Show Me the Money:

Re-Imagining Funding for the Education of Students with Disabilities

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The Center for Learner Equity

Introduction

Our nation's education system has failed students with disabilities for decades. These students are years behind their non-disabled peers in academic achievement (Gilmore, 2019, p.1), graduate from high school at a rate much lower than their peers (67% versus 85% in 2017-18) (Digest of Education Statistics, 2019) and are significantly less likely to become employed (17.9% versus 61.8% in 2020)(Bureau of Labor Statistics, 2021, p. 2). These statistics are alarming given that research shows that 80 to 85% of students with disabilities can meet grade-level academic standards when given specially designed instruction, appropriate access, supports and accommodations, as envisioned under the law (Thurlow et al., 2011). Tragically, for millions of students with disabilities across the United States, a broken special education funding system plays a role in these disturbing outcomes.

The Individuals with Disabilities Education Act (hereinafter "IDEA") is a decades-old federal law requiring that students with disabilities be provided a free, appropriate public education (hereinafter "FAPE") that includes the services and supports they need to make meaningful educational progress (Individuals with Disabilities Education Act, 2004). However, states, districts, and schools have long struggled to meet this mandate, in part due to inadequate and ineffective funding systems. Insufficient and heavily regulated federal funding, complex, inequitable, and antiquated state funding formulas and variances in districts' abilities to raise their own funds for education combine to exacerbate this long-standing problem.

In March 2020, days before the COVID-19 pandemic shut down the world, the Center for Learner Equity (previously known as the National Center for Special Education in Charter Schools) convened a group of educators, disability rights advocates, district administrators, and school finance experts[1] to closely examine special education funding.[2] Participants quickly acknowledged the need for increased funding; however, throughout the convening, it became clear that merely pouring more dollars into the current system will not solve the problem. Instead, a three-pronged approach is necessary. Increased funding is the first step. At the same time, policymakers should replace the current funding systems with policies that are outcomes-driven, less rigid, and more equitable. Finally, to ensure that students receive the best return on these investments, quality data collection processes should be adopted.

In this brief, we will build on the discussions from our convening, incorporating the added layer of complexity brought on by the COVID-19 pandemic. We will begin with a summary of current funding systems. We will then analyze the changes that need to be made and propose possible solutions, including some of the innovative ideas that surfaced during the convening. Finally, we will end with a call to action for policymakers, educators, and advocates.

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[1] Please see the appendix for a list of convening attendees.

[2] A number of authors have written extensively about this issue, the challenges, and possible solutions, and several of those authors participated in our March 2020 convening. Some of their writings, listed in our References, include the following: Doutre, S., & Kolbe, T. (2020); Kolbe, T. (2019); and Levenson, N. (2021).

We recognize that changes to funding systems are complex, requiring significant stakeholder engagement and immense will. This brief is not intended to minimize the effort that will be required to effect the necessary change; nor is it intended to identify a single path forward given the complexities involved. It is, however, a recognition that the current funding systems are failing many students and that we must be willing to forge a path forward. We hope that the ideas in this document will inspire further conversation that will lead to action on reimagining funding for the education of students with disabilities.

The Current Funding Systems

The nation's public schools are funded by a combination of federal, state, and local dollars. Each of these funding streams comes with its own unique processes, and significant variations exist across states and districts (McCann, 2014, p.12). The result is a funding approach that is outdated, overly complex, and inequitable. In fact, according to the Learning Policy Institute, our public schools are among the most inequitably funded of all industrialized countries (Darling-Hammond, 2019). In this section, we will take a close look at our current funding systems and their deficiencies.

Federal Funding

Congress appropriates federal funding for education, including special education, through its annual budget process. Federal special education dollars are allocated pursuant to IDEA, with the bulk of that funding distributed under Part B-611, which funds special education for children with disabilities ages three through 21. These dollars are distributed from the U.S. Department of Education to states based on a formula that involves Fiscal Year 1999 funding and each state's population and poverty rates (United States Department of Education, 2016). As long as Congress' appropriation for the program remains at or above Fiscal Year 1999 amounts, each state receives at least the same amount of funding they received in 1999. Then, any funds over the 1999 amounts are distributed through a formula wherein 85 percent is allocated based on state shares of children aged 3-21 and 15 percent is allocated based on state shares of children living in poverty (United States Department of Education, 2016). States then distribute a majority of the funds to districts in a similar manner, reserving a small amount for state-level administration and activities (McCann, 2014).

Federal Funding Challenge: Adequacy

The funding provided under IDEA is woefully inadequate. When Congress enacted IDEA in 1975, it was estimated that students with disabilities, on average, required twice as much education funding as their nondisabled peers. At that time, Congress pledged to fund up to 40% of those excess costs (McCann, 2014). However, in the 45 years since then, the federal government has never funded special education at a level even close to that 40% goal. In Fiscal Year 2020, federal funding through IDEA Part B-611 was nearly $12.8 billion, or approximately 13% of the estimated additional cost (United States Department of Education, 2021, p.24). As the cost of special education has increased, this underfunding at the federal level has caused a ripple effect. States have struggled to cover their share, with districts left to fill the gaps.

Federal Funding Challenge: Compliance Requirements

Inadequacy is not the only challenge. IDEA and it's accompanying regulations contain complex, strict rules regarding what states and districts must do to qualify for these funds and how they can use the funds to meet those requirements (Assistance to States for the Education of Children with Disabilities, 2021, §300.208). To qualify for IDEA dollars, states must commit to following all of the mandates in the law related to providing FAPE to students with disabilities (Individuals with Disabilities Education Act, 2004). The law places limits on the allowable use of these funds, and in the limited circumstances where states are allowed to blend them with other funding streams or use them for purposes that are not specific to special education, they must adhere to complex, heavily regulated processes (Kolbe, T., 2019). Additionally, as Kolbe (2019) notes, except in very rare circumstances where a waiver is granted, states cannot use IDEA funds allocated for students aged 3-21 to supplant, or replace, state and local special education funding. Instead, these funds must only serve as a supplement to the funding already provided at the state and local levels (known as the "supplement not supplant" provision). The law also includes a "maintenance of effort" provision that requires states and districts to continue to fund special education at levels at least proportionate to previous fiscal years (United States Department of Education, 2016). Finally, to ensure that the numerous conditions set out in the law are met, there are rigid financial reporting requirements that states must follow (Assistance to States for the Education of Children with Disabilities, 2021, §§300.162-300.226).

