

SPECIAL EDUCATION FUNDING IN NEW JERSEY

A Policy Analysis

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Tammy Kolbe, Ed.D.
Margaret J. McLaughlin, Ph.D
Loretta M. Mason, M.A.

University of Maryland
College Park

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Executive Summary

The Education Law Center (ELC) sought an independent review of special education funding in New Jersey as part of a larger group of studies intended to critique the cost study conducted by Augenblick and Palaich and Associates (APA) and the New Jersey Department of Education (NJDOE) and inform the ongoing public debate. In doing so, ELC recognized that there was a need for a single comprehensive review and assessment of the APA Cost Study's recommendations for a new special education funding formula, as well as the overall special education policy environment in New Jersey as it relates to special education funding adequacy. The purpose of this study, however, was not to develop or propose a new state funding formula for special education. Rather, the study's primary objective was to identify factors that should be considered by policymakers in their efforts to establish a new special education funding formula. To accomplish this goal, this study includes:

- A critical evaluation of the APA Cost Study, including the technical and policy questions related to the adjustments to the proposed base weights for special education and related services; and
- An assessment of the overall special education policy environment in New Jersey.

This report summarizes the findings related to these two activities and identifies key considerations for NJDOE and the State Legislature as they develop options for a new special education funding formula in New Jersey.

Study Findings

This Study finds that New Jersey faces many challenges in its efforts to ensure an equitable, adequate, and cost-effective special education system. For instance, the State ranks high on several indicators that are known to not only place the State in jeopardy of non-compliance with federal laws, but also drive up special education costs. Specifically:

1. The overall proportion of students identified as needing special education is higher than the national average and students from certain racial and ethnic backgrounds are disproportionately identified for special education in New Jersey.
2. New Jersey districts place students in segregated educational settings both inside and outside of their home district at much higher rates than almost all other states nationwide.
3. While the number of disputes in New Jersey is relatively small compared to the number of students receiving special education, disputes significantly impact districts through increased spending on litigation and lost instructional time on the part of teachers, not to mention the erosion of school-parent relationships.

4. Students with disabilities in New Jersey lag considerably behind their non-disabled peers in achievement on state tests. Results from the Spring, 2006 assessment indicated that at the third-grade level, slightly more than one-quarter (27%) of students with disabilities scored at or above “proficient” on the State’s reading assessment, compared to 72% of general education students. There was also about a 17% achievement gap on the third-grade math assessment. At 8th grade, the achievement gap between students with disabilities and general education students was largest at about 44 percentage points in the area of language arts literacy and there was a sizable gap of 25 percentage points in math and 17 percentage points in science.

The APA Cost Study commissioned by NJDOE was presumably one possible option for updating the special education funding system. However, the APA cost study has serious flaws and, at this point, lacks little if any credibility among stakeholders statewide. The New Jersey Special Education Expenditure report is considered by many to be dated (it reflects the policy environment in place during the 1999–2000 school year) and to not have delved deeply enough into the costs associated with different settings and service options. Other recent reports by external stakeholder groups identify persistent systemic problems with special education and special education funding in New Jersey, and stakeholder reports and the individuals interviewed for this study call for further consideration on the part of NJDOE and the State Legislature regarding future strategies for funding special education in New Jersey.

Based on our review, we offer five considerations for NJDOE and the State Legislature:

1. **Monitor Expenditures.** Gaining a deeper understanding of special education finance and its ramifications for education policy and practice has been hampered by the absence of periodic reliable data on special education expenditures and the funding sources used to pay for these expenses. This concern manifested itself in calls for the State to establish accounting mechanisms (e.g., based on existing audit summary data) that track and report what is currently spent by public school districts, as well as private schools. In addition, there have been calls for a study of the “actual excess costs” (expenditures in excess of how much is spent by the state and local education agencies on general education) associated with providing special education and related services. While it appears that these calls are for a study of what is actually spent on special education in the State—the concept of “costs” encompassing a much broader range of resources than what might legitimately be tracked by the State’s accounting system—it is clear that stakeholders statewide feel they would benefit from periodic and reliable special education expenditure data, particularly if it could be linked to student disability classifications, placements and outcomes. As of now, there is very little information to guide policy making, programmatic decision making, and resource allocation at the state and local levels as to what might be the most effective and cost-efficient means to provide special education and related services.

2. **Study Special Education Funding Adequacy.** Absent from the APA Cost Study and, for the most part, other recent efforts to study special education costs, is an explicit set of assumptions and goals that ground the respective recommendations and conclusions. Specifically, the APA Cost Study did not consider the relationship among desired outcomes for students with disabilities, the programmatic elements, and resources required to achieve these outcomes. In light of these deficiencies, serious consideration should be given to conducting a new study that explicitly examines special education funding adequacy. Such a study would carefully consider the “inputs” or resources required to provide an adequate special education system, and would carefully consider and recommend “best practices” districts might use to achieve desired outcomes. In addition, in the context of this larger effort, there also is a clear need for more targeted studies that examine the costs and relative effectiveness of specific special education programs, services and resource allocations. Districts currently have little good information upon which to base decisions about how they might curb costs or select programs and services that most benefit students.
3. **Consider Incentives and Disincentives Embedded in Current Funding Approach.** The nature of special education funding has a direct impact on the ways in which special education services are designed and delivered; that is, how the State goes about funding special education may create various incentives and disincentives for district actions. It is clear that New Jersey’s current “weighted” pupil approach to allocating State aid to districts, including the absence of specific funds for students experiencing academic, behavioral or physical challenges in general education, may have unintended consequences for rates at which students are identified for special education and where they are placed. In particular, a relatively high percentage of special education students in New Jersey are served outside their district of residence and at a much higher-than-average expenditure than those served internally. While classification and placement neutrality should be key goals in any state funding formula, there is no one “best way” to allocate state aid to districts. There are incentives and disincentives with almost any funding approach, and the extent to which those factors are at play depends greatly on the norms and standards by which a State’s special education system operates. Several experts in the field recommend a multi-faceted set of criteria to help evaluate the relative merits of various funding approaches. Multiple criteria should be considered when developing a new funding formula and it is essential to involve a broad and balanced constituency in this discussion of the funding formula’s essential goals and the relative weights with which each of the evaluation criteria might be applied.
4. **Build District Capacity for Change.** Statewide, districts are struggling to provide high quality special education programs and related services. At the same time, they are burdened with increasing costs. Moreover, it is evident that there are opportunities to build district capacity to better serve students with disabilities in a cost-effective manner through state intervention and coordination. This report, as well as those published by other stakeholder groups, identifies a number of areas in which the State might act.

5. **Involve Stakeholders.** Efforts to develop a new special education funding approach in New Jersey will be influenced by a range of issues, including the national and state policy environments, student needs, and stakeholder interests and inputs. The lack of transparency and broad-based stakeholder involvement in the APA Cost Study was a major criticism and, ultimately, undermined the credibility of the Study's findings and recommendations. Any new effort to examine special education costs or to develop a special education funding formula needs to be done in the spirit of openness and collaboration. This means full public disclosure of the process and stakeholder opportunity for input on findings.

I. INTRODUCTION

Background

In New Jersey, both the Governor and State Legislature publicly announced their intent to revise the State's school funding formula by the end of the 2007 calendar year. Initial indications were that the State's proposal for a new formula would rely heavily on a cost study completed by the New Jersey Department of Education (NJDOE) and Augenblick, Palaich, and Associates (APA) during the 2002–03 school year (hereafter the APA Cost Study). The APA Cost Study's goal was to calculate the costs New Jersey school districts encounter in meeting state performance and accountability standards for all students, including those with special learning needs (i.e., students who receive special education, English Language Learners and at-risk students). The study utilized a Professional Judgment Panel (PJP) model, which relies on groups of policymakers and educators to identify the resources required to provide students with an adequate education.

In the wake of its release, the APA Cost Study's findings were criticized by education administrators, advocates and school finance experts. For instance, three national experts in education finance hired by the State to independently evaluate the APA Cost Study found several flaws with the Study's overall approach to school funding.¹ These experts criticized the APA Cost Study's final report for its lack of transparency with regard to the basis of the resources considered and cost determinations, apparent lack of consideration of differences in educational programs underlying the staffing recommendations, incorrect use of median, as opposed to average, teacher salaries in the cost calculations, inadequate stakeholder participation in the PJP process, and other issues related to the calculations of the proposed base costs and adjustments.

Stakeholders throughout New Jersey also raised numerous concerns regarding the APA Cost Study's recommendations for funding special education and related services. The Study is largely silent on the assumptions, processes and procedures used to estimate special education funding adequacy, making it nearly impossible to assess the effects of the proposed weights—an approach for distributing additional funds to districts and schools for providing special education and related services for students with disabilities—on the equity and adequacy of special education funding. It also is unclear how the proposed special education weights would be implemented. Moreover, now nearly five years old, the APA Cost Study also does not address current issues facing special education in New Jersey. Issues absent from consideration in the Study include the costs associated with fully implementing the assessment requirements of Title I of the Elementary and Secondary Education Act, 20 U.S.C. § 6301, also known as the No Child Left Behind Act (NCLB), and the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §1400 *et seq.*, which require states to correct systemic problems with the over-identification of minorities in special education and over-reliance on

¹ See Odden, A. (2007). *A Final Report on the Reviews of the Report on the Cost of Education in New Jersey*. (See <http://www.state.nj.us/njded/sff/reports/summary.pdf>.)

out-of-district placements. The APA Cost Study's inattention to these and other issues seriously undermined its credibility and the value of its recommendations for funding special education.²

As time has passed, it has become less clear what role the APA Cost Study will play in State and Legislative efforts to develop a new school funding formula. This is particularly the case with regard to developing a new approach for funding special education. For instance in a meeting held on August 17, 2007, NJDOE Commissioner Lucille Davy indicated that the State was considering "a number of ways" of calculating the costs of special education, including "actual expenditures" and the findings from the State's earlier APA Cost Study.³ When probed further, Davy stated that, "everything is in play" and that NJDOE was not "wedded to the Augenblick study." Moreover, since the Study was commissioned nearly five years ago several new external reports on special education funding have been released. While these reports will be discussed later in this document, it is important to note that the reports identify a number of important considerations for modifying New Jersey's existing special education funding formula, none of which were evident in the APA Cost Study.

Study Purpose

The Education Law Center (ELC) sought a review of special education funding in New Jersey as part of a larger group of studies intended to critique the APA Cost Study and inform the ongoing public debate. In doing so, ELC recognized that there was a need for a single comprehensive review and assessment of the Study's recommendations for a new special education funding formula, as well as the overall special education policy environment in New Jersey as it relates to special education funding adequacy. The purpose of ELC's study, however, was not to develop or propose a new state funding formula for special education. Rather, the study's primary objective was to identify factors that should be considered by policymakers in their efforts to establish a funding formula that promotes an equitable, adequate and efficient education for New Jersey's students with disabilities. To accomplish this goal, this study includes:

- A critical evaluation of the APA Cost Study, including the technical and policy questions related to the adjustments to the proposed base weights for special education and related services; and
- An assessment of the overall special education policy environment in New Jersey.

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² Despite these concerns, NJDOE specifically instructed its panel of experts (see Odden, 2007) to ignore the APA Cost Study's recommendations for special education funding in their independent assessments.

³ Quotes attributed to Commissioner Davy were taken from meeting minutes published by "Our Children/Our Schools Campaign."

Report Organization

This report describes: 1) the scope and substance of our work; 2) the methods used to complete our evaluation; 3) a policy analysis of the factors influencing the cost of special education in New Jersey; 4) findings from our review of the APA Cost Study; and 5) important considerations for developing a school funding formula that promotes educational equity, adequacy, and efficiency for students with disabilities.

II. STUDY APPROACH AND METHODOLOGY

Initially, ELC sought to assess and critique the resource input models used in the APA Cost Study as the basis for the proposed adjustments to the base costs for educating students with disabilities. However, in the course of our review we became aware of the Study's serious limitations, including the lack of obvious documentation on how the proposed special education funding formula was developed. As a result, a direct assessment of the special education weights proposed in the Study was problematic. Given these limitations, we expanded our work to include a broader review of: the process used in the APA Cost Study to construct the weights, including the extent of stakeholder involvement, NJDOE's role in the process, the inputs considered, and the categories of student disabilities that were constructed; and an analysis of New Jersey's special education policies, practices and funding system resource allocations.

Our approach to completing this work consisted of three interrelated components: 1) a review and assessment of the APA Cost Study; 2) a review of selected policies, reports and special education data; and 3) interviews with key individuals in New Jersey. Each component is discussed in further detail in the following sections.

APA Cost Study Review and Assessment

We began our work by reviewing and evaluating the recommendations for special education funding that resulted from the APA Cost Study. As noted above, we quickly found that the information contained in the APA Cost Study report was insufficient to directly assess the recommended adjustments for students with disabilities. As a result, we shifted our focus to evaluating the process used to construct the weights. The logic being that if we could not de-construct the recommended weights, we could assess the weight's validity in light of external criteria. Our work was guided by the following questions:

1. What process was used by APA to identify the resources required (e.g., instructional time) to provide special education and related services to students with disabilities in New Jersey?
2. What combinations of resources were identified by the professional judgment panels (PJPs) constituted by NJDOE for the APA Cost Study?
3. To what extent did the types of resources evaluated for the cost formula represent what is required to ensure that students with disabilities have access to a "Free and Appropriate Public Education" (FAPE), provided in the "least restrictive environment" (LRE)?

4. To what extent did the PJPs take into account “best practices” for providing special education and related services in an equitable, adequate, and cost-efficient manner when identifying the resources ultimately used to calculate special education costs?
5. To what extent did the PJPs adequately address current federal and state laws governing the provision of special education and related services?
6. To what extent did the data used by the NJDOE when it “costed out” the package of resources identified by the PJPs accurately reflect the actual costs of providing special education and related services in New Jersey?
7. Was there sufficient opportunity for individuals with expertise and interest in special education in New Jersey to participate in the PJP process? Were stakeholders provided opportunities to review and help resolve technical and policy questions with regard to the proposed special education funding formula?

We obtained and reviewed relevant documents and identified key individuals who could inform us about both the APA Cost Study as well as broader issues with respect to funding special education in New Jersey.

Special Education Indicator and Policy Review

We analyzed existing special education policies, practices and current funding strategies. Much of the national data used in this report were taken from the data tables reported on www.ideadata.org. We compared New Jersey data to national indicators to identify aspects of the state’s special education system that present problems for ensuring educational equity, adequacy, and program efficiency when serving students with disabilities. When selecting indicators for comparison, we focused on those established by the U.S Department of Education’s Office of Special Education (US OSEP), under the authority of the 2004 amendments to IDEA (20 U.S.C. §1416 (a)), and the accompanying regulations (34 C.F.R. § 300.600).⁴ These indicators are part of new accountability requirements for states which focus on student outcomes and state progress toward key performance targets.

In addition, we reviewed New Jersey’s existing approach to funding special education. This review took into account national trends in state financing approaches and the relative incentives and disincentives inherent in the existing system.

