

## #1 - THE HISTORY OF FEDERAL GOVERNMENT IN PUBLIC EDUCATION: WHERE HAVE WE BEEN AND HOW DID WE GET HERE

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### Where Have We Been?

From the very beginning of our Republic, a well-educated citizenry was thought to be essential to protect liberty and the general welfare of the people. Even before the Constitution was established, the Land Ordinance of 1785 and the Northwest Ordinance of 1787 included responsibilities of the nation for an education system. Education has long been considered a national concern by the federal government. Through federal action, education has been encouraged and financially supported from the first Northwest Ordinance in 1785 to the present. Article 1, Section 8 of the Constitution granted Congress the power to lay and collect taxes to provide for the general welfare of the United States. It is under this “general welfare” clause that the federal government has assumed the power to initiate educational activity in its own right and to participate jointly with states, agencies and individuals in educational activities.

During the first century of our new nation, Congress granted more than 77 million acres of the public domain as an endowment for the support of public schools through tracts ceded to the states. In 1841, Congress passed an act that granted 500,000 acres to eight states and later increased land grants to a total of 19 states. The federal government also granted money, such as distributions of surplus federal revenue and reimbursements for war expenses, to states. Though Congress rarely

prescribed that such funds be used only for schools, education continued to be one of the largest expenses of state and local governments so the states used federal funds whenever possible for education.

Two of our constitutional amendments played an important role in public education. In 1791, the 10<sup>th</sup> Amendment stated, “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” Public education was not mentioned as one of those federal powers, and so historically has been delegated to the local and state governments.

In 1868, the 14<sup>th</sup> Amendment guaranteed rights to all citizens by stating, “all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens in the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the law.”

Included below is a brief historical overview of federal involvement in public education.

### HISTORY OF THE ROLE OF THE FEDERAL GOVERNMENT IN PUBLIC EDUCATION: TIMELINE

Event	Date	Explanation
Land Ordinance & Northwest Ordinance	1785/1787	Requirement of a system of public education to be established in each township formed under a specified formula. Regulated monies raised via taxes and selling or renting land.
Land Grants	1841/1848	Congress granted 77+ million acres of land in the public domain as endowments for support of schools. Federal government also granted

		surplus money to states for public education.
Early philosophy – first six presidents		Discussion of a national university and urging of federal involvement in public education. Seen as critical to preparation for citizenship in a republican form of government.
First Morrill Act otherwise known as the Land Grant Act	1862	Donated public lands to states to be used for the endowment to support and maintain at least one college with specific purpose of teaching branches of agriculture, mechanic arts and industrial education.
The original Department (Office) of Education established	1867	Began to collect data – information on schools and teaching that would help states establish effective school systems.
Second Morrill Act	1890	Gave the Office of Education responsibility for administering support for the original system of land-grant colleges.
Smith-Hughes Act	1917	Promoted vocational schools
Lanham Act	1941	Eased the burden on communities affected by presence of military and federal installations: payments to school districts.
Impact Aid laws	1950	
GI Bill	1944	Provided post secondary education assistance to GIs returning from World War II
George-Barden Act	1946	Provided funding for agricultural, industrial and home economics training for high school students
National Defense Education Act	1958	In response to Soviet Sputnik. NDEA included support for loans to college students in science, mathematics and foreign languages.
Elementary and Secondary Education Act	1965	Established comprehensive set of programs including Title I of federal aid to disadvantaged.
Title IX	1972	Prohibited discrimination in education based on gender.
Section 504 of the Rehabilitation Act	1973	Prohibited discrimination based on disability.
Department of Education cabinet level agency	1980	Recognized the important role of public education in our country.
Educational Testing Service (ETS) and NAEP	1983	Federal government transferred responsibility for administering the National Assessment of Educational Progress (NAEP) to ETS: the nation's report card.
Nation at Risk	1983	Report indicating that the USA was falling behind in education achievement.
President G.H. Bush	1989-1992	“Indian Education Bill of Rights” K-12 Drug awareness model Advisory committee on Hispanic education America 2000 education reform program

		Work began on national standards
President W. Clinton	1993-1999	Academics 2000 offered grant to states / local school districts for innovation. Teach for America.
President G.W. Bush	2001-2008	Reauthorization of ESEA –No Child Left Behind.
President Barack Obama	2009 -	President Obama’s Blueprint for Reform – Reauthorization of ESEA. Race to the Top: Grants awarded to states with innovative ideas that accepted the Common Core Standards.

