Equitable and Adequate Funding for Special Needs Children in Louisiana

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DRAFT 10.7.10

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INTRODUCTION

Under the Individuals with Disabilities Education Improvement Act (IDEA), states and localities are primarily responsible for providing and paying for special education programs and services to school-age children with disabilities. Federal IDEA funding pays for roughly 17% of the cost of educating disabled students -- the remaining portion is paid by states and localities. This report details how the state of Louisiana, and school districts within Louisiana, fund special education for disabled students. This Report highlights the strengths and weaknesses of Louisiana’s funding mechanisms for disabled students and makes suggestions for reform.

This Report will proceed in four parts. Part I explains how the State of Louisiana funds special education for students with disabilities. This section details how the allocation of State funds to local districts under the Minimum Foundation Program (MFP) hinges, in part, on the number of disabled students served in the local school district, by using a weighted formula for disabled students. Because the State funds granted to local districts under the MFP are in the form of a block grant, however, there

1 Louisiana Appleseed would like to thank the volunteers who donated pro bono time to research and draft this report. In particular, we are grateful for the leadership, research and writing and overall expertise of Professor Rob Garda at Loyola Law School, a primary author of the report. David Stein of Adams and Reese LLP also assisted with research and writing, as has Kate Lindahl of Skadden, Arps. Also contributing to the report are volunteers Kathleen McNelis, LIST THEM HERE (law students too).


is no guarantee that school districts actually spend specially generated funds on disabled students at the school level or equitably allocate MFP funds between schools within the district. Part I concludes by explaining the recently enacted Act 310, which requires school boards to expend funds generated by the weighted factors, such as disability, on students who generated such funds.

Part II examines how local school districts within Louisiana fund special education for students with disabilities. Because funding from the State is in the form of a block grant, ascertaining how districts allocate this money between their schools is critical to ascertaining whether money designated for special education students actually follows the students at the school level. How local school districts distribute MFP funds to their schools for the education of disabled students is the primary focus of this Report. This section will analyze the demographic data regarding disabled students within school districts and the mechanisms or policies local districts use to distribute MFP funds to schools within the district. The data in this section is based on surveys taken by school districts and limited publicly available information.

Part III identifies how other states, and other states’ school districts, distribute state funds for special education at the district level. This section explains the variety of methods states employ to fund the costs of educating disabled students and which methods may be better, or worse, than Louisiana’s current funding methods.

Finally, Part IV identifies alternative funding options that the State of Louisiana should consider to improve special education for disabled students. The section recommends first that the State adopt a statewide uniform system of distributing MFP-weighted funds to schools. Rather than leave distribution decisions entirely within the discretion of school boards, a consistent and uniform practice should be adopted statewide to ensure equitable special education funding between schools within different school districts. It is also recommended that even without a uniform statewide system, school districts should employ either a weighted student-based or population-based funding formula for distributing MFP-weighted funds to schools. This will ensure transparent, adequate and equitable funding between schools within a school district.

I. The Funding of Special Education at the State Level

A. The Minimum Foundation Program and Weighted Funding for Disabled Students.

Louisiana utilizes the Minimum Foundation Program (MFP) to determine the cost of a minimum program of education in the State and how State funds are equitably distributed to local districts.\(^4\) The purpose of the MFP is to ensure that a minimum

\(^4\) L.A. CONST. art. VIII, § 13(B); L.A. REV. STAT. ANN. 7.7(2) (2010); L.A. REV. STAT. ANN. 17:22(2)(d) (2010). The State appropriated over $3.2 billion for education spending under the MFP in
foundation education is provided to each student in the State no matter where they reside. The MFP formula is complicated but for purposes of this report only the basics need to be understood.

The MFP formula first determines the cost of education in every school district within the State. This cost is determined by multiplying a district’s weighted student count times a base per pupil amount of expenditure. The base per pupil amount of expenditure is set annually by the Board of Elementary and Secondary Education and is approved by the Legislature.\(^5\) The district’s weighted student count, on the other hand, is determined by demographic data the district provides the State. Certain classes of students -- such as gifted and talented, at-risk, vocational education, and disabled students -- are weighted when ascertaining education costs because these students are more expensive to educate. A student with a disability is weighted at 1.50.\(^6\) Once the total cost of education in a district is determined, the MFP formula makes numerous adjustments to this base total to determine the amount of State funds the district is entitled to.

A simple example illustrates how the weighted student count works. Assume a school district enrolls 1000 students and, for simplicity, that the statewide base per pupil amount is $5000. If none of the 1000 students falls into a special weighted category, the local district’s MFP funding would be 1000 (total weighted membership) times $5000 (base per pupil amount) for total district revenue of $5,000,000. On the other hand, if 100 of the district’s 1000 students are special education students the total weighted membership of the district would be 1,150: the base number of students (1000) plus 1.5 times the number of special education students (100). The district’s total costs would be 1,150 (total weighted membership) times $5000 (base per pupil amount) for a total of $5,750,000. Obviously, $750,000 of this amount is directly attributable to the special needs students in the district. In short, the more disabled students served by a district, the more MFP funds the district will receive from the State, and the amount of excess funds attributable to disabled students can be ascertained.

The excess funding generated by the presence of a special education student, however, is not actually earmarked or set aside to be spent on the student. Funding through the MFP is in the form of a block grant from the State to local school systems.\(^7\)

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\(^5\) The base per pupil amount is currently $3,961. S. Con. Res. 20, § II.A.4, 2010 Leg., Reg. Sess. (La. 2010).