⁴ Beginning with the 1997 IDEA amendments all State Education Agencies (SEAs) had to establish performance goals and measurable indicators for their special education programs. These requirements were carried over into the 2004 IDEA amendments which require reporting on certain indicators, including performance on assessments and graduation and dropout rates. States are now ranked on certain indicators by the US OSEP and must also identify which indicators they will focus on as part of their statewide improvement efforts. These requirements are important because they move beyond documenting processes to focus on quantifiable indicators that relate to either student outcomes or actions (e.g. placement or suspension and expulsion) taken with certain students.

Stakeholder Interviews

To ensure our evaluation reflected issues and concerns held by educators, school administrators and others with interest and expertise in funding special education in New Jersey, we solicited input from a variety of individuals with knowledge and expertise in the field of special education and special education finance. We completed telephone interviews with 15 stakeholders. Appendix A lists the individuals or organizations with whom we spoke and a copy of the interview guide and the consent language used is provided in Appendix B.⁵

III. SYSTEMIC ISSUES FACING SPECIAL EDUCATION IN NEW JERSEY

Efforts to develop a new special education funding approach in New Jersey will be influenced by a range of issues, including the national and state policy environments, student needs, and stakeholder interests and inputs. In this section, we present a snapshot of the important challenges facing New Jersey's special education system that will need to be addressed in any future efforts to examine costs or develop a funding formula. We then examine New Jersey's existing special education funding approach, within the context of national trends, input from selected stakeholders, and the recommendations concerning special education funding and policies presented in a number of recent reports issued by organizations in New Jersey.

Special Education Indicators

New Jersey ranks high on several indicators that are known to drive up the costs of special education. Moreover, these indicators are sensitive to changes in funding formula and need to be considered in any options for change. Three areas of concern are discussed: identification rates for students with disabilities, student placements in various educational environments, and disputes.

Identification Rates

Overall increases in special education costs can be attributed to the number of students who are identified for special education and related services (i.e., speech and language therapy, occupational or physical therapy, etc.).⁶ In New Jersey this number

⁵ Our review of the APA Cost Study and other documents and data was conducted independently. The Education Law Center provided logistical and administrative support for our efforts, including identifying an initial list of stakeholders with whom we might speak (this list was expanded based on recommendations from individual interviewees). In the course of our work, we kept staff at the Education Law Center abreast of the status of our work through periodic E-mails and conference calls. The evaluation presented in this document reflects our own independent analysis and conclusions.

⁶ The requirements for determining special education eligibility under IDEA (20 U.S.C. §1414(b)(4)(A)) are intended to ensure that a student who receives special education and related services has a disability and require these supports and services to benefit from education. The eligibility procedures must address all areas of a student's needs, be conducted by qualified individuals, and result in an Individualized Education Program (IEP) that is reasonably calculated to confer educational benefit. In deciding eligibility under IDEA, the determining factor cannot be a lack of appropriate instruction in reading (including essential components of reading instruction, as defined in Section 1208(3) of the Elementary and Secondary Education Act), lack of appropriate math instruction, or limited English proficiency (20 U.S.C. §1414(b)(5) of IDEA).

is higher than the national average. In fall 2005 over 6.7 million students were receiving special education and related services under IDEA in the 50 states, the District of Columbia, and the Bureau of Indian Affairs schools. This represents about 9% of the U.S. population of 3–21 year olds.⁷ In that same year, slightly over 11% of the 3–21 year old population in New Jersey received special education and related services. (See Figure 1.)

Nationally, the number of students with disabilities receiving special education and related services has increased since 1997, with particularly large recent increases in the categories that capture students with attention deficit/hyperactivity disorder and autism. However, students identified as having learning disabilities (LD) remain the largest group served, accounting for almost 46% of all students served. The number of students with LD increased 38% between 1990–91 and 2000–01. In contrast, children with autism represent about 3% of all children with IEPs, despite having increased in number by almost 400% in recent years.

The percentage of students with certain types of disabilities in New Jersey outpaces national averages. (See Figure 1.) For example, during the 2005–06 school year, 4.2% of all students in public schools ages 6–21 were classified as LD. In comparison, students diagnosed with LD account for 5.6% of New Jersey’s school-aged population.⁸ Similarly, students diagnosed with speech-language impairments account for 1.7% of the 6–21 public school population nationwide; in New Jersey the percentage is 2.4%. Differences were also observed in the categories of multiple disabilities (0.1% *vs.* 1.4%), other health impairments (0.8% *vs.* 1.2%), and autism (0.28 *vs.* 0.35%).

It is common for state averages to mask significant variations across districts; therefore, we examined a small non-random sample (10) of New Jersey school districts to determine the percent of students age 6–21 identified as receiving special education. We found percentages ranging from 9 to over 27%, with an average of about 16%. While this type of district variation is not unusual, it does suggest that any effort to reduce the numbers of students served will have a disparate impact across the districts and may require that some districts need more focused attention to assist them in appropriately reducing the number of students identified as needing special education.

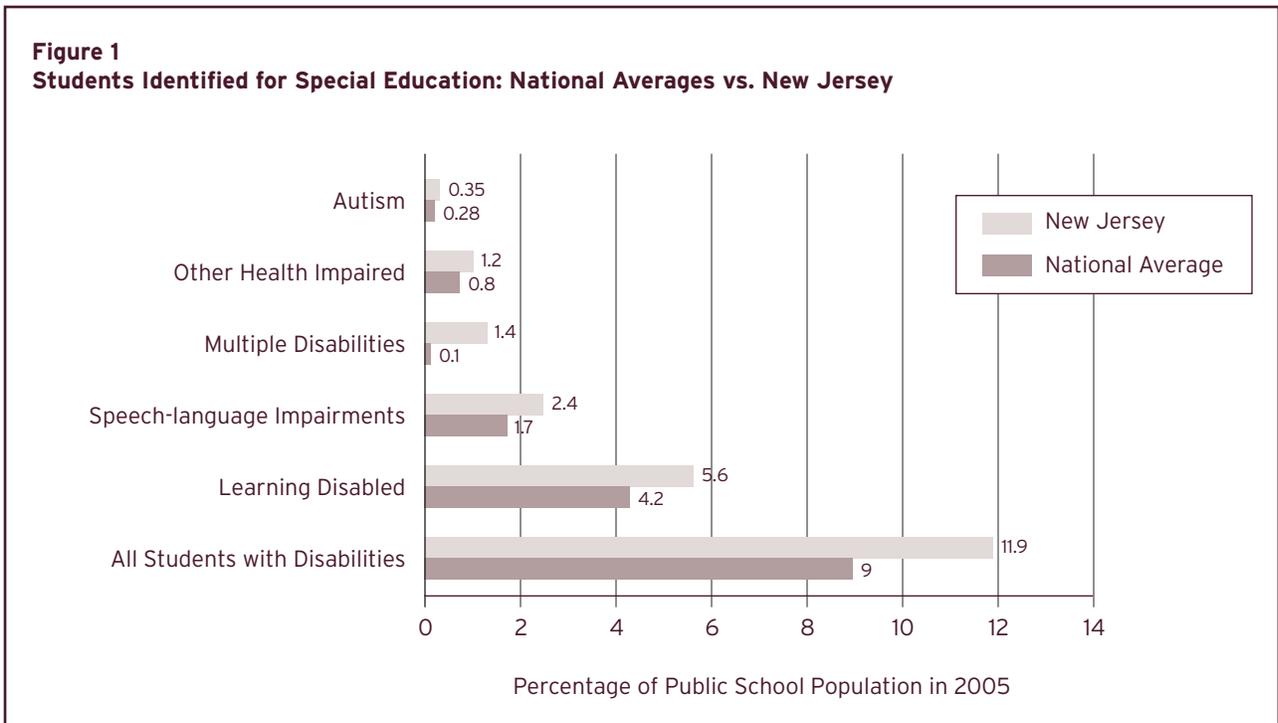
A related issue confronting New Jersey is disproportionate identification of minority students as needing special education. Nationwide, there is considerable variability in special education identification rates for students of different racial and ethnic backgrounds. For instance, in New Jersey, 58.8% of students aged 6–21 who received special education during the 2005–06 school year were White, 21% African American, 17% Latino, 2.7% Asian/Pacific Islander, and 0.2% American Indian.⁹ In comparison, in 2005/06, about 1.4 million students were enrolled in New Jersey schools, of which 56% were White, 18% were African American, 18% Latino, 0.1% American Indian and 7% Asian/Pacific Islander.¹⁰

7 See https://www.ideadata.org/tables29th/ar_1-12.htm (Retrieved October 17, 2007).

8 See https://www.ideadata.org/tables29th/ar_1-2.htm (Retrieved August 1, 2007).

9 See https://www.ideadata.org/tables29th/ar_1-17.htm (Retrieved November 8, 2007).

10 See <http://www.njsba.org/PI/facts/bmr30-43.pdf>.



Nationally, students of color are more likely to be classified as having mental retardation and emotional disturbance than other students. African American students, in particular, are almost three times more likely to be classified as having mental retardation and more than two times more likely to be classified as having emotional disturbance than all other racial and ethnic groups combined. In contrast, students of Asian or Pacific Islander descent are less than half as likely to be identified as having specific learning disabilities, mental retardation, emotional disturbance, or other health impairments than all other groups combined.¹¹

This pattern is also evident in New Jersey. According to data provided by the National Center for Culturally Responsive Educational Systems (NCCRES), African American students in New Jersey are 2.7% more likely to be classified as having emotional disturbances and 4.6% times more likely to be identified as having mental retardation than White students. They are slightly (1.3 times) more likely to be identified as having LD.¹²

In response to New Jersey’s 2007 Annual Performance Report (APR) submitted to the Office of Special Education (OSEP), US Department of Education, over-identification of minority students was identified as an area in need of improvement. Specifically, the State is required to provide more detail on the process by which special

11 See O’Reilly, F., F., Fafard, M., Wagner, M., & Brown, S.C. (2006, September). *Improving results for students with disabilities: Key findings from the 1997 national assessment studies*. Bethesda, MD: Abt Associates.

12 See http://nccrest.eddata.net/data/index.php?s=STATE&co=1&p=2&col=RACE_RR&group=AfricanAmerican&f3=HIGH%20INCIDENCE%20DISABILITIES%20%28ED%20BLD%20BMR%29&f2 (Retrieved August 2, 2007).

education eligibility is determined, particularly as it relates to the disproportionate identification of minority students, and revise procedures as necessary with the expectation that disproportional identification will be reduced. In addition, New Jersey was cited for failing to meet mandated timelines for evaluating students for special education. For instance, New Jersey's districts currently evaluate only 84% of referred students within the 60 day timeline required by IDEA; OSEP has instructed the State to bring this to 100%.

Other important considerations are the degree to which students with disabilities also encounter other risk factors, such as impoverished households. We were unable to obtain data on the socio-economic status of New Jersey's students with disabilities. However, at least one national study reported that 36% of elementary and secondary students who were identified as having a disability and receiving special education services lived in households with less than \$25,000 in annual income; about 24% of general education students live in similar circumstances.¹³ The same national study also reported that about 20% of elementary and middle school students with IEPs were declassified over a two-year period, most of whom had speech and language impairments as their primary disability. However, the likelihood of declassification declined as household income increased, with children living in middle or high income households the least likely to be declassified.

Educational Environments

A second area of concern for New Jersey's special education student is the extent to which students with disabilities are in segregated settings both inside and outside of their home districts, in public and private facilities. These trends have implications both for the State's compliance with IDEA mandates that students with disabilities be educated in the "least restrictive environment," as well as for special education costs.

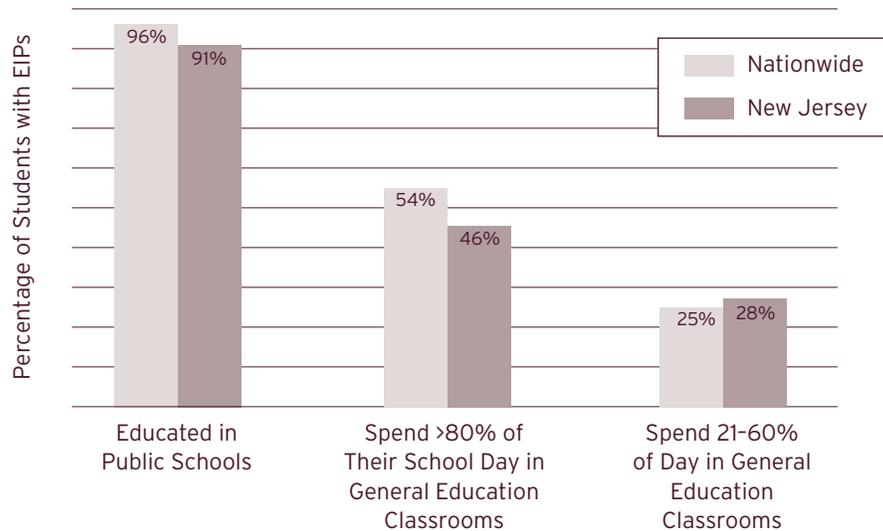
In 2006, about 96% of all students with IEPs across the US were educated in regular public schools within their home districts. However, during the same time period 91% of New Jersey's students with IEPs were served in a similar setting—5% less than the national average. (See Figure 2.) A similar discrepancy between national trends and New Jersey students exists when we look at where students with disabilities spend their school day. Nationwide, slightly more than half (54%) of students with disabilities spend 80% or more of their school day in *general education classrooms*. In New Jersey, only 46% of students with disabilities spend a similar amount of time in general education classrooms.¹⁴ Moreover, nearly 28% of New Jersey's special education students spend between 21 and 60% of their school day *outside* the general education classroom, compared to a national average of 25%. The percentage of students with disabilities who are educated in separate classrooms (17%) within their districts is equivalent to the national average (www.ideadata.org).

Of concern, however, is the proportion of students with disabilities who are educated outside of their home district in a separate public or private educational facility, resi-

13 See O'Reilly, F. F., Fafard, M., Wagner, M., & Brown, S.C. (2006, September). *Improving results for students with disabilities: Key findings from the 1997 national assessment studies*. Bethesda, MD: Abt Associates.

14 Between 2004 and 2005, the proportion of students receiving services in general education 80% or more of the day did not change in NJ. Nationally, that percent increased from 52 to 54%.

