



Special Education

Changes are needed in special education to increase equity in its funding, help control costs while meeting student needs, and ensure local education agencies' compliance with legal requirements without creating undue workload burdens for them.

Key Facts and Findings:

- Many Minnesota statutes and rules exceed federal requirements for special education, but detailed analyses of the requirements' educational and cost impacts are not available.
- School districts have had to divert revenues from general education aid and local operating levies to pay special education costs. Median sources of revenue for special education over fiscal years 2000 to 2011 were: 56 percent from state special education revenues, 33 percent from school districts' general education and locally raised revenues, and 11 percent from federal revenues.
- School districts pay the costs of special education when one of their resident students enrolls elsewhere, but resident districts have little control over those costs.
- The Minnesota Department of Education (MDE) has a process to ensure school district compliance with federal and state requirements, but district representatives have voiced confusion about the process.
- The number of students receiving special education increased 11 percent from fiscal year 2000 to 2011, while the overall number of K-12 students statewide decreased. Over that time, full-time-equivalent special education staff increased about 25 percent.

- Several state rules on special education are inconsistent with Minnesota statutes.

Key Recommendations:

- The Legislature should consider options to reduce school district reliance on general education funding to pay special education expenses. At the same time, MDE should work with school districts to identify feasible cost controls in special education.
- The Legislature should direct MDE to initiate independent analyses of the economic and educational impacts of potential changes to state regulations.
- The Legislature should consider modifying laws that require resident school districts to pay special education costs of students who choose to enroll outside the district where they reside.
- MDE should evaluate its monitoring process to identify ways to improve special education teachers' understanding of compliance requirements.
- MDE should continue efforts to streamline paperwork required in special education and identify effective practices from districts to encourage additional efficiencies.
- MDE should update its special education rules for consistency with Minnesota statutes.

Report Summary

Court rulings have established students' constitutional right to education regardless of their disabilities. In response, special education provides special instruction and services targeted to the needs of children with qualifying disabilities.

The Minnesota Department of Education (MDE) is responsible for general supervision of special education. Around the state, school districts, charter schools, and numerous cooperative entities—collectively known as local education agencies (LEAs)—provide special education. They have responsibilities for identifying children with disabilities, assessing children's eligibility for special education, and developing individualized education programs (IEPs) that specify services to meet each student's needs. Both the state and LEAs have responsibilities for implementing safeguards that protect the rights of children with disabilities and their families.

The number of Minnesota students receiving special education increased 11 percent between the 1999-2000 and 2010-2011 school years, while the number of K-12 public school students decreased 3 percent in that period. The proportion of all public school students in special education rose from 11.9 percent in 1999-2000 to 13.6 percent in 2010-2011.

Students must have 1 of 13 disabilities to qualify for special education, and not every student with a disability is eligible. The largest proportion of Minnesota students in special education (27 percent) have "specific learning disabilities" (disorders affecting the use of spoken or written language). The smallest proportion of students, at less than one-tenth of a percent, was in the deaf-blind category.

Students in special education are assigned to an instructional setting, depending on the percentage of the school day they spend outside the general education classroom. Laws require that students are educated with their peers in the least-restrictive appropriate setting. For the 2010-2011 school year, more than 60 percent of Minnesota students in special education were in general education classrooms for most of the day—the least-restrictive setting.

Analysis of a sample of 137 students' IEPs and progress reports from the 2010-2011 school year showed that students met only 8 percent of their goals but made progress on 88 percent of their remaining goals. About 87 percent of students in special education graduated in 2010, which exceeded the target for statewide special education graduation set by MDE at 85 percent.

Many Minnesota statutes and rules on special education exceed federal requirements, but analyses of their educational and economic impacts are not available.

Of the 45 Minnesota statutes we studied that specifically govern special education, 19 contain at least one provision that exceeds federal requirements. Plus, nearly 75 percent of the 57 Minnesota rules we analyzed contained provisions that exceed federal requirements.

Regulations specific to Minnesota may affect student eligibility, add to responsibilities of school district staff, or increase required documentation. They can increase costs directly, such as when state requirements have a broader definition of eligibility. For instance, state rules define eligibility for the visually-impaired disability category to include a student with a visual impairment that "interferes with acquiring information or interaction with the environment," whereas federal

Nearly three-quarters of Minnesota rules pertaining to special education contained provisions that exceeded federal requirements.

From fiscal years 2000 to 2011, a median 33 percent of special education revenue came from school districts, in a combination of general education revenues generated by all students and local voter-approved levies.

regulations limit eligibility to those students whose impairment adversely affects “educational performance.” Other rules, such as those adding to workloads that may lead to staff burnout and low teacher retention rates, can affect costs indirectly. However, detailed analyses are not available on costs or benefits of Minnesota-specific regulations and are beyond what could be achieved in this evaluation.