School systems exercise nearly absolute discretion on how to spend these state MFP funds.\textsuperscript{8}

B. Act 310 – A Significant Limitation on Local District Discretion

In July of 2009, the Louisiana Legislature enacted Act 310. It provides that the State Board of Elementary and Secondary Education (“BESE”), beginning in the 2010-2011 school year, must “require each city, parish, or other local public school board to expend funds generated by applying the weighted factors [in the MFP] for . . . special education students . . . on personnel, professional services, instructional materials, equipment, and supplies that serve the unique needs of students who generated such funds and to submit annually a written report to [BESE] that details the types of activities on which these funds were expended to serve the needs of the weighted students at all schools that serve such students.”\textsuperscript{9} In short, Act 310 mandates that “enhancement” funding generated by the weighted factors under the MFP is actually spent on serving the unique needs of students who generate such funds and requires school boards to report how funding appropriated for special populations is spent on a school-level basis.

There are two important components to Act 310 as it relates to funding special education. First, the Act requires that school boards expend weighted MFP funds on MFP-weighted children.\textsuperscript{10} This is a significant limitation on school board discretion as boards are no longer permitted to spend their MFP funds on any children; they must spend the portion of their MFP funds attributable to special education students on services for those children. Act 310 alters the block-grant nature of MFP allocations by requiring that special enhancement funds be spent on particular children.

This change aligns the state funding of special education with the federal funding regime under the Individuals with Disabilities Education Act (IDEA). IDEA also provides block grants to local education agencies (typically school districts) and requires that the funds be spent only on the excess costs of educating disabled students. 20 U.S.C. § 1413(a)(2) (West Supp. 2009). Act 310 also aligns Louisiana’s special education funding practices with other states. Thirty-one states limit the use of state special education funds on only special education students or pre-referral services. Only 10 states permit state funds for special education students to be spent on any students.\textsuperscript{11}

\textsuperscript{8} LA. ADMIN. CODE tit. 28, Part I, § 1107 (2010); LA. ADMIN. CODE tit. 28, Part XLI, §§ 701(B)(1)(a) and (b) (2010).
\textsuperscript{9} LA. REV. STAT. ANN. 17:7(2)(f)(i) (2010).
\textsuperscript{10} LA. REV. STAT. ANN. 17:7(2)(f)(i) (2010).
On the other hand, Act 310 does not require special education funding to follow individual children.\textsuperscript{12} Under Act 310, a school board may still send all of its MFP enhancement funds to certain schools and disregard others, so long as the enhancement funds are spent on special education students. For example, a local district could spend all of its MFP enhancement funds for special education students on only a portion of its special needs students and still be in compliance with Act 310. Act 310 requires only that MFP weighted funding follow disabled children but not that it follow a particular disabled child to a particular school.

The second important component of Act 310 is that it requires school boards to submit an annual report to BESE that details “the types of activities on which [MFP designated special education] funds were expended . . . at all schools that serve such students.”\textsuperscript{13} Beginning in the 2010-2011 school year, school boards will be required to submit an accounting to BESE regarding how MFP-weighted funds are spent on special education students. Boards will not be permitted to identify generally how the MFP-weighted funds were spent on a district-wide level, as they currently do; they must identify this information on a school-level basis.\textsuperscript{14} This is the first legislation to require the reporting of school-level expenditures of MFP-weighted funds by all school boards in the State. Act 310 requires BESE to publish the annual reports from the various parishes on the Department of Education website in an easily understandable format.\textsuperscript{15}

Act 310 is a first step toward equitable funding expenditure for disabled students. Prior to Act 310, school boards could expend MFP funds, even weighted MFP funds generated for special education students, on any students. Act 310 now requires that school boards expend MFP weighted funds on disabled students and to report, on a school-level basis, how such funds were expended. While the MFP-weighted funds do not need to follow a particular student at the school level, the data collecting system which requires school-level data lays the necessary groundwork to implementing a system where the funds follow the disabled child to the child’s school.\textsuperscript{16}

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\textsuperscript{13} LA. REV. STAT. ANN. 17:7(2)(f)(i) (2010).


\textsuperscript{15} LA. REV. STAT. ANN. 17:7(2)(f)(i) (2010).

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II. **The Funding of Special Education at the Local Level**

**A. The Distribution of Students With Disabilities in Louisiana**

As of the most recent count in February 2009, Louisiana public schools enroll 107,179 students with disabilities.\(^{17}\) This constitutes 12.2% of the overall student population in public schools.\(^{18}\) As demonstrated below, disabled students are not evenly distributed between school systems or within school systems, and the range is quite broad.

Students with disabilities are not evenly divided between the school systems of the State. For example, students with disabilities constitute only 5.5% of the student population in Orleans Parish School District and 6.7% of the Central Community School District, but students with disabilities comprise 21.5% of students in the City of Bogalusa School District and 16.62% of students in Tensas Parish and St. Helena Parrish.\(^{19}\) This disparity dramatically affects the amount of the block grant under the MFP for each of these districts.

The scant amount of publicly available site-level data shows that disabled students are also not evenly divided between schools within a district, much like they are not evenly divided between school districts. The 2007 Louisiana MFP Accountability Report, the only publicly available report with extensive site-level data, identifies school-level data for 238 academically unacceptable schools.\(^{20}\) The percentage of disabled students within these schools range from 3% of the student population to 53%.\(^{21}\) Within the 16 schools the Report identifies in Caddo Parish, disabled students

\(^{17}\) [STATE SPECIAL EDUCATION DATA PROFILE 2008-2009](http://www.doe.state.la.us/lde/uploads/17133.pdf) at 2, available at
\(^{18}\) [STATE SPECIAL EDUCATION DATA PROFILE 2008-2009](http://www.doe.state.la.us/lde/uploads/17133.pdf) at V.
\(^{19}\) Id. at 3-4.
\(^{20}\) [2007 MFP ACCOUNTABILITY REPORT](http://www.louisianaschools.net/lde/pair/1877.html) at 1, available at
\(^{21}\) Id. at 11 (Table 5). The 2008 Louisiana MFP Accountability Report, which includes data on 44 schools, shows that the percentage of disabled students within these schools range from 6.9% of the student population to 36.5%. Id. at 11 (Table 4). The 2009 Louisiana MFP Accountability Report, which includes data on 34 schools, shows that the percentage of disabled students within these schools range from 10.2% of the student population to 19.6%. Id. at 11 (Table 4). The 2010 Louisiana MFP Accountability Report, which includes data on 14
comprise 8.3% of the overall population in one school but 22.2% of the population in another school. Within the 30 schools the Report identifies in East Baton Rouge Parish, disabled students comprise 6.4% of the overall population in one school but 19.7% of the overall population in a different school. Similar uneven distribution of disabled students between schools is found within all the school districts identified in the 2007 Louisiana MFP Accountability Report.

