



COUNCIL OF ADMINISTRATORS
OF SPECIAL EDUCATION

2019 Legislative

Recommendations



Council of Administrators of Special Education - A Division of the Council of Exceptional Children
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***Council of
Administrators
of Special Education***

2019 Legislative Recommendations

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Dear Members:

We are pleased to share with our legislative recommendations for the 116th Congress! This is certainly an exciting time for students with disabilities and the professionals who serve them. As the largest group of special education administrators in the country, CASE is committed to working with you as a partner in the policy making process.

We have members around the world and are the largest division of the Council for Exceptional Children (CEC). We are dedicated to the enhancement of the worth, dignity, potential, and uniqueness of each individual in society. CASE represents special education administrators, the individuals charged with responsibility for implementation and financial oversight of special education programs for children and youth with disabilities in local school districts nationally.

CASE is dedicated to being highly involved and engaged specific to any discussions regarding the Individuals with Disabilities in Education Act (IDEA), oversight for the Department of Education, and the ultimate success of students with disabilities in schools across the country. We believe that Members of Congress should use their legislative power to provide significant oversight of the administration, strengthen existing laws, and provide additional funding for programs and services so that the rights of students with disabilities are guaranteed until the promise of IDEA is fulfilled.

While we have members around the world, the focus of our legislative platform is on current issues impacting the United States government and we are ready to partner with you to put our thoughts into action. Should you have questions or concerns, please do not hesitate to reach out to one of our members listed on the previous page.

Sincerely,

Dr. Luann Purcell
Executive Director



About the Council of Administrators of Special Education

The Mission of the Council of Administrators of Special Education (CASE) is to provide leadership and support to members by shaping policies and practices which impact the quality of education.

CASE is an international professional educational organization affiliated with the Council for Exceptional Children (CEC) whose members are dedicated to the enhancement of the worth, dignity, potential, and uniqueness of each individual in society. CASE represents special education administrators, the individuals charged with responsibility for implementation and financial oversight of special education programs for children and youth with disabilities in local school districts nationally.


CASE is dedicated to being highly involved and engaged specific to any discussions regarding Individuals with Disabilities in Education Act (IDEA) and the ultimate success of students with disabilities. We believe it is important to be prepared to provide recommendations when Congress begins this critical body of work and have developed a set of recommendations should they be necessary.

Protecting the legislative intent of, and providing funding for the IDEA are the two pillars of legislative priority for CASE. We believe that Members of Congress should use their legislative power to strengthen and fund the law so that the rights of students with disabilities are guaranteed until the promise of IDEA is fulfilled. While we have members all around the world, the focus of our legislative platform is on current issues impacting the United States government.

Our Beliefs:

- The community should celebrate human diversity as enriching the whole society.
- All students have a right to a quality education which will enable them to develop to their maximum potential.
- Local administrators are critical change agents who affect the quality and future of special education and the education of students with exceptionalities.
- Educational benefits, measured by individual achievements relative to ability and circumstances should be documented and promoted.
- CASE produces an international, collegial network and opportunities for professional growths.
- Special Education is an interdisciplinary, student support system committed to innovation in education.
- Local administrators make a difference in the quality and future of the lives of individuals with exceptionalities and their families within the educational system and the community.
- CASE is an integral part of the Council for Exceptional Children and provides a unique vehicle to accomplish our respective missions.





Oppose Publicly Funded Subsidies of Private Education

CASE opposes all publicly funded subsidies of private education including private school voucher programs, tax credits, taxpayer savings grants/scholarships, and portability for all students, including students with disabilities. Public education is essential to provide equitable opportunities and positive educational outcomes for all students, including students with disabilities in the least restrictive environment.

- Students with disabilities do not have equal access to private schools, which may have mission-driven admissions practices that can exclude that population.
- Private schools lack accountability. Critical accountability components required of public schools include Child Find requirements, assessment, student achievement reporting, disciplinary practices including reporting of restraint, seclusion, suspensions and expulsion, transition outcomes, disproportionality, and teacher certification. These accountability measures are not required for private schools.
- Students with disabilities and their families are not guaranteed basic procedural safeguards afforded under the Individuals with Disabilities Education Act (IDEA) in private schools, denying them basic civil rights.
- Subsidizing private schools with public funds does irreparable financial harm to the needed investment in public schools.
- Parents who elect to send their children to private or parochial schools with fiscal incentives, may still turn to the LEA for FAPE, thus setting up a system duplication.
- Some parents who may not be able to afford quality private school interventions but who are eager to receive some incentive may be asked to waive FAPE in some States.

