



State of the Union: Special Education

What is Affecting State Special Education
Leaders in 2023

JOHN EISENBERG - EXECUTIVE DIRECTOR

Founded in 1938

Mission:

To improve individual and organizational success for state leaders of special education by providing relevant services that guide positive systemic change and results thereby ensuring students with disabilities will live, learn, work and participate in their communities.



WHAT IS A STATE DIRECTOR OF SPECIAL EDUCATION?

In every state education department, including the US Territories, there is a leader who is responsible for ensuring the successful implementation of federal and state statutes and regulations governing the education of students with disabilities, to ensure they meet their post-secondary goals to live, learn, work and participate in their communities



PRIMARY OBJECTIVES OF THE ROLE:

- Increased graduation rates
- Closing achievement gaps
- Decreased disproportionality
- Qualified workforce at state and local levels

PRIMARY RESPONSIBILITIES

1. Creates, maintains, and leverages strong partnerships with authentic stakeholders and effectively communicates between political entities
2. Uses appropriate data to make decision and evaluate results
3. Targets technical assistance and professional development to identified needs
4. Creates policies aimed at results, equity, and compliance
5. Ensures state-level integration with general education
6. Manages fiscal processes and budget alignment with programs
7. Ensures effective results-driven monitoring
8. Ensures an effective system of dispute resolution

“So.... What is the
state of special
education? and...
What solutions
government
leaders can offer?”



Public education is facing a crisis of epic proportions

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Public education is facing a crisis of epic proportions

How politics and the pandemic put schools in the line of fire



By [Laura Meckler](#)

January 30, 2022 at 6:00 a.m. EST

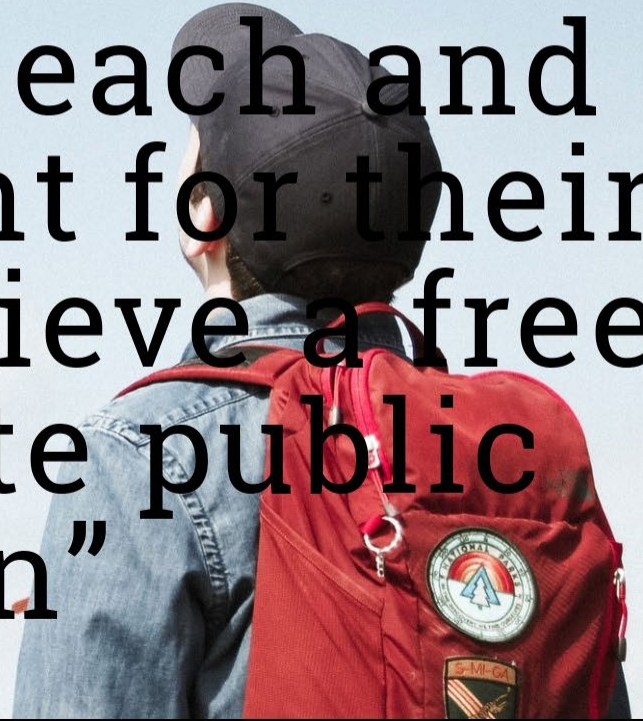


Fort L
Who D
DUTY



Game
Over?

“Over 7 million students with disabilities are counting on us each and every day to fight for their civil right to receive a free and appropriate public education”



Top Issues Identified by State Sped Leaders



#1: FULL FUNDING OF IDEA

Top 5 State Legislative Actions to Help Address Top Special Education Issues

- 1 | DEMAND FULL FUNDING OF IDEA FROM CONGRESS**
- 2 | EXPLORE ALTERNATIVE PATHS AND INCENTIVES FOR RETENTION AND RECRUITMENT OF SPECIAL EDUCATORS AND RELATED SERVICE PROVIDERS AT THE LOCAL AND STATE OFFICE LEVEL**
- 3 | INCREASE STATE INFRASTRUCTURE AND ACCESS FOR STUDENTS AND TEACHERS TO RECEIVE MENTAL HEALTH SUPPORTS**
- 4 | CREATE/ENHANCE PROGRAMS TO HELP FAMILIES NAVIGATE THE SPECIAL EDUCATION SYSTEM TO COLLABORATIVELY HELP RESOLVE DISPUTES**
- 5 | EXPLORE/ENHANCE STATE SUPPORT FOR STUDENTS WITH HIGH SUPPORT NEEDS**