The reasons for these protections are clear. Disability advocates fought for the rights and funding that IDEA provides, and the checks and balances in the law are intended to protect those rights. Educating students with disabilities requires resources, and advocates understandably want to ensure that the allocated resources are used for their intended purpose. However, the processes and restrictions attached to the use of IDEA funds can serve as significant barriers to utilizing those funds more creatively and more effectively, thus thwarting the ultimate goal of the advocacy.

Despite state and federal technical assistance efforts on utilizing the flexibility that exists in the law, the clear impact of the requirements' complexity is a widespread tendency to play it safe with how the funds are spent. States and districts continue to do things the way they have always been done instead of trying new, innovative approaches that would be allowed under the law. This strict interpretation and application of IDEA's requirements also leads to further siloing of special education as a program separate and distinct from general education, resulting in increased segregation of students with disabilities from their non-disabled peers. The law contains specific provisions requiring that students with disabilities be educated in the least restrictive environment, which in the vast majority of cases is the general education classroom (Individuals with Disabilities Education Act, 2004, §1412(a)). This mandate is based on decades of research showing that meaningful inclusion of students with disabilities is much more effective than educating them in segregated settings. IDEA highlights this fact, specifying that "almost 30 years of research and experience has demonstrated that the education of children with disabilities can be made more effective by . . . having high expectations for such children and ensuring their access to the general education curriculum in the regular classroom, to the maximum extent possible. . . ." (Individuals with Disabilities Education Act, 2004, §1400). Yet, the complexity around the creative use of IDEA funding in the general education environment serves as a disincentive for meaningful inclusion. This creates a cycle where the rigid use of the funds deters districts from spending them to meaningfully include students with disabilities in the general education environment. This leads to more students with disabilities being placed in segregated special education settings, which in turn results in less effective education for those students. Until this cycle is broken, schools will continue to struggle to meet the needs of students with disabilities.

State Funding

States rely on revenue from sales taxes, income taxes, taxes on lottery winnings, and other state resources to fund school districts. Each state's law outlines its specific mechanism for distributing education funding, including special education dollars, and there are numerous types of state funding formulas (Education Commission of the States, 2019a). Several states use a combination of mechanisms, and a few states do not have a designated formula, instead building assumptions related to the cost of special education into their base funding (Rhim et al., 2015). The most common formula types are single-weight, census-based, resource-allocation, and multiple-weight (Education Commission of the States, 2019a).

Single-weight

Census-based

Resource-allocation

Multiple-weight

Each formula's analysis starts with a determination of the number of students served. Gorginsky (2010) discusses the numerous ways states count students, noting that some states use attendance data, calculating Average Daily Attendance (ADA) by dividing the total number of days of student attendance by the number of days in a school year, while others rely on enrollment, calculating Average Daily Membership (ADM) by determining the average number of students enrolled in a school or district throughout a school year. According to Groginsky (2010), some states also rely on count days, where the number of students in attendance or enrolled on a particular day of the school year (e.g., October 1st) determines this base number. The number of students is then used to calculate a base allocation amount.

Single-Weight Systems

Single-weight systems provide districts with funding for each student with a disability. That dollar amount or weight is the same for all identified students and does not take into account the type of disability, the severity of the disability, or the level of support and resources a student may need (Education Commission of the States, 2019b). These systems (e.g., Louisiana and Maryland) essentially fund all students with disabilities as if they have equal needs, relying on the aggregate amount of funding to meet the varying needs of the students. In a school with a significant number of students with more complex needs, the aggregate funds may prove woefully inadequate. Furthermore, given the formula's allocation of funding for every student with a disability, there is a financial incentive to over-identify students whose needs might otherwise be met through more robust general education.

Census-Based Systems

Census-based funding formulas (e.g., California and New Jersey) rely on demographic information to create assumptions as to the percentage of students with disabilities each district will enroll (Education Commission of the States, 2019b). Under this type of funding formula, weights or dollar amounts for that set percentage of students are added to the base allocation amount. These formulas do not take into account individual student needs; rather, they provide a blanket amount to each district based on that set number. While census-based formulas remove incentives to over-identify students for special education, they produce funding amounts that are not connected to actual enrollment numbers and are often, because of the shifting nature of state populations, only loosely connected to actual state demographics. These systems are also not attached to the actual needs of the enrolled students with disabilities, often leaving some schools, particularly those that enroll a high number of students with disabilities or students with significant needs, with less funding than they need.

Resource-Allocation Systems

Funding formulas that use a resource-allocation model distribute resources instead of dollars to each district, with the amount of resources based on the number of students with disabilities (Education Commission of the States, 2019b). Under this model, states (e.g., Delaware and Virginia) rely on staff-to-student ratios to allocate resources (e.g., providing one teacher and one paraprofessional for every X number of students with disabilities). In some states, ratios are generalized across disability types or student placements. In others, students are grouped into categories based on need with the funding ratios then based on those categories (Stadler and Von Culin, 2016, p. 16). While this formula is an attempt to connect funding to current needs, the majority of special education funding under this system is directly tied to special education personnel and specific special education resources, which limits the ability of schools to be flexible in meeting the needs of individual students and perpetuates the siloing of students with disabilities into special education classes and programs. Even the states that differentiate by the level of need are essentially making resource allocation decisions for schools, preventing schools from making spending decisions that they believe would result in better outcomes for their students.

