

Minimum School Program – Special Education Intensive Services

October 16, 2018¹ | Public Education Appropriations Subcommittee

Overview

The Intensive Services program is one of seven Special Education categorical programs. The program provides funding to local education agencies (LEAs) to help meet the needs of high-cost students. LEAs with individual student expenditures totaling more than three times the state average cost for a special education student (approximately \$20,000/year/student) may apply to the State Board of Education (State Board) to receive additional reimbursement.

A categorical program for Intensive Services was created during the 2016 General Session. In that same year, the Legislature directed the State Board to develop a distribution formula to allocate funding to school districts and charter schools using two criteria:

1. Distribute 50 percent of the appropriation based on the highest cost students with disabilities; and
2. Distribute the remaining 50 percent based on the highest impacted local education agencies (LEAs) with high-cost students with disabilities.

The focus of this brief is to understand the sources of revenue used by LEAs to pay the associated student costs (prior to reimbursement) and determine if the State should reimburse costs paid from certain revenue sources, namely, state and federal restricted funding for special education. This brief is not designed to assess the distribution formula mentioned above nor the adequacy of special education funding in general.

Issue Summary

The State Board does not require an LEA to report how the LEA pays the costs associated with qualifying students in submitting a request for additional reimbursement. Without knowing this data, the State Board may provide additional reimbursement to an LEA for costs already paid by state and federal restricted funding for special education. If an LEA can manage all special education costs from the sources restricted for that purpose, should additional reimbursement be provided?

Recommendations

To eliminate the potential of double paying LEAs for student costs already paid through restricted state and federal funding programs, we recommend that the Legislature direct the State Board to do the following:

1. Require LEAs to submit expenditures on high-cost students and the revenue sources used to pay these costs.
2. Discontinue reimbursing LEAs for costs paid from restricted state and federal sources for special education, and local property tax revenue from the Basic Levy. This will avoid double-paying for costs already paid from those sources.
3. Continue reimbursement for costs paid from general unrestricted state and other local revenue sources and transferred to the special education program. To avoid LEAs moving the payment of costs to a reimbursable source, direct the State Board to only reimburse LEAs in proportion to the amount unrestricted funds contribute to the cost of all special education students not just high-cost students.

¹ Revised from the brief published on August 14, 2018 and posted online to the Public Education Appropriations Subcommittee meeting materials.

Background

Over the past several years, the State Board has made multiple budget requests to increase funding for the Intensive Services program. Specifically, they requested \$10.0 million for FY 2017, \$2.0 million for FY 2018, and \$11.9 million for FY 2019. As justification for the requested amount, the State Board provided estimates of total statewide qualifying costs, namely, LEA expenditures on high-cost students. In the years where data was provided, the total qualifying cost exceeded \$25.0 million statewide:

- FY 2014-15 at \$25.5 million; and
- FY 2016-17 at \$38.6 million.

The difference between this total cost and the amount appropriated to the Intensive Services program is often viewed as an “un-met need” or a “funding gap.” Documents provided by the State Board stated, “the Intensive Services Fund met 55% of the gap compared with approximately 15% for the several previous years”² and “LEAs were reimbursed only 16% of intensive service costs.”³