Pandemic Fallout

EDUCATION DEFICITS: GAPS INCREASING



DROP IN MATH



DROP IN READING



GAPS BASED ON
POVERTY LEVELS



GAPS BASED ON RACIAL
GROUPS

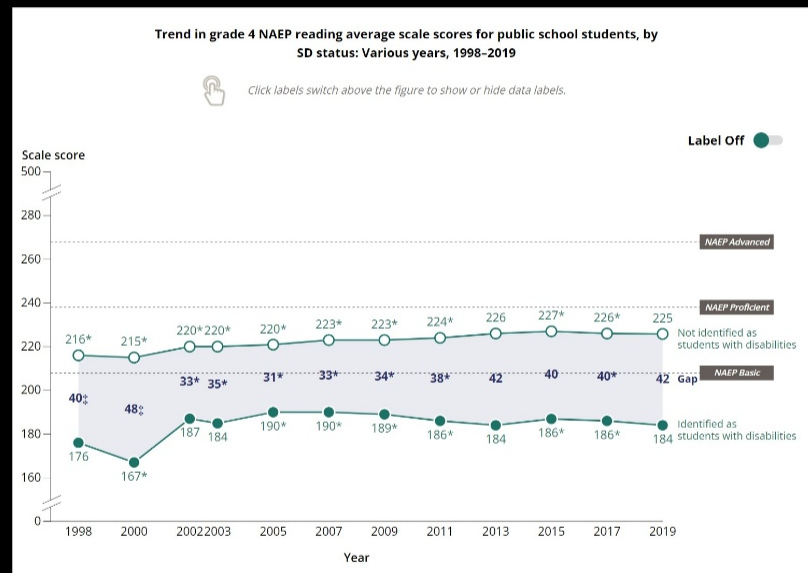
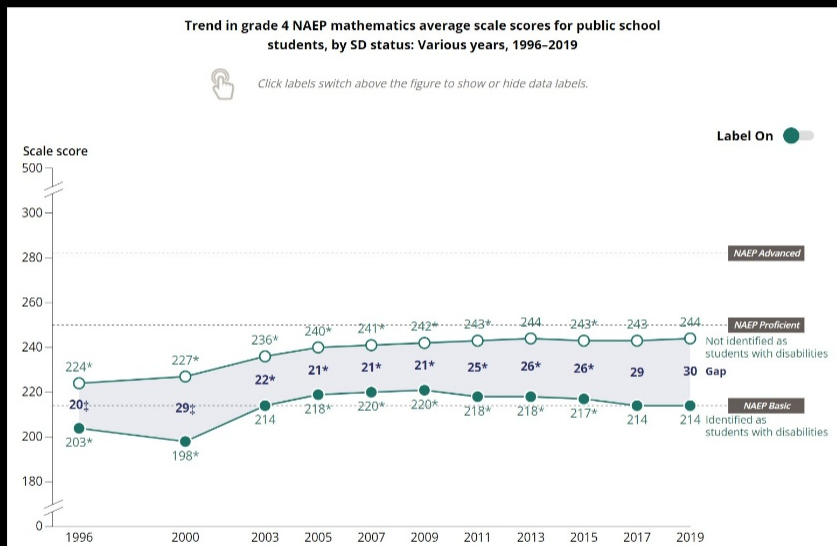


GAPS FOR SPECIAL
EDUCATION



“We are disappointed to see that scores have stagnated or dropped since 2012, and we are particularly concerned to see that results among the lowest-performing students have dropped,” - CCSSO

PERFORMANCE GAPS ON NAEP - SWD VS NON-DISABLED PEERS



THE MOST SIGNIFICANT DROP IN AVERAGE SCORES FOR STUDENTS WITH DISABILITIES CAME IN 8TH-GRADE MATH, WHICH DECLINED FROM 247 IN 2019 TO 243 IN 2022. GRADE 4 MATH SCORES FELL BY 2 POINTS, FROM 214 TO 212, AND GRADE 4 READING DROPPED BY ONE POINT, FROM 184 TO 183. THE 8TH-GRADE READING SCORE OF 229 STAYED THE SAME BETWEEN 2019 AND 2022.

State Government Ideas for Help

- **CREATIVE WAYS TO ADDRESS LEARNING LOSS - STATE SUPPORT, INCLUDING PARTNERSHIPS WITH LOCAL BUSINESSES AND VIRTUAL SERVICE PROVIDER**
 - ✔ Eliminate state barriers or requirements that block virtual service providers or local businesses from helping with learning recovery.
 - ✔ Sponsor pilot projects to test new models.
 - ✔ Enlist state funded universities to partner with local schools.
 - ✔ Enlist veterans organizations or civic organizations to assist with tutoring and mentoring.