Multiple-Weight Systems

In states that use multiple-weight systems (e.g., Colorado and Ohio), students are assigned different weights or dollar amounts based on certain factors (Education Commission of the States, 2019b). For example, weights might be assigned by disability type, educational setting, or the number of service hours provided. The weighted dollar amounts are then added to the base allocation to determine the funding amount for those students. A multiple-weight system is arguably the most equitable of these four common formula types because money aligns with and follows students (Roza, 2019). However, weights still do not always accurately reflect student needs. In a system that uses disability categories to assign weights, for example, students in a category such as Other Health Impairment (OHI) will have a wide range of needs but will all be assigned the same weight. These systems can also incentivize over-identification and segregation of students. In a system that provides more funding for certain disability types, over-identification is a concern. Similarly, in systems that provide increased funding for students placed in more restrictive settings, there is a financial incentive to segregate students.

State Funding Challenge: Adequacy

Adequacy problems are not limited to federal funding; they also persist at the state level. Most state funding formulas are resource-driven, with dollars allocated based on the amount of state funding available rather than on the amount needed. In Pennsylvania, for example, special education costs increase by nearly $200 million per year on average, but state investment in special education funding only increased by $72 million from 2008 to 2016, leaving its districts to cover a majority of increased costs (Education Law Center-PA and PA School Works, 2018). With federal and state funding often leaving large holes in special education budgets, adequate district funding becomes critical.

State Funding Challenge: Compliance Requirements

Regardless of the funding formula used, state laws dictate permissible use of special education dollars. These laws are as varied as the states themselves, with wide discrepancy in how districts are able to use their allocated funds. States and districts often default to IDEA's use of funds restrictions (Doutre and Kolbe, 2020). As is the case with IDEA, ensuring that special education dollars are spent for the education of students with disabilities is important. However, when the requirements are too rigid, the same problems occur that we see with the spending of IDEA funding. Innovation is stifled, special education is siloed from general education, and the segregation of students with disabilities increases.

Local Funding

Local funding is a significant source of education dollars. While there is wide variation between states, the percentage of local education funding, on average, is nearly equal to the state contribution (Chingos, 2017). For funding specifically designated for special education, state and local funding constitute approximately 85% of the total dollars allocated (Kolbe, 2019, p. 9).

Districts access local property tax revenues to support school budgets. In general, locally elected school boards develop school budgets which drive tax collection within the parameters outlined by state regulations. Costs associated with delivery of special education and related services and consequently, costs increases, or decreases, are reflected in district budgets.

Local Funding Challenge: Wealth Disparities

The majority of local education funding comes from property taxes, which can lead to significant inequity given wealth disparities between communities. Districts with a wealthier tax base raise more money than their less-affluent neighbors. Some states attempt to address this inequity by setting up conditions to equalize local funding while others require local governments to provide specific contributions to education funding regardless of the wealth of the tax base (Skinner, 2019, pp. 5-9). In states that take the latter approach, a heavy reliance on local dollars often means that poorer localities have less funding to support schools.

Where disparities exist in education funding generally, they also exist in funding for students with disabilities. As a result, in districts with low property wealth, schools often struggle to fund both general and special education. In those districts, students with disabilities might be denied their appropriate services and supports. Less funding also leads to other inequities, such as the hiring of less experienced teachers, insufficient resources to develop specialized programs, and placement of students with disabilities in general education settings without the necessary services and supports. This reinforces generational poverty, ensuring that districts with more privileged families have resources that high poverty districts do not. Students with disabilities in property-poor districts, who arguably need additional services and supports the most, are deprived of those services because of inadequate funding, leading to poorer academic and life outcomes and perpetuating a cycle of poverty and low expectations. This cycle has been reinforcing inequity for decades.

Federal, State, and Local Funding Challenge: Lack of Alignment to Goals

At all levels, special education funding systems are based on the assumption that the calculated amounts are sufficient to provide FAPE to every student with a disability. However, due to the individualized nature of special education, there is no clear way to assess whether the funding is sufficient to meet student needs or whether it is being used effectively to educate students. Without clearly defined state-level goals around special education outcomes and the alignment of funding systems, policies, and practices around meeting those goals, it is impossible to determine whether these funds serve their intended purpose.

Special Education Finance in Charter Schools

The special education funding process is complex for traditional district schools. For public charter schools, it is even more complicated. State laws dictate whether charter schools are part of existing traditional districts or whether they serve as independent districts. Under IDEA, school districts bear the ultimate legal responsibility for providing special education (Individuals with Disabilities Education Act, 2004, §1413 et seq.). Because the process and manner for receiving special education funding are tied to legal responsibility, this creates an added layer of complication and confusion. Charter schools that operate as districts typically receive federal and state education funds directly from the state, while those that are part of larger districts receive funds, and sometimes centralized services instead of full funding, from the district. In districts generally struggling to secure adequate funding, the requirement to distribute dollars to charter schools can fuel tensions between the two sectors. We do not address charter-specific funding challenges in this paper. However, Rhim et al. (2015) conducted an in-depth analysis of special education finance in charter schools.

The Impact of COVID-19

Although the full impact of the COVID-19 pandemic on all students, and particularly on students with disabilities, has yet to be realized, early studies showed that it was clearly detrimental (Dorn et al., 2020; Garcia and Weiss, 2020; Rhim and Ekin, 2021). As the pandemic continues to impact learning, researchers continue to study these losses. At the same time, the pandemic has impacted education funding, which will make it more difficult for districts to allocate resources to address the expansive learning loss.