Issue Questions

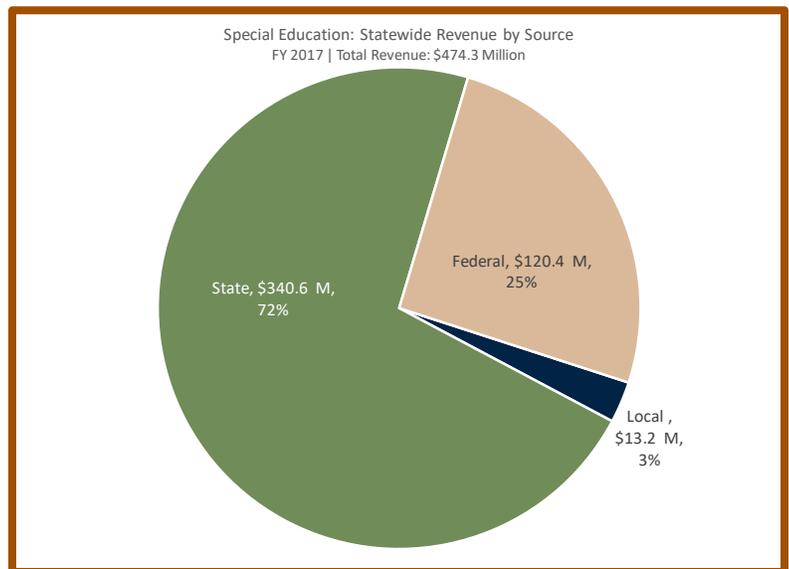
Given recent budget requests, how is the “un-met need” or “funding gap” measured? Is there really a funding gap? How do LEAs pay for these costs now? With recent increases in state special education funding, why does the reported “need” increase and not decrease?

Understanding the various funding streams for special education, how LEAs used these sources to pay special education expenses, and recent funding changes for special education on a state level may help in answering these questions.

Funding Streams

Most LEAs use three general revenue sources to pay special education costs, Local, State, and Federal. The following highlight each source:

- **Local** – The primary source of local revenue is the property tax, but may also include items such as, student fees, fees in lieu of taxes, and other local sources. The property tax component may include two parts, revenue generated by the Basic Levy (restricted to support weighted pupil units (WPU) costs) and general unrestricted property tax revenue (i.e. Voted Local Levy or the Board Local Levy.) Charter schools generally report less local revenue than school districts as they do not have the ability to tax property.
- **State** – Revenue appropriated by the Legislature to support the education of students. In the case of special education, this revenue may come from multiple sources. The primary source is restricted WPU funding for



² Special Education Intensive Services Fund, Glenna Gallo, Utah State Board of Education, February 9, 2016.

<https://le.utah.gov/interim/2016/pdf/00001321.pdf>

³ Minimum School Program Budget Requests, Utah State Board of Education, January 25, 2018.

<https://le.utah.gov/interim/2018/pdf/00000508.pdf>

special education programs. Depending on the cost of special education in an LEA, general unrestricted state WPU funding may be transferred from the “general” education budget into the “special education” budget.

- **Federal** – Revenue allocated by the federal government to support the Individuals with Disabilities Education Act (IDEA) to the State Board and transferred to LEAs based on federal guidelines. LEAs may have the ability to use some unrestricted federal funding to support special education costs.

The pie chart “Special Education: Statewide Revenue by Source” provides a breakdown of the three general sources in FY 2017 as reported by the LEAs in the Annual Program Report to the State Board. LEAs reported a total of \$474.3 million in revenue supporting special education expenditures, with the majority coming from state revenue sources.

How LEAs Pay for Services

LEAs may use the revenue sources outlined in the above pie chart to meet the needs of their special education students. Each LEA is different based on the cost of its special education program and other general education costs faced by the local education board.

The State allocates WPU funding to LEAs using averages. One WPU equals an amount to pay educational costs associated with one student. LEAs balance student costs by allocating resources among programs, and transfer funds from lower-cost students to higher-cost students. In the case of special education, LEAs can do the same within the restricted funding for special education. If this is not enough funding, an LEA may transfer unrestricted state WPU funds or unrestricted local property tax funds into the special education program.

The following highlight some of the expenditure details for each source:

- **Local** – Five school districts and 100 charter schools did not report expenditures from local sources. These LEAs were able to cover the cost of their special education program by using state and federal sources.