**“LEARNING LOSS IN 2020 ALONE COULD
CUT STUDENTS' LIFE LONG INCOME BY
3%, LEADING THE US TO SEE A 1.5%
LOWER GROSS DOMESTIC PRODUCT
THROUGH THE END OF THE CENTURY”**

© OECD 2020

**PUBLIC SCHOOL
ENROLLMENT
DECREASING**



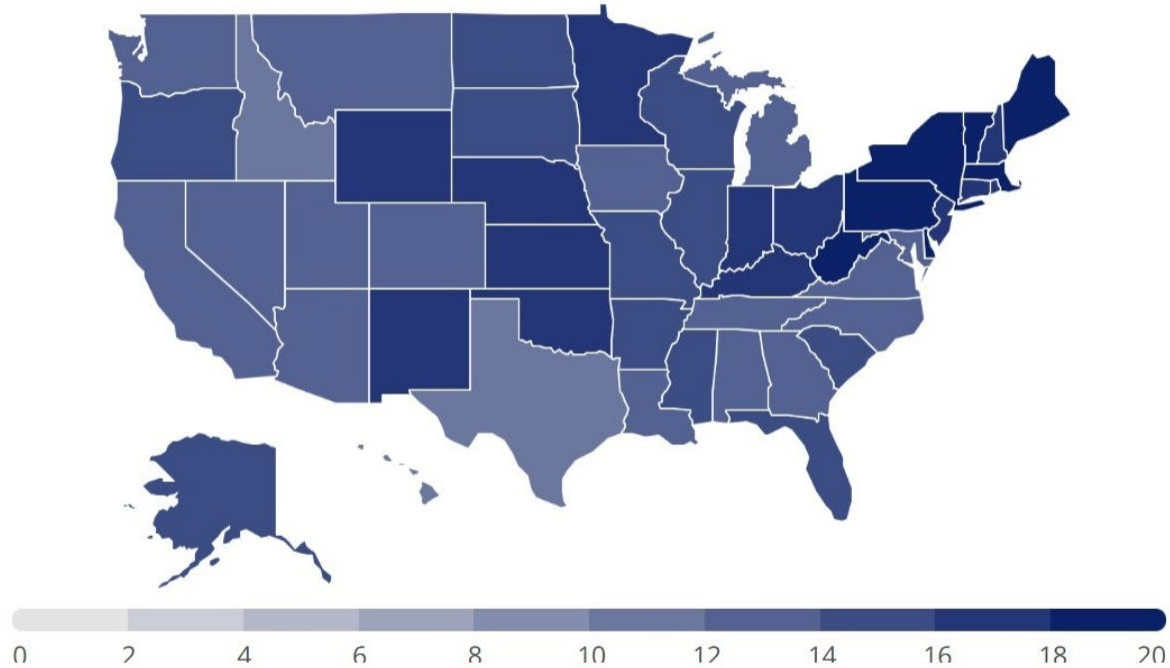
BY THE NUMBERS: FROM 2019-20 TO 2021-22

- ✓ - 710,513: THE DECREASE IN STUDENTS ENROLLED IN PUBLIC SCHOOLS.
- ✓ - 2.9%: THE DECLINE IN PUBLIC SCHOOL ENROLLMENT.
- ✓ 102,847: THE NUMBER OF NEW STUDENTS ENROLLED IN PRIVATE SCHOOL.
- ✓ 4.4%: THE GROWTH IN PRIVATE SCHOOL ENROLLMENT.
- ✓ 184,047: THE NUMBER OF NEW STUDENTS BEING HOMESCHOOLED.
- ✓ 30.4%: THE GROWTH IN HOMESCHOOLING ENROLLMENT.
- ✓ - 240,133: THE NUMBER OF "MISSING" STUDENTS – THAT IS, THOSE FOR WHOM ENROLLMENT LOSS IS UNEXPLAINED.
- ✓ - 183,486: THE DIP IN THE TOTAL SCHOOL-AGE POPULATION.
- ✓ 1/4: THE ESTIMATED PERCENTAGE OF THE PUBLIC SCHOOL ENROLLMENT DECLINE ATTRIBUTED TO INCREASED HOMESCHOOLED STUDENTS AND FEWER SCHOOL-AGED CHILDREN IN THE POPULATION.
- ✓ OVER 1/3: THE PORTION OF THE PUBLIC SCHOOL ENROLLMENT DECLINE LEFT UNEXPLAINED.

The Number of Students in Special Education Has Doubled in the Past 45 Years

THE TOTAL NUMBER OF STUDENTS IN SPECIAL EDUCATION WENT FROM 3.6 MILLION IN THE 1976-77 SCHOOL YEAR TO ALMOST 7.3 MILLION IN 2021-22. THESE STUDENTS COMPRISE 15 PERCENT OF THE K-12 STUDENT POPULATION ACROSS THE COUNTRY, NEARLY DOUBLE WHAT IT WAS IN THE LATE 1970S.

Percent of Students in Special Education by State



Note: The District of Columbia's percentage of students in special education is 16.1 percent.

SOURCE: National Center for Education Statistics, Common Core of Data (CCD), 2021-22.