The Facts On School Choice

Private school choice programs in Arizona, Colorado, Georgia, Oklahoma, Mississippi, Tennessee and Wisconsin require parents to waive all or most IDEA rights. In several other states, the law is silent on the disability rights of voucher students.

There is no guarantee that students will receive the same level of disability services in private schools that they were entitled to in public school.

The right to a free appropriate public education (FAPE) is a basic tenet of the IDEA and all students must attend schools where their rights are respected as a requirement and where supports and services are available. Public fiscal support to private and parochial schools should be limited to the proportionate share already mandated within IDEA.

Support Access To Mental Health Services

CASE supports access to high quality mental health services for any student requiring them to be successful as a student, realizing that many students with and without disabilities have mental health challenges. This topic is of particular urgency given the increased acuity of the opioid crisis as well as the increasing number of children at-risk for suicide and experiencing Adverse Childhood Experiences (ACEs). Coordinated services with community providers, designated agencies, and schools are critical to establishing and ensuring the delivery of quality programs.

While many states have different models, all children must have access to mental health services at the level of care required to address their needs. Medicaid as well as private insurance carriers should be required to provide coverage at a level commensurate with a child's clinical need. This is true for any child with a mental health diagnosis but is particularly important for students who reach a level of severity where special education eligibility is present.

Collaboration among public service agencies including mental health agencies, education agencies, Medicare, and insurance carriers must occur in every state. This is necessary to ensure that all children have their needs met, that waitlists of mental health services are drastically reduced or eliminated, and that families and children with mental health needs receive the level of care equitable to that provided for physical health needs under our healthcare system and as needed to address improvement.

From The Field

"We are the front lines of the mental health crisis in our nation. We need to be able to change this tide with early intervention, but are often at a loss in resources, staff and supports for our students when we can make the most difference for the course of their lives. As a School Psychologist and Counselor before my administrative role, these services are critical in our support of our students outcomes. We are missing connections that have been highlighted in the research evidence base time and time again. This is the key for us changing the outcomes for our students and keeping our schools safe."

CASE Member - Washington State

"It is an absolute necessity to provide counseling, social service, and professional development for all educational staff to help with the early identification and support for students.

Workloads for mental health staff will not decrease without adequate funding. ***This is a national issue***, not one that is specific to any state. This is not a special education issue but a life issue; new funding has to be provided."

