’s unique circumstances and giving the student the chance to meet challenging objectives.<sup>1</sup> Under Section 504 of the Rehabilitation Act of 1973, providing FAPE means designing a student’s support plan to meet their individual needs as adequately as the needs of nondisabled students are met.<sup>2</sup> The state law counterpart to each of these federal laws are referred to as Chapter 14 and Chapter 15 respectively.

These laws (rightfully) impose significant obligations on school districts to ensure that all students with disabilities – no matter how extensive their academic, emotional, behavioral, or medical needs – receive the special education and related services they need to make meaningful progress on individualized goals. A student’s individualized plan typically includes a list of supports and accommodations the school has agreed to provide as well as a list of related services the student needs. Related services include but are not limited to: speech and language pathology and audiology services, interpreter services, psychological services, physical and occupational therapy, counseling services, orientation and mobility services, school health and nursing services, medical services for diagnostic and evaluation purposes, parent counseling and training, and transportation services.<sup>3</sup> The obligation to provide transportation to students with disabilities includes transportation to and from and between schools, travel in and around school buildings, specialized equipment required to provide special transportation.<sup>4</sup>

**Funding for Basic Education and Special Education:**

Obviously, all of these services cost money and the reality is federal and state funding cover a mere fraction of the cost. In 2020-2021, state and federal revenue accounted for only 24.5% of special education expenses.<sup>5</sup> Even more

alarming is that the percentage of state and federal special education funding as compared to the percentage borne by local school districts has decreased significantly over the past ten years. In 2010, state and federal revenue accounted for 38.2% of special education expenses and by 2020 it had fallen to 24.5%.<sup>6</sup> The remaining percentage was born by local districts who undoubtedly had to make difficult decisions about how to shift funding away from other student programs in order to cover special education expenses.

### **Post COVID Trends for Student Special Education Needs:**

Following the pandemic, there has been an increase in the number of children who are eligible for special education services and the cost of services. According to data compiled by the advocacy group PA Schools Work, between 2008 and 2017, the cost of providing special education services in Pennsylvania increased 18 times faster than the aid the state offered to cover those costs.<sup>7</sup> Students have lost educational opportunities and academic attainment is behind pre-pandemic trends. According to a recent study by the Pew Foundation, 20.2% of students in Pennsylvania are enrolled in special education -- the second highest percentage in the country.<sup>8</sup> The Pennsylvania Department of Education estimates that 30% of school aged children will experience a behavioral, mental, or developmental condition in any year. The increase in eligibility will no doubt continue as assessments and diagnosis of disability improves. At the same time, staffing various positions – including teachers, support staff and nurses, has become more expensive due to demand.<sup>9</sup>

There is also an increase in the number of students with mental health needs who need support at school.<sup>10</sup> Mental health is an essential part of overall health. The pandemic exacerbated health disparities that already existed.<sup>11</sup> According to 2021 data from the Centers for Disease Control, 42% of high school students felt so sad or hopeless almost every day for at least two weeks that they stopped doing normal activities.<sup>12</sup> Kids spend the majority of their time at school. We need more counselors and therapists working in school to support students and help them manage in the moments when they need it most. Mental health supports are crucial to student success and educational equity.

While kids should theoretically be able to access mental health services outside of school through their medical insurance, countless families report that securing an appointment with a mental health provider is extremely difficult. This is particularly true in rural areas of the Commonwealth, where provider access is often more limited. We commonly hear stories of people waiting six months or more for an appointment with a mental health professional. Ensuring that mental

health supports are integrated into schools is crucial to student success, avoiding mental health crises, and supporting students to achieve their educational goals.

### **Impact of School Funding on Students with Disabilities:**

In closing, I'd like to leave you with a few examples of students with disabilities whose families contacted DRP because they were struggling to obtain something their child needed from their public school, where the school's resources were clearly at play:

- The first example is an elementary-aged student with physical disabilities who wore leg braces and sometimes used a wheelchair. The student's elementary school was inaccessible to him. It had two floors connected by stairs, but no ramps or elevators. The student was not able to access the second floor of the elementary school, where some of his classes were held, until the school district agreed to pay for and install a stair lift.
- The second example is a student with medical issues, including a history of seizures, who required the administration of a rescue medication if he had a seizure lasting longer than five minutes. Because the student required constant supervision and a nurse to administer the emergency medication, the school needed to provide the student with a 1:1 nurse for the bus ride and school day. It is difficult and expensive to recruit nurses for school jobs. There were periods of time when the school did not have a nurse for the student and, as a result, he could not come to school. Some of these periods were extensive and the student missed months of school at a time.
- The third example is a student with Autism who displayed self-injurious behaviors including punching himself in the face when he became frustrated. To keep the student safe and provide him with the instruction and support needed to modify his behavior, the school needed to pay for a specialized, padded helmet, a 1:1 aide, training for school staff on de-escalation and crisis intervention techniques and a behavioral specialist to complete a specialized evaluation called a functional behavioral assessment.