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## #2 - COMMON CORE STANDARDS

Students who move from one part of the United States to another during their K-12 school careers are likely to encounter substantial variations in requirements for graduation. The Common Core Standards Initiative (CCSI, 2010) stated: “We need standards to ensure that all students, no matter where they live, are prepared for success in postsecondary education and the workforce. Common standards will help ensure that students are receiving a high quality education consistently, from school to school and state to state. Common standards will provide a greater opportunity to share experiences and best practices within and across states that will improve our ability to best serve the needs of students.”

Currently, standards for student performance vary widely by state. The roots of current state-to-state inconsistencies lie in the fact that public education in the United States has traditionally been a local responsibility. However, textbook publishers have created something of a “de facto” national curriculum, based on market needs. Consequently, many textbooks from major publishers have reflected the curricular choices that were made by educational groups in the largest states. Some publishers do create textbooks and other curricula for smaller markets.

Rothman (2009) summarized the efforts of various groups to create common standards across the

United States. Initial efforts to foster development of national standards and a related system of assessments in the core subject areas began in the early 1990’s through awarding grants to a dozen national organizations.

The National Governors Association (NGA) and the Council of Chief State School Officers (CCSSO) launched the Common Core State Standards initiative in March 2009 after the nation's governors agreed in concept to adopt a uniform set of standards. The final report was issued on June 2, 2010 (NGA, 2010), and, by early 2011, 40 states have adopted the Standards. The adopting states are currently aligning them to their own state standards.

The Fordham Institute (Carmichael, et al. 2010) reported that the Common Core standards received high marks when compared to state standards across the country. The Institute suggests that Common Core Standards represent an opportunity for creating consistency and raising standards in all states.

### ASSESSMENTS

The implementation of the federal No Child Left Behind Act of 2001 has created a 50-state and 50-test environment in public education. As a result state-to-state expectations and performances vary greatly. States publish annual reports of Adequate Yearly Progress (AYP), which are required by

federal law, but the meaning of “proficient” in those reports can vary widely from one state to another (Cronin, et al. 2007).

Larger testing companies market a variety of norm-referenced standardized tests. However, they are designed to rank students, rather than to determine how well students have mastered curricular objectives as criterion-referenced tests would do. The National Assessment of Educational Progress (NAEP) publishes results that are technically adequate for state-to-state (and international) comparisons, but that assessment is not designed to produce individual student scores. NAEP requires a large sample of students to produce results. Most school systems are too small to qualify for testing that would produce local NAEP results. The tradition of local governance has led to inconsistent requirements and standards for student performance across the country. Thus, in 2010, the United States does not have a consistent set of academic assessments for grades K-12.

Two coalitions, together representing 44 states and the District of Columbia, won a U.S. Department of Education competition for \$330 million dollars federal aid to design “comprehensive assessment systems” aligned to the Common Core and designed to measure whether students are on track for college and career success. The awards, announced in September 2010, were divided between the Partnership for Assessment of Readiness for College and Careers (PARCC), comprised of 26 states receiving \$170 million, and the SMARTER Balanced Assessment Consortium that comprises 31 states and received \$160 million. At least 12 states participated in both coalitions and are waiting to decide which assessment system will best meet their needs. An advantage of having assessments that are used in more than one state is that results from all participating states could be compared.