The Legislature should direct MDE to initiate independent analyses of economic and educational impacts of any potential changes to state regulations, such as those that affect district staffing levels. Such analyses are needed to help legislators make informed decisions. Identifying which state requirements to analyze should be the Legislature’s prerogative. MDE could contract with an independent third party to evaluate costs and benefits of any proposed changes, including projected economic impacts, such as students’ ability to eventually obtain employment. Results should be reported to the Legislature for final decisions on changing state law.

School districts have diverted a substantial portion of general education aid and local operating levies to pay for special education.

Revenues for special education come from the state, local school districts, and the federal government. From fiscal year 2000 to 2011, a median 56 percent of revenue was from the state; this included (1) dedicated special education revenues and (2) a portion of general education revenue that follows students in special education. A median 33 percent of revenue was from school districts, representing a combination of general education revenues generated by all students and local revenues from voter-approved levies. A median 11 percent of revenue came from the federal government.

To the extent school districts use a portion of their general education revenues or their referendum levies to pay special education costs, they are said to “cross subsidize” special education. School officials reported that they have had to spend money intended for general education purposes (such as lowering general class sizes) on special education instead. Between fiscal years 2000 and 2011, the school district cross subsidy increased 40 percent in 2011 dollars adjusted for inflation. The largest per-student cross subsidies in 2011 were mostly in school districts in the metropolitan area and regional centers around the state.

The Legislature should consider options to reduce certain school districts’ substantial reliance on general education funding to pay for special education costs. Several alternatives can be used for this, but nearly all involve additional state revenues. At the same time, MDE should identify methods to help control spending and assist districts in adopting appropriate methods that meet student needs and contain costs.

School districts must pay costs of special education for their resident students but have little control over spending when resident students receive services outside the district.

When students in special education enroll in a district other than the district in which they live, the law requires *enrolling* districts to plan and provide special education services, while *resident* districts pay for those costs that are not reimbursed by state aid. School officials we interviewed said, as resident districts, they are not sufficiently involved in service decisions for students in special education who enroll elsewhere. They viewed this as a disincentive for enrolling districts to control costs.

The Legislature should consider modifying laws that require school districts to pay special education costs

The Minnesota Department of Education and certain local education agencies have divergent views of the department's monitoring process.

of students who enroll outside their resident districts. The Legislature would have to determine the appropriate proportion of costs to share and ensure that districts do not deny enrollment applications based on the severity of students' needs.

Confusion has arisen over MDE's system for monitoring LEA compliance with legal requirements.

MDE has a comprehensive system for assuring LEA compliance with special education regulations, as the federal government requires. Monitoring of special education programs occurs on a five-year cycle and involves districts in a self-review of their own compliance. MDE separately monitors local compliance with fiscal requirements. It offers LEAs training and other tools to assist with monitoring and track corrections of noncompliance.

Numerous staff we interviewed from LEAs voiced concerns about what they viewed as inconsistent or petty compliance decisions. For instance, some said they were told one thing by one monitor but something different by another monitor. Teachers said this interferes with writing compliant documents; plus, correcting noncompliance means holding additional IEP team meetings, requiring parents and others to rearrange their schedules and sometimes travel long distances over seemingly trivial matters. In response,

MDE staff said districts identify instances of noncompliance during their self-review that MDE monitors would not. Further, MDE takes steps to achieve consistency among monitors. Yet district dissatisfaction persists.

MDE should evaluate its monitoring process to identify ways to improve special education teachers' understanding of compliance requirements. It should ensure that teachers have the tools they need to comply with regulations.

Several state rules on special education are inconsistent with Minnesota statutes.

Some administrative rules pertaining to special education are outdated and differ from state statutes. For example, one rule states that if parents refuse consent for an evaluation of their child's eligibility for special education, the district may continue to pursue an evaluation by using certain procedures. Statutes, though, disallow districts from overriding written refusal of parents to consent to their child's evaluation.

MDE should update administrative rules on special education for consistency with statutes. MDE does not have general rulemaking authority and may need explicit legislative authorization to proceed.

Summary of Agency Response

In a letter dated February 22, 2013, Minnesota Department of Education Commissioner Brenda Cassellius called the evaluation report "valuable, fair and comprehensive." She said the department largely agrees with the evaluation's recommendations. For example, she said the Governor's budget aims to reduce school district reliance on general education funding to pay special education costs, as the evaluation report recommends. In another example, she wrote that the department agrees with the recommendation to evaluate its monitoring process to improve special education teachers' understanding of compliance requirements. She said the department has made a priority of "ensuring the availability of training" to these teachers.