I hope these examples gave you a sense of how critical adequate funding is for individual students who rely on specific and sometimes costly services to be able to attend school safely and on an equal basis as their peers.

Thank you for your time.

## Disability Rights Pennsylvania

Disability Rights Pennsylvania has been the federally mandated protection and advocacy system in our state for over 45 years. Our mission is to protect and advocate for the rights of persons with disabilities so they may live the lives they choose, free from abuse, neglect, discrimination, and segregation. Our vision is a Commonwealth where people of all abilities are equal and free.

### Endnotes

---

<sup>1</sup> [Endrew F. v. Douglas Cty. Sch. Dist., 137 S. Ct. 988 \(2017\)](#)

<sup>2</sup> [34 CFR § 104.33 \(b\)\(1\)\(i\)](#)

<sup>3</sup> [34 CFR § 300.34](#)

<sup>4</sup> [34 CFR § 300.34 \(c\)\(16\)](#)

<sup>5</sup> [Special-ed-funding\\_state-budget-FINAL.pdf \(psba.org\)](#)

<sup>6</sup> [Id.](#)

<sup>7</sup> [Special Education Is Getting More Expensive, Forcing Schools to Make Cuts Elsewhere \(edweek.org\); SCHOOL DISTRICT DATA - PA Schools Work](#)

<sup>8</sup> [Key facts about US students with disabilities, for Disability Pride Month | Pew Research Center](#)

<sup>9</sup> [Promises and limitations of financial incentives to address special education staffing challenges | Brookings](#)

<sup>10</sup> [The Landscape of School-Based Mental Health Services | KFF](#)

<sup>11</sup> [Racial and Ethnic Disparities in Mental Health and Mental Health Care During The COVID-19 Pandemic - PMC \(nih.gov\)](#)

<sup>12</sup> [Youth Risk Behavior Survey Data Summary & Trends Report: 2011-2021 \(cdc.gov\) at 60](#)



# a closer LOOK



## The 2022-23 state budget: The need for greater investments for special education

**The education of children with disabilities is one of the most important responsibilities of public education.** School districts strive to give children an equal opportunity for a good education and under state and federal law cannot refuse services to a child with special needs. Special education, by its very nature, is costly. Children with physical or mental disabilities require specialized instruction and, often, a wide array of support services to enable them to further benefit from the standard educational program. These are costs that public schools typically do not bear for other children in a regular classroom setting. As these costs continue to swell and contribute to other growing state-mandated financial burdens, Pennsylvania's school districts are beginning to face a very real financial crisis. To aid public schools in providing special education, both state and federal budgets include appropriations intended to help pay for educating students with disabilities. However, state and federal financial support for special education has failed to keep up with the increased cost to public schools.



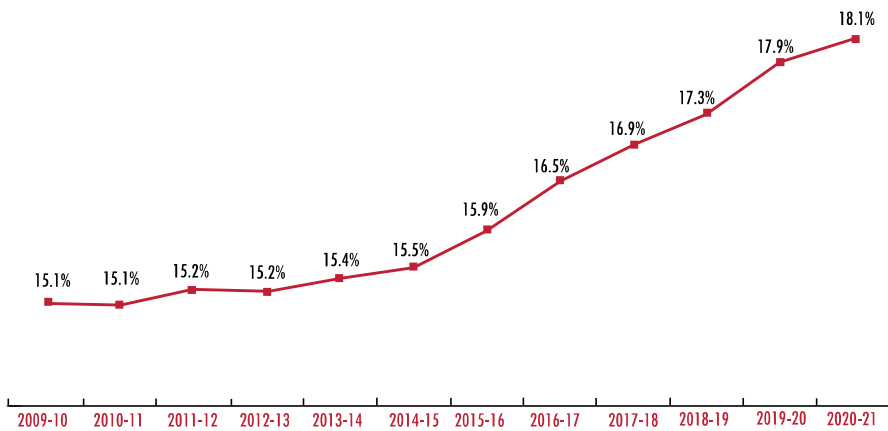
**School districts are seeking an additional investment in the 2022-23 state budget of at least \$200 million to help keep pace with increases in mandated expenses for special education and reduce the reliance on local property tax revenues to pay these mandated costs.**

**Of all the cost drivers on school district budgets, special education is one of the hardest to control.**

Public schools are required by federal law and state regulations to provide students with disabilities specialized programs, services and supports that allow them to receive an education. These programs, services and supports come with substantial additional expenses because they are individualized for each student. And because special education costs are mandated, school districts have very little, if any, control over those costs and how they increase year over year.