Figure 2
Educational Environments for Students with IEPs: National Averages vs. New Jersey



dential facility, or in a home or hospital setting. Nationally, New Jersey ranked second out of 60 jurisdictions (including the District of Columbia and U.S. Territories) in the percent of students with disabilities educated in separate facilities, with nearly 9% of its students with IEPs in out-of-district placements. Only the District of Columbia served more students in out-of-district settings.¹⁵ New Jersey also ranked 54 out of 60 jurisdictions in the percent of students who spend more than 60% of their school day in settings outside of general education.¹⁶

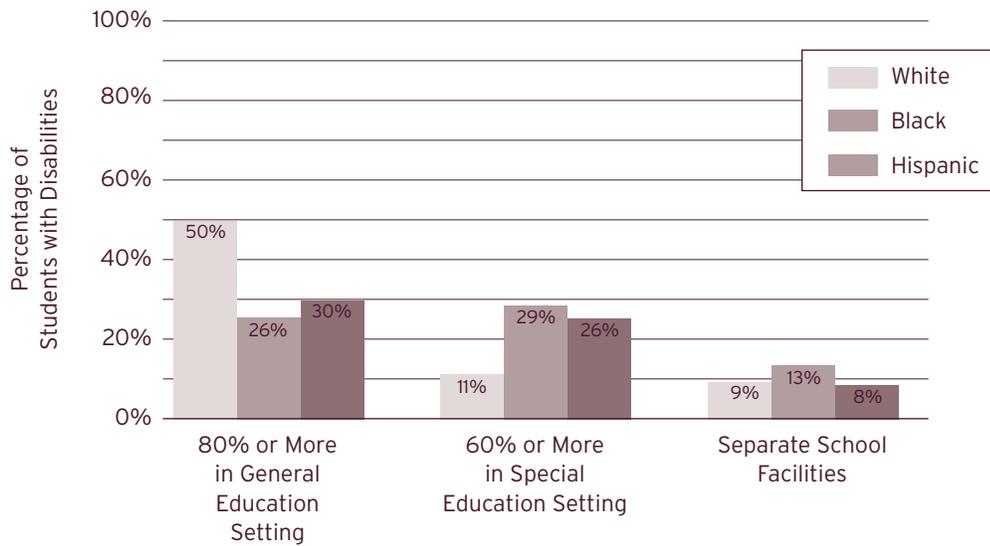
The educational environment in which a student with disabilities is placed appears to systematically vary by race and ethnicity. In particular, White students with disabilities in New Jersey are more likely to be served in *less restrictive environments* than their non-White peers. (See Figure 3.) During the 2002–03 school year, half (50%) of white students with disabilities spent 80% or more of their school day in *general education* classrooms, compared to 30% of Hispanic students and only 26% of Black students. Among students with disabilities placed in *special education settings* for more than 60% of the school day 11% were White, 26% were Hispanic, and 29% were Black. Finally, only 9% of White students with disabilities were educated in separate facilities (public or private) outside of their home district, whereas nearly 13% of Black students with disabilities were educated in similar settings.¹⁷

¹⁵ See https://www.ideadata.org/tables29th/ar_2-2.html (Retrieved August 1, 2007).

¹⁶ See http://www.monitoringcenter.lsuhs.edu/Stateranks_B_ReleasedFeb2007.htm (Retrieved August 3, 2007).

¹⁷ Attempts to retrieve data relative to the distribution of students with disabilities by race and ethnicities in out-of-district public *vs.* private facilities were unsuccessful. However, several stakeholders interviewed indicated that White students were more likely than Black students to be educated in private settings, as opposed to out-of-district public facilities.

Figure 3
Educational Environments for New Jersey's Students with Disabilities (2002-03 School Year)



Among all individuals who were interviewed, there was unanimous agreement that out-of-district placements are a major contributor to escalating state and district special education costs. This concern is substantiated by findings from the New Jersey Special Education Expenditure Study (SEEP), which was completed during the 1999–2000 school year.¹⁸ This study cited the relatively high percentage of special education students in New Jersey who were being served outside their district of residence at a much higher average expenditure than those served internally. Moreover, the study concluded that students with more severe disabilities were considerably under funded by the state funding formula.

More recently, the New Jersey School Boards Association issued a report of special education which specifically identified tuition and transportation for out-of-district placements as key factors in rising state and district special education expenditures.¹⁹ According to this report, in 2005, tuition and transportation for students educated in public and private placements away from their home district consumed 39% of the districts' special education expenditures—that is, although students in out-of-district placements account for about 10% of the state's special education population, they account for slightly less than half of total special education expenditures.²⁰

The State's high rate of out-of-district placements is not only a cost factor, it also poses an ongoing threat to its compliance with IDEA's mandate that students with

18 Chambers, J., Parrish, T., & Brock, L. (2003, January). *New Jersey Special Education Expenditure Project (SEEP) Final Report*. Center for Special Education Finance (CSEF): Palo Alto, CA.

19 Molenar, M. & Luciano, M. (2007, September). *Financing Special Education in New Jersey*. New Jersey School Boards Association: Trenton, NJ.

20 *ibid.*

disabilities be educated in the “least restrictive environment.” Currently, the State is facing two lawsuits related to segregated placements of children with disabilities as well as increased scrutiny from OSEP and pressure to reduce the number of students who are placed out of district. Moreover, interviewees questioned whether placing students with disabilities in out-of-district educational settings at such a high rate was in the best interest of students. Returning some students with disabilities to their home district would benefit them programmatically by increasing access to the general education curriculum and providing opportunities for greater interaction with their non-disabled peers. This would also provide funds to help districts build in-district capacity, and eventually could lead to reduced costs while raising expectations and student performance.

Stakeholders noted two key factors that contribute to New Jersey’s high levels of out-of-district placements: *district capacity* and *parental expectations and service traditions*.

1. **District Capacity**

The capacity of school districts to provide the types of services required to reduce out-of-district placements was a major concern expressed by almost every individual who was interviewed. There were two major capacity issues: lack of personnel and lack of adequate classroom space. Many small and moderate sized districts across New Jersey lack the necessary personnel to develop programs for students currently placed out of district. Personnel shortages are particularly acute for related services providers such as speech and language therapists. In addition, there is a lack of appropriate facilities and physical space across districts, which is a barrier to educating students with disabilities within their home district.²¹

It is worth noting that the shortage of qualified special education teachers and related service providers is impacting more than local districts. One administrator of a private school cited an example of a private school that had advertised for a speech therapist and had offered a \$100,000 salary but did not get any applications. Another individual noted that the Child Study Teams are “realizing” that the private schools are not able to provide the amount of related services that are specified in some IEPs because of lack of personnel. This was confirmed by the U.S. Department of Education at their last intensive on-site monitoring visit, where they reviewed cases of students who had been placed out of district in order to receive intensive services, but who actually had not received those intensive services at the out-of-district placement.

2. **Parental Expectations and Service Traditions**

To a great extent, districts’ over-reliance on out-of-district placements for its students with disabilities is a hold-over from New Jersey’s pioneering role in providing special education services, prior to federal requirements and efforts by other states. Early on, special education in New Jersey was offered by public and private agencies in separate settings. Even now, there exists a well-established non-public

²¹ The Americans with Disabilities Act and Section 504 prohibit districts from placing the full burden of space shortages on special education students, yet many districts send special education students out of district due to space constraints.

sector of nearly 200 providers, which continues to grow.²² Changing this service tradition and corresponding parental attitudes and expectations about special education may be even more difficult than increasing district capacity. The State's long history of providing separate placements has, as noted by one interviewee, led parents to think that, "private is better." However, a few individuals noted that parental perceptions and expectations about special education also appear to vary depending on income and race. Several interviewees spoke to the issue of which students, in their experience, were accessing private schools. As one individual stated, "Parents in wealthier districts see special education classification as an advantage. [Their child] can get test accommodations, get support classes or extra help, and can access private schools."

Disputes

Disputes between parents and school districts can have an impact on special education costs. In general, disputes arise when parents disagree with an IEP team's decisions regarding the appropriateness of the services and supports offered to their child, as well as the setting in which the services are to be delivered. While districts incur costs for defending themselves if disputes move to more formal litigation, district personnel are often more concerned about the lost time to teachers and other personnel in responding to a request for a formal hearing or other formal action brought by the parent, as well as the adversarial nature of disputes.

According to several administrators who were interviewed, attempts to avoid hearings and formal litigation motivates districts to "give in" to parents and provide a special school or other setting. Advocates noted that parents need to resort to filing formal complaints as districts often cannot provide an appropriate education for their children due to lack of district capacity.²³

A 2003 U.S. General Accounting Office (GAO) report indicated that, nationwide, requests for hearings increased nearly 32% between 1996 and 2000 (from 7,532 to 11,068), while the number of actual due process hearings conducted decreased 15% (from 3,555 to 3,020) during the same time period.²⁴ New Jersey ranks among the states with the highest number of disputes. However, the rate of due process hearing adjudication actually decreased in New Jersey from 3.5/10,000 in 2004 to 2.3/10,000 in 2005. Both written complaint requests and mediation request rates also declined in that time period. Table 1 compares the number of written complaints and hearings per 10,000 students in New Jersey, New York and Maryland, three of the states with the highest rate of disputes.²⁵

²² *ibid.*

²³ Of note, the US OSEP has cited problems with New Jersey's dispute resolution process. Specifically, in response to the State's APR, US OSEP identified that only 80% of written complaints are resolved within the allotted 60 days. The State has been instructed that it must bring this to 100% within a specific time frame.

²⁴ This decline was attributed to big decreases in hearings held in New York State.

²⁵ See <http://www.directionservice.org/cadre/aprsppb.cfm>.

Table 1
Written Complaints, Mediations and Due Process Hearings

	Written Complaints Filed per 10k*	Mediation Requests	Due Process Hearings Fully Adjudicated Per 10k
New Jersey			
2004	12.4	22.7	3.5
2005	11.4	18.1	2.3
New York			
2004	8.0	11.13	28.6
2005	7.3	10.0	23.6
Maryland			
2004	14.4	41.8	7.0
2005	14.1	38.3	3.4

Note: 10k = number of events divided by number of children in the state with IEPs x 10,000
Source: <http://www.directionservice.org/cadre/aprsppb.cfm> (Retrieved November 12, 2007)

Several administrators who were interviewed noted that they felt at a disadvantage when there was a dispute between a parent and the school. They spoke of how often parents prevailed when they went to hearing and how “judges” give parents what they want. This finding is, however, inconsistent with external research on the outcome of disputed cases.²⁶ For instance, researchers found that in the 3rd Circuit, which includes New Jersey, parents prevailed in 28% of the cases and the district in 48% while 24% of the decisions were mixed. The range, excluding DC, for percent of decisions favoring parents was 38% in the 8th Circuit compared to 13% in the 5th Circuit. The range for districts was 71% in the 10th district to 27% in the 8th Circuit.²⁷

Educational Outcomes and Achievement

Meeting the requirements set by NCLB and the recent amendments to IDEA for improving achievement among students with disabilities also presents challenges for the State and its districts and schools. Evidence suggests that New Jersey, like many states, has considerable ground to cover to meet federal targets. Meeting these targets may require considerable investments on the part of the State in special education programming and teacher training, as well as possible changes to New Jersey’s system for providing special education and related services. For students with disabilities to meet state performance standards, they will require meaningful access to the same

²⁶ Zirkel & D’Angelo (2002) reviewed published cases in two special education and disability-related databases for the years 1989 through 2000. They analyzed the data by federal judicial circuits according to the percent of decisions in which parents or school districts prevailed, as well as the percent of decisions that were “mixed,” meaning the parents prevailed on some issues and the districts on others.

²⁷ Zirkel, P. & D’Angelo, A. (2002). Special education case law: An empirical trends analysis. *West’s Education Law Reporter*, 161(2), 731–753.

curriculum as their general education peers. Further, new requirements for secondary teachers of students with disabilities stipulate that they be considered qualified to teach specific subject matter content. These changes will necessitate not only considering where students with disabilities are being educated, but by whom. Given the current New Jersey LRE data, it is apparent that the State will need to invest heavily in professional development and technical assistance to insure that all students have an equal opportunity to meet state performance standards.

Performance data taken from the New Jersey Statewide Testing System, which provides information relevant to the academic achievement of students with disabilities, show that students with disabilities lag considerably behind their non-disabled peers in achievement on state tests. (See Figure 4.) At the third grade level, slightly more than one-quarter (27%) of students with disabilities scored at or above “proficient” on the State’s reading assessment, while nearly three-quarters (72%) of general education students had similar scores. There was less of an achievement gap on the third grade math assessment, with about 42% of students with disabilities achieving at or above “proficient,” compared to 59% of general education students.²⁸ At the eighth grade level, New Jersey’s students are tested in language arts literacy, mathematics, and science. Results from the spring 2006 assessment show a continuing achievement gap between students with disabilities and general education students. The largest achievement gap between the two student groups was in language arts literacy, with only about one-third (32%) of students with disabilities reaching “proficient,” compared to nearly three-quarters of general education students (74%). There also was a sizable gap, albeit less than seen on the literacy assessment, in math (22 vs. 49%) and science (45 vs. 62%).²⁹

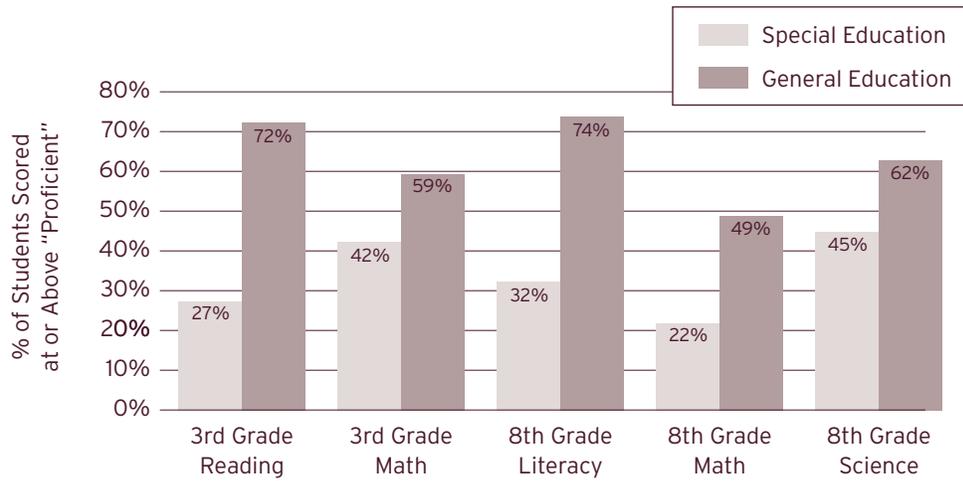
It is difficult to compare New Jersey’s relative progress toward ensuring all its students, including those with disabilities, achieve proficiency in the timeframe specified by federal law to other states, given the variability in state assessments. However, an analysis of state-reported proficiency rates on reading assessments computed from state performance reports indicates that in 2005 about 40% of the nation’s third graders and 20% of eighth graders with disabilities who participated in state assessments scored at or above “proficient” in reading, and about 50% of third graders and 20% of eighth graders were “proficient” in math.³⁰

28 See <http://www.state.nj.us/education/schools/achievement/2007/njask3/sn.pdf> (Retrieved July 30, 2007).

29 Somewhat troubling is the fact that after a gradual increase in language arts proficiency rates between the 2002 and 2005 school years, there was a significant achievement decline on the part of students with disabilities on the Spring 2006 assessment; the percentage of students meeting the proficiency standard declined from 65 to 45%. A similar trend occurred in mathematics, with a 17% decrease (50 to 33%). The State attributed this drop in test scores to changes in reporting and disaggregation. (See: <http://www.state.nj.us/education/schools/achievement/2007/hspa/graphs.pdf> (Retrieved July 30, 2007).

30 McLaughlin, M.J., Krezmien, M., Zablocki, M., & Miceli, M. (in press). *The education of children with disabilities and interpretations of equity: A review of policy and research*. Prepared for The Fund for Fiscal Equity, Teachers College, Columbia University, New York, NY.

Figure 4
Student Achievement: Special Education & General Education Students (Spring 2006)



Special Education Funding

In this section, we present a conceptual framework for understanding special education funding and its relationship to local costs and student outcomes. Our discussion of this conceptual framework is followed by a review of the various approaches states have used to allocate funds to local districts and schools for special education and related services. We then situate New Jersey’s funding approach within this larger context. The section concludes with a discussion of the incentives and disincentives inherent in state approaches to allocating special education funds to local education agencies.

