



Special Education Funding and Accountability

Senate Education Committee

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TESTIMONY OF THE EDUCATION LAW CENTER



Baruch Kintisch

Director of Policy Advocacy and

Senior Staff Attorney

Education Law Center

1315 Walnut Street, #400

Philadelphia, PA 19107

215-238-6970 x 320

bkintisch@elc-pa.org



Since 1975, the **Education Law Center of Pennsylvania (ELC)** has worked to make good public education a reality for Pennsylvania’s most vulnerable children – poor children, children of color, children with disabilities, English language learners, children in foster homes and institutions, and others.

Our strategies include not only “traditional” legal work, but also training and information-sharing; advocating for new laws and policies in Harrisburg and Washington; and working with organizations and media. We’re especially proud of our many collaborations with citizen groups around the state.

Overview of the Presentation

Four simple points for common agreement:

Districts should provide students with disabilities the basic supports and services needed to succeed in school.

Students have a legal right to this kind of quality special education and are academically and functionally more successful when they receive it.

It costs more to effectively educate children with disabilities than other students.

The Commonwealth benefits when all students are educated and prepared for meaningful employment, higher education, and self-sufficiency.



Key conclusions:

Most districts currently do not have the basic resources needed to provide a quality education to children with disabilities.

Districts able to provide more funding for special education have better student outcomes. But where a child lives should not determine the quality of their education.

Concrete changes in the special education funding and accountability systems are needed to fulfill Pennsylvania's long-term commitment to these issues.



Core recommendations:

The funding system for special education can be improved to fairly distribute resources using a needs-based formula and with strengthened accountability.

These reforms would produce significant gains over time, allowing all schools to provide essential supports and services and giving children a chance for a productive life.

Senate Bill 1115 and House Bill 704 meet these objectives and merit adoption by the General Assembly.

The legislation contains a new formula that counts students, meets school needs, maintains the Contingency Fund for costly students, and strengthens accountability for effective investments.



Why is this the right time for fixing the state's special education funding and accountability systems?

The special education system is broken and needs repair.

If we do not fix the system, the upward pressures on local property taxes will continue.

School districts will better invest existing funding if they can accurately anticipate the state systems for special education funding and accountability in future years.

The education funding reforms adopted in recent years did not include special education. State funding for special education has not increased in many years.



BACKGROUND INFORMATION ABOUT **SPECIAL EDUCATION**

What is a disability?

In general – A physical or mental impairment that substantially limits a child's ability to learn or another major life activity.

Children are eligible for special education under state and federal law only if they have a qualifying disability and for this reason need special education and related services.



What kinds of disabilities qualify a child for special education?

Orthopedic impairment

Visual impairment

Hearing impairment

Deaf-blindness

Traumatic brain injury

Speech/language impairment

Autism

Mental retardation

Serious emotional disturbance

Specific learning disability

Multiple disabilities

Other health impairment



How does a disability affect a child's education?

Reading

Writing

Concentrating

Understanding

Reasoning

Memory

Using language

Mobility

Physical coordination

Social behavior

Planning and organizing

Fatigue

Health-related absences

And many more ways



How can schools help children with disabilities?

Provide accommodations, supports, and services designed to meet the child's educational needs and allow the child to participate and make progress to the same extent as students without disabilities.

Students without disabilities do not need these services to learn in school.



What are examples of supports and services for students with disabilities?

Extra time

Modified curriculum

Extra instruction

Counseling

Classroom aide

Adapted materials

Assistive technology

Speech therapy

Physical therapy

Occupational therapy

Health services

Teacher training

Accessible facilities

Transition services



What is special education?

Special education is not a “place” for receiving instruction, but is a set of supports and services to help students learn in the general curriculum according to their needs.



Where do students receive special education services?

The disabilities of most students are relatively mild.

Regular education teachers, with support and training, can meet their needs.

Most students eligible for special education may be educated in regular classrooms with supports and services.



Why are there state and federal laws for special education?

“... enable the student to participate fully and independently in the community, including preparation for employment or higher education.” 22 Pa. Code 14.102(a)(1)(i)

“Improving educational results for children with disabilities is an essential element of our national policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities.” 20 U.S. Code 1400(c)(1)



What do the special education laws require?

- These things are not “luxuries”, but are necessary for learning and required by law to ensure that students with disabilities can meet academic standards.
- Free appropriate public education
- Identification of needs
- Professional evaluation
- Individualized Education Program
- IEP Team of educators
- Academic and functional goals
- Meaningful progress to IEP goals
- Included in general curriculum
- Included in non-academic activities
- Least restrictive environment
- Specially designed instruction
- Related therapies and services
- Accommodations and modifications
- Behavior supports
- Supplementary assistance
- Research-based strategies
- Teacher training and classroom aides
- Annual reviews
- Periodic re-evaluations
- Transition planning (for post-HS)
- Procedural rights (meetings, reports, notices, timelines, complaints, appeals)



WHAT ARE THE BENEFITS OF QUALITY, EFFECTIVE, AND WELL-RESOURCED SPECIAL EDUCATION PROGRAMS?