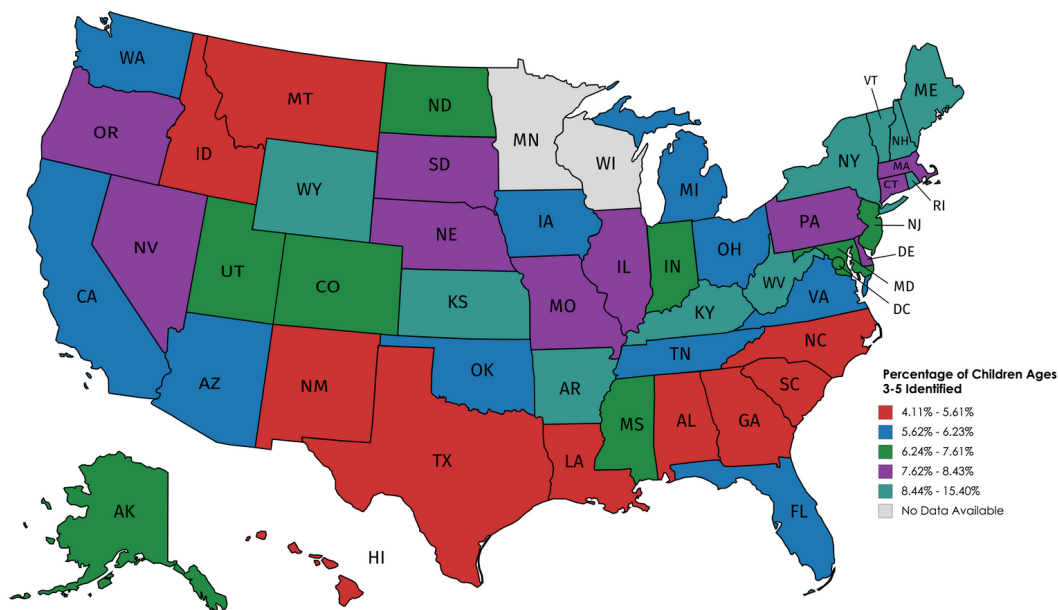
CASE Member - Oklahoma



Support Early Childhood Education

CASE supports universal access to and increased funding for a comprehensive and coordinated system of identification, support, and inclusive programming for all children with disabilities prior to entering formal public school systems at the Infant and preschool levels.. IDEA gives the responsibility to school districts to “find” children with disabilities and to provide services to any child with a disability from birth through high school and Transitions, and yet provides very little fiscal support for this population. Of significance is the growing number of children identified with autism and other disorders that require intensive and costly services to address their special needs.

High quality early intervening childhood special education programs have demonstrated success in preparing students for kindergarten and reducing the need for additional academic, behavioral, and social-emotional services at later grades. Despite the research, funding for universal screenings, parent education, and inclusive systems of support through IDEA-Section 619 (preschool) and Part C (infants and toddlers) have stagnated or fallen during recent years even while identifying more children. Through the development and funding of a comprehensive and coordinated system of programming for all children prior to entering formal school systems at kindergarten, students with disabilities will be identified early, supported comprehensively, and included fully.



From The Field

"Collaborative efforts for universal pre-k, public school, private day care, and head start, have proven to be an effective model in West Virginia."

Prevent Bullying and Harassment by Enhancing Social-Emotional Learning Opportunities

CASE supports a system wide focus on bullying and harassment, an issue impacting the entire school community. Of great importance are the rights of all students, including those with disabilities, to attend school without fear of being bullied or harassed. Research indicates students with disabilities are two to three times more likely to be the targets of bullying than their typically developing peers.

There is a growing body of research on the use of Social-Emotional Learning (SEL) in preventing bullying and harassment. CASE supports funding for additional research and implementation of programs targeted to reducing the levels of bullying and harassment in schools. Additionally, school policies should ensure students attend schools that are safe havens from harassment with properly trained, caring professionals who will address these issues when they occur. CASE supports the development of local policies with strong accountability measures designed to prevent bullying (including disability awareness initiatives) and the identification of support services for both bullying targets and students who bully.

Why it Matters

Children with *attention deficit or hyperactivity disorder (ADHD)*

Are more likely than other children to be bullied. They also are somewhat more likely than others to bully their peers (Twyman et al., 2010; Unnever & Cornell, 2003; Weiner & Mak, 2009).

Children with *autism spectrum disorder (ASD)*

Are at increased risk of being bullied and left out by peers (Twyman et al., 2010). In a study of 8-17-year-olds, researchers found that children with ASD were more than three times as likely to be bullied as their peers.

The United States Department of Education

Has stated "Bullying of a student on the basis of his or her disability may result in a disability-based harassment violation under Section 504 and Title II."

Negative school climate

Is linked to lower student achievement and graduation rates, and it creates opportunities for violence, bullying, and even suicide.