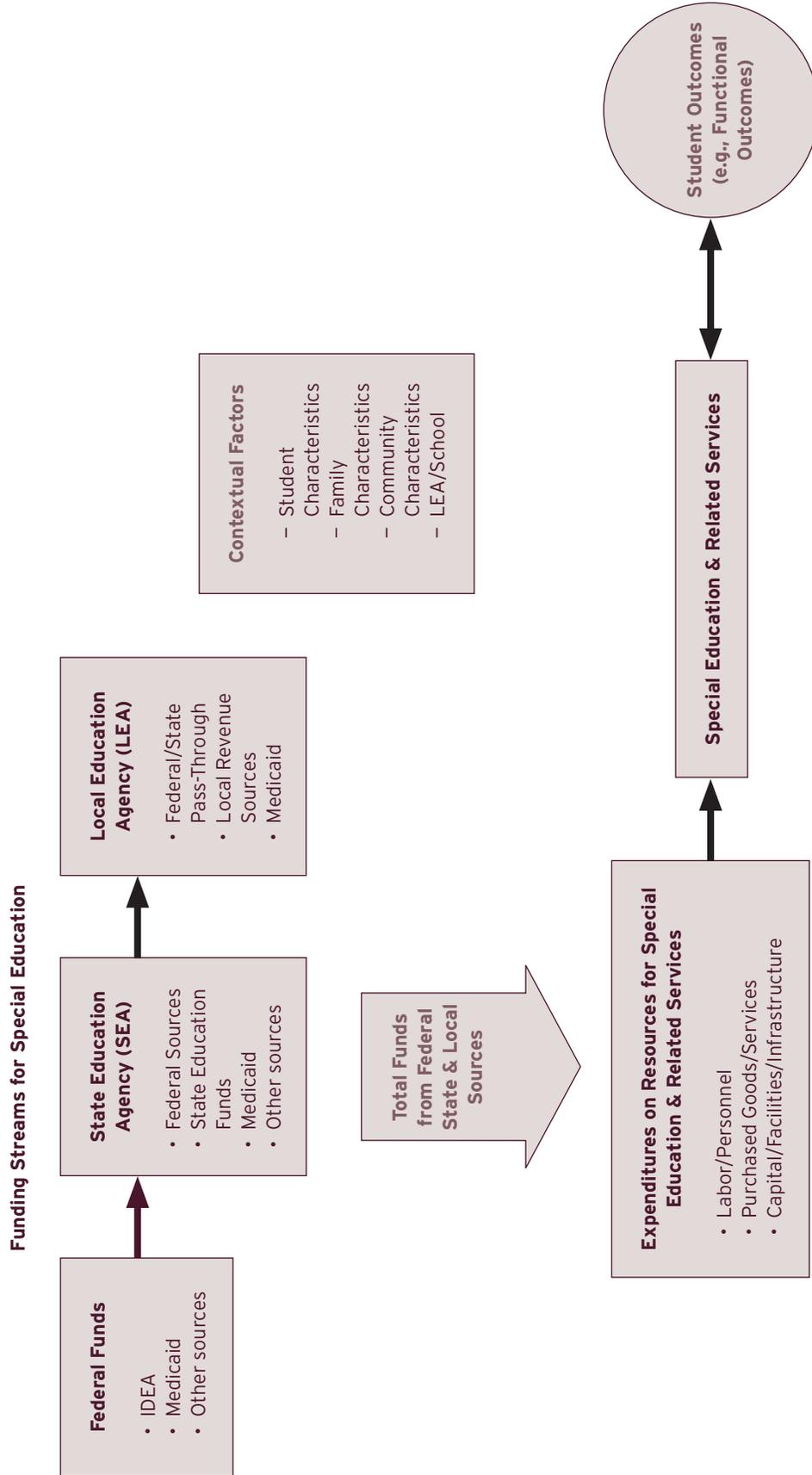
Conceptual Framework for Understanding Special Education Finance

Figure 5 presents a conceptual model for understanding special education funding.³¹ The model demonstrates the direct relationship between student outcomes, particularly students’ functional outcomes, the resources used to provide special education and related services for students with disabilities, and the funding sources used to pay for these resources. Contextual factors (e.g., student, school characteristics) also may influence the resource and funding availability for special education and related services. Improving students’ functional outcomes are one possible output of interest in this model. Functional outcomes document child characteristics and abilities and use functional measures such as the ABILITIES Index³² to capture different domains of student’s functional skills such as audition, behavior and social skills, intellectual

31 This framework was adapted from Kolbe, T. & O’Reilly, F. (2005). *Plans to obtain special education finance data: Final report*. Washington DC: U.S. Department of Education, Office of Special Education Programs.

32 See Simeonsson, R.J.& Bailey, D. (1988). *Essential Elements of the Assessment Process*. Assessment of Developmentally Disabled Infants and preschool Children. New York, NY: Plenum Press, pp. 24–41.

Figure 5
Relationship Between Funding Sources, Resources, and Special Education & Related Services



Source: Kolbe, T. & O'Reilly, F. (2005, December). *Final report: OSEP Technical assistance in planning to obtain special education finance data and in dissemination of currently available data.* Cambridge, MA: Abt Associates Inc.

functioning, limbs, intentional communication, tonicity, etc. Presumably special education and related services should improve students' functional outcomes over time, regardless of categorical disability. In addition to functional outcomes, the model considers other types of student outcomes, such as graduation or dropout rates and student participation and achievement on standardized tests, as possible outputs of interest.

Special education programs and the related services and supports provided to students with disabilities are the mechanisms or processes that influence student outcomes. These programs and services use a range of resources, or ingredients, as inputs. For example, special education teachers are a key input in a school's special education program. Special education programs and services, however, can vary considerably in the type and quality of education and supports they provide students. These delivery systems also can use very different quantities and combinations of resources in their programming. In considering special education costs, it is important to consider this type of variation.

Federal and state governments, local education agencies (LEAs) and schools use multiple funding sources to purchase the necessary resources to provide special education and related services. Federal IDEA and Medicaid funds are provided to states to support their special education programs. States may directly purchase resources to provide special education and related services or may provide local education agencies and schools with funds (e.g., from state and federal appropriations) to purchase resources at the local level. LEAs and, to a lesser extent, schools, use funds passed through from the federal and state governments, outside grants and local education funds (e.g., derived from property tax revenues) to purchase the inputs necessary to provide the special education and related services their students require.

The funding streams, or revenues, used by states, districts and schools are linked with the specific expenditures that are used to purchase a particular resource or input. The resources that produce special education and related services fall into three broad categories: 1) labor or personnel resources (e.g., teachers, teachers aides); 2) purchased goods and services (e.g., supplies and materials, transportation); and 3) capital, facilities and infrastructure. The level of resources used to provide special education is, to a great extent, influenced by special education program characteristics such as program intensity or quality. Student eligibility and the disabling conditions experienced by students also will affect the cost of special education services as noted in the program characteristics box in the model.

A critical step in developing adequate, equitable and cost-effective special education finance formulas is identifying the inputs or resources used by districts and schools in each of these categories to provide special education and related services to students with disabilities. Given differences in program delivery models across districts and schools, it may make sense to focus on those implementing identified "best practices" or that have demonstrated the capacity to implement cost-effective policies, practices, and resource allocations. For example, labor and personnel resources make up the largest proportion of resources used to provide special education and related services. Two potential categories of personnel and labor resources are distinguished in the model:

1) Those associated with providing direct services; and 2) those associated with special education program administration. Within each of these categories are a range of personnel who provide these services, such as teachers (general and special education), teachers' aides, related services personnel, and school administrators. While these two categories do not comprise an exhaustive list of the types of resources required to provide special education and related services, they provide a good example of the thought process required to identify the "inputs" or resources that go into providing special education and related services.

The model also accounts for non-resource inputs, or contextual factors that may influence both the funding available and resources used to produce special education and related services in given states, districts and schools. While the role played by these contextual factors is not the focus of the conceptual model, it is important to note that certain characteristics of states' funding formulas, district size, and students' demographics (e.g., race and ethnicity) are factors that contribute to both the amount and type of resources required to ensure special education funding adequacy.

Federal and State Approaches to Funding Special Education

While the federal government has historically provided leadership and support for the development of special education programs and policies, the vast majority of funding for special education comes from states and localities. State governments and local school districts draw upon multiple funding sources to purchase the resources necessary to provide special education and related services. Under IDEA, states receive special education grants based on the number of students with disabilities in the state who received special education and related services during the 2004–05 school year, adjusted for poverty.³³ In recent years, the federal special education grants to states have covered about 17% of total expenditures nationwide on school-aged children served by special education, which covers children in preschool through grade 12.³⁴ The federal percentage of special education expenditures varies considerably across states. In addition to federal special education grants to states, some state revenues for special education services are derived from other federal sources, in particular Medicaid.³⁵

33 The federal share of special education funds for a particular state is based on the number of children with disabilities during the 2004–05 school year (in a given state) who received special education and related services, and is calculated as follows: the sum of the number of children with disabilities aged three through five if the State is eligible for a grant under section 619 of IDEA; and the number of children with disabilities ages 6 through 21; multiplied by forty (40) percent of the average per-pupil expenditure in public elementary schools and secondary schools in the United States (as defined in 34 CFR 300.717); and adjusted by the rate of annual change in the sum of eighty-five (85) percent of the State's population of children aged 3 through 21 who are of the same age as children with disabilities for whom the State ensures the availability of FAPE under IDEA. Fifteen (15) percent of the State's population of children described under 34 C.F.R. § 300.700 (b)(2)(iii)(A) who are living in poverty.

34 IDEA Part B serves children in preschool through grade 12. Younger children age 0–3 are served under separate authority (IDEA Part C).

35 During the 1999–2000 school year, 39 states reported relying on revenues from Medicaid reimbursements to pay for special education and related services expenditures. However, it is worth noting that Medicaid funds claimed by the state are not always returned to the district. (See Parrish, T., Harr, J., Wolman, J., Anthony, J., Merickel, A. & Esra, P. (2004). *State Special Education Finance Systems: 1999–2000 Part II: Special Education Revenues and Expenditures*. Center for Special Education Finance: Palo Alto, CA.

Federal policy stipulates that, at a minimum, 75% of special education funds for school-aged children must “flow through” to local districts. How states allocate these dollars, as well as state special education funds, differs across the country. States utilize a range of financing approaches, cost-sharing arrangements, and funding sources to support special education and related services. In fact, state strategies for funding special education are almost as diverse as the needs of the students with disabilities they serve. However, broadly speaking, state special education funding approaches fall into six categories (See Table 2 for a side-by-side comparison of the various state funding approaches.)

1. *Pupil weights*, which allocate state special education aid based on “weights” fashioned as “multipliers” that are applied to a per student general education base aid amount or as “tiers” that provide a fixed dollar amount for students who fall within different disability or placement categories. The weights are in addition to general education funding and are intended to pay for excess costs associated with special education and related services.
2. *Flat grants*, which allocate a fixed amount of State aid per special education student.
3. *Census-based allocations*, which allocate state aid based on total district enrollment (e.g., Average Daily Membership (ADM) or Average Daily Attendance (ADA), both of which are approaches for counting students within a district).
4. *Resource-based allocations*, which distribute state aid to local districts based on the “resources” needed to educate special education students and calculate the district aid amounts using a specific package of resources.
5. *Percentage reimbursements*, where states reimburse districts for a percentage of what they actually spend on special education and related services.
6. *Variable block grants*, which are similar to flat grants, but are adjusted for outside factors such as changes in enrollment or inflation.³⁶

In addition, a number of states have adopted approaches for distributing state aid to districts that is based on some combination of these funding approaches.

State aid to districts, allocated through one of the various funding approaches, also may be adjusted based on a number of external factors, including: 1) district wealth or fiscal capacity; 2) “extraordinary costs” that might be encountered by districts responsible for providing special education and related services for “high-need students”; and 3) separate funding streams that pay for educating students placed in separate public or private schools (e.g., day or residential placements), services for students with seri-

³⁶ Definitions adapted from Parrish, T., Harr, J., Anthony, J., Merickel, A., & Esra, P. (2003). *State Special Education Finance Systems: 1999–2000 Part 1*: Center for Special Education Finance: Palo Alto, CA.

Table 2
State Special Education Finance System Typology

	Distinguishing Features ¹	Allocation Basis ¹	Strengths ¹	Weaknesses ¹	Number of States (2002-03) ²
Pupil Weights	<ul style="list-style-type: none"> • <i>Single weight</i>—Each special education student assigned same weight • <i>Multiple weight</i>—Provides more funding (e.g., larger weights) for special education students who are expected to cost more to serve. Based on “expected costs”; the weight may not hold true for any one special education student. • <i>Tiers</i>—Provides differential amounts based on placement or disability. Differs from “weights,” which are multipliers of a base aid amount; tiers provide a set dollar amount per student who falls into each tier. 	<ul style="list-style-type: none"> • Special education enrollment/per special education student • Placement type • Disability category, disability condition, student severity • Services received or intensity of services 	<ul style="list-style-type: none"> • Closely tied to district resource needs in terms of specific population of students with disabilities 	<ul style="list-style-type: none"> • Incentives can be created to misclassify students into specific types of placements or into categories of disability that receive higher allocation 	17
Flat Grant	<ul style="list-style-type: none"> • Fixed funding amount per special education student 	<ul style="list-style-type: none"> • Special education enrollment/per special education student 	<ul style="list-style-type: none"> • Emphasizes local flexibility in using resources • Has reasonable reporting burden • Predictable 	<ul style="list-style-type: none"> • May encourage overidentification • Not linked to student outcomes • May or may not be based on actual costs 	1
Census-based	<ul style="list-style-type: none"> • Fixed funding amount based on count of all students in district 	<ul style="list-style-type: none"> • Total district enrollment 	<ul style="list-style-type: none"> • Emphasizes local flexibility in using resources • Does not encourage over-identification of students with disabilities • Has reasonable reporting burden • Predictable 	<ul style="list-style-type: none"> • Not linked to student outcomes • Not based on actual costs • Has no “cost control” mechanism 	9
Resource-based	<ul style="list-style-type: none"> • Funding is based on an allocation of specific educational resources • For example, unit rates are derived from prescribed student/staff ratios by disability condition or type of placement • Emphasizes “services” provided to student 	<ul style="list-style-type: none"> • Classroom unit or classroom unit by placement • Number and type of special education staff • Services received or intensity of services 	<ul style="list-style-type: none"> • Perceived as easy to administer and free of incentives for over-identification or student misclassification • Emphasizes local flexibility and predictability 	<ul style="list-style-type: none"> • May not be placement neutral • Oftentimes inadequately funded • Not linked to student outcomes 	6

	Distinguishing Features ¹	Allocation Basis ¹	Strengths ¹	Weaknesses ¹	Number of States (2002-03) ²
Reimbursement	<ul style="list-style-type: none"> Amount of state aid a district receives is directly based on program expenditures Districts may be reimbursed up to 100% (i.e., WY) Usually some basis for determining what costs are/are not allowed May have overall cap on the number of special education students eligible for reimbursement 	<ul style="list-style-type: none"> Allowable costs/actual expenditures 	<ul style="list-style-type: none"> Least likely to create incentives to misclassify students by category of disability, since the label assigned to a student does not affect funding 	<ul style="list-style-type: none"> May be administratively burdensome and result in difficulties with cost control unless cost ceilings are used or the reimbursable percentage is relatively low 	6
Variable Block Grant	<ul style="list-style-type: none"> Similar to flat grant, except adjustments may be made for growth in enrollment, revenues, or inflation 	<ul style="list-style-type: none"> Maintenance of effort expenditure requirement Base year expenditures 	<ul style="list-style-type: none"> Emphasizes local flexibility in using resources Has reasonable reporting burden Predictable 	<ul style="list-style-type: none"> May encourage overidentification Not linked to student outcomes May or may not be based on actual costs 	4
Combination	<ul style="list-style-type: none"> Some combination of the above funding systems. For instance, Vermont's formula includes two "reimbursement components" and one census-based component 				5

1 Source: Parrish, T., Harr, J., Anthony, J., Meriken, A. & Esra, P. (2003). *State Special Education Finance Systems, 1999-2000 Part I*. Palo Alto, CA: Center for Special Education Finance, American Institutes for Research.