Benefits to students eligible for special education and their families:

Improved tailoring of services to meet student needs.

More effective parent involvement.

Higher academic performance.

Effective inclusion of students with disabilities in regular classrooms.

Greater employment, postsecondary educational success, and capacity for self-sufficiency and success in life.



Benefits to all students:

Stronger education programs for all students.

Greater appreciation and understanding of differences between students.

Improved school climate.



Benefits to teachers and staff:

More effective teaching and learning.

Improved job satisfaction.

Reduced teacher turnover.

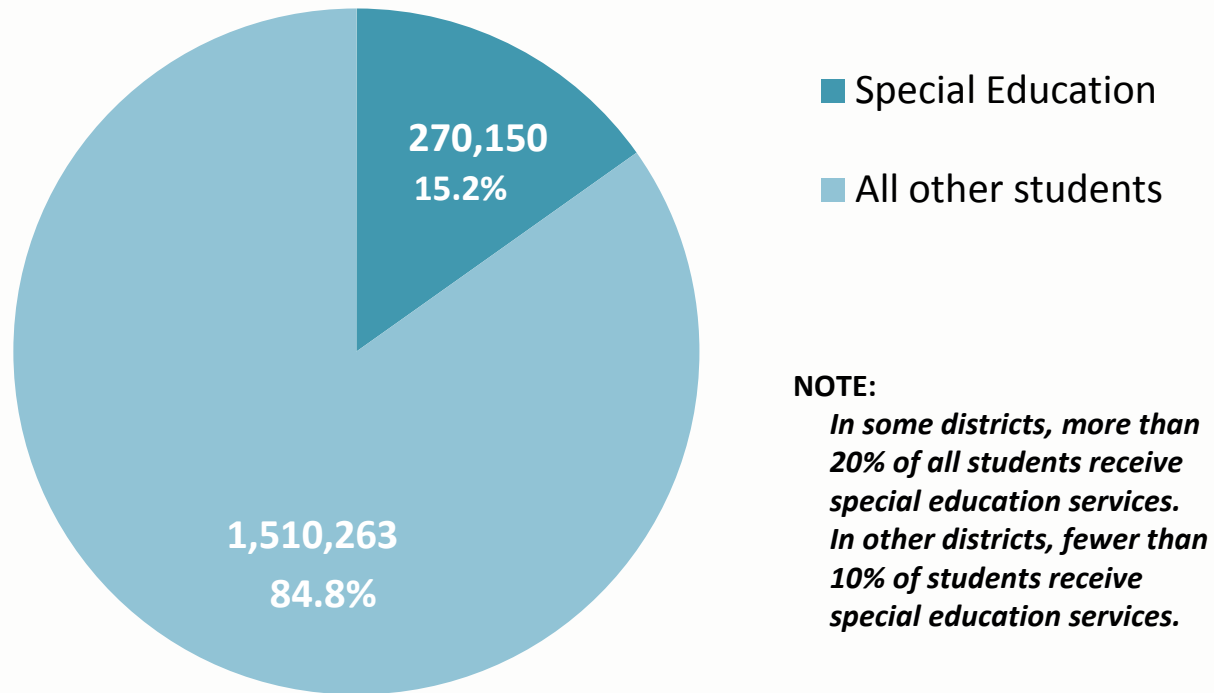
Benefits to school districts and the state:

Lower dropout rates and better academic outcomes, leading to reduced long-term societal costs and social service needs.



WHAT IS THE STATUS OF SPECIAL EDUCATION IN PENNSYLVANIA?