Disabled students are also distributed disparately throughout schools in Orleans Parish. The number of disabled students in Orleans Parish School District schools ranges from 1.5% of the overall population in one school to 16.2% of the overall population at another school. Schools run directly by the Recovery School District have a similar range of disparity: from 5% to 22.9% of the overall student population.

Louisiana Appleseed/Louisiana Bar Foundation Class Project volunteers surveyed eight school districts and one charter management organization in the State about their funding of special education students. The results of these surveys, described below, further verify the uneven distribution of disabled students between schools within school districts. The figures in the following table are from the 2008-2009 school year.

<table>
<thead>
<tr>
<th>Parish</th>
<th>Number of Schools</th>
<th>Number of Disabled Students</th>
<th>Percentage of Students With Disabilities</th>
<th>Range of Number Disabled Students Between Schools</th>
</tr>
</thead>
<tbody>
<tr>
<td>Terrebonne</td>
<td>40</td>
<td>2,166</td>
<td>11.3%</td>
<td>5-118</td>
</tr>
<tr>
<td>Tangipahoa</td>
<td>38</td>
<td>2,280</td>
<td>12%</td>
<td>3-213</td>
</tr>
<tr>
<td>Jefferson</td>
<td>87</td>
<td>5,100</td>
<td>11.5%</td>
<td>0-185</td>
</tr>
<tr>
<td>Evangeline</td>
<td>13</td>
<td>907</td>
<td>15%</td>
<td>14-155</td>
</tr>
<tr>
<td>East Carroll</td>
<td>5</td>
<td>172</td>
<td>13.2%</td>
<td>21-50</td>
</tr>
<tr>
<td>Caddo</td>
<td>72</td>
<td>6,500</td>
<td>15.1%</td>
<td>5-144</td>
</tr>
<tr>
<td>East Baton</td>
<td>87</td>
<td>5,150</td>
<td>10.7%</td>
<td>2-124</td>
</tr>
</tbody>
</table>

schools, shows that the percentage of disabled students within these schools range from 7.4% of the student population to 32.2%. Id. at 11 (Table 4).

22 2007 MFP ACCOUNTABILITY REPORT at 21.
23 Id. at 23.
24 THE COWEN INSTITUTE FOR PUBLIC EDUCATION INITIATIVES, THE STATE OF PUBLIC EDUCATION IN NEW ORLEANS 2010 at 38.
25 Id.
26 The “range” data is from October 2007 whereas the other data for Jefferson Parish is from 2008-2009.
27 The “range” data is from October 2007 whereas the other data for Caddo Parish is from 2008-2009.
The chart establishes that disabled students are not distributed evenly between school districts or within school districts. The range of disabled students between schools within a district is particularly stark. In Tangipahoa Parish, for example, one school has three disabled students whereas another school has 213 disabled students. These dramatic differences in the number of disabled students per school are present in each of the eight school districts and one charter school association surveyed.  

### B. School District Practices for Distributing MFP Funds to Schools

As noted above, the MFP monies from the State come in the form of block grants to the school districts. Districts are given virtually unfettered discretion to spend these funds and to allocate these funds among their various direct-run schools. The Survey data show that school districts do not have set procedures, mechanisms or formulas to divide MFP monies earmarked for disabled students to their schools.

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### Notes

28 The RSD provided site-level data for only its charter schools in the Orleans area. Therefore, the figures in this row exclude the following RSD schools: (i) traditional (non-charter) schools in Orleans Parish and (ii) charter schools in St. Helena, Caddo, East Baton Rouge and Point Coupee Parishes. In addition, the figures in this row exclude schools in the Algiers Charter Schools Association as this data is provided in the previous row.

29 The percentage of special education students in RSD charter school ranges from 3.7% of the overall population at one school compared to 15.2% of the overall population at another school. THE COWEN INSTITUTE FOR PUBLIC EDUCATION INITIATIVES, THE STATE OF PUBLIC EDUCATION IN NEW ORLEANS 2010 at 38-39.

30 A school with only 100 students should have significantly fewer disabled students than a school with 1000 students. The Survey results did not establish whether the wide range of disabled students is the result of school size differences or whether these individual schools identify students as disabled at varied rates.

31 School districts must, by law, provide Type 4 charter schools a per pupil amount based on the membership count of the charter school pursuant to the MFP formula minus a small administrative holdback. LA. REV. STAT. ANN. 17:3995(A)(1), (A)(4) (2010); LA. ADMIN. CODE tit. 28, Part CXXXIX, § 2301(A) (2010).
Out of the districts surveyed in this Report, only the Recovery School District allocates MFP funds among its schools using a formula. None of the other districts identified a mathematical formula or any other consistent allocation mechanism. Some of the districts, such as Tangipahoa and Jefferson Parishes, take measures to ensure that MFP monies earmarked for special education students are spent on either special education or children “at-risk” for becoming special needs students, but this does not ensure equitable allocation between schools within a district. Other districts, such as Evangeline, East Carroll and Caddo, distribute money “as needed” but without any set procedure or formula to determine “need.” Finally, other districts, such as East Baton Rouge, place all monies into the general fund and rely on federal money through the IDEA to pay for special education.