### **WHY NOT NATIONAL STANDARDS OR ASSESSMENTS?**

The most common arguments against adopting the Common Core Standards for K-12 center on two issues: 1) the cost and difficulty of changing the

existing curriculum and assessments and (2) the sovereignty of states in issues related to education and local control. Governor Rick Perry of Texas stated that the Race to the Top funding would only generate a one-time amount of \$75 per student, yet cost Texas taxpayers an additional \$3 million. A third argument is that the individual state standards might be more rigorous. However, states that adopt the Common Core are permitted to add 15 percent more in content.

Another concern is the potential to use scores from the student assessments as a major component of teacher evaluations and merit pay plans, an idea that has popular appeal. (*TIME*, 2010). In August 2010, ten of the nation’s premier educational researchers (Baker, Barton, Darling-Hammond, Haertel, Ladd, Linn, Ravtich, Rothstein, Shavelson & Shepard, 2010) co-authored a report that cautioned against relying on student test scores as a major indicator for evaluating teachers, citing the technical problems associated with using scores from standardized student assessments in value-added statistical models.

### **DOES THE UNITED STATES NEED A NATIONAL CURRICULUM?**

The U.S. Department of Education presents the view that, since the developers of the Common Core Standards and the proposed assessments have been groups with state representation rather than the federal government, neither program is a federal initiative. (U.S. Department of Education, 2010, March 13). In March 2011, the Albert Shanker Institute issued a call for common curriculum guidelines (Albert Shanker Institute, 2011; Gewertz, C. 2011, March). This document voices the concern that common assessments are being developed from the common standards with no curriculum in between. In May 2011, another group published an article with a different view: “Closing the Door on Innovation: Why One National Curriculum is Bad for America” (2011), discussed by Gewertz, C. (2011, May). The article also cites the prohibition against a federal curriculum contained in the 1965 ESEA.

## REFERENCES

- Albert Shanker Institute. (2011, March 7). A call for common content: Core curriculum must build a bridge from standards to achievement. Retrieved from <http://www.ashankerinst.org/curriculum.html>
- Baker, E.L., Barton, P.E., Darling-Hammond, L., Haertel, E., Ladd, H.F., Linn, R.L., Ravitch, D., Rothstein, R., Richardson, R.J. & Shepard, L.A. (2010, August). EPI briefing paper: Problems with the use of student test scores to evaluate teachers. Retrieved from Economic Policy Institute: [http://epi.3cdn.net/b9667271ee6c154195\\_t9m6ii8k.pdf](http://epi.3cdn.net/b9667271ee6c154195_t9m6ii8k.pdf)
- Carmichael, S. M., Martino, G., Porter-Magee, K. & Wilson, W.S. (2010, July). The state of state standards--and the Common Core--in 2010. Retrieved from [http://www.edexcellencemedia.net/publications/2010/201007\\_state\\_education\\_standards\\_common\\_standards/SOSSandCC2010\\_FullReportFINAL.pdf](http://www.edexcellencemedia.net/publications/2010/201007_state_education_standards_common_standards/SOSSandCC2010_FullReportFINAL.pdf)
- "Closing the Door on Innovation: Why One National Curriculum Is Bad for America." Retrieved from [http://www.k12innovation.com/Manifesto/\\_V2\\_Home.html](http://www.k12innovation.com/Manifesto/_V2_Home.html)
- Common Core Standards Initiative. (2010). Common Core Standards Initiative. Retrieved from <http://www.corestandards.org>
- Cronin, J., Dahlin, M., Adkins, D. & Kingsbury, G.G. (2007, October). The proficiency illusion. Retrieved from <http://www.edexcellence.net/publications-issues/publications/theproficiencyillusion.html>
- Gewertz, C. (March 7, 2011). Leaders call for shared curriculum guidelines. Retrieved from <http://www.edweek.org/ew/articles/2011/03/09/23curriculum.h30.html?tkn=SONFPm%2FzvbaH3lJupk0%2FYdzDaTb7O0ajGL04&cmp=clp-edweek>
- Gewertz, C. (May 9, 2011). Conservative 'Manifesto' Blasts Shared Curriculum, Tests. Retrieved from [http://blogs.edweek.org/edweek/curriculum/2011/05/conservative\\_manifesto\\_blasts.html](http://blogs.edweek.org/edweek/curriculum/2011/05/conservative_manifesto_blasts.html)
- Rothman, R. (2009, December 19). Common Standards: The time is now. Issue Brief. P.5. Retrieved from <http://www.all4ed.org/files/TheTimeIsNow.pdf>
- TIME. (2010, September 9). TIME poll results: Americans' views on teacher tenure, merit pay, and other education reforms. Retrieved from <http://www.time.com/time/nation/article/0,8599,2016994,00.html>
- U.S. Department of Education. (2010, March 13). Elementary and Secondary Education: ESEA reauthorization: A blueprint for reform. Retrieved from <http://www2.ed.gov/policy/elsec/leg/blueprint/index.html>