2 Source: Education Week (2004). *Quality Counts 2004: Special Education in an Era of Standards-Count Me In*. Vol. XXIII, No. 17. January 8, 2004. Note, Hawaii and Rhode Island do not have explicit funding mechanisms, so they are not included in count.

ous emotional disturbances, extended school year services, transportation, and costs associated with providing specialized facilities or infrastructure associated with educating students with disabilities.

New Jersey's Special Education Funding Approach

Like most states, New Jersey provides districts with aid for special education and related services. This “categorical” aid is separate from state aid for general education and is dedicated to supporting the costs for special education and related services. State aid is allocated using a “weighted pupil” formula, which resulted from The Comprehensive Educational Improvement and Financing Act (CEIFA) of 1996, *N.J.S.A.18A:7F*.³⁷ This formula established a four-“tiered” system of funding and specified that an “appropriate education was to be defined in terms of the core curriculum content standards and related assessments.”³⁸ Each of the tiers provides a set dollar amount per student who meets pre-specified eligibility criteria and is meant to provide differential funding based on students’ need for services. Specifically:

- Tier 1 state aid is linked to the number of special education students in a district (excluding students receiving speech-language services) who receive related services (e.g., counseling, occupational therapy, physical therapy and others), with a maximum of four services per student. All students receiving Tier 1 funding are classified as Tier 2, Tier 3, or Tier 4 based on other eligibility criteria; no student is classified solely as Tier 1.³⁹
- Tier 2 state aid is linked to the number of special education students in a district who meet the criteria for specific learning disability, traumatic brain injury, mild cognitive impairment, and preschool disabled. In addition, all students in shared time vocational schools and non-classified students in state training schools or secure facilities are eligible for Tier 2 state aid. There is a limit on the proportion of students with specific learning disabilities that may be counted for Tier 2 aid.
- Tier 3 state aid is linked to the number of special education students in a district who meet the criteria for moderately cognitively impaired, emotionally disturbed, multiply disabled, auditorily impaired, orthopedically impaired, communication impaired, other health impaired, and visually impaired. Students in juvenile community programs also are eligible for Tier 3 state aid.
- Tier 4 state aid is linked to the number of special education students in a district who meet the criteria for severe cognitive impairment or autism. In addition, Tier 4 state aid is available for students receiving one or more “intensive” services including: individualized instruction, instruction in a setting with a student-to-teacher ratio of 3:1 or less, high levels of assistive technology, extended school year, intensive

³⁷ Chambers, J., Parrish, T., & Brock, L., (no date). *New Jersey Special Education Expenditure Study (SEEP) Final Report*. Center for Special Education Finance: Palo Alto, CA.

³⁸ See <http://www.njleg.state.nj.us/legislativepub/budget/educ05.pdf> (p. 60, retrieved July 30, 2007).

³⁹ Students who only receive “speech-language services” are excluded from calculations of state aid for districts since these services are considered to be part of the general education funding formula. Speech is a related services included in Tier 1 and is eligible for reimbursement when students are classified in Tiers 2–4.

related services, interpreter services, personal aids, residential placement for educational purposes, and individual learning services.⁴⁰

The cost factors for each tier changed substantially in 1999–2000 and only have increased modestly since then.⁴¹

In addition to State categorical aid to districts for special education, under CEIFA, the State also provides “extraordinary” aid to districts to offset the costs associated with providing services and supports for “high need” students, in excess of \$40,000. The majority of extraordinary aid reimbursements are associated with out-of-district placements. In recent years, district requests for extraordinary cost funds have far exceeded the amount appropriated by the State. In 2007, nearly \$223 million in applications were submitted, but only \$52 million was appropriated—representing about 23% of the funding requests.⁴²

In addition to federal and state special education funds, New Jersey school districts serving students with disabilities who are Medicaid-eligible may be reimbursed for medically needy services. However, in New Jersey most of the reimbursement is kept by the State (about 35% is returned to the districts), leaving little incentive for districts to invest time and resources in seeking this reimbursement. As a result, in 2005, Medicaid reimbursement represents about 0.04% of all special education revenues.⁴³

Special education expenditures not covered by federal or state funds must be supported by local revenue. During the 2005 school year, local districts in New Jersey contributed about 57% toward the “excess costs” of special education.⁴⁴

Incentives and Disincentives in New Jersey’s Current Funding Formula

How states and, to a lesser extent the federal government, go about funding special education may create various incentives and disincentives for district actions, particularly with regard to student identification and placement. For example, formulas that tie a district’s reimbursement to the number of students with disabilities in a district, the types of services they receive, or their placement, may influence district-level decision making. Weighted pupil, resource based, and percentage reimbursement systems could have these effects. Conversely, “lump-sum” funding formulas that “decouple” funding from the number of students with disabilities in a district, for example, could have the opposite effect of incentivizing districts not to identify and appropriately place or provide services to students with disabilities. Unfortunately, there is little scientific research upon which to build policy conclusions about which approach (or approaches) to allocating state aid is the most “identification-” and “placement-” neu-

40 Information on tiers was drawn from: Chambers, J., Parrish, T., & Brock, L., (no date). *New Jersey Special Education Expenditure Study (SEEP) Final Report*. Center for Special Education Finance: Palo Alto, CA.

41 Molenaar, M. & Luciano, M. (2007, September). *Financing Special Education in New Jersey*. New Jersey School Boards Association: Trenton, NJ.

42 *ibid.*

43 *ibid.*

44 *ibid.*

tral. To a great extent, this gap in evidence is due to the complex and ever-changing nature of state funding approaches. However, individuals interviewed for this study identified a number of “incentives” and “disincentives” that appear to be at work in New Jersey’s current approach to allocating state aid:

1. The State’s existing system for identifying the “costs” associated with educating students inside and outside of their home district appear problematic. Currently, public school tuition rates cannot be compared to private school rates, which include all of the costs associated with educating a student. For example, public school tuition rates exclude costs such as teacher pensions and retirement benefits, debt services, facilities and infrastructure, whereas private schools must account for these costs in their rates. This accounting difference allows public schools to report tuition rates that are lower than the actual cost. However, this practice of excluding certain costs of educating students in their home district, almost always a more inclusive setting, creates a problem for districts who may wish to seek reimbursements from the State for the “extraordinary” costs associated with educating high need students. In effect students who are educated in-district must cost more to generate extraordinary aid than students educated in a private facility. Moreover, there were concerns on the part of some respondents that “extraordinary aid” was not easily transportable across placements, so that districts that work to return students who are in self-contained settings could lose this State aid because districts cannot meet the cost threshold. At least one individual with knowledge of the funding system noted that “over 90%” of the extraordinary aid funds support students in out of district settings, even though the formula is to be “placement neutral.” However, it was not possible to substantiate this figure due to the lack of transparency in the allocation of “extraordinary aid.”
2. While most individuals who were interviewed supported the State’s weighted categorical funding system for allocating State aid to districts, there were concerns that the existing “tiered” structure, based on disability categories and program categories, does not capture the intensity and corresponding costs of educating a particular student. As a result, there may be incentives for districts to “over-classify” students so that they qualify for a higher tier of reimbursement. In their recent report, Molenaar and Luciano (2007) investigated this phenomenon and found that over a five-year timeframe, the number of students in the lowest tier (related services only), where the lowest amount of State aid is offered, increased by 26.3%, and the number of students reported in Tier 2 (mildly disabled) decreased slightly. However, the number of students in Tier 3 (moderately disabled) increased by 48% and, in Tier 4 (severely disabled), which receives the highest amount of state aid, the number of students increased by 65.9%. The authors concluded that this pattern was due to the fact that the aid amounts in Tiers 3 and 4 were two-to-four times the amount provided in Tier 2, and this provided an incentive for districts to over-classify students into these higher reimbursement tiers. Individuals with whom we conducted our interviewed substantiated this claim.
3. A number of interviewees noted that, although the State changed its funding formula in 1996 (under CEIFA) with the intent of providing districts with the same amount of aid regardless of student placement, there has been very little change in

the proportion of students served in separate or less inclusive settings or changes in the rate at which students are classified. This suggested to them that the State's last round of changes to the funding formula had little effect on districts' historical practices for identifying and placing students with disabilities.

Reports Concerning New Jersey Special Education Funding

Since 2000, in addition to the APA Cost Study, five reports on New Jersey's special education system have been issued; the reports were published by different organizations, including NJDOE, the New Jersey State Legislature, and other stakeholder groups. All of the reports critiqued aspects of the State's current funding system and offered recommendations for improvements to the current funding approach. Below, we provide a brief overview of each of these reports. We then synthesize the reports' recommendations related to the State's existing funding formula in terms of three common themes: 1) Data-based decision-making; 2) proposed modifications and enhancements to existing funding approach; and 3) opportunities for state intervention and coordination.

Overview of Recent Reports

- *New Jersey Special Education Expenditure Project (SEEP)*.⁴⁵ The SEEP study was a one year study (beginning January 2000) of special education expenditures in New Jersey, conducted in conjunction with the national Special Education Expenditure Project (sponsored by the U.S. Department of Education). The study's primary objective was to obtain special education spending estimates for the State and to provide policy recommendations regarding the State's existing funding system. The report presents both per student and total expenditure information, along with breakdowns of these costs by key variables such as age group, service or resource, category of disability, district type, educational environment, and funding tier. It also compares New Jersey's spending to other states and the national averages.
- *The Joint Committee on Public School Funding Reform (JCSF)*.⁴⁶ In June 2006, the New Jersey Legislature constituted four bicameral, bipartisan joint committees to review and formulate proposals to reform property taxes, including the Joint Committee on Public School Funding Reform, to address public school funding and expenses. The Committee held hearings and solicited stakeholder input on issues related to financing education in New Jersey. Based on this input, 28 recommendations were made, 6 of which pertained to special education.
- *The Special Education Review Commission (SERC)*.⁴⁷ In 2006 the JCSF established the SERC for the purpose of reviewing special education program delivery, quality and costs and recommending changes to the State's existing special education funding system. The SERC's final report consisted of 66 recommendations, 15 of which

⁴⁵ Chambers, J., Parrish, T., & Brock, L. (ND). *New Jersey Special Education Expenditure Project Final Report*. Palo Alto, CA: Center for Special Education Finance, American Institutes for Research.

⁴⁶ Joint Legislative Committee on Public School Funding Reform. (November 15, 2006). *Public School Funding Reform*. (See http://www.njleg.state.nj.us/PropertyTaxSession/OPI/jcsf_Report111506.pdf.)

⁴⁷ Special Education Review Commission Report (2007).

specifically addressed special education funding. In addition, the SERC endorsed a number of recommendations made in the report of the New Jersey Legislature Task Force (1995) on Special Education⁴⁸ and the JCSF, which had not yet been implemented.

- *New Jersey School Boards Association (NJSBA)*.⁴⁹ In September 2007, NJSBA released its study of special education costs, program delivery, and policies and procedures. Findings were derived from 2005-2006 school year data, which were provided by NJDOE and collected from school districts statewide. The report reported nine key findings and included 12 recommendations for improving New Jersey’s special education program delivery and funding.
- *The New Jersey Coalition for Special Education Funding Reform (Coalition)*.⁵⁰ In September 2007, the Coalition released recommendations that identified eight areas in which special education funding could be improved. The Coalition is comprised of nine New Jersey-based organizations concerned with special education policy and funding, with the stated goal of “seek[ing] a special education funding mechanism that is adequate, efficient, equitable, predictable, flexible, transparent, fully placement neutral, and is accountable for both spending and student outcomes.”⁵¹

Report Synthesis

Despite the reports’ different foci and, ultimately, sets of findings and recommendations, three themes emerge when one looks across the reports. Each report contains a set of common recommendations. (See Table 3.) It is noteworthy that many of the issues identified in these reports were echoed by the persons with whom we conducted our interviews. In the following sections, we review these themes in more detail.

Data Availability. There was a general call across the reports for the State to improve the quantity and quality of the data made available for making policy, program, and resource allocation decisions for special education and related services. Four specific opportunities were identified by one or more of the reports.

1. *An ongoing framework for identifying the “actual costs” for special education on a state-wide and regional basis, which utilizes reliable district level expenditure data, should be developed and implemented by the State.* With the exception of the SEEP, each of the above-referenced reports identified New Jersey’s lack of data on “actual” excess costs of special education as problematic.⁵² Such data are needed to make informed

48 Report of the New Jersey Legislature Task Force on Special Education. (December 22, 1995). See <http://www.njleg.state.nj.us/PropertyTaxSession/OPI/LegislativeTaskForce.pdf>.

49 Molenaar, M. & Luciano, M. (September 2007). *Financing special education in New Jersey*. Trenton, NJ: New Jersey School Boards Association.

50 *Recommendations for Special Education Funding*. (September 2007). Hopewell, NJ: The New Jersey Coalition for Special Education Funding Reform.

51 The Coalition includes: The Alliance for the Betterment of Citizens with Disabilities (ABCD); The Association for Children of New Jersey (ACNJ); The Arc of New Jersey; ASAH, formerly the Association of Schools and Agencies for the Handicapped; New Jersey Coalition for Inclusive Education; the NJ Center for Outreach and Services for the Autism Community (COSAC); the Education Law Center; New Jersey Protection and Advocacy, Inc. (NJP&A); and the Statewide Parent Advocacy Network (SPAN).

52 Although the reports do not explicitly define “actual costs,” language in the reports suggests that this refers to tracking actual *expenditures* for special education and related services statewide.