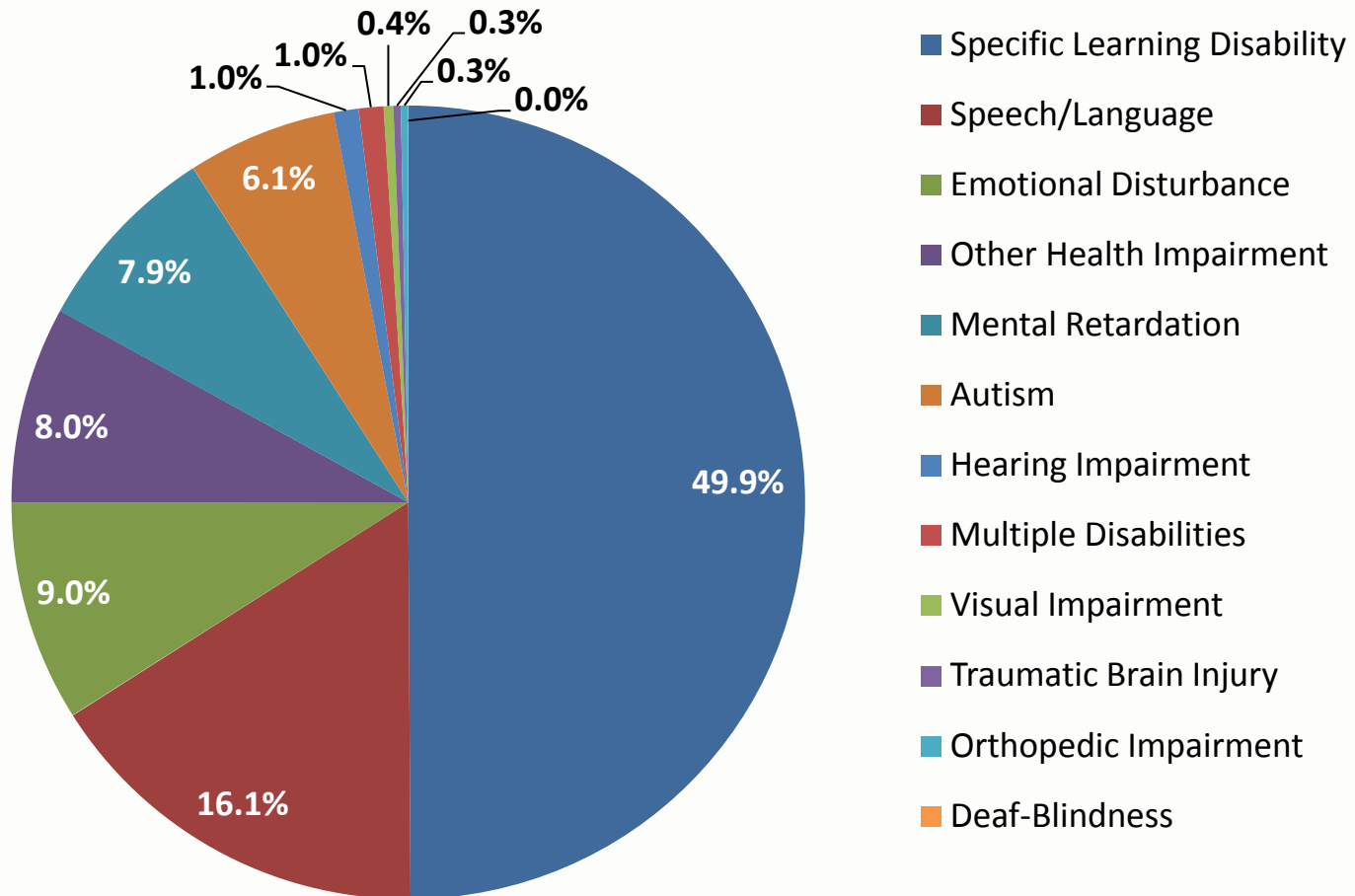
PA Public School Enrollment 2009-10 *(1 out of 7 children are receiving special ed)*



Special Ed Enrollment by Disability 2009-10

(listed from largest to smallest number in Pennsylvania)

Most disabilities are mild and not severe.