Looking only at property tax, 12 school districts reported using “Property Taxes & Fees in Lieu” totaling just over \$5.0 million. LEAs used a combination of “Student Fees” and “Other” to pay the remaining \$8.2 million. Most school districts, and some charter schools, support special education costs from other discretionary local sources. Given the relatively low property tax amount reported, it appears that school districts do not allocate Basic Levy revenue proportionally to all WPU programs and treat the full amount appropriated by the state for special education WPUs as “state” funding.

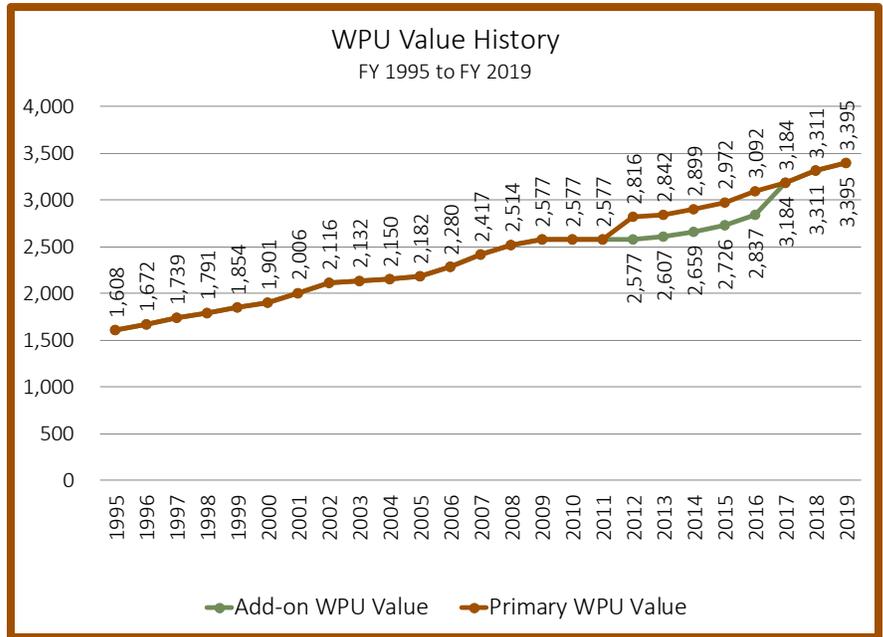
- **State** – All LEAs reported using state revenue to cover special education expenses. Only three school districts and 12 charter schools reported using “State Unrestricted” funding to support the program, totaling \$2.2 million. Similarly, 22 school districts and four charter schools reported using “Other” state revenue, totaling \$5.9 million. These data suggest LEAs pay most special education costs using the state restricted WPU funding designated for special education programs.
- **Federal** – All LEAs reported using federal funding to support their special education programs. Two LEAs, one school district and one charter school, reported using “unrestricted” federal special education funding.

Knowing how LEAs allocate available revenues to pay special education costs is useful to understand the differences among LEAs. The State Board could also use this information to determine if all expenditures associated with high-cost students should be eligible for reimbursement through the Intensive Services program.

Changes in State Funding for Special Education

From FY 2012 through FY 2016, the state funded two WPU Value amounts. Most programs received a higher value, while the Special Education Add-on and Career & Technical Education (CTE) Add-on programs received a lower value. This difference was a result legislative changes made during the 2011 General Session to reduce the number of categorical programs in the “Related to Basic School Program.” This Below-the-Line funding was transfer to the Basic School Program, increasing the WPU Value.

During the 2016 General Session, the Legislature eliminated the lower WPU Value and funded all WPU programs at the higher WPU Value. The Legislature transferred funding from the “Flexible Allocation” program to the Special Education Add-on program to pay the associated costs. For the CTE Add-on program, the Legislature reduced the number of WPUs allocated to the program to balance the higher amount paid for each WPU.



To fund Special Education Add-on WPUs at the higher rate, the Legislature transferred approximately \$19.8 million from the unrestricted “Flexible Allocation” program to the restricted Special Education Add-on program. While not new funding to the education budget, this action restricted a significant amount of funding to the special education program. When totaled with other funding increases provided by the Legislature in FY 2017, funding for special education increased by \$36.6 million over FY 2016.