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## **#3 - ROLE OF THE FEDERAL GOVERNMENT IN PUBLIC EDUCATION: WHERE ARE WE NOW AND THE IMPACT UPON EARLY CHILDHOOD EDUCATION**

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The United States has changed dramatically since the early debates on public schools. The responsibility for education for the common good

shifted from mainly local control to state control. Now, in 2011, attention is coming from the federal

government and national organizations to control standards.

Congress is currently in a debate and stalemate over the reauthorization of the Elementary and Secondary Education Act (1965 ESEA, reauthorized as “No Child Left Behind” in 2001). Major issues include the purpose and role of the federal government in public education.

Pro: An increased role of the federal government in education ensures equal education opportunities for all children across the country, so that we will be better prepared to compete globally. The federal government has always had a part in distributing funding to state and local school districts for specific needs, so there will be more consistency across the districts and states.

Con: Education has traditionally been a local and state issue. An increased role of the federal

government will add to the number of unfunded federal mandates (laws passed with no monetary support). Decisions at the local level best serve the needs of students in the local area.

### FUNDING FOR EARLY CHILDHOOD EDUCATION

This Brief covers the reasons for the federal role in public education relating to early childhood, the importance of parent education, and the pros and cons related to federal intervention in early childhood education.

The National Association for the Education of Young Children (NAEYC) creates standards and guidance for early childhood providers across the country. Their position statements promote and endorse an integrated, well-financed system of early care and education for the learning and development of all children, including children in poverty.

### TIMELINE OF MAJOR FEDERAL PROGRAMS FOR EARLY CHILDHOOD UP TO 2010

Title	Year	Purpose
Head Start	1965	Funded by U.S. Dept. of Health and Human Services to provide children from low-income families free access to early education. It also includes children who are at risk and with disabilities.
Even Start Title I, Part B.	1988	Integrated early childhood education to low-income parents for children birth through age 7, integrating adult education and early childhood learning with family literacy programs.
Early Head Start	1995	Funded programs for low-income families supporting 2 generations, usually mothers and infants and toddlers.
Title I of Elementary and Secondary Education Act (ESEA)	Many revisions since 1965	Local education agencies apply to state agencies for approval of the program that is subsequently funded by the federal government.
No Child Left Behind (NCLB)	2001	Promotes the use of Title I, Part A, to fund pre-school programs, recognizing the importance of preparing children for entering school with language, cognitive and early reading skills.
Early Reading First	2002	Extends the goals of NCLB under Reading First to preschoolers.
Special Education preschool grants and state grants programs 3-5	2002	Part of Individuals with Disabilities Education Act (IDEA) funding for preschool students ages 3 to 5.
Special Education Grants	2007	Part C of IDEA (birth to 2 for children with disabilities)

for Infants and Families		
Child Care Development Fund (CCDF)	Many revisions since 1990	The Child Care and Development Fund assists low-income families, families receiving temporary public assistance, and those transitioning from public assistance in obtaining child care so they can work or attend training/education.