Students with High Support Needs on the Rise

AUTISM

Students with autism comprised 12% of the nation's school children with disabilities in 2021-22, compared with 1.5% in 2000-01.

Staff needs to be trained in research-based teaching and behavioral methodologies. Interventions require a very transdisciplinary approach from specialists like nurses, speech therapists, Occupational Therapists, BCBA's, and Doctors.

DYSLEXIA & LEARNING DISABILITIES

32% of all students in special education, or about 2.3 million students, had a specific learning disability

Students require very specific methodologies that require fidelity of implementation like the Orton-Gillingham approach. It is very expensive and required many hours/years of training.

INTELLECTUAL DISABILITIES

6% had intellectual disability and 2% had multiple disabilities. Requests for intensive support, services, equipment, technology and specialized staff are in high demand

BEHAVIORAL DISABILITIES

Students with intense behavioral support needs are increasing especially in kindergarten.

Students often have multiple behavioral disorders and require specially trained behavioral supports like BCBA's.

State Government Ideas for Help

- **SUPPORTING STUDENTS WITH HIGH SUPPORT NEEDS**
 - ✔ Create partnerships with private providers such as specialized private special education schools to help support students with disabilities in their local community schools.
 - ✔ Re-examine state funding models that were based on old census/incident rates and create funding mechanisms that provide the true funding necessary to provide proven methods of interventions.
 - ✔ Examine teacher to student ratios for students with higher support needs.
 - ✔ Eliminate barriers to allowing virtual providers to support communities who don't have specialized support personnel such as speech therapists, school psychologists, special education teachers, and mental health providers.
 - ✔ Create oversight mechanisms to control costs for schools or programs that charge excessive tuition/fees to schools who have to place students out of district.
 - ✔ Partner with state funded universities to help provide supports and technical assistance to local schools.

MENTAL HEALTH CRISIS



Mental Health: Students

“THE YEAR THAT THEY WERE OUT OF SCHOOL WAS A YEAR THEY DIDN'T HAVE TO OPPORTUNITIES FOR DEVELOPING THE SOCIAL SKILLS THAT NORMALLY HAPPEN”

- **AMERICAN ACADEMY OF PEDIATRICS DECLARES AN EMERGENCY IN CHILD AND ADOLESCENT MENTAL HEALTH**

Fall of 2020

- **CHILDREN HOSPITAL ASSOCIATION: 40% GROWTH IN MENTAL HEALTH VISITS IN 2021**

47,000 Mental health visits

Mental Health: Educators

- **2020-2021 TEACHERS WERE ALMOST 3 TIMES MORE LIKE TO REPORT DEPRESSION THAN OTHER ADULTS**

Rand Survey

- **TWO-THIRDS OF TEACHERS REPORTED INCREASED CONCERN FOR EMOTIONAL EXHAUSTION, WHILE 3 OUT OF 5 REPORTED CONCERNS ABOUT ANXIETY**

Miami University of Ohio

- **NATIONWIDE POLL OF 3621 MEMBERS - 55% SAY THEY ARE MORE LIKELY TO LEAVE OR RETIRE FROM EDUCATION SOONER BECAUSE OF THE PANDEMIC AS COMPARED**

National Education Association

State Government Ideas for Help

- **IMPROVE STATE INFRASTRUCTURE ON MENTAL HEALTH.**
 - ✓ Eliminate state barriers or requirements that block virtual service providers.
 - ✓ Expand access to Medicaid funded service providers.
 - ✓ Require state health departments to develop strategic plans to address the mental health crisis.
 - ✓ Create easy-to-access mental health support for teachers and administrators.
 - ✓ Explore public-private partnerships with vendors who are helping to track and deploy services to students.
 - ✓ Create more partnership with communities in schools.



“Students with disabilities may be entitled to compensatory services if they did not receive appropriate evaluations or services during the COVID-19 Pandemic”

There is no regulatory requirement that requires or addresses the determination of the need for compensatory services by an IEP team, nor it is prohibited. In this unique situation, USED’s guidance encourages IEP teams to make determinations about whether and to what extent compensatory services may be needed.

OSEP POLICY LETTER 22-0 LETTER TO WOLFRAM





Special Education Teacher Shortages

The special education teacher shortage is at such a critical level, it's the biggest issue facing the National Association of State Directors of Special Education, said Executive Director John Eisenberg.

"We're seeing a crisis of epic proportions in the field of education in terms of shortages," said Eisenberg, a former Virginia state director of special education.