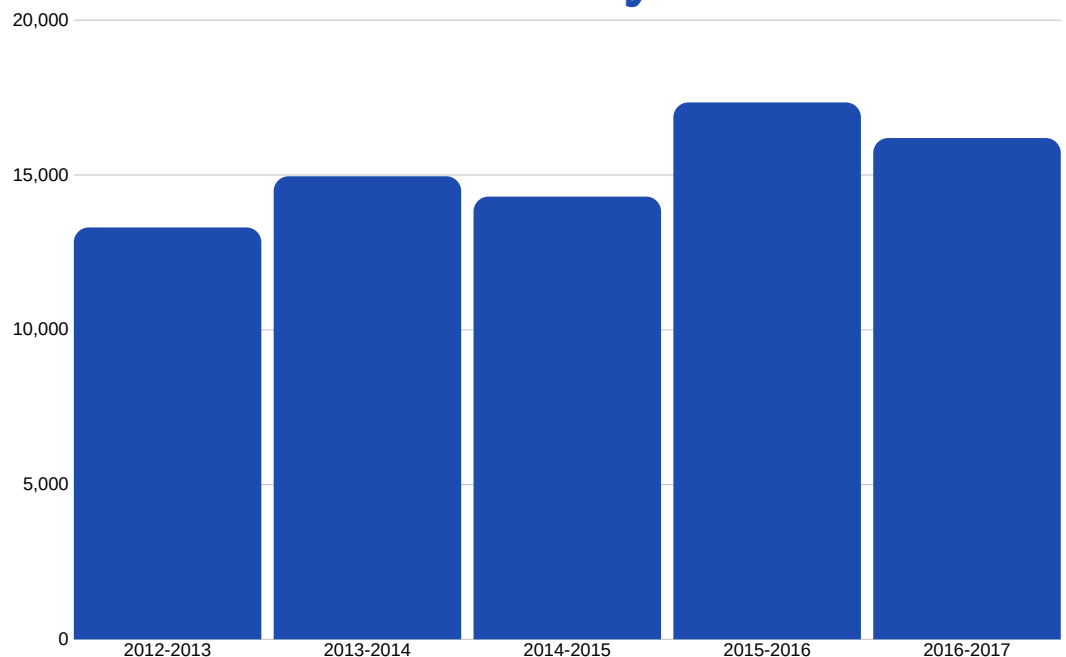


Reform Dispute Resolution Procedures

CASE supports emphasizing positive, collaborative methods of resolving concerns of parents and school districts. Due to the high cost of litigation (financial and relational) and increasing financial stress on districts, IDEA due process procedures should be revised to ensure disagreements are resolved at the lowest administrative level using effective and collaborative resolution techniques. CASE recommends the following alternative resolution processes and changes:

- Developing school personnel's skills in communication and conflict resolution
- Requiring that IEP facilitation services be a component of services offered by the SEA in each state as part of the conflict resolution process under IDEA
- Encouraging the use of state-funded mediation, facilitated IEP meetings (consistent with the Center for Alternative Dispute Resolution in Special Education [CADRE] definition), and neutral facilitation to enhance communication and problem solving as first step prior to Due Process Hearing (DPH) and ensure the provision of state funds for this purpose
- Requiring the party requesting the hearing to bear the burden of proof in the DPH
- Funding to enhance collaborative parent partnerships with schools, e.g., through parent training, Family Resource Centers, Information Centers, and other parent support structures
- Developing training requirements for hearing officers and advocates who provide support to parents and families in disagreements with schools

Number of Due Process Complaints Filed Nationwide By Year



Support the Development of Restraint and Seclusion Procedures

CASE supports a requirement that all states implement state developed, rather than federally mandated procedures for seclusion and restraint applying to all students, consistent with evidence-based best practices. The IDEA requires school districts to provide a free appropriate public education (FAPE) in the least restrictive environment (LRE) to eligible students with disabilities, including those with significantly challenging and sometimes dangerous behaviors. School personnel should receive professional development to address these behaviors through written plans that emphasize positive student behavioral outcomes. The procedures should also protect other students and staff and delineate safe, appropriate, evidence-based uses of physical restraint or seclusion only when needed due to eminent safety issues. CASE believes it is important to balance restrictions on the use of interventions with the need to ensure the safety of all students and school personnel. Additional federal funding to assist states in their efforts to provide training for school district staff is needed to provide safe learning environments for all students. Continued data collection at the federal level on this topic is also of great importance as states develop guidance.

Did You Know?

In Nevada, Florida, and Wyoming, students with disabilities served by IDEA represent less than 15% of students enrolled in the state, but more than 90% of the students who were physically restrained in the state. Nevada (96%), Florida (95%), and Wyoming (93%) reported the highest percentages of physically restrained students with disabilities by IDEA. **(Office for Civil Rights Data, 2014)**

Across the nation, 75% of students subjected to physical restraint were classified as students with disabilities served by IDEA.

The United States Department of Education Has issued a press release indicating they intend to offer technical assistance in the coming year (2019) in response to several reports of the inappropriate use of restraint and seclusion.