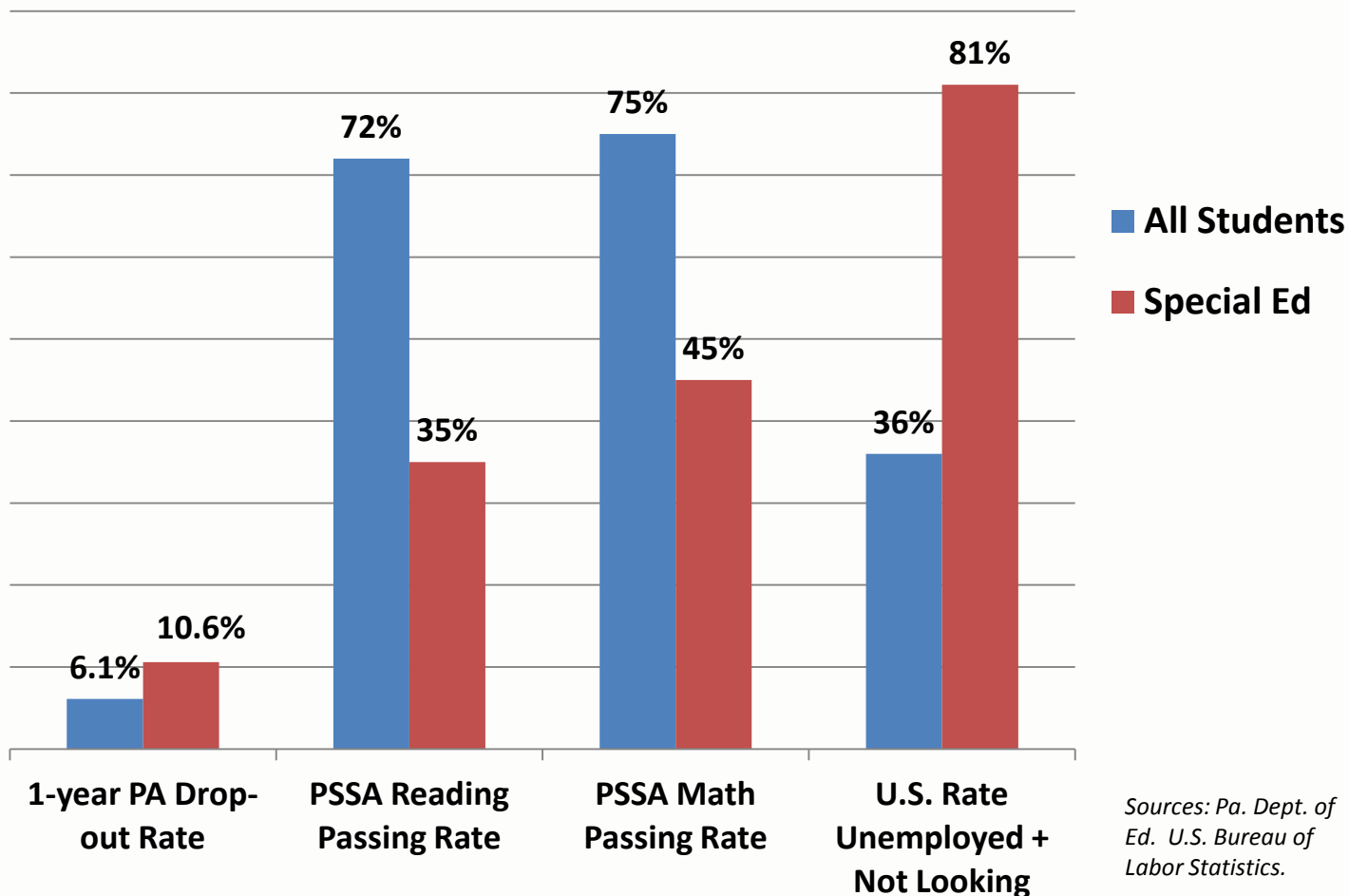
Highest and Lowest Percentage of Students Receiving Special Education out of All Students in Each District

(Pennsylvania average is 15.2%)

School District	County	2008-09 % Special Ed
Clairton City	Allegheny	25.82%
Williamsburg Community	Blair	24.82%
Franklin Area	Venango	24.55%
Purchase Line	Indiana	23.82%
West Greene	Greene	23.66%
South Fayette Township	Allegheny	8.61%
Penn-Trafford	Westmoreland	8.21%
Peters Township	Washington	8.00%
Bellwood-Antis	Blair	7.89%
Mars Area	Butler	4.65%

PA Student Outcomes 2009-10

Children with disabilities have different academic opportunities and outcomes than other students.



PA ACADEMIC PERFORMANCE RESULTS BY DISTRICT WEALTH

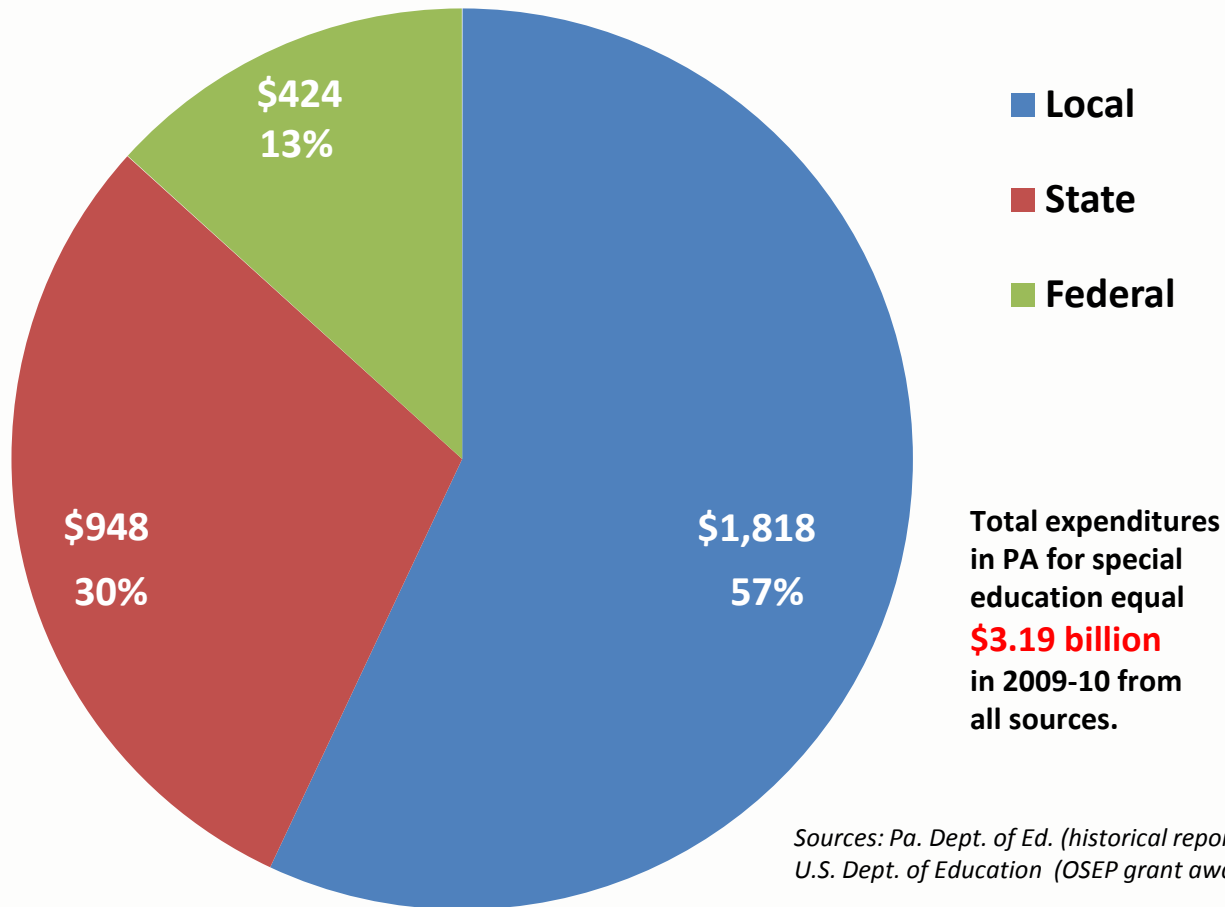
Students can learn. But resources affect the quality of special education that districts can afford.

