



EDUCATION
LAW CENTER

Wisconsin's Special Education Funding Crunch:

HOW STATE UNDERFUNDING DISPROPORTIONATELY
HARMS STUDENTS IN HIGH-POVERTY DISTRICTS

MARY MCKILLIP & DANIELLE FARRIE

OCTOBER 2022



EDUCATION LAW CENTER

Founded in 1973, Education Law Center ([ELC](#)) is the nation's legal defense fund for public education rights. ELC is widely recognized for successfully advancing equal educational opportunity and justice in New Jersey and states across the country. ELC pursues advocacy work through litigation, public engagement, policy development, research, and communications.

ELC's legal and policy advocacy, which includes the landmark court rulings in the *Abbott v. Burke* litigation, has significantly advanced the provision of fair school funding, high quality preschool and school facilities improvements, especially for students from low-income families and students of color. ELC's mission is to ensure all students receive a high-quality public education effectively preparing them to participate as citizens in a democratic society and as valued contributors to a robust economy.

ABOUT THE AUTHORS

Mary McKillip, PhD, is a Senior Researcher at Education Law Center. She leads ELC's research examining the fairness of state funding systems through analyses of resource equity within states. Prior to joining ELC in 2018, Dr. McKillip managed school discipline and health survey data collection and analyses at the New Jersey Department of Education and conducted research on the high school to college transition at the College Board. She has a PhD in Sociology from the University of Illinois and a MEd from Harvard University.

Danielle Farrie, PhD, is Research Director at Education Law Center. She conducts analysis to support litigation and public policy for ELC and partner organizations. Before joining ELC, she conducted research in the field of urban education on such topics as school choice, racial segregation, and school segregation. She has co-authored peer-reviewed articles on how race affects perceptions of school quality and on parental involvement among low-income families. She holds a PhD in Sociology from Temple University.

ACKNOWLEDGMENTS

ELC Executive Director, David Sciarra contributed to the direction and development of the work. Julie Underwood, Chris Thiel provided valuable input and feedback for both the report and the accompanying interactive views. Research staff from the Wisconsin Policy Forum also provided helpful insight to the framing of the report. The Hatcher Group designed the report and provided design support for the interactive views.

We extend appreciation to the many funders and allies who support ELC's mission and work. This report is based on research funded by the W.K. Kellogg Foundation.



A recent analysis by the [Wisconsin Policy Forum](#) highlighted the State Legislature's failure to adequately fund the cost of programs and services for students with disabilities. Wisconsin currently reimburses school districts for less than a third of special education costs. Because special education programs and services are mandated by the federal Individuals with Disabilities Education Act (IDEA), the state's low reimbursement rate forces school districts to divert funds slated for the education of all students to cover the shortfall in special education funding.

The current report builds on the Wisconsin Policy Forum's research by providing a more detailed examination of how the lack of state support for special education impacts the funding available to educate children in Wisconsin districts with high enrollments of low-income students.¹

Our key findings include:

- After state and federal special education funds are accounted for, districts must cover an additional \$1.25 billion in special education costs statewide.
- The gap between the cost of special education and state funding of those costs is significantly greater in Wisconsin's "high-poverty districts."² Districts with 60% or more low-income students average \$1,818 per pupil in unfunded special education costs compared to \$1,266 per pupil in "low-poverty" districts, or those with less than 20% low-income students.

- High-poverty districts tend to have more students with disabilities, so the same reimbursement rate has a greater impact on overall funding in these districts. Low-poverty districts average 11% students with disabilities compared to 18% in high-poverty districts.
- Districts that are underfunded for special education must redirect money from general funds, leading to fewer resources for all students, not just students with disabilities. After accounting for the unfunded special education costs, Wisconsin's high-poverty districts have less funding per pupil to serve their students than low-poverty districts in the state, \$9,691 per pupil on average in the high-poverty districts compared to \$10,192 in the low-poverty districts.

To address the disparate impact on students in high-poverty districts, the state must raise the reimbursement rate for special education costs well above the current 30%. An increase in state support for special education would free up revenue diverted from the general fund,³ making it possible for districts to provide essential programs and services for all students, especially the [additional resources](#) needed for low-income students. These changes would improve the opportunity for all students to achieve Wisconsin's academic standards.

¹ Data for this report are from the Wisconsin Department of Public Instruction files for the 2019-20 school year, including [local revenue files](#), [state revenue files](#), [demographic data](#), and [special education expenditure files](#).

² For this report, district poverty is based on the proportion of students classified by the Wisconsin Department of Public Instruction as [economically disadvantaged \(ED\)](#) or students from low-income households.