Read the press release from CASE in response to this information at:
<http://bit.ly/2Dmxbc2>





Support High Quality Preparation for All Educators

Students with disabilities deserve highly trained and qualified general and special education educators. Educator preparation programs should:

- Train all future educators to address the needs of all students in inclusive environments, including students with disabilities as well as students with gifts and talents.
- Emphasize high-quality clinical experiences for educator candidates to demonstrate their content and pedagogical knowledge prior to program completion (e.g., clinical internships, educator rounds, performance measures) in all educator preparation programs.
- Address the chronic shortages in special education through well-funded college student loan forgiveness and scholarship programs.
- Ensure accountability measures for all educator preparation programs, public, private, nonprofit, and profit; use valid and reliable measures and avoid measures that introduce and magnify significant error in their values (e.g., value-added).
- Promote the teaching of the principles of Universal Design for Learning in all higher education programs, to ensure that all educators graduate prepared to meet the needs of all students, including students with disabilities.
- Expand funding levels for Pell Grants, TRIO, Perkins Loan Program, and Gear Up through the Aim Higher Act

From the Field

There is a role the federal government used to play, with grant funds to support special education teacher and leader preparation and training. We need to attract more people to the profession, and financial aid is a factor. Also loan forgiveness is an important incentive for serving our neediest teachers.

CASE Member - Mississippi

Without lowering the standards, we need to support quality educators with a pathway to advanced degrees while being supervised by good mentors.

CASE Member - Montana

Address Chronic Educator Shortages

Public education in our country has been under siege for the last decade and one result has been a significant shortage in the number of people entering the profession. Special education has been hit especially hard and shortages of special education teachers, school psychologists, and other school support personnel have been identified across the country. Personnel shortages in special education and support services are the result of recruitment and retention challenges. These shortages impede the ability of school districts to provide FAPE and for students with disabilities to have a high quality education in order to be college, career, and/or life ready.

Challenges include poor working conditions, limited resources, unmanageable caseloads, teacher safety, credential barriers, fewer qualified personnel, insufficient funding for incentive programs to entice new graduates, and constant demands of procedural guidelines. A limited supply of professionals are challenged to serve in certain high need communities. In order to combat the challenges, CASE believes we as educators of students with disabilities must look for strategies to lessen the critical shortage.

- Increase professional recruitment strategies by providing federal dollars to make available incentives to recruit qualified individuals into the profession through the Higher Education Act.
- Provide alternate pathways for re-specialization, re-licensure, or alternative routes to licensure of qualified personnel through the Higher Education Act.
- Provide incentives for teachers willing to work in certain high-needs communities (e.g., rural, high poverty, high crime).
- Increase support for recruitment/retention activities through improved workplace conditions and professional support.
- Address shortages through legislative vehicles.
- Maintain the federal investment such as Title II, loan forgiveness and other grants focused on training and preparation for teachers and leaders.

+0.26%

The percentage increase overall in teachers across the country in the last ten years while percentage of students attending school has increased by approximately 1%

-17%

The percentage of special education teachers has decreased by 17% over the last ten years while the number of students receiving services has remained relatively steady.