Table 3
Recurring Themes in Recommendations Made in Reports Issued by Legislature and Stakeholder Groups

Theme	Recommendations
Improve data available for policy decisions and accountability	<ul style="list-style-type: none"> • Establish a consistent accounting method for determining the actual “excess costs” for special education incurred by districts. • Commission study of “actual excess costs” for special education, on a statewide and regional basis, that takes relies utilizes reliable district-level expenditure data • Commission a longitudinal study of student outcomes, which tracks students with disabilities into adulthood. • Establish a statewide database that tracks the capacity of self-contained programs and out-of-district placements (public and private) that serve students with disabilities. • Survey districts to determine the average and range of the hourly fees, which districts pay independently, for the purpose of determining reasonable rates for related services personnel.
Modifications and Enhancements to Existing State Special Education Funding Approach	<ul style="list-style-type: none"> • State special education aid provided districts should be based on student needs, not districts’ ability to pay. • The State may wish to reconsider the exiting Tier structure in its current weighted categorical funding system in favor of a more needs based set of indicators. • Incentives and disincentives for placing students with disabilities in the “least restrictive environment” inherent in the current weighted categorical funding system for allocating state aid should be carefully reviewed and modified where appropriate. • The State should continue to provide additional funds to districts serving students with highly specialized and intensive needs through an “extraordinary costs” supplement to state aid. However, this supplement should be “fully funded” by the state, unlike what has occurred in recent years. • In addition to categorical funding (e.g., weighted per student allocation), the state should provide a dedicated flat grant to districts based on total district enrollment for enhance pre-referral and early intervention services within the general education setting. • Given that special education is an “entitlement,” special education costs should be placed outside of a district-level “funding cap” instituted by the state.
Opportunities for state intervention and coordination to improve district capacity and special education system efficiency,	<ul style="list-style-type: none"> • The state should increase opportunities for schools (public and private) to share equipment and assistive technology (AT). • The state should work to improve collaboration between local school districts and separate, self-contained programs (public and private) to co-locate these programs at public school buildings and promote integration with the general education curriculum. • The State encourage separate programs (public and private) that solely serve students with disabilities to co-locate in public school buildings. • State and Legislature should consider changes to school construction laws, which require local districts to plan for and provide suitable facilities for students with disabilities and to consider students who are out-of-district before building or modifying public school facilities. • State should enhance coordination and regionalization of public transportation services for students with disabilities to increase efficiency and decrease costs.

decisions not only regarding overall levels of special education funding, but also to evaluate the cost-effectiveness of various models for program and service delivery (e.g., out-of-district placements, inclusive programs and services).

Moreover, in the context of establishing such a study, *the State should establish a consistent accounting method for determining the actual “excess costs” for special education incurred by local districts.* Such a framework would ensure a uniform comparison of special education expenditures across public and private institutions, as well as districts and schools statewide. The SERC report encouraged the State to solicit input from stakeholders on the definition of “actual” excess costs to “ensure

all appropriate costs are considered in the definition.” The NJSBA report suggested that NJDOE collect “audit summary data” in a way that would enable funding decisions to be based on actual expenditures.

2. *Longitudinal studies of student outcomes should be pursued.* These studies would track students with disabilities into adulthood and link placement, programs and services received with a range of outcomes. For instance, the Coalition’s report recommended a “scientifically-validated, longitudinal outcomes study to examine the lives of adults who, as students received special education services in New Jersey.” In addition, implicit in the reports’ recommendations were calls for independent studies of various approaches to providing special education and related services that take into account program costs, so as to increase the collective knowledge about their relative “cost-effectiveness.”
3. *The State should establish a statewide database that tracks the physical capacity of self-contained programs and out-of-district placements (public and private) that serve students with disabilities.* The SERC and Coalition reports recommend that the NJDOE create, publicize and maintain a state- and district-wide database that tracks the type and capacity of programs implemented in public and private settings. The number of students enrolled in each program, program availability, and costs associated with each program should be included in the database. The SERC report also suggests that this requirement be focused on students in self-contained settings (per the school special register) and limited to quarterly data collection.
4. *The State should periodically survey districts to determine the average and range of hourly fees, which districts pay for the purpose of helping districts evaluate rate “reasonableness” for related services personnel.* The SERC report recommended that NJDOE and the State Legislature research and survey districts to determine the average and range of hourly fees that districts pay independently-contracted Occupational Therapists, Physical Therapists, and Speech Language Therapists. The survey’s purpose would be to identify a range of “reasonable costs” for these related services and disseminate this information to districts statewide. Although not included as an explicit recommendation in the NJSBA report, increased costs associated with related services (particularly for students with autism) were identified as a key issue facing the State.

Modifications and Enhancements to Existing State Funding Formula

The reports identified a number of possible modifications and enhancements to the State’s existing funding approach. With the exception of the NJSBA report, the reports either endorsed the existing categorical weighted funding approach currently used by the State or were silent on the issue; NJSBA called for “full funding” of special education costs using federal and state funds, and recommended that the State consider a “census-based” approach to allocating state aid to districts. There were five common recommendations across the reports that addressed the distribution of state aid to districts:

1. *State special education aid provided to districts should be based on student needs, not district ability to pay.* The Coalition and SERC reports opposed efforts to link special education aid to local district wealth. There were concerns that such an approach might negatively impact students with disabilities and discourage wealthier districts from developing quality special education programs and services. In addition, linking State funding to local district wealth could create incentives and disincentives for student identification and placement; rather, State aid should be based on students' needs.
2. *The State should preserve the weighted categorical funding system, which is based on student need, but may wish to reconsider the existing "tier" structure in favor of a more "need based" set of indicators (e.g., disability type, ABILITIES Index classifications).* The SERC and Coalition reports supported the State's existing weighted categorical funding system. The existing "tiered" system for assigning weights that are based on student disability category, however, were identified as problematic.
3. The NJSBA, SERC, Coalition and SEEP reports *called upon the State to consider the incentives and disincentives for placing students with disabilities in the "least restrictive environment" inherent in the current tiered funding system.* Each of the reports included a discussion and recommendations related to existing policies and practices related to "out-of-district" placements. There were some concerns that the existing tiered system encouraged this practice. For instance, the NJSBA report suggested that the existing system may promote incentives for districts to misclassify students so as to receive State reimbursement at a higher tier. Furthermore, the SEEP study noted that if the State wished to change this practice, the current funding formula could be adjusted to provide fiscal incentives for districts to serve a greater number of students within their home district. As such it was recommended that the current tiers be reviewed and revised to reflect the intensity of services provided and the actual costs associated with those services. The SERC and Coalition reports also called for the State to make its process of assigning dollar values to specific tiers more transparent.
4. *The State should continue to provide additional funds to districts serving students with highly specialized and intensive needs through an "extraordinary cost" supplement to State aid.* With the exception of the SEEP report (which did not include explicit recommendations for changes to the State's funding formula), each of the other reports recommended that the State continue to provide additional aid to districts for serving students with extraordinary costs. The Coalition report further suggested that extraordinary cost aid should be generated based on the services in students' IEPs, as opposed to costs associated with placement, and the aid should be transportable across placements so that the funds are placement-neutral. Several reports argued that this supplement should be fully funded by the State, unlike what has occurred in recent years.

5. *In addition to categorical funding (e.g., the weighted per-student allocation), the State should provide a dedicated flat grant to districts based on total district enrollment for enhancing pre-referral and early intervention services within the general education setting.* The Coalition, SERC, and JCSF reports encourage the State to increase and fund pre-identification services. The Coalition report recommended that the State establish a dedicated “flat grant” to districts based on enrollment for the purpose of enhancing general education programs and providing appropriate pre-referral intervention services. This would be in addition to existing State funds (e.g., provided through the existing weighted categorical system). The SERC report suggests that a portion of the costs associated with Child Study Teams be considered a special education cost in the State’s funding formula. The NJSBA report also recommended that general education teachers should receive NJDOE-supported pre-service and in-service training on special education topics such as differentiated instruction and the nature of various disabilities and their amelioration.
6. *Given that special education is an “entitlement,” with the level and intensity of services a district must provide tied to a student’s disability and IEP, special education costs should be placed outside a district-level “funding cap” instituted by the State.* The SERC, Coalition and JCSF reports recommended that special education costs be placed outside any proposed revenue cap. To do otherwise could place districts at financial risk and could affect district decisions regarding student identification and placement.

Opportunities for State Intervention

District capacity to provide adequate special education and related services for students with disabilities was a clearly articulated concern. There was a general consensus across the reports that opportunities exist for state intervention and coordination, which would improve district capacity to better serve a broader range of students with diverse learning needs and increase the efficiency of the existing special education system. There were five common recommendations for how the State might capitalize on these opportunities:

1. *The State should look for ways to increase opportunities for schools (public and private) to share services, equipment and assistive technology.* The SERC and Coalition⁵³ reports recommended that the State coordinate efforts to disseminate information about existing loan and re-circulation of equipment at assistive technology centers, provide training and technical assistance regarding assistive technology, and establish a state-wide assistive technology lending library. In addition, the SERC report recommended that NJDOE should develop and implement statewide assistive technology guidelines.
2. *The State should work to improve collaboration between local school districts and separate, self-contained programs (public and private) to facilitate shared special education services within the county or region.* The absence of coordination and communication among special education programs and related services providers statewide

⁵³ The JCSF report recommended (Recommendation #20) that the State promote greater coordination of special education services available in local districts at the county level. Presumably, this effort also could include a State role in coordinating services, equipment, and assistive technology.

was a uniform concern across the Coalition, SERC, and JCSF reports. The Coalition report recommended that the State facilitate shared special education services within counties and regions. For instance, shared services could include direct services (e.g., evaluations, related services, counseling, personnel development), as well as efforts to help districts develop in-district inclusive programs and services, training for inclusive education and positive behavior supports. In addition, the Coalition and SERC reports urged the State to create incentives for collaboration between separate programs with specialized expertise (public and private) so that these programs serve as a resource for local districts seeking training, consultation and program development services. In addition, where feasible, the reports recommended that the State *encourage separate programs (public and private) that solely serve students with disabilities to co-locate in public school buildings* (i.e. in-district and in inclusive settings) so as to provide students with disabilities greater access to the general education curriculum and to non-disabled peers, as well as to reduce time spent on long bus rides to out-of-district settings.

3. *The State should work with districts to establish effective general education early intervention and pre-referral programs to decrease inappropriate classifications for special education.* The SERC, Coalition and JCSF reports recommended that the State take on a stronger role in assisting districts with implementing pre-referral intervention services. In addition, the SERC report also recommended that the State provide guidelines for an appropriate ratio of Child Study Teams per total population, and encourage school districts to enhance Teams' roles within general education. However, the Coalition's recommendations caution the State to also develop protections that ensure the appropriate referrals of children with disabilities to special education are not delayed.
4. *The State and Legislature should consider changes to school construction laws, which require local school districts to plan for, and provide, suitable facilities for students with disabilities and to consider students who are out-of-district before building or modifying public school facilities.* The JCSF report recommended that inclusion of special education students in local school district programs be promoted through changes in the school instruction law that encourage local districts to expand their facilities capacity. The Coalition's recommendations take this one step further and encourage the Legislature to amend the "Educational Facilities Construction and Financing Act" and its implementing regulations to require local districts to plan for, and provide, suitable facilities for students with disabilities. Elements of Universal Design are encouraged for all new school construction so that students with a full range of physical, behavioral and learning disabilities may be served, to the extent possible, in the general education classroom. The recommendations imply, however, that school construction efforts should not be limited to ensuring adequate special education classroom space. The development of special education "wings" in buildings must be clearly proscribed, and the State should be *required to verify the need for all self-contained special education programs (public and private) and the new construction or retrofitting of buildings exclusively for students with disabilities.* In an effort to help districts address their facilities' needs, especially as they work to return out-of-district students to their home district and reduce new out-of-district placements, the SERC report recommended that the Legislature establish

a protocol for “special needs construction,” accompanied by a “fast track” approval process, when a district can justify a current need or cost-saving proposal for building, without referendum, to address space and building capacity.

5. *The State should look for opportunities to enhance coordination and regionalization of public transportation services for students with disabilities to increase efficiency and decrease costs.* The Coalition and SERC reports recommended that the State look for ways to better coordinate the provision of special education transportation services. Although, as noted by the NJSBA report, some districts already coordinate transportation for students with disabilities, there are ongoing issues and barriers to improving coordination statewide. The SERC report recommends that the State identify best practices for transporting special needs students and work with districts to develop and implement plans that improve coordination and cost-efficiency of transportation. One example of such efficiency, identified by the Coalition, was establishing a state academic calendar.

IV. CRITIQUE OF THE APA COST STUDY

Until recently, there were strong indications that the APA Cost Study would form the basis for a new special education funding formula in New Jersey. Accordingly, this was the initial focus of our work. We elaborate on our findings in the following sections. First, we critique the process used and results from the APA Cost Study. We then discuss stakeholder interest in a new cost study, which would provide more reliable estimates of special education costs in New Jersey.

PJP Process

NJDOE and APA relied on the Professional Judgment Panel (PJP) method to estimate the resources required to provide New Jersey students with an adequate education. The PJP process is the most frequently used approach to estimating school finance adequacy and has been used in over a dozen states nationwide. In New Jersey, the PJPs’ work resulted in a set of base weights and corresponding adjustments for the additional costs associated with serving special needs students, such as students with disabilities, at-risk students, and English Language Learners.

In principle, the PJP process relies on the professional knowledge of panels of educators to identify and recommend programs and strategies necessary for prototypical elementary, middle and secondary schools to provide an adequate education for their students, as well as the resources necessary for school and district central offices, facilities, maintenance and transportation functions. Specifically, for the NJDOE and APA Cost Study, PJP members were charged with the task of answering the question, “What resources do you need to provide students in the hypothetical school district(s) the educational opportunities that will allow all of them to meet the specified educational standards?”⁵⁴ In the context of the APA Cost Study, three PJP panels were charged with identifying packages of inputs (e.g., instructional time, related services

⁵⁴ This stated objective was taken directly from the APA Cost Study. See page 2.

personnel, etc.) and practices that a set of hypothetical school districts in New Jersey would need to ensure students met state performance and accountability standards.

In preparation for the PJPs' discussions, APA developed a set of six hypothetical school districts intended to reflect school district demographics in the state: four K–12 and two K–8 districts. These districts were to serve as the basis for the PJPs' discussions—that is, the panels were to determine what resources would be needed in the hypothetical school districts to obtain a specific set of academic outcomes. It should be noted that the grade spans included in the hypothetical districts did not cover the full range of district grade spans that actually exist in New Jersey. It was determined that this would be unnecessary since the resources would be developed at the school level and could be rearranged later on to estimate costs associated with other grade spans not included in the PJP report.

In its earliest stages of implementation, the PJP consisted of various state-level representatives and, later on, other stakeholders from the education community in New Jersey. Specifically, an initial panel meeting was held with seven NJDOE staff in January 2003. At this time, the panel did not include educators from the field, and only included one individual with apparent background or expertise in special education.⁵⁵ At this meeting, panelists were asked to establish the resources needed for students to meet state performance standards. In doing so, they were to first assume that none of the students had special needs, and they then were asked to estimate the additional resources needed for students with disabilities, students from low-income families, and students with limited English proficiency. The resources identified by this initial panel formed the foundation for all later work completed by the PJPs and the NJDOE's costing-out efforts.

The second panel included 40 individuals from school districts throughout the state.⁵⁶ These individuals were divided into five panels—four considered the hypothetical K–12 district models and one considered the K–8 district model. Of the participants, most were district administrators (e.g., superintendents, business administrators). It appears that only 10–12 PJP members were drawn from school sites, and most of them were school principals. In fact, only two members appear to have been classroom teachers. Moreover, among PJP participants there was a clear absence of school-based personnel with expertise in educating students with disabilities; two individuals were identified as Directors of Special Services, implying some familiarity and interaction with providing special education and related services to students with disabilities. But, again, these individuals were located within districts' central offices, not schools.