Of the districts surveyed, the RSD stands alone in providing consistent and formulaic funding for special education to its schools. The RSD receives MFP funds and creates a “reserve” for disabled students. The RSD distributes the reserve monies to its schools using a differentiated funding formula for special education students. The RSD ensures that MFP monies earmarked for disabled students follow the students to their schools. The RSD goes one step further by allocating more (or less) money per pupil based on the severity and type of disability. Applying the differentiated funding formula, the RSD categorizes its pool of special education students into three groups. Each group of students receives a weighted funding allocation depending on the severity of their impairment. Specifically, the RSD special education levels receive the following weights:

- Level 1: 25% weight
- Level 2: 150% weight
- Level 3: 275% weight

See also, RSD 2009-2010 Special Education Budget (July 2009, Initial Calculation). The RSD has used the differentiated funding program since inception, and the formula has not changed over the years.

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33 Funding for a level three special needs student can reach as high as approximately $15,000 per student (plus the revised base per pupil amount), whereas funding for the least impaired level one student amounts to approximately $1,400 per student (plus the revised base per pupil amount).
The advantages and disadvantages of the different MFP disbursement mechanisms employed by the school districts will be examined after other state mechanisms are discussed.

III. Other States’ Practices for Funding Special Education

According to a national survey conducted by the Center For Special Education Finance in May 2003, the majority of states nationwide allocate special education funds to districts using one or a combination of six types of formulas including add-on pupil weights, a flat grant, census based allocations, resource based allocations, reimbursement based allocations, and a variable block grant. However, flow of special education funding from districts to individual schools and/or students is far less clear, with little data available on the actual funding mechanisms used. One likely reason for this was highlighted in a 2004 study by the Reason Foundation that examined difficulties faced by charter schools in obtaining special education funding. The report noted that in most cases, special education funding does not follow an individual special needs child into his or her school, but rather the sponsoring district keeps the funding and provides special education services to the schools. Thus, special education funding may potentially become an unofficial source of “profit” for a school district. For example, the Reason report references a California school district in which a particular school has generated almost one million dollars in special education funding but a mere fraction of those resources actually serve its students. Other regional and national studies have correlated the Reason Foundation’s assessment that much education funding (including special education funding) is spent on bureaucracy at the state and district level and thus never reaches the classroom in the form of books, computers, supplies or even teacher salaries. For example, a 2006 study by the Thomas B. Fordham Institute notes that “even within school districts, there are often vast disparities between schools – disparities that generally favor schools with savvier leaders and wealthier parents” that can amount to “thousands of dollars per student per year.” Similarly, a 2008 report issued by the U.S. Department of Education focusing on San Francisco school districts notes that historically, it has been the

34 CENTER FOR SPECIAL EDUCATION FINANCE: STATE SPECIAL EDUCATION FINANCE SYSTEMS AND EXPENDITURES, available at http://csef.air.org/publications/seep/national/Procedural%20Safeguards.PDF.
36 Id.
responsibility of the districts to allocate resources to individual schools. However, given the recent financial crisis and newer state and federal policies such as No Child Left Behind and IDEA that place the burden of student performance squarely on the shoulders of individual schools, increasing attention is being placed on more efficient distribution of funding from districts to individual schools. In Louisiana, for example, the Commission on Streamlining Government recently recommended that the Department of Education and BESE pursue “student based budgeting,” and that the MFP be restructured such that state and federal dollars “follow the child” such that “80% of the MFP funds are spent on the classroom as directed by the principal of each school.” Accordingly, from the studies referenced herein a district-to-school funding model known as “student-based funding” (or at times “weighted student formula”) and corresponding set of principles/best practices have emerged.

Under a weighted student formula funding model, education funds (including special education funds) are attached to each individual student, no matter which public school they choose, thereby eliminating expenditure of funds at the district levels and providing greater autonomy and accountability in individual schools. The core set of principles key to any weighted student formula funding model are as follows:

1) Funding should follow the child, on a per-student basis, to the public school that he or she attends.
2) Per-student funding should vary according to the child’s need and other relevant circumstances.
3) Funding should arrive at the school as real dollars – not as teaching positions, ratios or staffing norms – that can be spent with flexibility, with

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40 REL West Report at p. 1. See also Jay Chambers et al., A Comparative Study of Student Based Funding and School Based Decision Making in San Francisco and Oakland Unified School Districts, American Institute for Research, October 2008 [hereinafter AIR Report].
42 See Lisa Snell, Weighted Student Formula Yearbook, Reason Foundation at 139-150 (2009) [hereinafter Yearbook].
accountability systems focused more on results and less on inputs, programs or activities.

4) Principles for allocating money to schools should apply to all levels of funding, including federal, state and local dollars.

5) Funding systems should be as simple as possible and made transparent to administrators, teachers, parents and citizens.44

Since the 1990s, several urban school districts around the country have implemented student-based funding/weighted student formula policies, including Baltimore, Belmont (Los Angeles), Boston, Chicago, Cincinnati, Clark County, Denver, Hartford, Hawaii (a one-district state), Houston, Oakland, Milwaukee, New York City, Fort Collins (CO), St. Paul, San Francisco, Seattle, and Washington, DC.45 In 2009, the Reason Foundation released an extensive study of these districts that revealed promising results. In areas where money flows directly into the classroom and thus the individual school principals are empowered by the districts, noticeable learning and higher test scores were noted.46