RELATED SERVICES PIPELINE TEACHERS
HIGHER EDUCATION
LEADERS RETENTION
BUS DRIVERS RETIREMENT SCHOOL PSYCHOLOGISTS
TURNOVER
RECRUITMENT

44%

Public schools
report full or
part-time
teaching
vacancies

NATIONAL CENTER FOR
EDUCATION STATISTICS
(NCES)

48

States report a
severe shortage
of Special
Education
Teachers

37

Thousand

ESTIMATED NUMBER OF NEW
SPECIAL EDUCATION
TEACHERS NEED BETWEEN
2020 AND 2030

THE BUREAU OF LABOR
STATISTICS

Top Reasons for Special Educator Turnover

1 | **PAY AND BENEFITS:
AVERAGE US
SALARY IS \$60,304**

2 | **LACK OF SUPPORT
FROM
ADMINISTRATORS
AND COLLEAGUES**

3 | **EXCESSIVE
PAPERWORK**

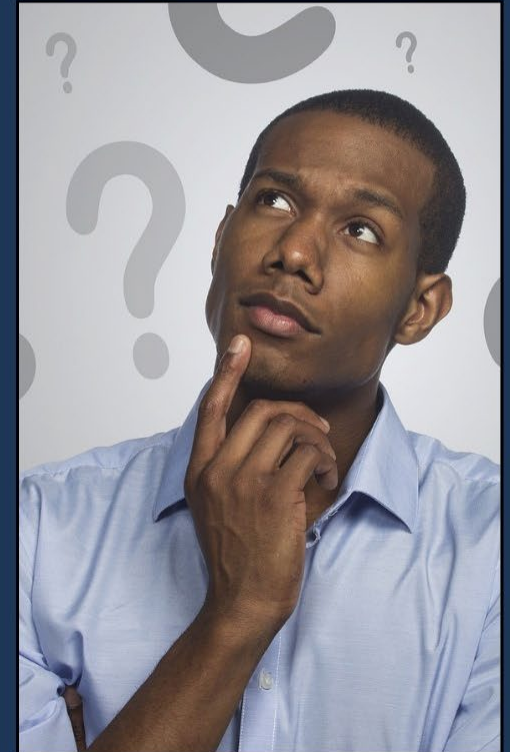
4 | **STUDENT BEHAVIOR**

5 | **ACCOUNTABILITY
REQUIREMENTS**

6 | **NEGATIVE PARENT
INTERACTIONS**

7 | **LARGE CASELOADS**

8 | **EXCESSIVE DUTIES
BESIDE TEACHING**



1

BETWEEN 2008 AND 2019, THE NUMBER OF STUDENTS COMPLETING TEACHER EDUCATION PROGRAM DROPPED BY 1/3

2

THE NUMBER OF STUDENTS ENROLLED IN TEACHER PREPARATION PROGRAMS IN MANY STATES DROPPED BY RATES AS HIGH AS 80% IN 2019

3

STEEPEST DECLINE IN ENROLLMENT WERE FOR PROGRAMS IN BILINGUAL EDUCATION, SCIENCE, MATH AND SPECIAL EDUCATION

4

PROGRAMS IN SEVERE DISABILITIES, VISION IMPAIRMENT, HEARING IMPAIRMENT, DEAF-BLINDNESS, AND SCHOOL PSYCHOLOGY HAVE ALL BUT DISAPPEARED IN MANY



Teacher Preparation Crisis

State Government Ideas for Help

- **EXPLORE A VARIETY OF METHODS FOR TEACHER RETENTION, RECRUITMENT, AND PREPARATION.**
 - ✔ Invest in "grow-your-own" models.
 - ✔ Create accelerated training programs to allow faster entry into classrooms that don't compromise quality of preparation.
 - ✔ Examine if there is pay disparities between special and regular education and ensure parity.
 - ✔ Streamline the state teacher certification process.
 - ✔ Reduce or eliminate unnecessary state requirements for add-on licensure requirements.
 - ✔ State funded signing bonuses tied to years of service requirements.
 - ✔ Sponsor pilot projects to test new models.
 - ✔ Pay student loans but add years of service requirements especially in hard to service areas.
 - ✔ Help support teacher raises/incentives for special educators - "combat pay" models.
 - ✔ Examine caseload standards that don't reflect best practices.
 - ✔ Explore ways to fund mentors for new and struggling special educators.
 - ✔ Explore cross-state and cross university models for teacher preparation.