**Pros:** From an economic standpoint, achieving equity builds lasting value. Heckman’s (2010) research shows that inequality in the development of human capabilities produces negative social and economic outcomes at every level and can be prevented by the proper investment in people. Early childhood education, particularly for disadvantaged children and their families, levels the playing field to provide equal opportunities for success. Every dollar invested in early childhood education returns ten cents on the dollar annually for the life of a child, a 10 percent per year return on investments. Furthermore, solid economic returns are possible, providing investments come early and are comprehensive, cohesive, and sustained over time,

because it shapes the future and builds equity. Heckman warns that investing later chains us to fixing the missed opportunities of the past that are very costly. Heckman’s research clearly documents the impact of quality early childhood education upon later success in school, and beyond, in health and in economic advantages for society in general.

**Cons:** Reasons against the federal involvement in early childhood basically come from providers of childcare centers as well as legislators. Some argue that universal preschool will be too expensive to support and that it will take away funding for K-12 grades. Educators who own and manage private preschools raise concerns that parents will choose “free” preschools instead of private ones.

## REFERENCES

Heckman, J.J. (2010, December). Invest in early childhood development: Reduce deficits, strengthen the economy. Retrieved from <http://www.heckmanequation.org>

Education Liberty Watch (March 20, 2011). Retrieved from <http://edlibertywatch.org/2011/03/studies-on-effectiveness-of-early-childhood-programs/>

Read more contrasting viewpoints: <http://www.brighthub.com/education/early-childhood>  
<http://edlibertywatch.org/2011/03/studies-on-effectiveness-of-early-childhood-programs/d/articles/47611.aspx#ixzz1FZSLiX8>

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## #4 - THE ROLE OF THE FEDERAL GOVERNMENT IN PUBLIC EDUCATION: EQUITY AND FUNDING

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Public school funding comes from many sources – federal, state and local taxes as well as grants provided by both governmental and nongovernmental agencies. The federal government adds less than 10 percent to local education budgets, yet it contributes significantly to the rules for how the funding is used. Additionally, the United States invests 5 percent of the GDP in public education.

Nearly half of the k-12 education funding in the United States is intended to come from the states, drawn from a combination of income taxes, fees and other taxes. However, some states resemble Illinois, where the state’s share is only 27 percent. The remainder usually comes from local property taxes.

## **EQUITY**

States that rely heavily on property taxes to fund education tend to have large inequities in school funding, which mirror the inequity of wealth in society-at-large. Hurst (2007) noted that inequities in wealth stem from the fact that wealthy people earn much of their income from investments and/or inherited funds, while the poor earn all of their income from jobs and they spend it on food, shelter, transportation, etc. In the United States, the wealthiest 20 percent own 84 percent of the total wealth.

Inequities in school funding reflect housing patterns. During the past 50 years since *Brown vs. Board of Education*, schools have become re-segregated (Ladson-Billings, 2006). Currently, three-fourths of the Black and Latino/a students attend schools that are predominately non-white.

## **ADEQUACY**

Since, 1990, rather than looking at equity, most lawsuits have focused on adequacy—whether a state is providing local districts with just enough funding and resources to give all students a basic education. Odden and Picus (2008) developed a model calculating the cost of an adequate education. They defined an adequate education as one that includes factors such as a full-day kindergarten, core class sizes of 15 for grades K-3, 25 for grades 4-6 and specialist teachers. The cost of an adequate education varies. For instance, more money is needed to educate students from impoverished communities and students with special needs.

## **FUNDING PRIORITIES**

When schools are not funded adequately, this has a long-lasting impact. For instance, Darling-Hammond (2010) noted that dropouts cost the country at least \$200 billion a year in lost wages and taxes, costs for social services and crime. Since the 1980s, national investments have spent three times more on the prison system than on education. Data show that the national average for educating a child is \$9500, while it costs \$43,000 per year to keep a person incarcerated. With 5 percent of the world's population in the United States, we house

25 percent of the world criminals (Kang & Hong, 2008).

