

Issue Brief: Special Education Funding

May 2024

Background: Charge to the Workgroup.

Under the MSDE Comprehensive Implementation Plan, “The workgroup should make recommendations on improving the education of students receiving special education services... including whether additional funding is needed and addressing learning loss as a result of the COVID-19 pandemic.”¹

Simultaneously, there is overwhelming evidence, acknowledged by the Kirwan Commission, that special education is significantly underfunded. This evidence includes the notably low achievement levels of students with disabilities and the prevalent belief among educators that IEP services are often designed to fit within school budgets rather than meet the needs of students as mandated by IDEA.

Current funding under the Blueprint: The weight

The Blueprint requires that 75% of the per pupil amount applicable under the base, weights, and other programs follow the child to individual schools. Therefore, 75% of special education funding must follow students with disabilities to their schools. Maryland is one of nine states that uses a single-weight model for special education funding, and one of only three that does not utilize that single-weight within a hybrid model.² Special education funding is calculated based on enrollment and a weight applied to base funding. The base funding is the amount provided for all students or the Foundation Program. The weight is intended to represent the additional costs of services and supports needed by students with special needs who are eligible for special programs. There is a weight for students with disabilities (and separate weights for students who are multilingual learners and from low-income households). The weight is multiplied by the foundation program and then by the enrollment count to arrive at the program’s total cost. The foundation per pupil amount and the special program weights change each year.

The Special Education Program is funded based on the number of students with disabilities enrolled in a Local Education Agency (LEA) as of October 1st of the prior year multiplied by the foundation per pupil multiplied by the SPED weight for that fiscal year.

Example: LEA X has 325 students with disabilities enrolled as of October 1, 2023, which funds fiscal year 2025. The Foundation Per Pupil in fiscal year 2025 is \$8,789 and the SPED weight for fiscal year 2025 is 99%. The calculation is $325 \times \$8,789 \times 99\%$. The SPED per pupil amount is \$8,701. The SPED program funding for fiscal year 2025 is \$2,827,825 (325 students \times \$8,701)

The Blueprint for Maryland's Future envisions a "layer cake" of funding for students with disabilities in that each student receives the Foundation Per Pupil amount PLUS any other special populations funding available to that student based on eligibility.

¹ MSDE Blueprint Comprehension Implementation Plan, Objective 4.3(c)

² Education Commission of the States (2021). K-12 and Special Education Funding: Special Education Funding [50-State Comparison]. <https://reports.ecs.org/comparisons/k-12-and-special-education-funding-04>

The Kirwan Commission deliberated over differences of opinion regarding the weights for special education.³ The weights in the Blueprint were modified by the General Assembly. The Blueprint weights provide substantial increases over the pre-Blueprint weight of .74; still, uncertainty remained, resulting in the General Assembly's call for an adequacy study.

The Kirwan Commission thought the study of adequacy should include "differentiated weights based on the severity of a student's disability." The Commission later noted that "Differentiated weights are preferred ..."³ Two detailed reviews of tiered models were provided by WestEd⁴ which recommended the current single-weight Maryland model and EdBuild⁵ which recommended differentiated weights. The Kirwan Commission expressed its concern that MSDE budgeting and expenditures reporting requirements do not accurately reflect actual special education spending, including the costs of special education in general education and the provision of related services.

Transportation costs

Neither the Kirwan Commission nor the Blueprint considered special education transportation costs.

Currently, the Disabled Student Transportation program provides an additional \$1,000 for each disabled student transported during the previous year. This program is in addition to the regular transportation program which provides an increase each year based on the inflation factor.

Nonpublic placements

Neither the Kirwan Commission nor the Blueprint considered the costs of nonpublic special education school placements.

The Nonpublic Special Education School Budget Process is the established procedure utilized by MSDE to approve the rates for the cost of the nonpublic special education programs.⁶ The Nonpublic Special Education School Budget is submitted annually by each nonpublic special education school to MSDE, DEI/SES. The purpose of the budget is to fund the reasonable expenses necessary to ensure FAPE for students placed by the LEAs or public agencies.