	50 Poorest School Districts	50 Most Wealthy School Districts
2010-2011 SPECIAL ED <i>Average PSSA Passing Rate Reading & Math Combined</i>	33%	57%
2010-2011 ALL STUDENTS <i>Average PSSA Passing Rate Reading & Math Combined</i>	67%	87%
2011-2012 <i>Market Value/Personal Income (MV/PI) Aid Ratio – A higher value means more local poverty.</i>	0.78	0.21
2009-2010 <i>Current Expenditures per ADM (All students, not just special ed.)</i>	\$12,031	\$14,613

Special Education Expenditures in PA

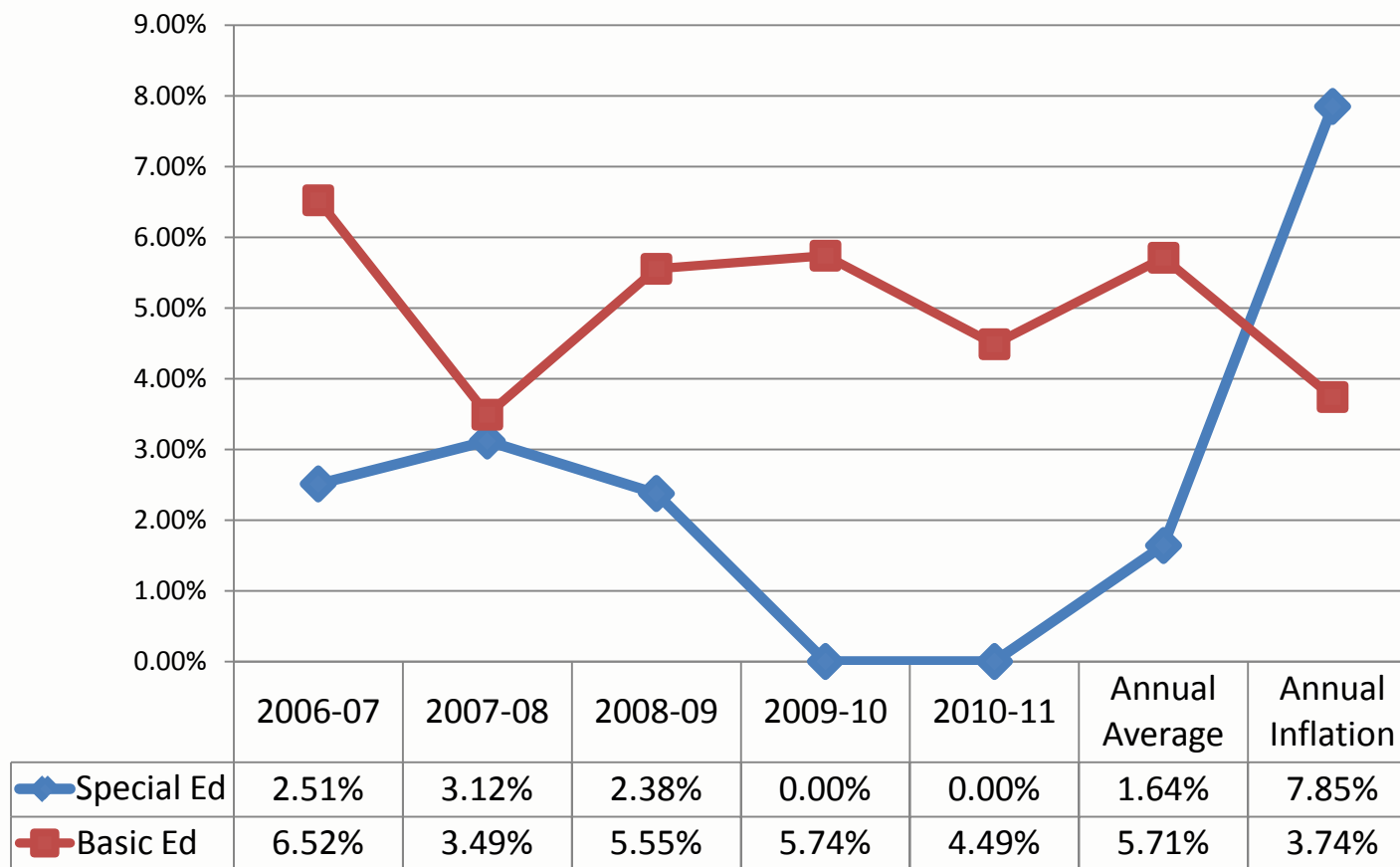
2009-10 (millions of dollars)