³ The term general fund is used here to refer to the combination of district local revenue and state "General School Aids." General School Aids may be used by districts to support general educational programs for all district students. This funding is not restricted to any specific program, purpose, or target population.

Special Education Underfunding

In the 2019-20 school year, Wisconsin school districts reported special education costs exceeding \$1.82 billion for their 120,000 students with disabilities. After accounting for state special education reimbursement and federal IDEA funds, districts were left with a bill of \$1.25 billion in unfunded special education costs. To address this unfunded mandate, districts had to divert state and local revenue from their general funds earmarked for all students. The extent of special education underfunding has not changed in recent school years (29.79% for the 2021-22 school year).

For the purposes of this report, Wisconsin districts are divided into categories by the percent of students who are low-income or economically disadvantaged (ED). As seen in Figure 1, low-poverty districts spend more on special education than other districts, averaging \$17,056 per student with disability compared to \$14,860 per student in high-poverty districts. State and federal dollars cover a similar proportion of these expenses (31-32%) among districts of all need categories, leaving about 68-69% in unfunded special education costs that districts must cover through general funds.

Wisconsin School Funding

Wisconsin's public education financing, including special education, lags on key indicators of school funding fairness. According to Education Law Center's national report card – [Making the Grade 2021](#) – Wisconsin receives "C" grades on three key indicators: funding level, funding distribution across districts relative to student poverty, and fiscal effort to invest in public education. ELC research [also shows](#) that from 2008 to 2018, Wisconsin's GDP increased by 13%, while state and local investment in Pre-K to 12 education decreased by 1% (after adjusting for inflation). If Wisconsin had simply maintained the effort being made in 2008, districts would have received \$2,560 more per pupil in 2018.

However, high-poverty districts tend to have more students with disabilities, so the similar reimbursement rate has a greater impact on overall funding in these districts. Low-poverty districts average 11% students with disabilities compared to 18% in high-poverty districts.

Figure 1: Wisconsin Special Education Cost Per Student with Disability, by Source and District Poverty

ED refers to students classified by the Wisconsin Department of Public Instruction as economically disadvantaged or students from low-income households. For this report, districts with less than 20% ED students are considered "low-poverty" districts, while students in districts with 60% or more ED students are termed "high-poverty" districts.

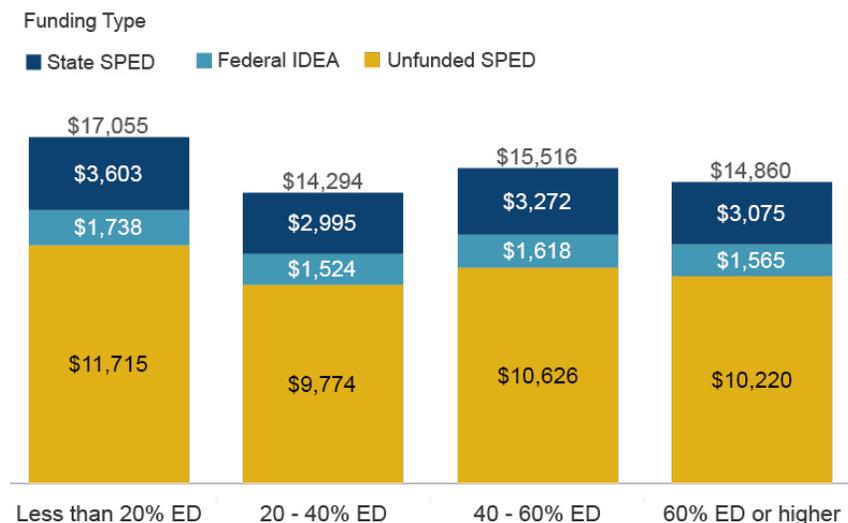
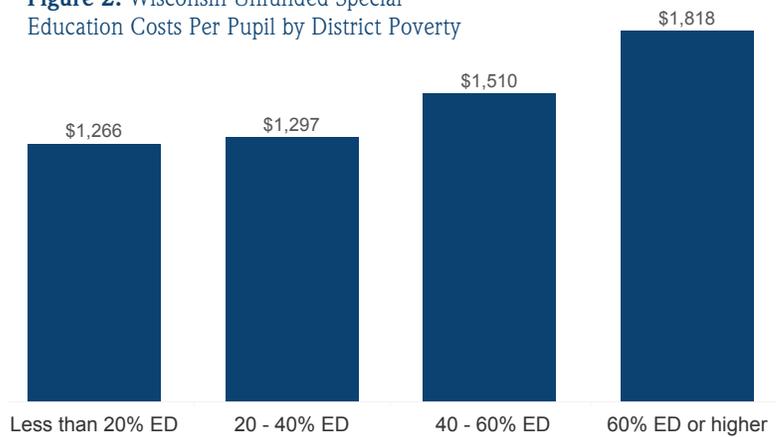


Figure 2 shows unfunded special education costs per pupil by district poverty across all students in the district, not just students with disabilities. In this calculation, low-poverty districts with less than 20% low-income students have \$1,266 per pupil in unfunded special education costs, while higher poverty districts have an average of \$1,818 per pupil in unfunded special education costs.