## **NO CHILD LEFT BEHIND (NCLB)**

In 2001, President George W. Bush signed the reauthorization of Elementary and Secondary Education Act, “No Child Left Behind,” which was intended to close achievement gaps, particularly for minority children. However, data from the National Assessment of Educational Progress (NAEP) reveal that scores were higher in math and reading for minority students before NCLB. One provision of NCLB permitted parents to remove a student from a low-performing school and transfer to another, better performing school. They would receive a voucher which would pay some of the cost of attending another school – public or private. Additionally, courts and education agencies stepped in to “remediate.” The sanctions imposed by NCLB had the effect of punishing or threatening punishment to low-performing schools and teachers, sending them the message that they were incompetent and that they should not have the right to make decisions about how to educate students. Studies (Reeve, 2009) showed that threatening public schools and teachers with punishment had harmful effects on students who remained in the public schools.

Supporters of NCLB appreciate the increase in accountability for schools and teachers as well as the focus on low scoring sub-groups. Critics of NCLB decry the lack of federal funding for many of the Act's mandates, the emphasis on penalties, the reliance on standardized tests, and the lack of attention to gifted students as well as to subjects such as science, social studies and the arts. One goal of NCLB has been to offer choice to parents whose children attend poorly performing schools. However, large-scale studies of voucher school students have revealed little difference in their performance compared to public school students with similar backgrounds, and having vouchers has not raised the performance of the most needy students (Rouse & Barrows, 2009). Furthermore, many (Holland, 2011) argue that the NCLB goal of 95 percent of students meeting state standards in reading and math by 2014 is unrealistic.

## RACE TO THE TOP (RTTT)

Race to the Top was signed into law by President Barack Obama in 2009. This program shifted the basis of awarding funds to emphasize competition. Competitive grants reward reform planned in the winning states. Funding is flexible as long as states demonstrate grant dollars are aligned with the agenda outlined in their winning applications. Only twelve states received funding through RttT.

Two of the requirements met by states that received RttT funding were (1) improving teacher and principal effectiveness based on performance and (2) lifting the cap on the number of charter schools that could be created.

While both these funding requirements can be effective, neither is foolproof, and each addresses only one part of the problems schools face. For instance, research studies show that promising increased pay based on teacher effectiveness is not an effective incentive. Furthermore, research showed there is a problem when teacher performance evaluation is based only on student scores in standardized tests (Springer et. al. 2010).

## REFERENCES

Center for Research on Education Outcomes. (2009). Multiple choice: Charter school performance in 16 states. Stanford, CA: CREDO. Retrieved from [http://credo.stanford.edu/reports/MULTIPLE\\_CHOICE\\_CREDO.pdf](http://credo.stanford.edu/reports/MULTIPLE_CHOICE_CREDO.pdf)

Darling-Hammond, L. (2010). The flat world and education: How America's commitment to equity will determine our future. New York: Teacher College, Columbia University.

Holland, S. (March 9, 2011). Duncan: "No Child Left Behind" Creates failure for U.S. schools. CNN Politics. Retrieved from <http://www.cnn.com/2011/POLITICS/03/09/education.congress/index.html>

Hurst, C.E. (2007). Social inequality: Forms, causes, and consequences. New York: Pearson Education Inc.

Kang, N.H. & Hong, M. (2008). Achieving excellence in teacher workforce and equity in learning opportunities in South Korea. *Educational Researcher*. 37(4). 200-207.

Although there is no question that some charter schools are effective, they have not been the panacea many expected. They were originally proposed as an opportunity for educators to test research-supported methods for reaching hard-to-educate children, and some have done quite well. However, a large-scale research study funded by pro-charter advocates revealed that only 17 percent of the 2403 charter schools had significantly more growth in test scores compared to traditional public schools, and, in fact, 37 percent showed significantly less growth (Center for Research on Education Outcomes, 2009). Furthermore, many charter schools do not admit and/or retain students who need increased support, e.g., students from impoverished communities and students with special needs.

The progress of the U.S. Department of Education's Equity and Excellence commissions can be tracked through

<http://www2.ed.gov/about/bdscomm/list/eec/index.html>.

Ladson-Bilings, G.S. *Schools. Educational Researcher*, 35(7). 3-12.

Odden, A.R. & Picus, L.O. (2008). *School finance: A policy perspective* (4th ed.). New York: McGraw-Hill.