Source: Education Week - December, 2018



Fund IDEA

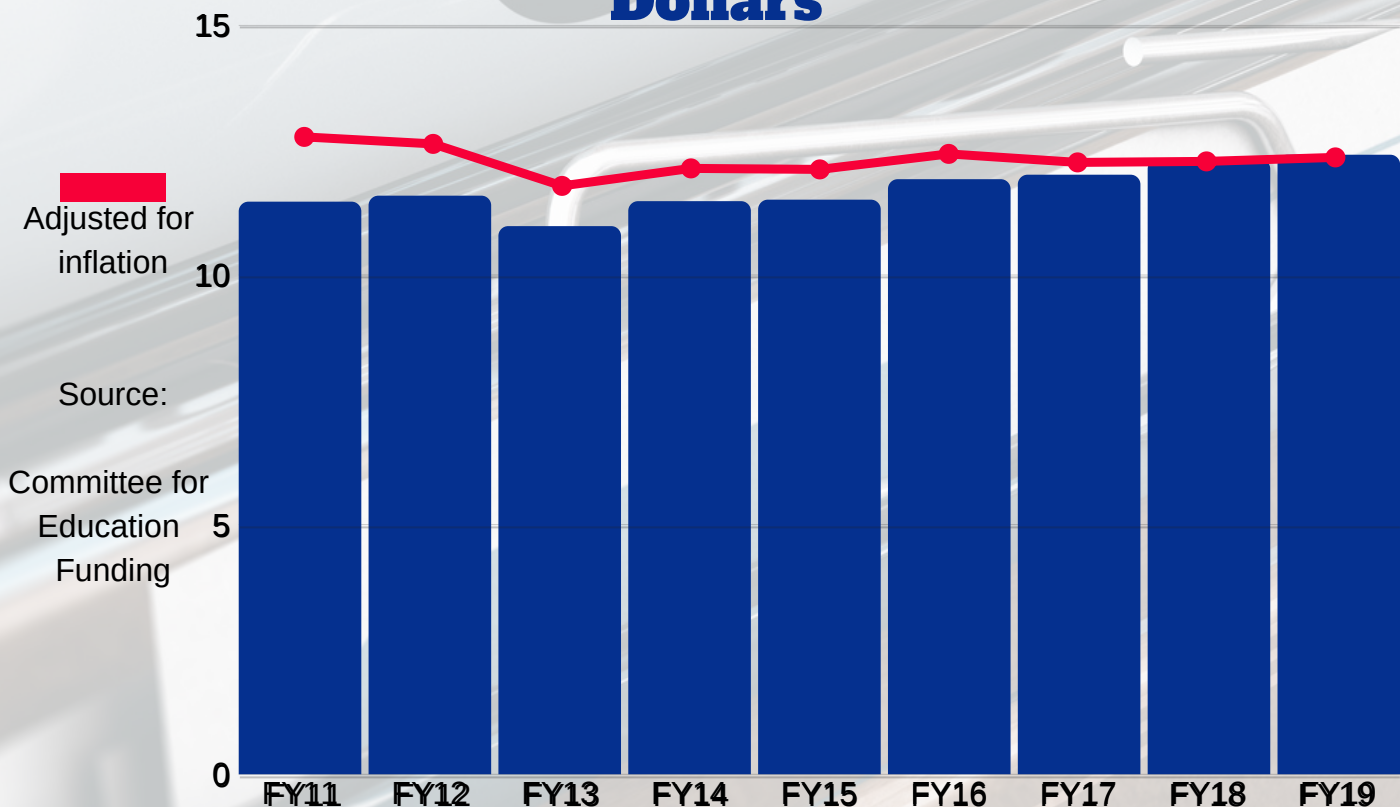
CASE supports the full funding of IDEA. Increased resources are needed for local districts to meet the required performance standards and outcomes for students with disabilities. In 1975 when the Education for All Handicapped Children Act was enacted, Congress authorized the federal government to appropriate 40 percent of the excess costs of educating children with disabilities. To date that has not occurred. CASE urges the federal government to keep its promise.

Congress should begin by restoring funding to the levels states and districts received under the American Recovery and Reinvestment Act, phasing up to 40 percent. These funds provided districts with welcome relief of the escalating costs of providing special education services, and in many cases allowed for additional needed program enhancements.

CASE is also concerned about sequestration and the shrinking budget caps for non-defense discretionary programs as enacted under the Budget Control Act of 2011. In addition, recent administrative budget proposals would impose major cuts to other areas of education spending that impact all students, including students with disabilities. If these tight budget caps remain in effect, with the possibility of cuts even below those levels, special education and all other programs providing supports for students with disabilities will be decimated.

CASE urges Congress to rethink this budget policy and find a more balanced approach to deficit reduction that does not harm children and families. Below are a specific set of recommendations regarding funding that are critical to upholding the federal funding for students with disabilities:

IDEA Part B Funding in Billions of Dollars



Change and Improve Maintenance of Effort (MoE) Requirements

CASE supports the concept and purpose of MOE to ensure accountability for providing a free appropriate public education (FAPE) for students with disabilities.

However, for the past forty years, MOE (MOE) has been determined by using the same metric based on a district's expenditure for special education services. CASE believes we need to refine the procedure to allow for additional methods beyond a simple calculation of expenditures. We recommend improvements that ensure maintaining the level of service by using more efficient methods. CASE recommends a review of current methods of MOE. Examples that create complications include:

- Action taken by state legislatures or local districts that result in a reduction in salary and/or benefits to ALL employees, that results in a reduction in staff costs, yet has no impact on the level of service;
- Use of technology that provides equitable level of service at reduced cost.

From the Field

We need more exceptions to MOE. If districts are being fiscally responsible, for example securing less costly contracts (i.e transportation), that should be a MOE exception.