Specifically regarding special education funding, while many of the aforementioned districts simply assign additional special education funding to individual students via the weights implemented by each district, several districts nevertheless retain at least some, if not total, control over special education funding rather than pass these funds to the individual schools. For example, in the Houston Independent School District, the special education funds distributed to individual schools based on the weighting formula provide discretionary, non-payroll resources to students; the central (district) office still allocates special education teachers.47 In both Fort Collins and St. Paul, special education funds are not distributed to individual schools, with said resources remaining under control of the district.48 In the San Francisco Unified School District, most special education staff are allocated centrally, with the funds distributed by the student weight formulas intended for small expenses such as supplies or professional development activities.49

After initially withholding special education funding at the district level, three of the districts in the Reason study are planning to release this funding to individual schools via the weighted student formulas in the immediate or near future. Hartford public schools began distributing special education funds according to weighted student formulas in the 2008-2009 school year.50 The New York City Department of Education’s

44 Yearbook, supra note 42. See also Fordham Report, supra note 38.
45 See AIR Report, supra note 40; Yearbook, supra note 42.
47 Yearbook, supra note 42, at 79.
48 Id. at 88, 118-19.
49 Id. at 133.
50 Id. at 62.
program is “gradually” shifting special education funding from a per-class basis to individual students.\textsuperscript{51} Finally, Baltimore plans to unlock special education funding in the 2010 school year; the funds will be distributed for teachers based on the number of service hours required for special needs students.\textsuperscript{52} These programs should be monitored as they will provide “real time” data regarding the differing effects between retaining special education funding at the district level and individual school autonomy.

Outside of the aforementioned weighted student formula initiatives referenced above, little data is available regarding specific district to school funding models. While as noted above districts typically maintain control over special education funding, more traditional rules and/or statutory law may be used to control and account for the expenditure of special education funding at the district level to ensure that the funds are properly expended on the students for whom it is intended. For example, the Arkansas Department of Education has enacted “Rules Governing the Distribution of Student Special Needs Funding and the Determination of Allowable Expenditure of Those Funds.” These Rules specifically detail the distribution and accountability requirements for special needs funding.\textsuperscript{53}

IV. \textbf{Policy Recommendations}

This section will examine the advantages and disadvantages of the funding mechanisms currently employed by Louisiana school districts to fund special education and suggest alternative methods.

A. Evaluating Louisiana School Districts’ Disbursement of State Special Education Funds.

Evaluating whether a funding structure is proper or effective is challenging because funding schemes serve multiple purposes. But researchers consistently identify several criteria by which to evaluate special education funding mechanisms.\textsuperscript{54} The researchers agree that high quality funding schemes should be:

\textsuperscript{51} Id. at 88.
\textsuperscript{52} Id. at 10-11.
• Understandable and predictable. The funding system should be understandable to school boards, district personnel and school administrators for planning purposes. The funding system must produce predictable demands on school boards and schools must know allocations in a timely manner to plan for services and programs. Schools must also be able to count on stable funding over time.

• Equitable. Money should be distributed to ensure comparable program quality regardless of school assignment. All schools should receive comparable resources for comparable students.

• Adequate. Funding must be sufficient to provide appropriate special education programs.

• Flexible. Schools and districts must be given latitude to deal with unique local conditions in a cost-effective manner.

• Identification neutral. The number of disabled students should not be the only, or primary, basis for determining the amount of special education funding to be received. When funding is linked directly to eligibility for special education, or disability level, incentives can be created to over-identify students as disabled or over-identify them as severely disabled in order to generate more funds.

• Placement neutral. Funding of schools should not be based on the type of educational placement for individual students. When funding is linked directly to special education placement, incentives can be created to place students in more restrictive settings that generate more funds.

• Reasonable reporting burden. Costs to implement the funding system, including efforts to comply with reporting requirements, should be minimized.

• Cost-based/Cost-controlled. Funding received by schools should be linked to the costs they face and should include procedures to contain excessive or inappropriate costs.

• Connection to regular education funding. Special education funding systems should have a clear link to the regular education finance system to lead to integration of services.

• Political acceptability. Implementation must avoid a major short-term loss of funds and no major disruption of existing services.
Applying these criteria to the funding mechanisms employed by Louisiana school districts reveals the strengths and weaknesses of these systems. Three general financing mechanisms for special education emerged from the surveys: 1) distribution to schools on a “need” basis; 2) the differentiated funding formula employed by the RSD; and 3) inclusion of the funds earmarked for disabled students in the general fund. This final method is no longer permitted under Act 310 and will not be evaluated.

1. Discretionary Approach

The most common method employed by the districts surveyed is distribution on an ad hoc, discretionary basis to individual schools based on need. The greatest strengths of this approach are flexibility and low reporting burdens. With complete discretion, districts can respond flexibly to needs as they arise in individual schools. Also, because funding does not hinge on data, the reporting requirements on individual schools are virtually non-existent.

The discretionary approach, however, may not fulfill any of the remaining criteria depending on how district personnel determine need and actually distribute funds. For example, district personnel may distribute funds equitably across schools to ensure adequate services and may make consistent allocations from year to year that are placement and disability neutral, but this is not required. Hence, the primary disadvantages of discretionary distribution system is that such a system is opaque, may lack any objective distribution criteria and could open the door for favoritism, politics or local pressure in distribution decisions. This, in turn, could lead to the loudest and most vocal schools, or parents, receiving a disproportionate level of State special education funding. This Report does not allege that this is occurring, but that there can be a perception of inequality inherent in a decision-making process that lacks objective criteria. This perception of disparate treatment may exist between schools within a district and among parents within a district. The discretionary mechanism also opens the door to districts retaining too many funds at the district level and failing to distribute sufficient funds to schools. As has been reported in other states, district offices can operate as profit centers with state funding of special education if they are not compelled to distribute funds to schools. In sum, the ad hoc, discretionary allocation mechanism employed by most surveyed districts provides flexibility and minimal reporting requirements but it lacks understandability and predictability and may, though it is unknown, fail under the remaining criteria as well.