**The percentage of students identified for special education has been steadily increasing.** In 2020-21, more than 307,000, or 18.1% of public school students, received special education programs and services. This represents a 13.9% increase over the last 12 years while overall public school enrollments are down 4.7% in that same time. The required specialized programs and services for these growing numbers of students continue to put very real financial burdens on school district budgets.

## Percentage of students in special education

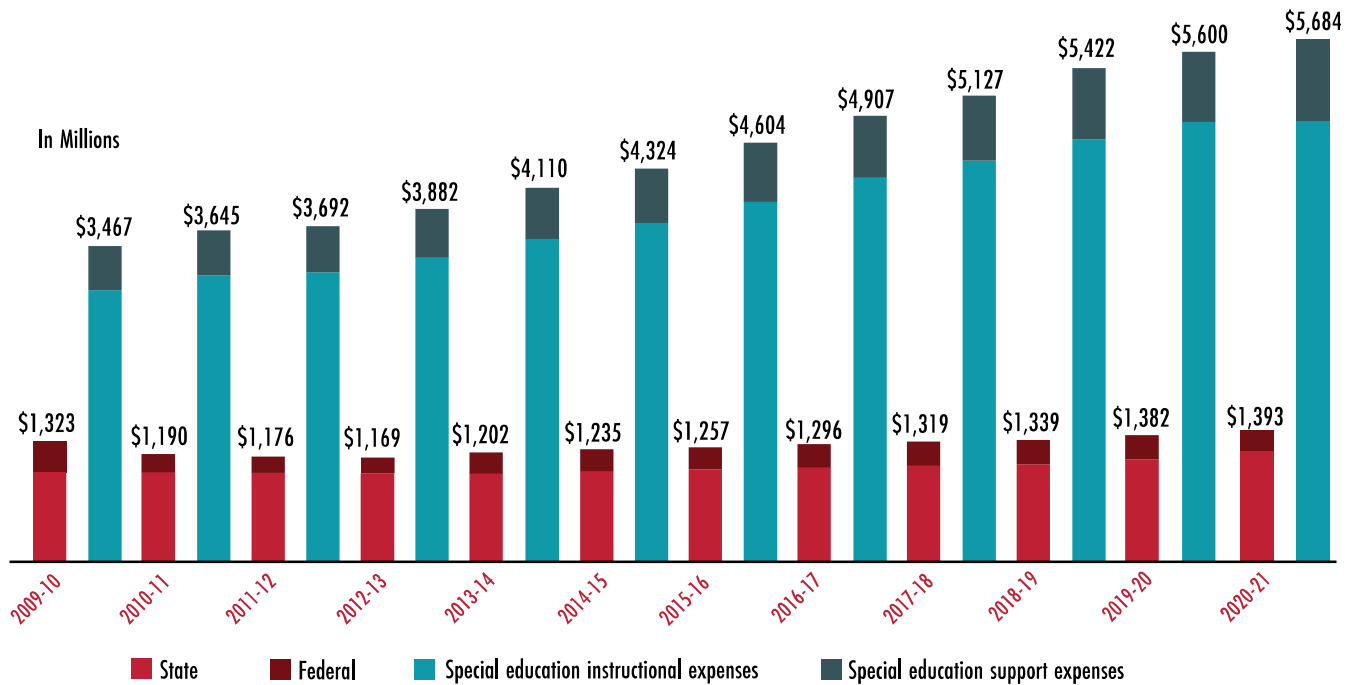


**Increases in special education expenses outpace revenues.** With the number of students requiring special education growing, so too have the expenses for public schools. Between the 2009-10 and 2020-21 school years, state and federal special education revenue increased 5.3% while mandated special education spending increased 63.9%.

**The state and federal shares of special education expenses have been steadily decreasing because they have not kept up with the increases in expenditures.** In 2009-10, state and federal revenue accounted for 38.2% of special education expenses but that percentage fell to 24.5% by 2020-21. Because state and federal special education funding has failed to keep pace with the growth in expenses, most school districts have been forced to pay a larger share of special education expenses entirely from increases in local funding sources, such as property taxes. With state and federal funding making up less than a quarter of what schools spend for special education in the most recent school year, the remaining 75%, or nearly \$4.3 billion, will have to come from other, primarily local, sources of revenue.



## State and federal special education funding vs expenditures



**Special education is a budget pressure.** The lack of sufficient state and federal special education funding creates significant pressure on local school districts and their taxpayers. Pennsylvania’s public schools need help. To be clear, school districts are in no way suggesting or recommending that the requirements related to providing special education be eliminated. Because special education costs are mandated, school districts have very little, if any, control over those costs and how they increase year over year. Increasingly, school districts are experiencing the need to raise local taxes or redirect existing outlays to cover the growing cost of special education, due to insufficient state and federal special education funding.

## Percent of special education funding by source