POLITICS



Political Climate

Politics has permeated public schools in new and unprecedented ways



**LOCAL SCHOOL BOARDS
STATE SCHOOL BOARDS
STATE CHIEFS
US DEPARTMENT OF EDUCATION
PRESIDENTIAL POLITICS
CONGRESS
STATE LEGISLATURES
STATE GOVERNORS**

Top Political Issues

- **SCHOOL CHOICE:**

- Charter Schools
- Lab Schools
- Portable Education Savings Accounts
- Tax Credits

- **HEALTH AND SAFETY**

- Mask mandates
- Virtual vs. Face-to-Face

- **CULTURE WARS**

- Critical Race Theory
- Transgender Policies
- School Names
- Magnet, Gifted & Talented

- **PARENTAL RIGHTS**

- Curriculum Oversight
- Sensitive Materials/Books
- Cameras in Classrooms



State Government Ideas for Help

- **LIFT-UP EDUCATORS AS SEEN THEM AS PARTNERS FOR THE FUTURE WELL-BEING OF OUR ECONOMIC VIABILITY**
 - ✔ Sponsor state-run campaigns to inspire the creation of future teachers.
 - ✔ Provide recognition of local special education teachers and administrators who have accomplished positive outcomes for students.
 - ✔ Develop social media campaigns highlight positive stories where special education has helped students and families achieve outcomes.
 - ✔ Assist State Departments with the support, resources, staff and funding they need to provide the required oversight and implementation of special education.



Office of Special Education Programs
U.S. Department of Education

US Department of Education Shifts to Hyper Focus on Compliance

REVISED FEDERAL MONITORING PRIORITIES

- DMS 2.0 - back to cyclical monitoring
- Backtracking focus on results - lack of any focus on students outcomes
- Belief that state departments of education have utterly failed to monitor local school divisions
- New expectations that states will do massive onsite reviews of LEAs
- Parents and advocate complaint calls are to be believed and investigated immediately regardless of merit
- Section 504 compliance

OFFICE OF CIVIL RIGHTS

- Highest level of activity investigations in years - hyper aggressive
- Disability issues the highest of all investigations
- Section 504
- Pandemic Special Education Comp Ed
- Accessibility
- Equity

GUIDANCE DOCUMENTS AND PRIORITIES

- Transition
- Equity
- Discipline
- Parent complaints

CORRECTIVE ACTION

- States being required to redesign entire dispute resolution systems
- Keep adding on to corrective actions - almost impossible to close out
- Takes close to a year or more to get feedback on submitted documents
- Focus on "Red" states