Figure 2: Wisconsin Unfunded Special Education Costs Per Pupil by District Poverty



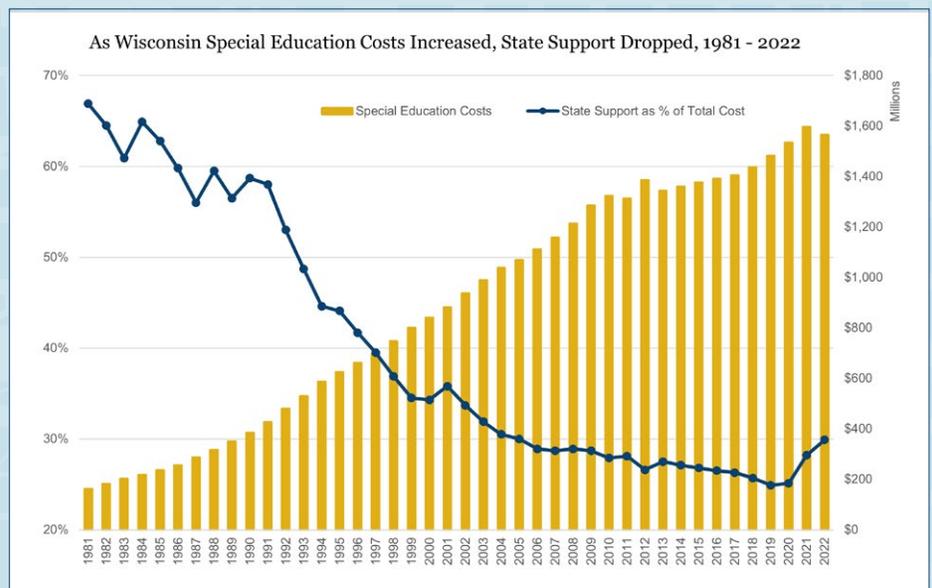
Wisconsin Special Education Funding

Wisconsin funds programs and services for students with disabilities through a reimbursement model. School districts were reimbursed by the state in 2021-22 for a portion of their previous year's special education costs at a rate of 30%. Additional funds are provided for high-cost special education students (an average of 35% of cost beyond \$30,000 per student in 2020-21).

Wisconsin did not always pay such a small proportion of special education costs through state aid. Trend data produced by the Wisconsin Legislative Fiscal Bureau shows the reimbursement rate was 67% during the 1980-81 school year.

However, the rate has been dropping ever since with the lowest rate of 25% in 2018-19 and 2019-20. Meanwhile special education costs for districts have been steadily increasing over these same years, from \$161 million in 1980-81 up to a high of \$1.60 billion in 2020-21.

Wisconsin is one of only 8 states (Michigan is another) using a reimbursement method for special education funding. Wisconsin and Michigan have the lowest reimbursement rates among these states, according to the Education Commission of the States.



Diverting From District General Funds

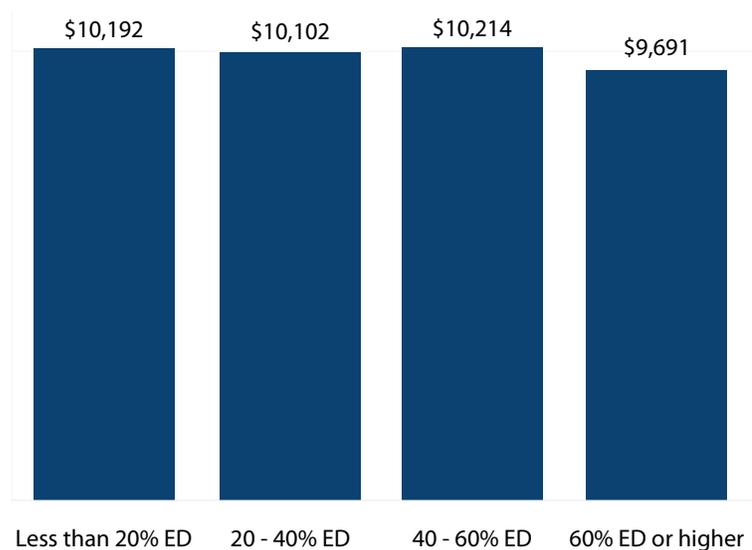
Wisconsin state law imposes revenue limits on school districts, effectively restricting the amount of local revenue districts can raise and making it difficult for them to respond to unmet resource needs. Some districts raise additional revenue by passing voter referenda to increase the revenue limits, which allows for additional funds to be distributed to the district. When used for district operations, these local referenda are often non-recurring, meaning voters will need to renew the higher spending limits in a future year or the district will face cuts to their revenue. State special education reimbursements fall outside the revenue limits, which only cover local property taxes and state general school aid.