While all students likely experienced disruption of their education caused by COVID-19, we know that students with disabilities have been disproportionately impacted (United States Department of Education Office for Civil Rights, 2021, pp. 22-26). The absence of a national strategy to combat the pandemic left states and districts to make major decisions about schooling on their own. The necessarily abrupt closure of schools and the subsequent transition from in-person to virtual instruction made it difficult for many to comply with federal and state special education laws (Jackson and Bowdon, 2020, p. 3). The United States Government Accountability Office (2020) found that special educators struggled to accommodate their students whose IEPs were largely dependent on in-person services. They noted that many students with disabilities were unable to access education remotely, either due to the nature of their disabilities or because they needed in-person supports that were unavailable. Even for students who could learn remotely, internet access, particularly in high poverty and rural districts, made learning challenging (The Education Trust - West, 2020). Similarly, IEP development, amendment, and renewal meetings were difficult to accomplish in a remote setting (Jackson and Bowdon, 2020, p. 3).

Remediating the losses that students with disabilities experienced requires significant resources. However, the pandemic also profoundly impacted funding. COVID-19 has led to costs for districts that were not anticipated and thus not covered in their annual budgets. As schools return to in-person instruction, they have had to invest in safety measures such as mask mandates, periodic quarantines and shutdowns due to outbreaks, and building renovations to allow for appropriate distancing. As the pandemic continues, many also need to hire additional staff, both to allow for distancing and to address the global instructional loss.

In addition to these unplanned expenditures, COVID-19 threatens to directly impact funding allocations. The transition from in-person to virtual learning led to major challenges related to attendance and enrollment. Due to several factors, many students have not attended virtual classes (Richards, 2020). Given that state funding formulas rely on student counts, declines in student attendance and/or enrollment affect district and school allocation amounts. States that factor ADA into their formulas can easily undercount student groups that likely face greater barriers to attending school virtually, resulting in the allocation of less funding than needed for the next year (Lee et al., 2020).

In states that calculate special education funding based on specific demographic information about enrolled students with disabilities, the absence of students who might require more support and who thus face greater challenges with remote learning may lead to those students not being counted. This produces a compounding effect, with resources not being allocated for these students exactly when they require the most support.[3]

[3] States should consider amending their funding formulas through legislative action. For example, states that utilize Average Daily Attendance (ADA) in their base formulas could amend the formulas to allow the use of total student counts instead. This will help mitigate the problems associated with students being enrolled but unable to regularly access online instruction.

As these education funding challenges unfold, a corresponding national economic crisis is causing reduced revenues across the country, leading to major cuts to state budgets, which will remain tight for the foreseeable future. Studies show that some states still have not fully recovered financially from the Great Recession of 2008, even with the influx of federal stimulus funds from the American Recovery and Reinvestment Act (ARRA) (Leachman, 2018). As with the stimulus funding provided back then, the 2020 stimulus packages addressing the challenges brought by COVID-19 are meant to serve as a cushion to states, softening the blows to state revenues and providing funding for services such as education that would otherwise be funded by state dollars. With the passage of the $1.9 trillion American Rescue Plan Act in March 2021, states and districts are better positioned to cover increased costs from COVID-19 and to develop and maintain improved systems in the years beyond the pandemic. However, only a fraction ($3 billion) of the relief package is allocated directly to special education funding (American Rescue Plan Act, 2021). The Act (2021) directs the vast majority of the relief dollars dedicated to education ($130 billion) towards education generally ($121.9 billion), with no requirement that states or districts spend any of it on educating students with disabilities.

Re-Imagining Special Education Funding

Special education is complex, and developing and implementing funding systems that meet the needs of students with disabilities is challenging. The current systems, at the federal, state and local levels, fall far short of meeting that challenge. As we have discussed, federal special education funding is markedly inadequate and tied to strict use and reporting requirements that burden educators and stifle innovation. At the state level, the formulas used to determine special education funding amounts rely on generalizations and assumptions about need, with no connection to desired or expected outcomes. Even in those instances where the formulas calculate a sufficient funding amount, distribution lacks flexibility and nuance and the availability of the funds is inconsistent, often dependent on fluctuating state budgets and on the socio-economic conditions of the cities where the districts are located.

Re-imagining special education funding will require change at all levels. We propose that federal, state and local policymakers and advocates focus on three necessary and interdependent changes.

Increase Funding

Implement Funding Formula Reform

Collect & Share Updated Expenditure Data

First, funding levels should be increased. At the same time, funding systems and formulas must be reformed. We recommend that policymakers replace current systems with targeted, outcomes-based systems that ensure maximum return on investment, allow for flexible spending of special education dollars, and remedy the disparities that occur as a result of socio-economic differences across districts. Finally, robust data collection on special education spending and outcomes must be implemented as a check on funding adequacy and formula success.

Recommendation #1: Increase Funding

There is little debate about the need to increase special education funding. States should ensure that special education funding is prioritized, particularly in these challenging times. They should also encourage and incentivize their districts to devote a portion of the sizable federal stimulus dollars from the American Rescue Plan Act (2021) to support the education of students with disabilities. While only a small fraction of those stimulus funds are earmarked for special education, there is significant flexibility in the law to use some of the $121.9 billion directed to education generally for special education purposes. At the federal level, Congress should prioritize funding for the education of students with disabilities by increasing IDEA appropriations to the levels contemplated when the law was passed in 1975.[4]

While it is important to continue to advocate for increased funding, we recognize that state and district budgets are more strained than ever due to the economic crisis brought on by the COVID-19 pandemic and a significant increase in the annual appropriation of special education funding is thus extremely unlikely. The reality is that, with so much overall need, special education funding is unlikely to be a budgetary priority. Moreover, given the fact that increased spending does not necessarily correlate with improved outcomes (Levenson, 2021), we must address the deficiencies in our current funding systems. Pouring more money into a flawed system will not fix the system. Therefore, while we certainly support efforts to increase funding, we believe that the key lies not solely in more funding but also in ensuring that the funding systems are designed to meet the needs of students. For students with disabilities to get the most return on the investments that are being made on their behalf, our current funding systems must be reformed.