***Local school districts cover most of the costs
using property taxes and other local revenue.***



PA State Funding Increases

Special ed has not received a fair share of resources.



Sources: Pa. Dept. of Ed. (funding levels and Act 1 Index). Standards and Poor's (health care inflation index).

PA Special Education Enrollment & Funding

Special ed costs have greatly increased.

Year	% of Total Enrollment in PA that is in Special Ed	Students with Disabilities in PA Receiving Special Ed	Percent of Students Eligible for Special Education Who Are Served in Regular Classrooms at Least 80% of Day in PA (National Ranking)	PA State Funding (in millions)
2001-02	12.89%	232,891	42% (46)	\$788
2002-03	13.52%	245,161	43% (46)	\$800
2003-04	14.02%	255,264	43% (45)	\$836
2004-05	14.44%	264,055	44% (47)	\$855
2005-06	14.65%	268,198	47% (48)	\$876
2006-07	14.87%	270,930	50% (45)	\$898
2007-08	15.05%	271,107	53% (39)	\$926
2008-09	15.18%	271,309	55% (38)	\$948
2009-10	15.17%	270,150	57% (34)	\$948
2010-11	15.18%	270,288	61% (31)	\$948
Total 10-Year Increase		16.06% or 37,397 more students	63% increase in total number students included in regular classes <From Data Accountability Center>	20.30% (2% per year)

HISTORY OF SPECIAL EDUCATION FUNDING IN PENNSYLVANIA

The Excess Cost System

Prior to 1991-92, the state reimbursed school districts for 100% of the “excess costs” of special education above the average cost per student for basic education.

At that time, two-thirds of all students with disabilities were educated by Intermediate Units away from the regular classroom or school. The state paid IUs to operate these programs, separately from the Excess Cost System used for school districts. Most students are no longer excluded in this manner, but inclusion requires resources to be effective.



Switch to the Census System

After 1991-92, the state made a transition to a Census System.

There are two parts to the Census System:

An overall cap on annual state spending for special education; and

A division between districts of overall state funding based on relative student population. In recent years, the state has simply assumed that 16% of all students need special education services.

➤ *The annual funding cap means that districts do not actually get funded at the 16% rate, but the rate is used to calculate each district's proportion of total funding.*



The System Used in 2008-09

(Not based on real costs. The last year for any kind of formula.)

Base Supplement – Each school district received a pro rata share of the capped state funding level based on its 2008-2009 market value/personal income aid ratio (MV/PI AR) multiplied by 16 percent of its 2007-2008 total average daily membership (ADM).

Inflation Index Supplement – A district received additional funding, if necessary, so that the total increase, including the base supplement, equaled a minimum 4.4 % multiplied by its MV/PI AR over its 2007-2008 Special Education Funding allocation.