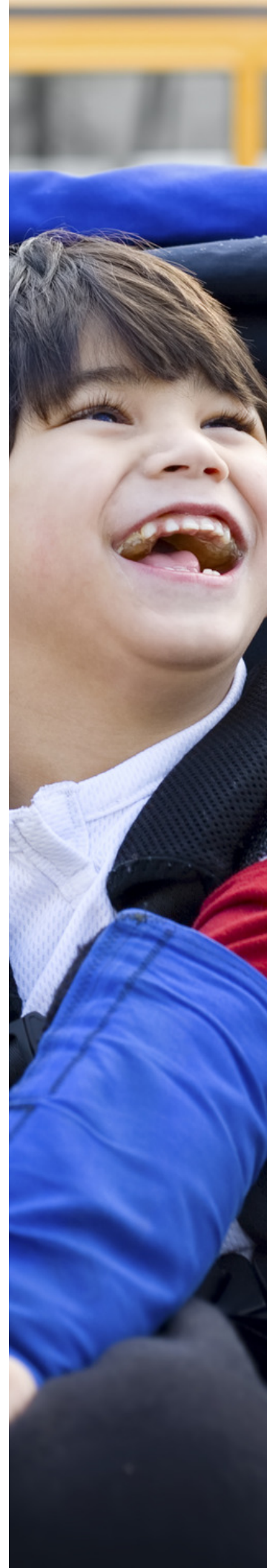
CASE Member - Illinois

Any new mechanism needs to account for flexibility, innovation, efficiencies.

CASE Member - Wisconsin

MOE in many situations requires districts to spend unnecessary funds simply to ensure they've spent more than the prior year. In addition, it is not proper to take 15% of funds from IDEA in a district that didn't meet the MOE requirement. They already weren't able to maintain the level, so the answer can't be to give them less money.

CASE Member - Missouri



Maintain Access to School Based Medicaid

CASE supports access to increased Medicaid funds for public schools to offset the high costs incurred in the provision of federally required specialized instructional support services for eligible students to receive academic benefit from instruction. CASE also supports School-Based Medicaid reimbursements for all health related Medicaid covered services provided to any eligible students, such as behavioral/mental health services, health screening, specialized transportation, and school nursing services. Any disinvestment in or block granting of Medicaid would have a devastating impact on all public school students, as districts would be competing with private providers and medical facilities for dwindling Medicaid dollars. Should Medicaid cuts occur, districts will be forced to reduce resources, eliminate critical staff positions, and/or reallocate state and local funds to fill the void left by the lost funding.

Top Ten Congressional Districts

Congressional districts listed below have the highest percentages of children covered by Medicaid according to the Georgetown Center for Children and Families

California 34	68% covered by Medicaid
California 16	67% covered by Medicaid
New York 15	66% covered by Medicaid
Mississippi 2	64% covered by Medicaid
Texas 33	64% covered by Medicaid
California 29	61% covered by Medicaid
Alabama 7	60% covered by Medicaid
California 21	60% covered by Medicaid
Illinois 4	60% covered by Medicaid
Louisiana 2	59% covered by Medicaid

Address Disproportionality but Allow Greater Flexibility with Comprehensive Coordinated Early Intervening Services

The root cause of disproportionality can not be attributed only to special education services. Indeed, schools that are addressing the critical issue of disproportionality are those which have taken a comprehensive look at the big picture related to students and examined systemwide inherent biases that may exist. CASE believes that disproportionality should be addressed within a whole-school context and supports efforts to reduce disproportionate representation of minority students with disabilities in areas of overall eligibility, eligibility in specific disability categories, placement, and exclusionary disciplinary outcomes.

Disproportionality as an indicator is useful in initiating systemic change and CASE believes that significant oversight in this area is necessary. Specifically, CASE advocates for an approach where all schools and districts are given access to data about disproportionality and risk ratios to determine whether bias is interfering with the appropriate identification of students who are, or should be, eligible under IDEA. Given the challenges with this task in the past and the recent rescinding of several guidance documents, congressional oversight is necessary to ensure the civil rights of all children and to support practices that prevent disproportionate over representation in these areas.

CASE advocates for an approach where the use of already dwindling special education dollars through set asides of CEIS is scrutinized. While funds are appropriately allocated to the underlying issues behind disproportionality, depleting special education funding rather than allocating new funds for this purpose seems counterproductive. CASE advocates an approach where new federal funds are established for the purpose of addressing this issue.



**For more information about our positions or to
set up an appointment with our members,
please contact:**

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CASE Members plan to meet with their Members of Congress in Washington, DC during our annual Special Education Legislative Summit being held the second week in July.