Recommendation #2: Implement Funding Formula Reform

As noted, the vast majority of state funding formulas fail to take into account desired outcomes for students with disabilities or the resources needed to achieve them. We propose that states radically reform their special education funding systems so that funding is aligned to outcomes and designed to maximize flexibility. We also propose that states take steps to remedy inequitieis caused by socio-economic disparities.

[4] As of our publication date, President Biden's budget proposal for Fiscal Year 2022 includes a substantial increase to IDEA funding which would put the bill on a path to full funding over the next several years.

Step 1: Develop Outcomes-Based Funding Systems

While states might approach this reform in different ways, they should include three key components: (1) set ambitious state-level goals[5]; (2) align practice, policy, and funding towards achieving those outcomes; and (3) measure and reward success. To illustrate, we will discuss one possible approach that surfaced at our convening.

Formulate a State-Specific Vision

The foundational step is the development of a state-specific vision for the desired outcomes for students with disabilities. Essentially, states need to define a goal that reflects appropriately high expectations. This goal does not replace those contained in student Individualized Education Programs. Instead, it is a state-wide goal that reflects the outcomes states want to prioritize. This first step is critical, and states should bring together a diverse group of stakeholders to form special education funding reform task forces.

State education agencies could act as conveners, bringing together finance experts, education researchers, administrators, parents, and general and special educators with knowledge of best practices to develop these state-specific "North Stars". States should develop ambitious goals that are informed and inspired by data. Goals might include attaining math and reading scores above the national average, a certain level of college readiness or preparedness for independent living, or any other factor that stakeholders agree would define success for their state in educating students with disabilities.

Align Practice, Policy, and Funding to the Vision

Once the desired outcomes are identified, states should realign practice, policy and funding towards achieving that vision, again utilizing their stakeholder groups. Experts on best practices would be able to weigh in on the latest research regarding promising approaches. Practitioners and parents would be able to offer insights regarding implementation concerns and challenges. Finance experts would help the group analyze cost-effectiveness and potential for return on investment. The goal is to conduct a thorough analysis of the services, supports and practices most likely to yield promising results at the best cost, given the state's North Star. Equipped with this information, the state education agencies could then develop state plans to support use of the practices that surface. At the same time, policymakers could review existing policies to determine where they align with the new vision, where they may need to be sunsetted if they don't align, and where there are gaps that need to be addressed.

[5] While the Every Student Succeeds Act (2015) requires states to set and monitor ambitious goals and measures of interim progress as part of its accountability system for all students, including subgroups that include students with disabilities, most states have failed to set ambitious goals for students with disabilities. At the same time, the U.S. Department of Education's Office of Special Education requires states to develop State Systemic Improvement Plans (SSIPs) to increase state capacity to support district implementation of the Individuals with Disabilities Education Act (United States Department of Education Office of Special Education and Rehabilitative Services, 2021). These plans are not tied to the ESSA state-level planning; however, nothing prevents states from creating ambitious goals for students with disabilities and then aligning their SSIPs to those goals.

With the goals and practices identified and with district implementation support plans developed, the stakeholder groups would next create a matrix of need, which would then be used to calculate the funding needed to achieve success for a diverse population of students with disabilities. The contents of the matrix would be specific to the state's North Star goal. For example, in a state that chooses to make college attainment their North Star, the matrix might include a component related to increasing the number of middle school and high school counselors and training them in practices specifically focused on supporting college attainment for students with disabilities. The matrix in that situation would incorporate the costs for those additional positions and the training, which would be factored into the funding formula along with other factors related to student needs. States could decide to take an approach that is specific to special education, or they could develop a matrix that is more whole-child focused, with weights for other factors such as poverty or English language learner status. Once the matrix is developed, policymakers should incorporate it into their state funding formula. These formulas would essentially be targeted, multi-weight formulas, informed and driven by the state-specific North Star.

Measure and Reward Success

When the system is developed and implemented, the state education agency would then be tasked with measuring growth towards the goal. When districts meet growth targets, they could receive greater flexibility in the use of the funds. Districts that excel could serve as models for other districts across the state. When districts do not meet growth targets, the state could put interventions into place and add further restrictions on the way the funds are used. Districts that struggle could be partnered with successful mentor districts, with the state providing additional funding to support improvement plans.

The intent here is not to develop a system where achievement determines funding. We categorically reject any funding system that would tie the receipt of funding to achievement, as such a system would incentivize the setting of low goals and punish high expectations. Rather, it is to create high expectations, calculate the funding needed to meet those expectations, and then reward success while also providing support to districts that are struggling. This type of targeted, outcomes-based funding system would allow states to determine special education spending priorities based on state-specific goals, base funding on the practices most likely to help students reach those goals and provide a framework for measuring success, bringing cost effectiveness and meaningful accountability to special education funding.

Prioritize Stakeholder Engagement

Regardless of the specific process states use to reform their formulas, local stakeholder engagement throughout the process will be critical to success. While there is a role the federal government can play, which we discuss below, only by tapping localized, state-specific expertise will states be able to truly tailor their plans to meet the needs of their students. Stakeholder groups that weigh in on funding formulas exist in several places across the country.