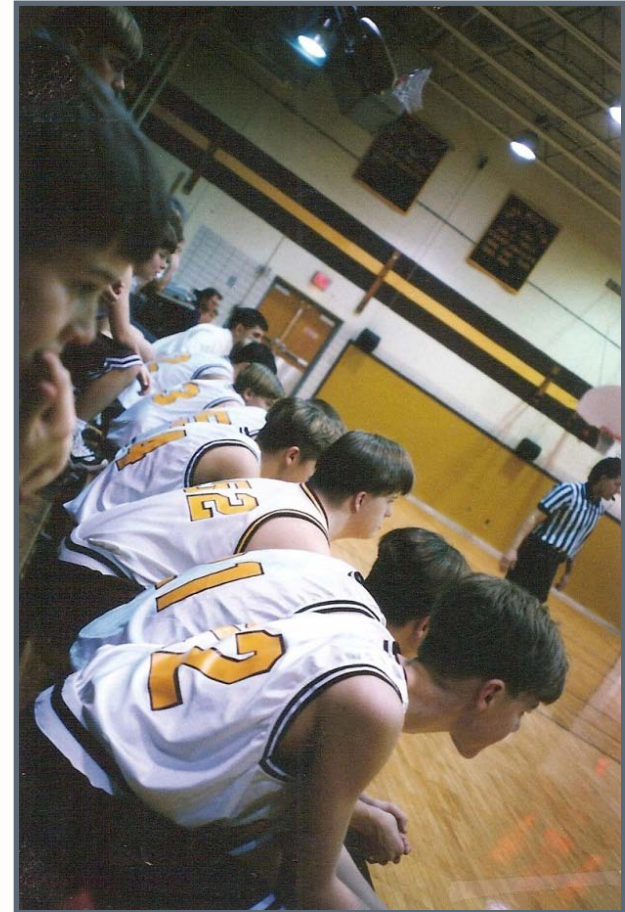
Minimum Increase – A district received additional funding, if necessary, so that the total increase, including the base supplement and inflation index supplement, equaled a minimum 2.0 % increase over its 2007-2008 Special Education Funding allocation.

Special Education Funding from 2009 through 2012

Flat funding for every district without any change.

No formula has been used.

The inflation rate affecting special education has exceeded 7% per year.



Problems with the current funding system for special education

Arbitrary distribution of state funding.

No relationship to data-based student counts or student costs.

Causes under-funding and (possibly) over-funding in districts.

Causes unintended consequences and unplanned incentives for local decision-making.

Does not provide support for all students to succeed in school.

No accountability for the use of resources.



What is the current accountability system for special education?

Nothing to connect funding with standards or results.

This causes unintended consequences and unplanned incentives for local decision-making.

Lots of programmatic planning and monitoring systems:

Three-year plans.

Federal Special Education State Plan.

Progress monitoring.

Gaskin Settlement Agreement.

Resolution of individual problems:

Division of Compliance.

Office for Dispute Resolution.



What are the basic principles for improving the state systems for special education funding and accountability?

1. Adopt reforms now to fix the broken system, establish school expectations, and relieve property tax pressures.
2. Maintain an independent line item in the budget
3. Allow legislative discretion over annual spending levels
4. Provide a commission for legislative oversight, review and updating of the system
5. Define the objectives of the system – improve student outcomes and facilitate best practices
6. Focus on distribution, not funding levels



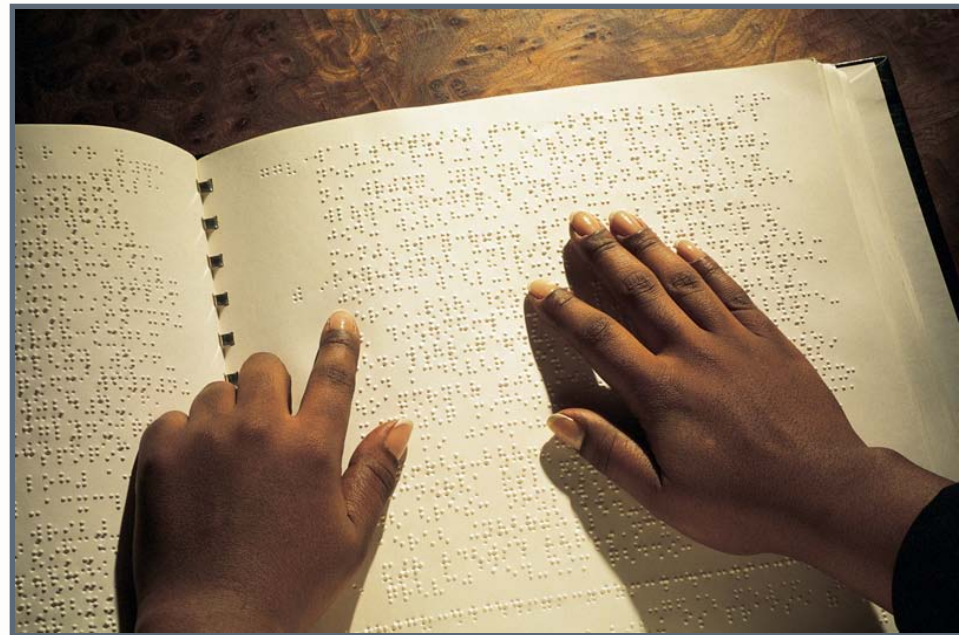
Basic Principles (continued)