The third panel reviewed the recommendations made by the previous two panels. This panel's work became the basis of the PJP resource lists that were used by NJDOE

55 Appendix 6 of the APA Cost Study notes that Ms. Melinda Zangrillo, a Planning Associate in the NJDOE Office of Special Education Programs, was the only person with explicit background and expertise in special education included in the first iteration of the PJP process.

56 It is important to note that the APA Cost Study includes a caveat regarding PJP membership. Specifically, the Report indicates that the Appendices that list PJP membership include those individuals who were *invited* to participate on the panel and *may not* reflect actual participation in the PJP process. The Report is silent on the extent to which there was a discrepancy between PJP invitees and participants.

to estimate the costs for New Jersey schools. The panel included eight individuals—five superintendents, one school business administrator, one school board member and one college professor. There was no obvious representation of special education background or expertise among this final group of panelists. NJDOE “costed out” the packages of resources identified by the PJPs. In the initial version of the APA Cost Study, resource prices for the 2005–06 school year were used.

In summary, the PJP panels constituted by NJDOE and APA appeared to lack the expertise required to identify the resources necessary to ensure special education funding adequacy. Specifically, we identified several important anomalies in the composition of the PJPs put in place for New Jersey’s APA Cost Study that call into question the PJPs’ ability to identify the appropriate package of resources to ensure special education students met state adequacy standards:

1. The initial PJP panel was comprised entirely of NJDOE staff. They were charged with developing initial staffing ratios and resource allocations, the baseline information that each successive panel utilized. Most often, this initial agenda-setting panel is comprised of a larger and more diverse set of panelists from school-sites. The shortfall in school-based personnel, notably with expertise in educating students with disabilities, extended to the second and third PJPs as well. In fact, comparisons to other states which recently undertook a PJP process with APA reveal lower levels of special education expertise among panelists for New Jersey relative to other state projects; only 3 out of 55 possible PJP members appear to have had special education expertise. (See Table 4.)
2. In addition to the apparent shortfall in special educators and special education advocates on the panels, the central role played by NJDOE in the PJP process is of concern. The strong role played by NJDOE in the initial PJP is counter to the process used elsewhere, which typically relies almost exclusively on school site personnel. Individuals who were interviewed statewide felt that that NJDOE inappropriately set an agenda by establishing the baseline resources for the hypothetical schools during the first PJP meeting and doubted that the resources identified for providing special education and related services to students with disabilities were adequate. For instance, several individuals felt that given the exceptional complexity of New Jersey’s special education system, which regularly challenges many “street-level” educators and administrators’ understanding, it seemed unlikely that any one person, particularly a state official, would have the necessary knowledge to establish an appropriate standard for district-level special education resource-allocation decisions statewide. Others felt as if NJDOE was trying to “rig the system” in favor of a reduced state contribution toward special education costs by establishing a package of resources that did not reflect the “actual costs” of educating students with disabilities. Moreover, there were concerns that the later PJP panels lacked the expertise and wherewithal to substantially modify the initial resource models established by NJDOE, allowing the initial constellation of resources to be perpetuated.

Table 4
Special Education Participation in PJP Process in A&P-Led Adequacy Studies

State	Summary of PJP Process Used	Special Education Participation
North Dakota (2003)	<ul style="list-style-type: none"> • 7 school and district panels, comprised of 6-8 educators per panel • Work amended by 10 member state panel 	<ul style="list-style-type: none"> • Total SPED experience—12.9% (8 out of 62)
Tennessee (2004)	<ul style="list-style-type: none"> • Estimates by four school panels • Work reviewed by four district and one system panel 	<ul style="list-style-type: none"> • Total SPED experience—11.7% (7 out of 60)
South Dakota (2006)	<ul style="list-style-type: none"> • Estimates produced by school, district and statewide panels 	<ul style="list-style-type: none"> • Total SPED experience—9.8% (5 out of 51)
Nevada (2006)	<ul style="list-style-type: none"> • Special education costs estimated by PJP (through an iterative process), including school and district panelists 	<ul style="list-style-type: none"> • N/A
Connecticut (2005)	<ul style="list-style-type: none"> • Estimates produced by school, district and statewide panels 	<ul style="list-style-type: none"> • Total SPED experience—6.8% (3 out of 44)
New Jersey (2003)	<ul style="list-style-type: none"> • Three PJP panels created to review work of original committee. • Total of 55 invitees—but no final count or itemization of panelists, only invitation list 	<ul style="list-style-type: none"> • Total SPED experience—5.5% (3 out of 55)

Source: Adapted by Kieran Killeen from Ramsey, M. (2007). Adequacy Studies. (Paper prepared for the Annual Meeting of the University Council for Educational Administration.)

3. There was a concern that the individuals invited to participate in the PJP process came from districts and schools that operated less-than-optimal special education programs. For instance, one interviewee noted that PJP participants appeared to disproportionately represent districts that sent a large portion of their special education students out of district and had higher than average per pupil identification rates. She commented that NJDOE and APA “should have looked at districts with best practices” in special education and recruited PJP members from these locations.
4. The PJPs’ orientation appeared to reflect the “status quo” for providing special education and related services to students with IEPs in New Jersey. As noted previously in this report, New Jersey faces numerous systemic barriers to providing an equitable, adequate and efficient special education system. There was a strong sense among persons we interviewed that a new special education funding formula should “not be based on what we’re doing now, rather what we should be doing.” For instance, the PJP did not explicitly consider important systemic issues such as over-identification for special education (particularly among students from non-dominant backgrounds), districts’ over-reliance on out-of-district placements, interventions and best practices targeted at improving achievement and outcomes for students with disabilities, and reducing parental disputes. Remedies for these and other long-standing systemic issues inherent in New Jersey’s special education system have significant implications for programming and costs, which were not taken into account when the APA Cost Study was completed.

5. Stakeholders also raised questions about how NJDOE and APA defined an “adequate” or even “sufficient” educational standard for students with disabilities for the purposes of the PJP’s deliberations. For instance, it is unclear what types of educational standards were used by the PJP’s for students with disabilities, and how these standards were linked to decisions regarding school- and district-level resources.

Special Education Disability Categories

The proposed special education disability categories do not clearly map to existing federal disability categories or to the existing State “tiered” classification system. Specifically, the APA Cost Study starts off by describing special education adjustments to the proposed base costs using three levels of student disability—“mild,” “moderate” and “severe” (see APA Cost Study Tables 4 and 5). The existing CEIFA definitions for Tiers 2, 3 and 4 could loosely be linked to these new categories proposed in the APA Cost Study, although the Report does not include an explicit crosswalk between the existing CEIFA Tiers and the proposed categories. However, later on in the Report, the disability severity categories for the proposed weights are changed to “speech,” “moderate,” and “severe,” without explanation.

The apparent shift in proposed special education categories, in conjunction with the absence of a crosswalk between the new cost categories and either the existing CEIFA Tiers or federal disability categories, is problematic. In some respects it appears that the existing four tiered system has been consolidated to a two tiered system—with adjustments for “moderate” and “severe” special education students only. The remaining category would be students with speech and language impairments only. This interpretation is somewhat supported by the school-level resource allocation decisions made by the PJP’s (see discussion of New Jersey’s special education weights and the national context below). If this is the case, it is unclear how students with learning disabilities or mild cognitive disabilities would be classified. In addition, the existing CEIFA Tier 2 classification includes “preschool disabled,” but the adjustments proposed in the APA Cost Study list separate weights for the “preschool disabled” category. Interviewees also raised questions about how related services, currently accounted for in the CEIFA Tier 1 classification, would be accommodated within the new funding formula.

The APA Cost Study also does not address the issue of “extraordinary aid.” While most individuals complained that the existing system of reimbursing districts for extraordinary costs “is broken,” they were even more concerned by the fact that the approach to funding special education proposed in the APA Cost Study included no mention of additional state aid for extraordinary costs. Interviewees felt that the absence of this provision would be most harmful for small districts that, due to their size, are typically unable to absorb the costs associated with high need students without encroaching on general education programs and services.

Overall, the Study’s failure to provide additional detail on the proposed changes to existing disability categories, as well as on the State’s plans for assisting districts with extraordinary costs, makes it difficult to evaluate the true impact the weights might have on student identification, placement neutrality, and cost.

Absence of Transparency

The APA Cost Study also largely avoids issues surrounding how the special education formula weights were generated and provides very little information on how the proposed special education weights would operate in practice. Interviewees indicated that they could not determine how the special education weights were determined or why certain decisions were made. For instance, the report does not specify which services and providers, including those required by New Jersey Code, were considered. Others believed that certain students were excluded from the calculations (see discussion below regarding proposed disability classifications) and that programs and strategies essential to providing an adequate education for students with disabilities were not considered. For instance, there was no discussion of class-size assumptions (for self-contained classes) or whether resources for early intervening services, child study teams, Response-to-Intervention, and other core programs and services were included. There also were concerns that the weights masked important regional variations in the provision of special education and related services and that the homogenization of the weights into averages for K–8 and K–12 districts might put some schools and districts at risk.

Interviewees also raised questions about how “send-and-receive” for children with special needs would work between districts in the context of the proposed funding system. For instance, if a K–8 district sent a student to a larger K–12 district for high school—what would happen if the K–8 district received more money for that student than the K–12? Would the reimbursement be based on district of residence or the receiving district? Would the child’s costs really go significantly down (or up) when s/he changed districts?

In addition, individuals also raised questions about the extent to which the proposed adjustments to the base costs for students with disabilities were based on “outcomes” for these students, or even data relative to achievement or progress. They were unsure how different educational standards were used by the PJP for students with disabilities, and how these standards were linked to decisions regarding school- and district-level resources. More importantly, most of the individuals with whom we spoke were unsure how “adequate” or even “sufficient” special education and related services had been defined by NJDOE and APA for the purposes of identifying special education funding adequacy in the context of the PJPs.

Proposed Special Education Weights and the National Context⁵⁷

Across district types, the special education weights proposed in the APA Cost Study for the “mild” category are somewhat below national averages and somewhat higher than the national average for the “moderate” category. One possible explanation for this pattern is the allocation of speech and language specialists to the mild category only, deflating the resource allocation for this category in New Jersey. This is unconventional relative to other states. Since only students receiving speech services appear to be considered “mild” by the New Jersey definition, all other students with classifications related to cognitive and behavioral needs would be folded into the “moderate” category. This results in a somewhat bloated “moderate” category—that is, by definition, it appears that more students fall under this category and as such more staffing resources were allocated to the “moderate” category. However, this would not necessarily impact the construction of the weights; the number of students allocated to a particular special education category does not necessarily impact the weights. The weights are calculated using per pupil (per capita) figures, so although the moderate category is bloated and the mild category is anemic (relative to categorizations in other states) this would not lead to the reasons for variations in special education weights. Instead, it appears that the variation is mainly a function of the conservative staffing allocation used by New Jersey PJPs when they constructed the “mild” category and a more liberal definition for staff allocations to the moderate category. We make this inference based on the implied staffing allocations for the hypothetical schools presented in Appendix 9 since the APA Cost Study does not contain a definition for the “mild” or “moderate” categories.

Our other observation is that across all district types, New Jersey’s adjustments for students with “severe” disabilities are considerably higher than most other states. The absence of clear information on how the weights were derived makes it difficult to pin-point the reasons for this pattern. However, a reasonable argument could be made that the relatively high level of costs for students meeting the “severe” criteria could be attributed to district over-reliance on costly out-of-district placements.

Summary

Our review and evaluation of the NJDOE and APA Cost Study yielded mixed results. We found the proposed weights appear to be somewhat inconsistent with those generated in other state-level adequacy studies. We also identified clear and consistent problems with the assumptions, processes, and procedures used to construct the proposed adjustments for special education students. The process undertaken by NJDOE and APA lacked transparency, and the resulting report lacks obvious documentation on how the proposed special education funding formula was developed. Moreover, the Study fails to take into account the range of systemic challenges in how special

⁵⁷ In an effort to contextualize the special education weights proposed in the APA Cost Study, we examined the extent to which New Jersey’s proposed weights are aligned with other state school finance adequacy studies. Eleven state reports prepared by APA between 2001 and present were evaluated. Studies published after 2003 break out special education weights into three disability categories (mild, moderate, and severe) similar to what was included in New Jersey’s APA Cost Study. As a result, our findings focus on comparisons between New Jersey’s Cost Study and other studies completed by APA after 2003.

education in New Jersey is currently structured and funded, which may have significant implications for ensuring compliance with federal and State laws and for special education costs.

Taken together, these problems call into question the validity and, ultimately, the credibility of the APA Cost Study's proposed adjustments to base costs for special education students. Moreover, there is reasonable doubt that the proposed weights would generate adequate funding for an equitable and efficient special education system in New Jersey. There also was broad support among stakeholders for a new study of special education costs, which could not only inform State decision-making regarding a new funding formula, but also assist districts in identifying cost-effective programs and practices.

V. CONCLUSIONS AND CONSIDERATIONS FOR FUTURE POLICY REFORM

In this report we reviewed a variety of information including the APA Cost Study (our original charge) as well as other reports, documents, and data that provided a context for understanding special education in New Jersey. In this section we synthesize our findings from our review and then draw on those findings to identify key considerations for future efforts to revise the State's special education funding system.

Conclusions

New Jersey faces many challenges in its efforts to ensure an equitable, adequate, and cost-effective special education system. For instance, the State ranks high on several indicators that are known to not only place the State in jeopardy of non-compliance with federal laws, but also drive up special education costs. First, the overall number of students identified as needing special education is higher than the national average and students from certain racial and ethnic backgrounds are disproportionately identified for special education in New Jersey. Second, New Jersey districts place students in segregated educational settings both inside and outside of their home district at much higher rates than almost all other states nationwide. Third, the number of parental disputes in New Jersey has significantly impacted what districts must spend on litigation, lost instructional time on the part of teachers, and led to the erosion of school-parent relationships. These, and other systemic problems, must be addressed in any serious attempt to revise the State's special education funding formula.

The APA Cost Study commissioned by NJDOE was presumably one possible option for updating the special education funding system. However, as we have documented in our review, this study had serious flaws and, at this point, lacks little if any credibility among stakeholders statewide. The SEEP report is considered by many to be dated and to not have delved deeply enough into the costs associated with different settings and service options. All of the reports that we reviewed called for a new cost study, as did the individuals who were interviewed. A number of individuals, including advocates and administrators, expressed serious concerns about the long-term feasibility of the current funding system and the lack of transparency in the system. There is also

an implicit concern about how resources are allocated within districts or other special settings. That is, why do similar children with similar levels of service “cost more” in some settings than others? Thus, there is a strong call for a new comprehensive expenditure study that examines unit costs by setting. For instance, individuals want to know what a specified number of hours of a particular therapy cost in a small district, a special private school, a special services school district, etc. The assumption behind these calls for such a study appears to be that knowing these cost differentials will lead to a more rational and equitable system for funding special education in New Jersey. Equity in this case, means equitable for districts. It is not clear, however, whether knowing costs without considering student outcomes will lead to an adequate, equitable, or cost-efficient system for students.