2. Formulaic Approach

In contrast to the ad hoc approach, the greatest strength of the RSD funding structure is the certainty, predictability and transparency that it provides. Individual schools are able to estimate how much money the RSD will allocate to them based on the number and type of disabled students they serve, which assists them in both short- and long-term planning. Funding comes without lobbying from the schools, pleas to the
district for funding or the requirement that a school establish a need for the funds. It is automatic and formulaic. The RSD method also ensures equity between schools and an adequate funding stream to serve all disabled students.

On the other hand, the RSD formula imposes reporting burdens on individual schools and is not identification neutral. RSD schools receive more funding if they have more students identified as disabled and even more funding if students are identified as severely disabled. While this is seemingly equitable and ensures adequate funding, it can create incentives for schools to over-identify students as disabled or to over-identify them as severely disabled. These are significant and important critiques of funding formulas based on the number of disabled students served and are the reason Congress abandoned such funding allocations under IDEA. Until 1997, Congress provided special education funding to states based on the number of disabled students being educated in the state.\textsuperscript{55} Congress recognized in 1997 that the disability based funding formula created incentives for states to over-identify students as disabled.\textsuperscript{56} Accordingly, IDEA was amended in 1997 and increases in federal funding to states now hinge on the number of general education students in the state.\textsuperscript{57}

An additional potential disadvantage of the RSD system is a district may lose economies of scale by distributing all funds down to the school level. If, for example, there were four hearing impaired children in a district that required a sign language interpreter for some part of the day, such a district with absolute control over funds may be able to hire one interpreter for all four children. If all funds were distributed directly to the school level, however, each school in such a district could be required to hire an interpreter separately. It appears, however, that under the RSD funding formula, the district retains enough special education monies to ensure it can achieve the benefits of economies of scale.

The primary shortcoming of the RSD formula is that it lacks flexibility. The rigid formula prohibits the district from funneling excess funds to certain schools that may lack basic resources for disabled students. For example, two separate schools may have


\textsuperscript{56} H.R. REP. NO. 105-95, at 89 (1997), reprinted in 1997 U.S.C.C.A.N. 78, 86 (many problems of over-identification result from IDEA’s current child-count based funding system that “reduces the proactive scrutiny that such referrals would receive if they did not have the additional monetary benefit.”); MARK C. WEBER, SPECIAL EDUCATION LAW AND LITIGATION TREATISE § 2.2(1); Marc S. Krass, The Right to Public Education for Handicapped Children: A Primer for the New Advocate, 1976 ILL. U. L.F. 1016, 1066 (1976). There are procedural and administrative “costs” that flow from identifying a child as disabled which counter-balance, and in some circumstances outweigh, the budgetary incentive to over-identify or mis-identify students as disabled.

\textsuperscript{57} Pub. L. 105-17, § 611(d), 111 Stat. 37, 49 (codified as amended at 20 U.S.C. § 1411(d)) (West Supp. 2009).
the identical number and type of disabled students but one school may lack assistive technology or resource materials. Despite a greater need for resources by one school, the two schools in the example are funded identically under the RSD formula.

Obviously both distribution systems – discretionary and formulaic – have advantages and disadvantages. While a formulaic distribution can lack flexibility and create odd incentives, it does have the benefit of being understandable, predictable, adequate and equitable. An ad hoc distribution system, in contrast, is flexible but has the potential to fail each of the remaining criteria enumerated above, depending on how district personnel exercise their discretion and distribute money. The greatest disadvantage of a discretionary system is that it can lead to the perception of inequality between schools.

B. Policy Recommendations

There are numerous funding possibilities for school districts to consider when distributing MFP funds earmarked for disabled students. The recent passage of Act 310 partially limited these options by requiring districts to spend specially designated MFP funds on the populations that generated the funds. This still does not answer the question of how districts should distribute special education funds to their schools. State law does not provide guidance on this issue.

This Report recommends first that the State pass legislation that creates a uniform funding practice in school districts. This Report also recommends that, even without state legislation, school districts should distribute MFP funds generated by special education students to schools by either: 1) a weighted student funding formula wherein resource dollars allocated to each individual student and weighted based on the individual needs of the student, and follow the individual students into their schools, or 2) a population-based formula similar to that utilized in IDEA.

**Recommendation 1: Adopt a Statewide Uniform System of Distributing MFP-Weighted Funds to Schools.**

The State should pass legislation creating a uniform funding practice in school districts. Rather than leave distribution decisions entirely within the discretion of school boards, a consistent and uniform practice should be adopted statewide. This ensures equitable special education funding between schools within different school districts. A school with 100 disabled students in one district may receive significantly different special education funding than a similarly situated school within another district simply because each district employs different distribution schemes. The school that educates an autistic child in East Baton Rouge may receive a different amount of funds to educate the child than a school educating an autistic child in the RSD or Evangeline. Special education funding for particular children should not hinge on where they reside, but instead on an objective and transparent procedure that treats all students, and schools,
similarly. State legislation mandating a uniform distribution system at the district level ensures equitable special education funding between schools within separate districts.