7. Count kids
8. Recognize the real added costs of special education
9. Recognize that not all students with disabilities have the same costs
10. Recognize that conditions in school districts are different and affect their costs
11. Protect against over-identification
12. Encourage cost savings



Basic Principles (continued)

13. Maintain and strengthen the Contingency Fund
14. Connect spending with accountability within the existing systems for program planning and monitoring
15. Avoid creating new bureaucracy or excess paperwork
16. Maintain and improve the new system for the long term



Key Features of SB 1115 and HB 704

- A. Contains the same provisions as adopted by the House in 2010.
- B. Provide an effective formula to distribute state funding, without creating compulsory annual targets or limiting the discretion of the General Assembly.
- C. Increase the accuracy of the special education formula by using three weights based on relative cost to educate.
- D. Establish a transparent process to set the final formula weights and student count mechanisms through a legislative commission and subsequent regulation.
- E. Maintain spending at 2008-09 levels for future years if insufficient funds are appropriated.



Key Features (continued)

- F. Streamline and strengthen school district accountability without imposing excess bureaucracy, applied when sufficient funds are appropriated in future years.
- G. Maintain the Contingency Fund and make it more accountable and transparent.



Key Features (continued)

Factors in the distribution formula include:

- The base cost to educate all students
- A different weight for each of three cost categories for students with disabilities
- District-specific variables for student enrollment, actual spending, poverty, tax effort, and cost of living.
- Three-year averages are used for many variables, ensuring stable funding levels for districts.



Key Features (continued)

The distribution formula will include three multipliers and weights.

This will better match real student costs, rather than a single variable, a single student count, and a single weight (1.3).

Using three “cost categories” will allow the formula to more accurately distribute resources and avoid over-identification.

The final definitions for the categories and the weights will be determined through a legislative commission and then placed into regulation.

An actual student count will be used in the highest cost category to ensure distribution accuracy.

A data-based statewide percentage of eligible students will be used in the two lower cost categories to balance the needs for providing accuracy and avoiding over-identification. This percentage will be applied to the actual total enrollment of all students in each district for the lowest cost category and to the actual number of students receiving special education for the middle cost category.

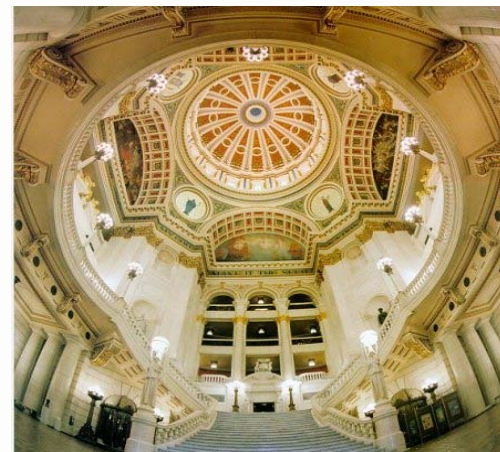
Key Features (continued)

The Contingency Fund for extraordinarily costly students:

Maintained at current levels (one percent of the total special education appropriation) and with current standards for issuing the grants through PDE.

The Fund is made more accountable with PDE reports to the General Assembly.

The Fund is necessary because no formula can anticipate the extraordinary expenses needed for the most costly students with disabilities.



Key Features (continued)

To cut costs over time and prevent over-identification:

School district plans will describe voluntary programs and strategies (1) targeting K-3 early intervention and (2) transitioning out students who no longer qualify for special education services. This section takes effect when funding is appropriated.

In addition to using to the three-variable formula and the strengthened accountability system, PDE will directly monitor identification rates, conduct a thorough review of districts increasing the ratio of eligible students to all students more than 10% in one year or 5% per year over any five-year period, and withhold partial funding from districts with unjustified increases.

Contacts

Baruch Kintisch

Director of Policy Advocacy
Education Law Center
1315 Walnut Street, #400
Philadelphia, PA 19107
www.elc-pa.org
(215) 238-6970, ext. 320
bkintisch@elc-pa.org

Sandra L. Zelno

School Reform Associate
Education Law Center
429 Fourth Avenue, #702
Pittsburgh, PA 15219
www.elc-pa.org
(412) 255-6414
szelno@elc-pa.org

Sources of Data

All data is from the Pennsylvania Department of Education (PDE), unless otherwise stated.

PDE data and statistics --

http://www.portal.state.pa.us/portal/server.pt/community/data_and_statistics/7202

Special Education Data for Pennsylvania -- <http://penndata.hbg.psu.edu/>

National Special Education Data (Data Accountability Center funded by the U.S. Dept. of Education) -- <https://www.ideadata.org/default.asp>

Federal Funding for Special Education --

<http://www2.ed.gov/fund/data/award/idea/index.html>

Federal data on unemployment for individuals with a disability (Bureau of Labor Statistics) -- <http://www.bls.gov/cps/cpsdisability.htm>