Reeve, J. (2009). Why teachers adopt a controlling motivating style toward students and how they can become more autonomy supportive. *Educational Psychologist*, 44 (3), 159-175.

Rouse, C.E. & Barros, L. (2009). School voucher and school achievement: recent evidence, remaining questions. *Annual Review of Economics*, 1. Retrieved from

<http://www.ers.princeton.edu/workingpapers/28ers.pdf> and [http://www.nscpe.org/publicatiions\\_files/OP163.pdf](http://www.nscpe.org/publicatiions_files/OP163.pdf)

Springer, M.G., Ballou, D., Hamilton, L., Le, V., Lockwood, J.R., McCaffrey, D., Pepper, M. and Strecher, B. (2010). *Teacher pay for performance: Experimental evidence from the project on incentives in teaching*. Nashville, TN: National Center on

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## **#5 - THE ROLE OF THE FEDERAL GOVERNMENT IN PUBLIC EDUCATION: LEGISLATION AND FUNDING FOR THE EDUCATION OF CHILDREN WITH SPECIAL NEEDS**

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In 1965, the Elementary and Secondary Education Act (ESEA) was passed by Congress. ESEA was the center of President Johnson's War on Poverty and was influenced by the Civil Rights Act of 1964. The children who were covered by ESEA in 1965 included those who were disabled and covered by an amendment to the original ESEA (Title IV – Aid to handicapped children).

Within the next decade, the education of disabled children was funded by a separate law: the Education for All Handicapped Children Act of 1975 (EAHCA). Over a 35-year span, the law was reauthorized and became the Individuals with Disabilities Education Act (IDEA), the latest of which was reauthorized in 2004 and called the Individuals with Disabilities Education Improvement Act (IDEIA). The upcoming reauthorization of ESEA will also influence how IDEIA is administered and practiced.

IDEIA has four sections that cover the Free and Appropriate Education (FAPE) of 6.6 million disabled children who are age 0-21.

- Part A (General Provisions)
- Part B (Assistance for Education of All Children with Disabilities)
- Part C (Infants and Toddlers with Disabilities)
- Part D (National Activities to Improve Education of Children with Disabilities)

### **Mandates in Special Education Funding**

Funding requires adherence to the federal mandates. The most important mandate is the zero-reject policy, under which no child is turned away from educational services. To qualify for special education service, a student must be classified with one (or more) of 13 disabilities now covered by IDEIA. The definition of “a child with a disability” is found in the United States Code, Title 29 1401(3) (A):

*3) The term ‘child with a disability’ means a child— (i) with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (referred to in this chapter as “emotional disturbance”), orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and (ii) Who, by reason thereof, needs special education and related services.*

The federal government demands that states submit plans for the distribution of monies to local agencies for direct instructional programming that adhere to federal mandates. Under each state's laws, an Individualized Educational Program (IEP) is constructed for each child receiving services. The purpose of an IEP is to assure the student of a FAPE, as ensured by law. The child is to be placed

in the Least Restrictive Environment (LRE) for education.

In order to qualify for federal funds, state and local agencies are bound to federal guidelines to specify identification procedures and the placement of disabled children. State grant applications for federal funds must include a plan for distribution of the funds to local education agencies (LEAs), as well as sufficient time for the general public to review and comment on the state plan. LEAs receive allotments from the state for their district special education needs. The shortfall in funding then needs to be addressed by the local education agencies.

## CURRENT FUNDING CHALLENGES

Federal Underfunding: *The Education for All Handicapped Children Act* (1975) included legislation for funding local programs through state distribution of 40 percent of the cost. “Full funding” (40 percent) has never happened; the actual amount has varied. There were federal funds covering from 8 to 10 percent of the cost to states ten years ago, according to Katsiyannis, et al. (2001). The FY 2012 U.S. Department of Education Budget lists 17 percent as the current figure, with an estimated \$1,765 cost per pupil. The allotment has increased 1.7 percent in the FY 2012.