Washington, D.C., for example, has an established working group consisting of local community leaders and educators, DC government officials, education finance experts, and school representatives that convenes regularly to monitor the effectiveness and transparency of its Uniform Per Student Funding Formula (UPSFF), the District's enrollment-based formula for operating expenses provided to the District's schools (Hayes et al., 2012, p. ES-1). A prime example of a multi-tiered funding system, the formula calculates school allocations based on students and their characteristics, with a base amount set annually and additional funds added to the base for at-risk students, English language learners, and students with disabilities. Students with disabilities are categorized into four funding levels of need, according to the number of hours per week they require specialized services (Hayes et al., 2012, p. 11). Every two years, the DC Council, the District's legislative body, receives an in-depth report that includes a review of the UPSFF and recommendations from the working group on how to revise it (District of Columbia Office of the State Superintendent of Education, 2021, p. 1). Per the group's recommendations, the UPSFF has been revised a number of times over the last two decades, with funding levels adjusted, added, and removed (District of Columbia Office of the State Superintendent of Education, 2021, pp. 13-15). These recommendations enable Council members to make the appropriate legislative changes to the formula in order to support students more equitably. This group can serve as a model for states as they begin the process of revising their funding formulas.

The Federal Role

At the federal level, policymakers should establish a content-focused technical assistance center funded by the U.S. Department of Education to assist states in creating more equitable funding formulas. Technical assistance centers already exist to provide support on numerous education topics, including IDEA fiscal reporting (Ideas that Work, 2021). However, there is no center specifically focused on state funding formulas. While these funding formulas should be state-specific, a national technical assistance center could serve as a repository of each state's information, providing states with the opportunity to learn from each other. The center could also support states as they develop their stakeholder groups, connecting them to national experts on issues related to the work in the individual state and serving as a resource for best practices in both finance and education. Given that funding formula reforms will require legislative action, the center could also help states build the capacity of state education agencies to better inform policy and work with state legislators (Weinstock et al., n.d., p. xi). Finally, the center could collect progress data on each state's goals, providing national transparency in special education funding.

Step 2: Maximize Spending Flexibility

State - Leverage Existing Flexibility

Either as part of funding formula reform or as a separate exercise, state policymakers should closely examine existing state policies around the use of special education dollars. Where there is appropriate flexibility, states should provide more clarity to districts on innovative ways to use that flexibility. This does not need to be elaborate or expensive; nor does the guidance need to be limited to the flexible use of state funds. State education agencies can and should also support districts in understanding allowable flexibility in the use of IDEA funds.

State education agencies could do something as simple as creating a short infographic, "Top Ten Innovative Things You Can Try with Special Education Dollars" that could be widely disseminated to districts to give administrators and educators ideas about ways to use flexibility. States could also invest more in the technical assistance they offer on special education fiscal compliance. For example, states could create innovation teams to work with districts on ways to leverage the flexibility that currently exists to improve student outcomes, thus providing state-level support for localized spending decisions. At the same time, the state could offer a "hotline" for educators to call when they have questions about whether a specific expenditure would be an allowable use of either state or federal special education funds. These types of low-cost investments can lead to educators feeling empowered to turn away from the instinct to continue with safe but outdated approaches, an instinct aptly referred to as the "culture of can't" by Hess and Downs (2013).

State - Analyze and Address Need for Increased Flexibility

At the same time as state's are empowering educators with knowledge on how to utilize the flexibilities that are already present, they should be analyzing whether greater flexibility is warranted. Where use of funds restrictions are hindering innovation, change should be made to allow for more creative and inclusive approaches to educating students with disabilities. However, any flexibility in use of spending must be accompanied by accountability measures to ensure that the funds are used for their intended purposes.

Federal - Leverage Existing Flexibility

At the federal level, the U.S. Department of Education should increase efforts to educate states and districts on the flexibility that already exists in the law around use of funds. As we mentioned earlier, there are some provisions in IDEA that allow those funds to be blended and braided with other funds and to be used for purposes that are not strictly special education related. However, the processes for exercising that flexibility are complex. Even with support offered at national technical assistance centers, many districts and schools are hesitant to apply those exceptions, instead defaulting to treating special education as a separate program with separate funding. Increasing federal investments in technical assistance around these issues would be the simplest way to introduce more flexibility into how states and districts spend IDEA dollars.

Federal - Analyze and Address Need for Increased Flexibility

A more aggressive approach would be for policymakers to consider ways to infuse greater spending flexibility into the law when IDEA is next amended. However, similar to our recommendation for adding flexibility at the state level, any attempt to remove restrictions on use of the funds must be accompanied by requirements that will assure good use of those funds. The current IDEA regulations have accountability provisions. However, the federal government has historically not utilized those provisions to hold states and districts accountable. In fact, in 2018 the National Council on Disability issued a scathing report finding it disturbing that "very little has actually changed since the passage of IDEA more than 40 years ago with regard to the use of monitoring as an effective tool to drive compliance with the law and systemic change that is demonstrated to have an effect on student learning and outcomes" (National Council on Disability, 2018, p. 47). One of the primary recommendations in the National Council on Disability report (2018, p. 49) is for the U.S.Department of Education to "[e]ngage in more aggressive enforcement and utilize its authority to withhold federal funds and make referrals to DOJ for enforcement as permitted by IDEA," yet there is no indication that this recommendation has been followed. Given the decades of poor performance data for students with disabilities, it is clear that these provisions, while well-intentioned, have not had the desired effect. Any loosening of the strict requirements around the use of IDEA funds should only occur with strong accountability provisions and a commitment to robust implementation.

Federal - Radically Rethink IDEA

An even more radical approach would be to completely separate funding from the mandates in IDEA. This would essentially make IDEA a civil rights law, placing it in the same category as the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973. Under this approach, the funds currently distributed under IDEA could be moved to the Elementary and Secondary Education Act of 1965 (ESEA), which is already the primary source of federal K-12 funding (Skinner, 2019a, p. 1). The Every Student Succeeds Act (2015), the latest iteration and reauthorization of ESEA, has nine Titles outlining the provision of grant dollars for specific educational purposes, such as improving basic programs for students from low-income backgrounds (Title I), educator recruitment and preparation (Title II), and English language acquisition (Title III). Programs such as Titles I and III are generally intended to provide support to specific populations of students with greater needs. Adding a Title for the education of students with disabilities would be aligned with this current structure. The legal obligations to students with disabilities would remain in IDEA, and federal, state, and local governments would still be responsible for providing FAPE in the least restrictive environment.