Beginning in FY 24, these budgets reflect increases required by the Teacher Pay Parity Act (Act). The Act went into effect July 1, 2023, and states that "a nonpublic school shall provide its teachers a salary that is equivalent to the local school salaries, phased in over 3 years beginning in fiscal year 2024 with parity achieved in the third year and parity maintained thereafter." Implementation of the Act began during the FY 24 cost approval process. Year 2 of the phase-in is part of the FY 25 nonpublic special education school cost approval process. Calculations related to the implementation of the Act are in addition to the increases allowed under the approved annual rate inflator.

³ Interim Report 2019, p. 113.

⁴ WestEd study 97-102

⁵ EdBuild was a non-profit think tank that no longer exists. Select Full Recommendations from <https://edbuild.org/content/edbuidler>

⁶ Maryland Education Article §8-406 (d) states that: "(1) Payment or reimbursement for a nonpublic program may not be provided if the payment or reimbursement would require an additional contribution from the State under §8-415(d)(2) of this subtitle unless the Department approves (iii) The cost of the program . . ."

Furthermore, Maryland Education Article §8-415(d)(2) states that the “State and the counties shall share collectively in the cost of educating children with disabilities in nonpublic programs under § 8-406 of this subtitle.” To implement this cost-sharing process, the MSDE implements and oversees the Nonpublic Tuition Assistance Program (NTAP). Each LEA receives its 300% figure, calculated annually by MSDE. Under NTAP, and in alignment with Education Article §8-415 for each nonpublic special education school placement, LEAs are responsible for contributing the local share of basic cost and an additional amount equal to 200% of the basic cost (300% figure). Once this amount has been reached, the LEA is responsible for 30% of the excess cost above the 300% figure for the nonpublic special education school placement, with the resulting State share equal to 70% of the excess cost.

Minimum school funding requirement

The Blueprint requires that 75% of the per pupil amount applicable under the base, weights and other programs follow the child to individual schools. Therefore, 75% of special education funds must follow students with disabilities to their individual schools.⁷

The first reports on this are due July 1, 2024. A new MSDE financial reporting system is being developed by MSDE to collect the necessary school-level budget information. MSDE will consider whether the budgeting and expenditure requirements are sufficient to provide the actual cost of special education.

A primary concern with a single-weight funding system, where money follows students to their schools, is that basing funding on the "average" needs of all students with disabilities fails to address the higher costs for those requiring more extensive supports and services. This issue is compounded by the uneven distribution of students with varying levels of need across different schools within each LEA. A very wide range of resources is required to implement the supports and services in individual IEPs (i.e., some students need limited additional dollars for minimal support and services, while others require many times more⁸). This allocation system, if fully implemented, will overfund some students (and by extension, some schools) and significantly underfund others, making it impossible for schools to deliver the services legally required under IDEA for students with more than “average” services and supports in their IEPs.

Supplantation

The Kirwan Commission addressed the issue of supplantation versus supplementation in special education funding. Supplantation refers to diverting grant funds, intended for a specific purpose such as special education, to other uses. In contrast, supplementation involves using grant funds to enhance existing resources without replacing them. The Commission concluded that supplantation should be prohibited, ensuring that special education funds are used exclusively for their intended purpose. MSDE should seek clarification and provide guidance.

Discussion Questions:

1. Do you feel that funding for special education is adequate? How does inadequate funding impact students' access to free appropriate public education?

⁷ https://drive.google.com/file/d/1d61pra-pFFufhZHdC_2l63ZZVGtI3pNz/view

⁸ A recent study conducted by AIR in Ohio estimated per student costs to range from \$9,760 to \$59,098, with the bulk of the difference between categories of students being the cost of direct services. See p. 27, [Special Education in Ohio: Best Practices, Costs, and Policy Implications](#). (November 2022).

2. Do you think special education funding should be based on one weight or through multiple weights based on disabilities? Please explain.
3. What knowledge do you have about supplantation?
4. Should the costs for transportation, nonpublic placements, and minimum funding requirements be further studied?
5. What priorities might be set for additional funding for special education that would remove barriers between students and FAPE?
6. What other questions or recommendations do you have about special education funding in Maryland?