## References

Katsiyannis, A., Yell, M. & Bradley, R. (2001). Reflections on the 25th anniversary of the Individuals with Disabilities Education Act. *Remedial and Special Education*, Vol.22, (6), 324-34.

Shah, N. (2011, February 14). States expected to seek special education funding waivers. *Education Week*. Retrieved from <http://www.edweek.org/ew/articles/2011/02/09/20spaced.h30.html>

U.S. Department of Education. Fiscal Year 2012 Budget Overview. Supporting Individuals with Disabilities. Retrieved from <http://www2.ed.gov/about/overview/budget/budget12/summary/edlite-section2b.html>

Increasing enrollment: Special education enrollment has grown, from 3.8 million in 1973 to 6.6 million in 2011. Federal special education support increases for FY 2012 are held at 1.7 percent over FY 2011.

Maintenance of effort: Because of severe financial straits, more states are applying for waivers to the spending requirement by the federal government for special education funding. The waiver, called a Maintenance of Effort (MOE) has not been easily obtained and involves holding a spending pattern based on the previous year. Waivers were given to Iowa, West Virginia, and Kansas last year; waivers are pending for New Jersey, South Carolina and Alabama (Shah, 2011).

Inclusion and training: Currently, ninety-five percent of disabled children are educated in inclusive classrooms, the rest being educated in separate classes, institutions or at home. An increase in inclusion practices is a strong possibility for fund-strapped districts (Shah, 2011). The balancing act – attention to finances, while providing for children’s needs – continues to be precarious, and it is also critical to provide teachers with quality in-service training.

U.S. Department of Education, National Center for Education Statistics. Digest of Education Statistics. Chapter 2, Table 45. Children 3 to 21 years served under Individuals with Disabilities Education Act, Part B, by type of disability: Selected years, 1976 through 2008-09. Retrieved from [http://nces.ed.gov/programs/digest/d10/tables/dt10\\_045.asp?referrer=list](http://nces.ed.gov/programs/digest/d10/tables/dt10_045.asp?referrer=list)

U.S. Department of Education (2004). Retrieved from <http://www.ed.gov/policy/spaced/guid/idea/idea2004.html>.

## Special Education Legislation Milestones

<i>DECADE</i>	<i>CASE/LEGISLATION</i>	<i>RESULT</i>
1950	1954: <i>Brown v. Board of Education</i>	Paved the way for special needs children to receive better education, but at this time children were still denied an education based on their disability.
1960	Bureau of Education for Handicapped Created.  1965: Elementary and Secondary Education Act became law.	No funding for handicapped under federal or state law.  Amendment to original ESEA Title IV – Aid to handicapped children.
1970	1972: <i>PARC v Pennsylvania</i> and <i>Mills v. Board of Education</i>  1973: Section 504 of the Rehabilitation Act became law.  1974: Family Educational Rights and Privacy Act (FERPA) became law.  1975: Education for All Handicapped Children Act (EAHCA) became law,	Ruled: Disabled have equal rights.  Protected disabled individuals from discrimination due to disability.  Parents gained access to all information maintained by a school district on their students.  Free appropriate public education for all handicapped students.
1980	1986: Addition of <i>Handicapped Children's Protection Act</i> to EAHCA.	Mandated that all school students and parents have rights under both Section 504 and EAHCA.
1990	1990: EAHCA amended and called <i>Individuals with Education Disabilities Act</i> (IDEA).  1996: IDEA reauthorized.	IDEA reauthorized. Additions include students to be included in state and national assessments, inclusion (Least Restrictive Environment, LRE). Regular classroom teachers now required to take part in an Individual Education Plan (IEP) team.
2000	2001: No Child Left Behind became the title of the Elementary and Secondary Education Act.  2004: Reauthorization of IDEA (P.L. 101-476) now called IDEIA.	Accountability at state and local levels required. School districts are required to provide more instruction and interventions to help prevent enrollment in special education. Response to Intervention (RTI) gains momentum as a screening tool. Students are expected to take responsibility for their behavior and are subject to the same rules as the rest of the students.