Shift Back to Compliance Focus

GENERAL SUPERVISION: IDEA

1 | **STATE PERFORMANCE PLAN**

2 | **POLICIES, PROCEDURES, &
EFFECTIVE
IMPLEMENTATION**

3 | **INTEGRATED MONITORING
ACTIVITIES**

4 | **FISCAL MANAGEMENT**

5 | **DATA ON PROCESSES &
RESULTS**

6 | **IMPROVEMENT,
CORRECTION, INCENTIVES &
SANCTIONS**

7 | **EFFECTIVE DISPUTE
RESOLUTION**

8 | **TARGETED TECHNICAL
ASSISTANCE & PD**

Top National Issues in General Supervision of IDEA



1 DISCIPLINE OF STUDENTS WITH DISABILITIES

2 ELIGIBILITY DELAYS INCLUDING RE-EVALUATION

3 ACHIEVEMENT GAPS INCREASING

4 IEPS: POORLY WRITTEN & OUT OF COMPLIANCE

5 LACK OF REQUIRED TRANSITION PLANNING

6 OVERUSE OF RESTRAINT AND SECLUSION

7 DISPROPORTIONALITY BY RACE/ETHNICITY

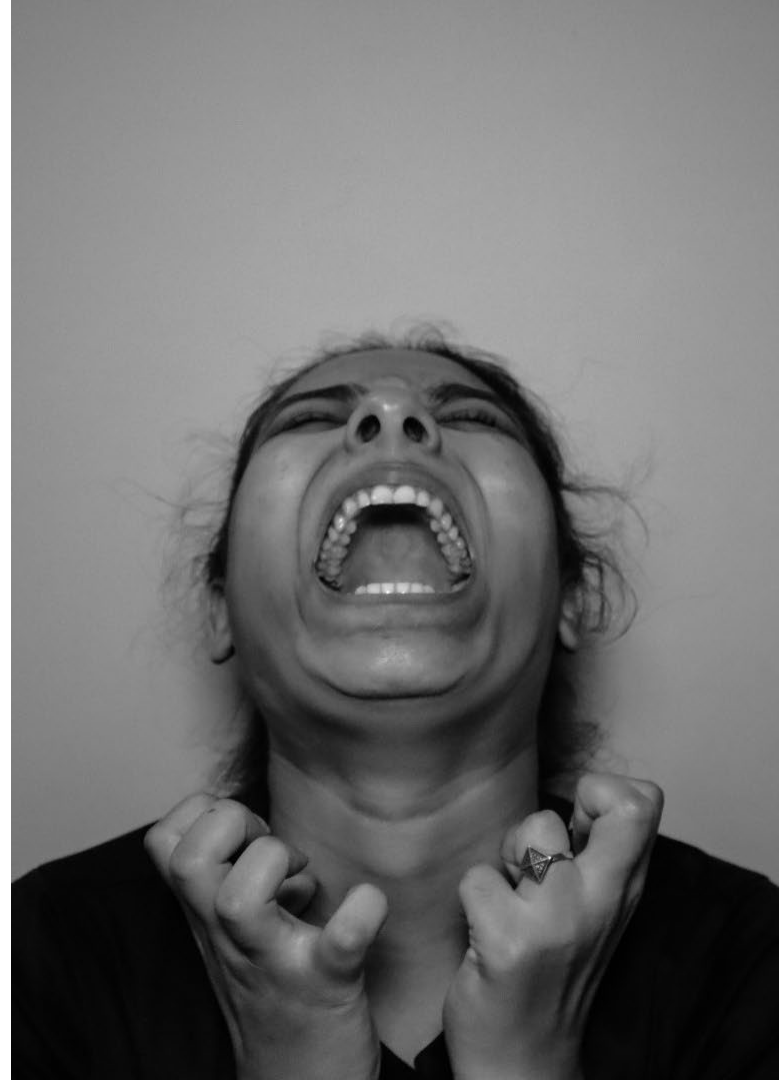
8 MONITORING OF LOCAL SCHOOL DISTRICTS

State Government Ideas for Help

- **DEMAND THE FEDERAL GOVERNMENT LIVE UP TO ITS RESPONSIBILITIES TO FULLY FUND SPECIAL EDUCATION**
 - ✔ Work in concert with your Governor, Senators and Congressman to create a gliding path to full funding of IDEA (Currently they only fund at 15% of the promised 40%)
 - ✔ Demand that presidential nominees understand the needs of states and local districts when it comes to special education.
 - ✔ Pushback on federal overreach by the US Department of Education.
 - ✔ Get briefed on the major shift back to compliance and a less focus on student outcomes and what it means for your state department of education and local school districts.