To meet these goals, any discussion of funding needs to consider costs as related to achieving a specific outcome. Improving the educational achievement and educational outcomes of students with disabilities was not prominently featured in most of the materials that we reviewed or in many of the interviews we conducted. Concerns about funding more often centered on issues related to inclusion and reducing the cost burden on local districts. Most of the discussions focused on inputs, i.e., amount or intensity of services; type of services or interventions; and settings, without consideration for which interventions, etc. actually yield better outcomes for students with disabilities.

This lack of consideration of student outcomes is not unusual in special education, which has traditionally been focused on inputs. This “input” orientation is a result of the unique and powerful entitlement in special education to a “Free and Appropriate Public Education.” An “appropriate education,” as defined in both IDEA and case law, is one that is individually determined through a carefully delineated set of procedures and reasonably calculated to enable the child to benefit from his or her education. The lack of clear standards for what constitutes “benefit” have been problematic in special education for some time.⁵⁸ Unlike the concept of “adequacy” as defined in terms of attainment of specific levels of performance, in special education a student’s IEP constitutes a statement of what is considered to be appropriate education. There are both procedural and substantive entitlements associated with the IEP. For instance, the IEP must be developed according to certain timelines and must involve specific individuals and components.⁵⁹ Substantive entitlements relate to the benefit a student receives from special education or related services. Herein lays the basis for disputes between schools and parents, as well as the conundrum for determining equitable and adequate special education funding.

58 See McDonnell, L. M., McLaughlin, M.J., & Morison, P. (1997). *Educating one and all: Students with disabilities and standards-based reform*. Washington, DC: National Academy Press; McLaughlin, M.J., Krezmien, M., Zablacki, M., & Miceli, M. (in press). *The education of children with disabilities and interpretations of equity: A review of policy and research*. Prepared for The Fund for Fiscal Equity, Teachers College, Columbia University, New York, NY; McLaughlin, M.J., & Rouse, M. (2006). Changing perspectives of special education and the evolving context of education. In L. Florian (Ed.), *The Handbook of Special Education*. London: Sage.

59 Pullin, D. (in press). Implications for human and civil rights entitlements: Stigma, stereotypes and civil rights in disability classification systems. In L. Florian & M.J. McLaughlin (Eds.), *Dilemmas and alternatives in the classification of children with disabilities: New perspectives*. Thousand Oaks, CA: Corwin Press.

Because the IEP is individually negotiated, interpretations of what constitutes a benefit can differ student-by-student. Therefore, a state special education funding formula is limited in the degree to which it can control costs and direct funding. Nevertheless, funding systems send strong signals to local districts regarding policy directions and, therefore, any new funding formula in New Jersey should be based on specific goals and assumptions. With that in mind, we offer four considerations for NJDOE and the State Legislature as they develop a new special education funding approach.

Considerations for Future Policy Reforms

Expenditure Monitoring

Gaining a deeper understanding of special education finance and its ramifications for education policy and practice has been hampered by the absence of periodic reliable data on special education expenditures and the funding sources used to pay for these expenses. Many stakeholders felt that neither the State nor its districts have the necessary data to address questions about costs, expenditures, and fiscal planning to better inform how the State and localities allocate funds to provide special education services. This concern manifested itself in calls for the State to establish accounting mechanisms (e.g., based on existing audit summary data) that track and report what is currently spent by public school districts, as well as private schools. In addition, there have been calls for a study of the “actual costs” associated with providing special education and related services. While it appears that these calls are for a study of what is actually spent on special education in the State—the concept of “costs” encompassing a much broader range of resources than what might be legitimately tracked by the State’s accounting system, it is clear that stakeholders statewide feel they would benefit from periodic and reliable special education expenditure data, particularly if it could be linked to student disability classifications, placements and outcomes. As of now, there is very little information to guide policy making, programmatic decision making, and resource allocation at the state and local levels as to what might be the most effective and cost-efficient means to provide special education and related services.

Studying Special Education Funding Adequacy

Absent from the APA Cost Study and, for the most part, other recent efforts to study special education costs, were an explicit set of assumptions and goals that ground the respective recommendations and conclusions. Specifically, the APA Cost Study did not consider the relationship between desired outcomes for students with disabilities, the programmatic and systemic elements required to achieve these outcomes, and the resources districts and schools need to successfully implement this vision for the State’s special education program. In light of these deficiencies, serious consideration should be given to conducting a new study that explicitly examines special education funding adequacy. Such a study would carefully consider the “inputs” or resources required to provide an adequate special education system, and would carefully consider and recommend “best practices” districts might use to achieve desired outcomes. Given the long-standing challenges faced by the State and its districts in providing an efficient and adequate special education system, conducting such a study could be an important first step toward ensuring special education funding adequacy in New Jersey. This study could be accomplished using the PJP model (as recommended in the JCSF report) or some other means (e.g., evidence-based model).

In addition, in the context of this larger effort, there also is a clear need for more targeted studies that examine the costs and relative effectiveness of specific special education programs, services and resource allocations. Districts currently have little good information upon which to base decisions about how they might curb costs or select programs and services that most benefit students.

Incentives and Disincentives in Current Funding Approach

The nature of special education funding has a direct impact on the ways in which special education services are designed and delivered; that is, how the State goes about funding special education may create various incentives and disincentives for district actions. It is clear that New Jersey’s current “weighted” pupil approach to allocating State aid to districts may have unintended consequences for rates at which students are identified for special education and where they are placed.

In particular, a relatively high percentage of special education students in New Jersey are served outside their district of residence and at a much higher average expenditure than those served internally. If the State wishes to provide a fiscal incentive for districts to serve a greater number of students in-district, then the State should fund these students at a higher rate than those sent out of the district. Also of consequence is the existing system of allocating students to funding “tiers” based on their disability category, rather than their intensity of need. The result may have been an apparent “over-classification” of students to higher tiers so that districts might receive increased special education aid. Researchers such as Chambers, Parrish and Brock (no date) have suggested that disability type is a poor proxy for variations in spending and cost, as are the number of types of services specified on an IEP. In this case, the authors recommended using the ABILITIES Index, a rating scale that standardizes need across students. However, this is only one option and others might be considered. For instance, other states have used census-based and resource-based formulas for allocating resources. These funding approaches, however, do not explicitly account for student disability types and can mask significant differences among students in terms of service requirements. The resource-based funding approach may better approximate the actual service needs of different students.

While classification and placement neutrality should be key goals in any state funding formula, there is no one “best way” to allocate state aid to districts. As discussed in previous sections, there are incentives and disincentives with almost any funding approach, and the extent to which those factors are at play depends greatly on the norms and standards by which a State’s special education system operates. For example, in New Jersey, there is a long history of placing students with disabilities in public and private settings away from their home district. As a result, it would make sense for any future special education funding approach to take this tradition into account to a greater degree than might be the case in another state. Several experts (e.g., Hartman, 1992; Parrish, 1994) in the field recommend a multi-faceted set of criteria to help evaluate the relative merits of various funding approaches, including:

- ***Understandability.*** The funding formula’s underlying goals and system for allocating state funds should be straightforward and easily understood (i.e., transparent) to all stakeholders.

- **Equity.** The formula should be “fair” to students and districts. Funding should be distributed in a way that ensures that students in different districts have access to programs and services of comparable quality.
- **Adequacy.** State funding should be sufficient for all districts to provide “adequate” programs and services for students with disabilities.
- **Predictability.** The funding formula should result in predictable amounts for state contributions. In addition, districts, schools and other providers should be able to identify their state contribution amount and count on “stable” funding across years.
- **Flexibility.** Local education agencies should be given the flexibility to allocate state funds in ways that ensure program adequacy and cost-effectiveness in their local district context.
- **Identification-neutral.** Students should not have to be labeled “disabled” to receive services and supports. In addition, the number of special education-eligible students should not be the primary (or only) basis for determining the State’s contribution to local costs.
- **Reasonable reporting burden.** Costs (e.g., data requirements, recordkeeping, and reporting) to maintain the funding formula at the state and local levels are minimized.
- **Fiscal accountability.** Checks are in place to ensure that special education funds are spent as intended. In addition, explicit incentives and requirements are in place that encourage (or require) cost containment.
- **Cost-based.** State contributions received by local education agencies are linked to the costs faced in providing special education and related services.
- **Cost control.** The formula is structured so as to stabilize growth in special education identification rates and corresponding costs over time.
- **Placement-neutral.** Special education funding is not linked to where students are placed, where services are received (e.g., public or private setting), or disability label.
- **Outcome accountability.** A statewide system is in place for monitoring student outcomes for students with disabilities. Districts, schools and other local agencies that show positive results are given maximum program and fiscal latitude for implementing their programs and services. However, this incentive would only be available to those districts which had been found to be in compliance.
- **Connected to general education funding.** At a minimum, a conceptual link should exist between the State’s special education and general education formulae.

- **Political acceptability.** A new state funding formula should not result in districts experiencing a major short-term loss in funds or disruption in existing services.⁶⁰

Each of these criteria should be considered when developing a new funding formula. That said, it is important to keep in mind that it is unlikely that all of the criteria could be accommodated within a new State funding formula; trade offs will be required. It is essential to involve a broad and balanced constituency in this discussion of the funding formula's essential goals and the relative weights with which each of the evaluation criteria might be applied.

District Capacity for Change

Statewide, districts are struggling to provide high quality special education programs and related services. At the same time, they are burdened with increasing costs. Throughout our conversations with various individuals and in the documents we reviewed, it was evident that there are opportunities to build district capacity to better serve students with disabilities in a cost-effective manner through state intervention and coordination. This report, as well as those published by other stakeholder groups, identifies a number of areas in which the State might act. For example, the State should consider district capacity to provide the facilities required to educate students who might “return home” from out-of-district placements. Similarly, consideration should be given to the need for comprehensive State-supported professional development for general and special educators, focused on educating students with disabilities in general education schools and classrooms and going beyond “awareness level” training to encompass the ongoing technical assistance, support, modeling, and coaching necessary to change practices and maintain new skills.

Stakeholder Involvement

Efforts to develop a new special education funding approach in New Jersey will be influenced by a range of issues, including the national and state policy environments, student needs, and stakeholder interests and inputs. The lack of transparency and broad-based stakeholder involvement in the APA Cost Study was a major criticism and, ultimately, undermined the credibility of the Study's findings and recommendations. Any new effort to examine special education costs or to develop a special education funding formula needs to be done in the spirit of openness and collaboration. This means full public disclosure of the process and stakeholder opportunity for input on findings. We strongly urge NJDOE and the Legislature to hold public meetings on draft outcomes of any future study to enable interested individuals to provide comment, as well as to gain a deeper understanding of finding.

⁶⁰ See Hartman, W.T. (1992). “State funding models for special education.” *Remedial and Special Education*, 13(6), 47–58. and Parrish, T. (1994). *Fiscal policies in special education: Removing incentives for restrictive placements*. Policy paper No. 4, Palo Alto, CA: Center for Special Education Finance, American Institutes for Research.

Appendix A: Interview Participants

Kenneth Alter
Deron School of New Jersey
Council of Private Schools for Children with Special Needs

Diana Autin
Statewide Parent Advocacy Network of New Jersey, Inc. (SPAN)

Brenda Considine
NJ Special Education Funding Coalition

Celeste A. Curley
Division of Pupil Services, Hopewell Valley Regional School District

Richard Flamini
Special Services and Programs, Spottswood Public Schools

Susan Goldman
Speech and Hearing Association

Paula S. Lieb, Esq.
NJ Coalition for Inclusive Education

Mari Molinar
Independent Consultant (former NJDOE employee)

Douglas McGruther
Developmental Disabilities Council

Joyce Powell
New Jersey Education Association

Bill Sellar
NJPTA

Richard Shain
NJ Association of School Business Officials

Gerard M. Thiers
Association of Schools and Agencies for the Handicapped

Judy Ulchinsky
Division of Special Services, West Essex Regional School District

Michael Vrancik
New Jersey School Boards Association

Appendix B: Interview Guide and Consent Language

Draft Interview Protocol NJ Stakeholder Interviews

Introduction & Consent Talking Points:

- Together, (*our names*) at the University of Maryland, have been asked by The Education Law Center to conduct an *independent* review and assessment of the recent “Report on the Cost of Education” completed by Augenblick, Palaich and Associates for the New Jersey Department of Education. Our work focuses on the Report’s recommendations for special education funding.
- The purpose of our call today is to solicit your input on the Report’s recommendations for funding special education funding in the state and, more generally, the state’s special education funding policies.
- We are contacting stakeholders from a range of educational agencies and advocacy groups to gain a broad perspective on this issue. What we learn from our discussions with stakeholders, like you, will be used to construct an independent assessment of the Report’s findings as they relate to special education finance in New Jersey, including the strengths and weaknesses of the Report and recommendations for future discussion and work toward improving special education finance in the state.
- At your request, we will keep what you say in today’s conversation “off the record,” or confidential. That is, we will not attribute what you say to you, either in our conversations with The Education Law Center or in our written report. However, with your permission, we would like to list the name of the organization you represent in a report Appendix as one of the groups from which we solicited input on this important topic. In addition, I plan to take written notes during our conversation today. These notes will not be shared with The Education Law Center, will be stored in locked cabinets at the University of Maryland, and will be destroyed at the end of our review.

Interview Questions

General Knowledge & Reactions to Report

1. Are you familiar with the State’s report? If so, what would you say are the report’s key strengths and weaknesses?
2. What do you think about the funding formula for special education in NJ proposed in the report? Is it transparent? Is it equitable? Is it placement neutral? Other comments?

Special Education Weights Included In Report

3. Are you familiar with the weights that were generated for special education in the report? (If not, explain).
 - a. Were you involved in the decision making process that established these weights? If so, what can you tell me about how the weights were created? (Probes: How were categories established/mapped to Tiers? What assumptions were made when developing resource and cost estimates?)
4. What do you perceive are the strengths and weaknesses of the weights generated in the report?

Probe: In your opinion, do you feel that the weights may have a positive or adverse influence on:

 - a. Identification (over or under) for special education?
 - b. Placement in the least restrictive environment, including out-of-district placements?
 - c. Implementing recent IDEA 2004 amendments, including early intervening services?

Special Education & Special Education Funding

5. Broadly speaking, what do you see as the major challenges facing special education in NJ, either at the state level or your own district? How might these challenges impact or be impacted by funding?
6. Looking forward, what do you think are the key considerations for establishing a special education funding approach in New Jersey that ensures an “adequate” (i.e., as envisioned by Abbott) education for students with disabilities?
7. Given that NJ has more students placed out of district than any other state, what do you think it will take in terms of resources to move more students with disabilities back into their districts and home schools into general education classes?
 - a. Probe for how the current funding could follow the student back to the district and would that allow for more inclusion
 - b. Probe for how resources for students with disabilities are allocated to schools (e.g., would that be sufficient or what would change).
 - c. What would happen to personnel teaching in the separate schools/districts?
 - d. Other
8. Are you familiar with the new requirements for Early Intervening Services and RTI? (If not, explain). How do you think these might impact general education and what “new” or reallocated resources will they entail? Also, do you know how many districts will be required to provide EIS due to disproportionality?