Louisiana seems to be moving in this direction. Districts must already distribute the per pupil amount determined by the MFP formula to Type 4 charter schools, minus a small administrative holdback.\(^{58}\) Furthermore, Act 310 is the first legislation to require the reporting of school-level expenditures of MFP-weighted funds by all school boards in the State. This data collection requirement lays the necessary groundwork to implementing a uniform system statewide for distributing MFP-weighted funds. The Commission on Streamlining Government appointed by Governor Jindal recently recommended that the Board of Elementary and Secondary Education (BESE) pursue “student based budgeting” and restructure the MFP to ensure MFP funds “follow the child and that 80% of the MFP funds are spent on the classroom as directed by the principal of each school.”\(^{59}\) The Commission recommended a “student-centered finance model based on a weighted student formula in which money follows a child to his school.”\(^{60}\) The report concluded that such change would mean “more funding will be dispensed to the classroom and not expended through the local central office.”\(^{61}\) Based on the report, the State legislature urged and requested BESE to make changes to the MFP to ensure that funds are “allocated to schools based on their enrollment and the characteristics of students that generate additional funds.”\(^{62}\) BESE recently created the Student-Based Budgeting Task Force to “to identify and study statutory and policy obstacles to the implementation of student-based budgeting and develop appropriate solutions.”\(^{63}\) The State appears to be moving toward a uniform system of distribution of MFP funds at the school level and this Report recommends that this occur sooner rather than later.

\(^{58}\) LA. REV. STAT. ANN. 17:3995(A)(1) and (A)(4) (2010); LA. ADMIN. CODE tit. 28, Part CXXXIX, § 2301(A) (2010).


\(^{60}\) Id.

\(^{61}\) Id. See also id. at Recommendation 201.


\(^{63}\) For information on the Student-Based Budgeting Task Force, see http://www.louisianaschools.net/lde/bese/3104.html
Of course recommending that the State adopt a statewide uniform system of distributing MFP-weighted funds to schools begs the question of what the distribution mechanism should be. But at the very least the State should mandate a uniform distribution system regarding MFP funds allocated for special populations.

**Recommendation 2: The State, or School Districts, Should Employ Either a Weighted Student-Based or Population-Based Funding Formula for Distributing MFP-Weighted Funds to Schools.**

**Option 1: Disability Based Funding**

While weighted student-based funding formulas may go by a number of names, including “results-based budgeting,” “student-based budgeting,” and “backpacking” (to name a few), in each case the meaning is the same: dollars rather than staffing positions follow students into schools. In many cases, these resources are weighted based on the individual needs of the student.” Under any such student-driven formula, individual schools “are allocated funding based on the number of students that enroll at each individual school, with extra per-student dollars for students who need services such as special education . . .,” thereby granting the school principals autonomy over the allocation of their schools’ resources. Such a funding allocation scheme is directly in line with the recommendations of the Commission on Streamlining Government that MFP and federal dollars “follow the child.”

This appears to be the direction the State is headed, though slowly. Based on the Recommendations of the Commission on Streamlining Government, the State Legislature “urge[d] and requeste[d]” BESE to change the MFP to “implement a student-based budgeting model,” but left out any detailed recommendations. The Student Based-Budgeting Task Force met in August of 2010 to study student-based budgeting, but has yet to issue any recommendations. The 2010 Legislature approved the traditional MFP that retains district discretion for distribution of funds to schools.

A system that employs a weighted student-based formula fulfills many of the criteria used to evaluate funding schemes. The strengths of the system are certainty, predictability, transparency, equity and adequacy. As with the system currently

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64 See Yearbook, supra note 42, at 1.
65 Id. at 2.
66 Supra notes 59-61 and accompanying text.
employed by the RSD, the clearly defined mathematical formulas (i.e. weights) by which student funds are calculated allows individual schools to estimate how much money they will be allocated, thereby facilitating more accurate short- and long-term planning.

Further, the resulting individual school empowerment reveals several key benefits of a weighted student-based formula over the more traditional population-based funding. With individual schools receiving revenue on a per-pupil basis, schools can more efficiently allocate revenue and staff, especially as student populations change over time.70 “The more ‘unlocked’ dollars a principal controls, the more autonomy that principal has over designing the school to meet the needs of the students in the school.”71 Accordingly, weighted student-based formulas have traditionally been met with support by teachers unions due to their emphasis on local control.72 Additionally, the clear and unambiguous funding formulas of these allocation schemes allow for the publication of detailed and transparent budgets at the school level “that show school enrollment and staffing trends,” as well as “reveal the amount of resources that are allocated through student-based budgeting and the amount of resources that are spent at the school level but are controlled by the central office.”73 Thus, a district may then establish “explicit performance measures” for each individual school, such as “school-level academic plans [that] detail a school’s specific goals for academic improvement for various groups of students,” as well as “overarching accountability frameworks that set specific district-wide minimums for performance.”74

On the other hand, a weighted student-based formula scheme is not identification or placement neutral, lacks flexibility and imposes a reporting burden on schools. However, it should be noted that while flexibility at the district level will be lacking under a weighted student-based formula, as detailed above the individual schools themselves will enjoy greater autonomy and flexibility in addressing the individual needs of their students.

It is also not identification neutral, which may lead to the over-identification of disabled students. As explained above, when funding increases based on the number of disabled students, incentives exist to over-classify students as disabled. This is the primary reason Congress abandoned disability-based funding under IDEA. Federal funding under IDEA initially hinged on the number of disabled students in a state. Congress abandoned distribution formulas based on the number of disabled students served in 1999 because they feared over-identification of disabilities was resulting. These same concerns exist at the state and local level.

70 See Yearbook, supra note 42, at 2-3.
71 Id. at 3.
72 Id. at 2.
73 Id. at 4.
74 Id. at 4.
Option 2: Population-Based Funding

An alternative method for distributing MFP weighted funds to schools is to employ a formula approach based on overall student population at particular schools. In other words, districts could employ a distribution formula that divides MFP special education funds to schools based on the total number of students they serve, not based on the number of disabled students served. This is how federal IDEA funds are distributed to states and how states must distribute IDEA funds to school districts. The population-based approach was implemented because it provided a rough estimate of the number of disabled students served without creating incentives to mislabel children as disabled. This system has worked well for the distribution of federal funds to state and local educational agencies (districts) and should succeed at the school level as well.