Merely moving IDEA funding to ESSA, without any additional change, would not infuse added flexibility into the use of the funds. However, moving these funds would provide an opportunity to create a more unified funding stream. Each ESSA Title that provides funding comes with its own way of allocating dollars (Skinner, 2019a, pp. 10-11). Consolidating IDEA funding under ESSA could present the possibility of eliminating the separate Title formulas and developing a single formula through which funds for all Titles, including special education, are distributed.

A grand opportunity to rethink comprehensive federal education funding, a consolidated ESSA could mirror a state multiple weights system and allocate states a guaranteed base amount per student with supplemental funding for each English language learner, student with disabilities, and student in poverty. Consolidation would result in a streamlining of the administration of education funding, making it potentially easier for federal officials to distribute funds promptly, monitor benchmarks, and hold states accountable for their funding decisions in a way that would no longer be siloed by program. Consolidation would also provide an opportunity for fewer compliance burdens on states and districts. Perhaps most importantly, with the rights of students with disabilities still guaranteed under IDEA but the funding consolidated in this way, the siloing of students with disabilities could be decreased, further fostering meaningful inclusion of students with disabilities in general education settings.

We recognize that this idea is extreme. Advocates for students with disabilities and other marginalized students have worked hard to get protections and funding, and reducing restrictions and consolidating funding may be perceived as diminishing the importance of these populations. However, the simple truth is that the current system is not working. We must be willing to at least consider bold change if we want to improve the status quo for students with disabilities. While this might not be the right change, it is clear that some change must occur.

Step 3: Remedy Injustices Caused by Socio-Economic Disparities

Adopting outcomes driven funding formulas and allowing greater flexibility will help to remove some of the inherent inequities in our current system. However, because local dollars make up such a significant portion of special education funding, even a perfect state funding formula will fail to produce results if districts in economically distressed areas are unable to sufficiently fund the gap left by federal and state dollars. As we discussed earlier, the end result in such situations is often a system where students with disabilities in lower income communities suffer. Therefore, it is imperative that policymakers address these inequities.

Consider Implementing Fiscal Equalization

Some state funding formulas attempt to address this problem by incorporating fiscal equalization calculations. Tennessee's current funding formula, the Basic Education Program (BEP), is one example (Tennessee Education Finance Act of 1977, 2021). The BEP specifies categories of education expenses and then allocates responsibility for a certain percentage of each category to be covered by local funds, with those amounts varying based on complex calculations meant to determine the capacity each district has to contribute (Green, 2008). In April of 2022, the Tennessee General Assembly passed the Tennessee Investment in Student Achievement Act (TISA), a complete overhaul of the BEP, changing the state's funding formula from a resource allocation system to a multiple weight one (Tennessee Investment in Student Achievement Act, 2022). However, like the BEP before it, TISA includes a provision to calculate local contribution by determining local government fiscal capacity.

The intent of this provision in each of these formulas is for higher income districts to contribute more while lower income districts contribute less, theoretically removing the disparities that exist across the state. However, the complexities of these formulas and the challenge of developing an equation that accurately measures inequity and sets appropriate distribution percentages are daunting.

In addition, even with the best formula, these systems are inputs based, determining the percentage of the costs that state and local governments are responsible for covering without any guarantee as to total state appropriations amounts. When systems are historically underfunded, these allocation systems still leave high poverty districts at a disadvantage in trying to fill the gaps. Regardless of the deficiencies in these systems, states that have wide disparities across districts might consider incorporating some form of fiscal equalization into their funding reform.

Contemplate Creation of Intermediary Education Service Agencies

States should also consider creating intermediary education service agencies (ESAs) in areas where socio-economic disparities exist. Developed with the support of the state education agency, ESAs are entities authorized in IDEA that receive all state and local special education funds for districts and public schools in a particular geographic area (e.g., county), aggregated into one funding source (Individuals with Disabilities Education Act, 2004, §1401(5)). There are several states, including Connecticut, Rhode Island, and New York, that already utilize ESAs (Moran and Sullivan, 2015). In addition, California's Special Education Local Plan Areas (SELPAs) are a form of ESA.

Pooling resources in an ESA allows for equitable distribution of funds and supports across districts. ESAs could be structured so that the large majority (90%) of the blended funds are distributed to schools in a way that is similar to a multiple-weights system, where students with greater needs are allocated a greater amount of funds. Vermont employs a similar system, where local property taxes are collected by the state and redistributed to school districts based on need (EdBuild, n.d.). Under our proposal here, after the large majority of blended funds are distributed based on need, the remaining 10% of funds could be kept by ESAs to fund their work as collaborative support infrastructures for their constituent districts. Policymakers should also consider incentivizing the creation of ESAs by offering some additional funding.

As support agencies, ESAs can provide professional development, technical assistance, centralized resources, and expertise. They can also sponsor competitive grants for schools to pilot innovative programming and can conduct data collection, analysis, and feedback to facilitate school improvement. For states that elect to develop funding formulas that incorporate North Star goals for students with disabilities, ESAs could play a critical role in helping schools achieve those goals.

While ESAs offer a powerful opportunity to reduce disparities between districts, policymakers need to define the role of ESAs in providing program guidance to districts. States that develop ESAs should consider developing model policy and detailed guidance for constituent districts to follow.