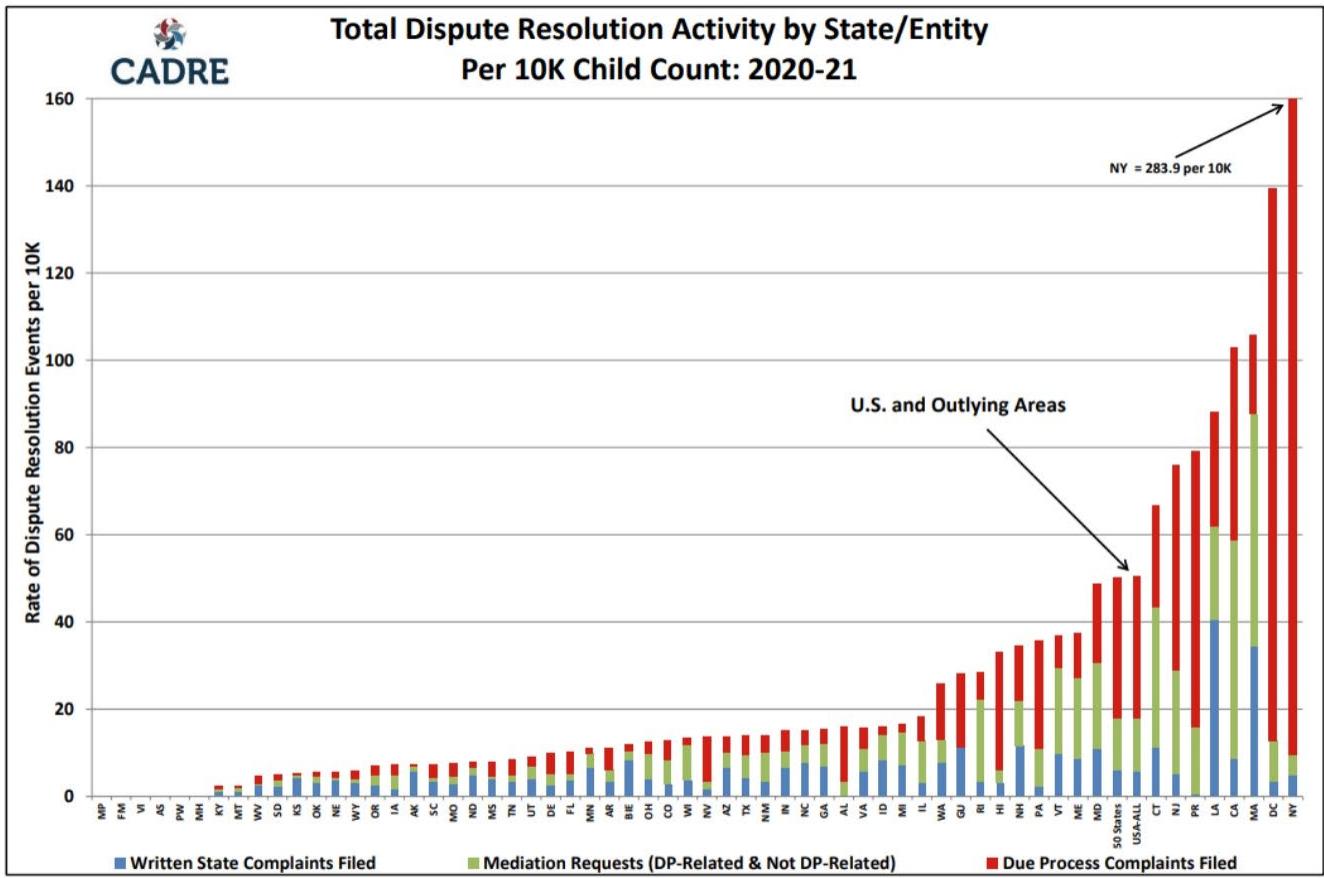


"Special Education Complaints, Due Process, and Mediations requests are increasing exponentially post covid and overwhelming state departments of education"



IDEA PART B DISPUTE RESOLUTION PROCESSES COMPARISON CHART

	MEDIATION	DUE PROCESS COMPLAINT	RESOLUTION PROCESS	STATE COMPLAINT
Who can initiate the process?	Parent or LEA/Public Agency, but must be voluntary for both	Parent or LEA/Public Agency	LEA schedules the resolution meeting upon receipt of a due process complaint unless the parties agree to waive or use mediation	Any individual or organization, including those from out of state
What is the time limit for filing?	None specified	2 years of when the party knew or should have known of the problem (or a State law specified timeline) with limited exceptions ¹	Triggered by a parent's due process complaint	1 year from the date of the alleged violation
What issues can be resolved?	Any matter under Part 300, including matters arising prior to the filing of a due process complaint (there are exceptions) ²	Any matter relating to the identification, evaluation or educational placement or provision of a free appropriate public	Same as the issues raised in the parent's due process complaint	Alleged violations of Part B of IDEA or Part 300



The table below displays the data represented in the chart above. The states/entities are ranked, from least to most, on the number of total events and rate of occurrence for each type of dispute resolution event.

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State/Entity	Total Events per 10K	State/Entity	Total Events per 10K	State/Entity	Total Events per 10K	State/Entity	Total Events per 10K
MP	0.0	AK	7.4	AZ	13.8	PA	35.9
FM	0.0	➡ SC	7.4	➡ TX	14.0	VT	37.0
VI	0.0	MO	7.8	NM	14.1	ME	37.4
AS	0.0	ND	7.9	IN	15.3	MD	48.8
PW	0.0	➡ MS	7.9	➡ NC	15.3	50 States	50.2
MH	0.0	➡ TN	8.4	➡ GA	15.5	USA-ALL	50.6
➡ KY	2.4	UT	9.1	AL	15.9	CT	66.7
MT	2.6	DE	10.1	➡ VA	15.9	NJ	76.0
➡ WV	4.8	➡ FL	10.4	ID	16.0	PR	79.1
SD	5.1	MN	11.0	MI	16.5	➡ LA	88.3
KS	5.4	➡ AR	11.3	IL	18.2	CA	102.9
➡ OK	5.6	BIE	12.0	WA	25.8	MA	105.9
NE	5.6	OH	12.5	GU	28.0	DC	139.5
WY	5.9	CO	12.9	RI	28.4	NY	283.9
OR	7.0	WI	13.3	HI	33.0		
IA	7.2	NV	13.5	NH	34.6		

Levels of Intervention	Prevention	Disagreement	Conflict	Procedural Safeguards	Legal Review													
Assistance/ Intervention Options	Family Engagement	Participant & Stakeholder Training	Stakeholder Council	Collaborative Rule Making	Parent to Parent Assistance	Case Manager	Telephone Intermediary	Facilitation	Mediation Models	Ombudsperson	Third Party Opinion/Consultation	Resolution Meeting	Mediation Under IDEA	Written State Complaints	Due Process Hearing	Hearing Appeal (Two-Tier Systems)	Litigation	Legislation
Dimensions that help clarify placement of the options along the	Third-Party Assistance											Third-Party Intervention						
	Decision Making by Parties											Decision Making by Third-Party						
	Interest-Based											Rights-Based						

State Government Ideas for Help

- **IDEAS FOR DEALING WITH DISPUTES**

- ✓ Create additional methods of outreach and support to families of students with disabilities who are traditionally underserved.
- ✓ Provide state support to Special Education Parent Resource Centers .
- ✓ Provide enhanced mediation services to solve disputes.
- ✓ Create or enhance funds for special education parent ombudsmen positions at the state and local level.
- ✓ Increase state department staff in special education departments to help handle all the increase in complaints and due process.
- ✓ Provide additional training and technical assistance on how to enhance true collaboration with families with students with special needs.