A system that employs a formula based on overall student population at schools fulfills nearly all the criteria used to evaluate funding schemes. It is identification- and service-neutral, it is understandable and predictable, it imposes an easy reporting burden on individual schools (they need only report their student population), and it is connected to regular education funding (which also hinges on overall student population).

The disadvantage of this option, at least as compared to the weighted student-based formula, is that it does not create perfect equity between schools within a school system. For example, a disabled student in School 1 can expect to receive roughly equitable funding as a similarly disabled student in similarly sized School 2 in the same district only if the disability rates at the schools are the same. But if School 1 is comprised of 20% disabled students and School 2 is comprised of only 10% disabled students then students at School 1 will receive less funds per disabled student than disabled students at School 2. As shown above, schools in Louisiana have a large range of disability rates. This means schools with student bodies that have high disability rates will be under-funded while schools that have low disability rates will be over-funded. This disparity in funding, which does not exist in the weighted student-based formula, is the trade-off for employing an identification- and service-neutral formula.

Another disadvantage of a population-based distribution formula is that it lacks flexibility and in some cases may not provide adequate funding. Any formula will tie the hands and limit the discretion of school district expenditures. The greater risk, though, is that a population-based formula may leave certain students under-served. If a school within a district has a disproportionate number of disabled students or a disproportionate number of severely disabled students requiring expensive programs, the schools they attend may not receive adequate funding. This problem does not exist under a weighted student-based formula.

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75 20 U.S.C. § 1411(d) and (f) (West Supp. 2009).
The disadvantages of a population-based formula are dampened by the flow of federal IDEA funds. IDEA funds are provided to local educational agencies (districts) as a block grant with the only limitation that they be spent on the excess costs of educating disabled students. Any shortfall that results from a population-based distribution formula of MFP funds can be made up for with IDEA funds. If one school has a disproportionate number of disabled students or severely disabled students and its MFP allocation does not provide adequate funding, the district could allocate additional federal IDEA funds to that school. IDEA funds, therefore, can be used to minimize the negative effects on flexibility, adequacy and equity that inhere in a population-based distribution formula. It is possible, though, that federal IDEA funds may be insufficient to set-off any inequitable or inadequate disbursements.

It is important that under both formula options districts be allowed to withhold a portion of the MFP special education funds. Districts must be able to withhold certain funds to pay for oversight and administrative costs. They should also be able to reserve funds to assist schools that have a disproportionate number of disabled students or a disproportionate number of severely disabled students to ensure equity and adequacy. The holdback can also be used to take advantage of economies of scale. In short, it is important that districts retain some autonomy for the expenditure of a portion of state special education funds. Districts can better determine where an excess need for funding exists than a formula. It is difficult to recommend exactly what amount this district holdback should be, but it should certainly exceed a district’s administrative and oversight costs. IDEA utilizes a similar holdback system. It requires that states pass IDEA funds to districts but specifically permits states to retain a portion of the funds, roughly 10%, for limited purposes.

Formula Approaches Compared to the Discretionary Approach

It is difficult to compare and contrast the formula approaches recommended in this Report to the discretionary approach utilized by most Louisiana school districts because it is unknown how districts utilize their discretion. It is certain that the formula approaches are more understandable and predictable, both to individual schools and parents. Under a formula approach schools will know with relative certainty how much MFP weighted funds they can budget for based on student demographics. It is also certain that the formula approaches are less flexible and impose a higher reporting burden on individual schools than the discretionary approach, though the burden is minimal for a population-based formula.

A formula approach may also be more equitable and adequate, depending on how districts exercise their discretion. At the very least, a formula approach removes the perception of inequity that inheres in a discretionary and ad hoc approach to

distributing funds to schools. The discretionary approach based on school “need” is also not likely placement and identification-neutral. It is logical to presume, but not known with certainty, that districts at least consider the number of disabled students and expense of their placement at individual schools when considering their “need” for funding. If this is the case, then the population formula approach better advances placement and identification neutrality than the discretionary approach and the weighted student-based formula is at least no worse than the discretionary approach.

V. Conclusion

Special education funding schemes are complex and are constantly under review by the federal government and states. There is no such thing as a perfect funding formula because trade-offs between important interests necessarily exist. For example, the goal of identification neutrality in funding decisions stands in contradistinction to the goal of equitable and adequate funding. The goal of flexibility may also be mutually exclusive with equity. The difficulty in fashioning a special education funding system is not finding the perfect system but finding the funding scheme that best advances the interests important to the State and to disabled students. The recommendations in this Report try to draw a balance between the different interests served by funding mechanisms.

First, the State should impose a uniform method on districts to allocate MFP special education funds to advance the important interests of equity, transparency, planning and understandability. While a uniform system necessarily limits school district flexibility, this loss is clearly outweighed by the interests advanced by a standardized system. In addition, districts maintain their autonomy in spending federal IDEA monies, which limits the harmful impact of losing their flexibility in spending State MFP funds.

Second, districts should distribute MFP weighted funds for special education students to their schools utilizing a weighted student-based or population-based formula. Both methods fulfill the important goals of equity, adequacy, understandability, and predictability. The weighted student-based method better ensures adequacy and equity and is more in line with the recommendations of the Commission on Streamlining Government, while the population-based method better ensures identification and placement neutrality, low reporting burdens and a connection to general education funding. Both methods may be more adequate and equitable than the discretionary method employed by many districts but both also limit district flexibility. Federal IDEA funds allow districts to retain some flexibility for special education spending.

Under either formula, districts should be able to retain a portion of their MFP-allocated special education funds to spend in their discretion. While a funding scheme that grants full discretion to districts may fail many of the evaluation criteria, a system
that allows discretionary spending of part of the funds can ensure that the interests of adequacy, flexibility and equity are achieved. Districts need unfettered control over federal IDEA funds and a portion of MFP funds to ensure all these interests are advanced.