Districts would be mandated to regularly report on their funding practices, with their ESAs ensuring that they stay within the bounds of federal and state policy. Legal and financial responsibility for providing special education to students could be shared between the ESA and districts. Although this may lead to the loss of some district-level autonomy, it would make both the reporting process and the ability to monitor compliance and compare progress across districts simpler. The ability to equitably allocate resources and provide support to districts makes ESAs a policy worth serious consideration.

Recommendation #3: Collect and Share Updated Expenditure Data

The foundation of good decision-making lies in clear and accurate data. Yet, there is currently no national survey that collects school or district-level special education expenditure data. While some federal surveys require districts to report expenses for special education personnel, they do not include or otherwise disaggregate from general education many other special education costs, including related services (Kolbe, 2019, pp. 17-18). In fact, the last comprehensive federal study on special education expenditures, the U.S. Department of Education Office of Special Education Programs' and American Institutes for Research's Special Education Expenditure Project (SEEP), was conducted over 20 years ago (Chambers et al., 2003). As a result, it is unclear how much is actually spent on special education.

Conduct an Updated Federal Special Education Expenditure Study

Accurate, current data on spending is needed. Determining the return on an investment requires knowledge about the extent of the investment. For students with disabilities, who require a nuanced definition of return on investment that does not rely solely on the usual metrics around test scores and college enrollment, thorough spending data is needed to conduct a meaningful analysis. Furthermore, while funding formula reform can occur without this data, by bringing together stakeholders with knowledge of best practices and current costs, determining the effectiveness of the formulas will eventually require data collection on expenditures. Due to federal oversight responsibilities and capacities, the U.S. Department of Education is in the best position to collect, organize, and release robust special education expenditure data. Therefore, we recommend that they commission a new national study to examine expenditures for special education, to update the 20-year old data from the SEEP report. The results of that study could then be used to continue to refine funding formulas to ensure that they are targeted to produce the best outcomes for students with disabilities. At the same time, states should require collection and reporting of special education cost and expenditure data at the district level and should develop their own systems to analyze the effectiveness of the programs, services, and supports that are purchased with the funds.

We recognize that this is not an easy task. However, the collection and analysis of this data are vital to ensuring that funding systems are set up to best meet the needs of students. California is an example of a state that is working towards better data reporting on special education issues.

They have a unique system of distributing special education dollars that utilizes state-mandated Special Education Local Plan Areas (SELPAs), which are consortiums of districts in shared geographic areas that provide special education programs and services to their schools (California Department of Education, n.d.). SELPAs are also considered to be ESAs in the context provided above as they offer centralized services to constituent districts (Petek, 2019).

Each SELPA has a governing board of member district representatives that determines how state special education funds are allocated amongst their member districts, and those boards have the discretion to deviate from the state's funding formula to ensure their allocation plans meet their members' and student needs (Willis et al., 2020, p. 12). Willis et al. (2020) point out that this gives SELPAs the power to make localized decisions but also results in a wide variation in their allocation plans. Historically, reporting processes have not been ideal. With some SELPAs providing great detail about their allocation plans and others providing little information, it was impossible to meaningfully compare and analyze allocation plans. However, California is now taking action to demystify and standardize the SELPA reporting process. As of July 2021, the state's Department of Education is utilizing a mandatory budget reporting template to collect quantitative data on their allocation plans, including revenue sources, coded budget items, and SELPA operating expenses. Along with this standardized quantitative data, the template collects qualitative data through the use of two open-ended questions allowing SELPAs to describe their allocation and distribution plans (Willis et al., 2020, p. 65). This blend of approaches to data collection will produce some data for comparison purposes while still prioritizing each SELPAs ability to make decisions based on local context. While this system does not allow for a complete comparison of data, it is an approach other states should consider.

Streamline Data Processes

Two additional necessary components of quality data reporting systems are efficiency and transparency. States should work to streamline data reporting requirements, eliminating any duplicative reporting. If reporting requirements are aligned, it reduces the need to report information in multiple places and ways, data accuracy is improved, the burden on districts is reduced, and compliance rates are increased.

States should also make sure that relevant financial data is transparent and accessible. ESSA reporting requirements, which went into effect in the 2018-2019 school year, mandate that states must "prepare and disseminate widely to the public" annual reports on the total per-pupil expenditures of federal, state, and local monies at the district and individual school levels (The Elementary and Secondary Education Act of 1965, 2015, §§1111(h)(1)(C)(x) and (h)(2)(C)). However, the law does not require states to detail how the money is spent (Hadley et al., 2020). Additionally, despite the clear requirement to make this data public, the information is hard to find on many state education websites. States should ensure that the data is easily accessible and disseminated widely to the public as required by the law. They should also go beyond the federal reporting requirements and publish data that shows expenditures specifically related to educating students with disabilities. Disaggregating this financial data and making it available and accessible allows stakeholders, including parents and advocates, to gain insight into funding processes and is thus a vital part of holding our education system accountable for meeting the needs of students with disabilities.

Where Do We Go From Here?

The special education funding crisis has, for decades, contributed to poor outcomes for students with disabilities across the country. In the wake of the COVID-19 pandemic, the problem is even more pronounced. Policymakers will need to take bold action to address the challenges discussed here. Change is never easy, but the current systems are broken. The status quo should not be an option. While there are no simple solutions, we hope the ideas raised in this brief offer a starting point to inspire policymakers, advocates, and educators to come together to forge a path forward.

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Formerly the National Center for Special Education in Charter Schools

About CLE

The Center for Learner Equity is working to ensure that public schools—both within the charter school sector and beyond it—are designed for inclusivity and equity from the start. When we improve access and outcomes for students with disabilities, all students benefit.

Mission

We are committed to ensuring that students with disabilities, particularly those in under-resourced communities, have the quality educational opportunities and choices they need to thrive and learn. We accomplish this through research, advocacy, coalition formation, and capacity building with national, state, and local partners.

Vision

Students with disabilities will have the same opportunities for success as their peers.

List of Attendees

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