The chart “Special Education: State Appropriations by Program” details funding changes for state special education funding programs over the past 5 years. State funding appropriated for special education, particularly the Add-on and Self-Contained programs, support educational services for all students qualifying for special education.

Special Education - State Programs	2015	2016	2017	2018	2019
Regular Add-on WPUs	\$198,973,400	\$213,155,100	\$246,804,500	\$265,707,700	\$279,978,300
Regular Self-Contained	\$42,455,000	\$43,056,100	\$44,385,000	\$46,168,600	\$47,428,200
Preschool	\$28,985,900	\$30,542,800	\$32,597,800	\$35,682,600	\$37,521,500
Extended Year Program	\$1,275,000	\$3,326,500	\$1,365,900	\$1,453,500	\$1,517,600
State Programs	\$8,639,600	\$10,073,700			
Impact Aid			\$6,418,900	\$6,584,100	\$6,840,900
Intensive Services			\$2,264,000	\$2,546,200	\$2,641,300
Extended Year for Special Educators			\$2,894,300	\$3,009,700	\$3,086,100
Total	\$280,328,900	\$300,154,200	\$336,730,400	\$361,152,400	\$379,013,900
Difference		\$19,825,300	\$36,576,200	\$24,422,000	\$17,861,500

Source: Appropriations Reports, Office of the Legislative Fiscal Analyst, 2015 to 2018.

Issue Discussion

Since restricted state funding for special education costs increased significantly in FY 2017, why did the estimated funding gap also increase to \$38.6 million? With the State Board and others in the broader education community basing budget requests off this perceived gap, subcommittee staff began investigating how the gap is determined.

Reimbursement Data is Cost-Based Only

The data submitted by LEAs to the State Board for additional reimbursement through the Intensive Services program only includes the expenditures for high-cost students. The State Board does not ask how, or from what revenue sources, the LEA pays the costs. The sources LEAs use is important to fully assess any “un-met need” or to avoid double-reimbursing an LEA.

The Legislature may wish to consider the following questions:

- Since state special education and federal IDEA funding is allocated to LEAs to and restricted to pay the cost of all qualifying special education students, regardless of individual student costs, should the State Board reimburse LEAs for expenditures from these restricted sources?
- Unlike the CTE Add-on program, the state does not require LEAs to allocate the general education WPU generated by special education students to the special education program. With all unrestricted WPU funding designated to support the education of all students, should the State Board reimburse expenditures for special education students from unrestricted or “other” state funds?
- Basic Levy property tax revenue restricted to support the cost of all WPUs, including special education WPUs, should the State Board reimburse district expenditures from the Basic Levy? Should the State Board require school districts to proportionally allocate Basic Levy revenue to the district’s special education program and subsequently all WPU programs?

Recommendations

As mentioned in the Overview, we recommend that the Legislature consider directing the State Board of Education to implement the following for the Special Education Intensive Services program:

1. Require LEAs to submit expenditures on high-cost students and the revenue sources used to pay these costs.
2. Discontinue reimbursing LEAs for costs paid from restricted state and federal sources for special education, and local property tax revenue from the Basic Levy. This will avoid double-paying for costs already paid from those sources.
3. Continue reimbursement for costs paid from general unrestricted state and other local revenue sources and transferred to the special education program. To avoid LEAs moving the payment of costs to a reimbursable source, direct the State Board to only reimburse LEAs in proportion to the amount unrestricted funds contribute to the cost of all special education students not just high-cost students.

To implement these recommendations, the Legislature may wish to direct staff to prepare one of the following for the 2019 General Session:

1. An amendment to 53F-2-309, “Appropriation for Intensive Special Education Costs,” or,
2. Intent language to be included in an appropriate appropriations bill.