Beyond raising additional local revenue, the other option districts have to cover unfunded special education costs is to divert resources intended to support the

education of all students. When districts must use their unrestricted local and state funds to cover special education costs, they are unable to spend those dollars to educate students more broadly. The impact of this funding diversion is likely felt across essential educational resources throughout the districts.

As noted above, more per pupil funding is diverted to cover special education costs in higher poverty districts because these districts tend to have more students classified for special education. As a result, high-poverty districts average \$501 per pupil less than low-poverty districts in general education funding: \$9,691 per pupil compared to \$10,192. Thus, districts with the greatest need for funding to address the [additional school resource requirements](#) of their students have substantially less funding than other districts in the state.

Figure 3: Wisconsin State & Local Funding Per Pupil Remaining After Special Education Costs, by District Poverty



District Examples

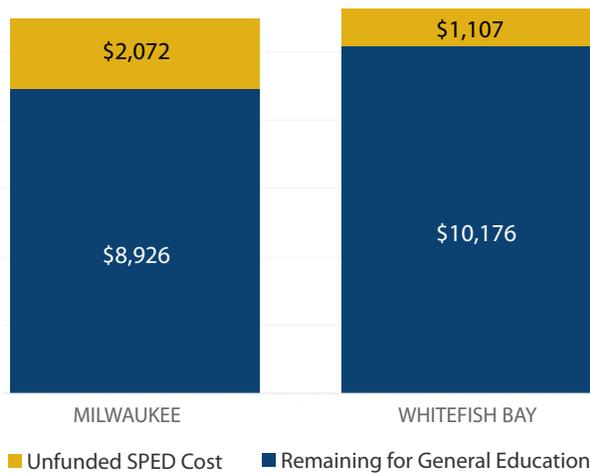
A comparison between the Milwaukee and Whitefish Bay districts provides an example of how unfunded special education costs impact districts differently. In 2019-20, 84% of Milwaukee students were low-income, 51% were Black, and 27% Hispanic. In addition, 20% were classified as students with disabilities. The district's unfunded special education costs of \$2,072 per pupil had to be covered through the diversion of state and local funds for general education. This diversion reduced Milwaukee's funding for general education to \$8,926 per pupil.

In contrast, enrollment in the neighboring Whitefish Bay district in 2019-20 was 2% low-income, 6% Black, 5% Hispanic, and 11% students with disabilities. The district

had \$1,107 per pupil in unfunded special education costs, leaving \$10,176 per pupil for general education, \$1,250 per pupil more than in Milwaukee. Consequently, a district with much greater need has substantially less general education funding than a nearby district with less need.

But every district in the state has unfunded special education costs, ranging from \$1,000 to \$2,000 in the majority of cases. For example, in Sparta, a rural district with just under 3,000 students (52% low-income, 79% white, 17% students with disabilities), unfunded special education costs amounted to \$1,317 per pupil in 2019-20, reducing general education funding to \$10,059 per pupil.

Figure 4: State and Local General Education Revenue and Unfunded Special Education Costs Per Pupil



Tools for Advocates

Visit [interactive data views](#) for district-level data on special education funding in Wisconsin.

Underfunding in Majority-Minority Districts

The shortfall in state special education funding also impacts the 35 Wisconsin districts serving a majority minority student population (over 50% American Indian, Asian, Black, Hispanic, and/or Multi-racial). Although these districts represent only 8% of the districts in the state, they serve 22% of all students. As seen in Figure 5, they serve higher proportions of Black, Hispanic,

and low-income students (ED), as well as a higher proportion of students with disabilities (SWD).

Districts with majority minority student populations also average slightly lower per pupil general education revenue, and unfunded special education costs are \$500 more per pupil on average as compared to majority white districts.

Figure 5: Student Demographics by District Race Composition

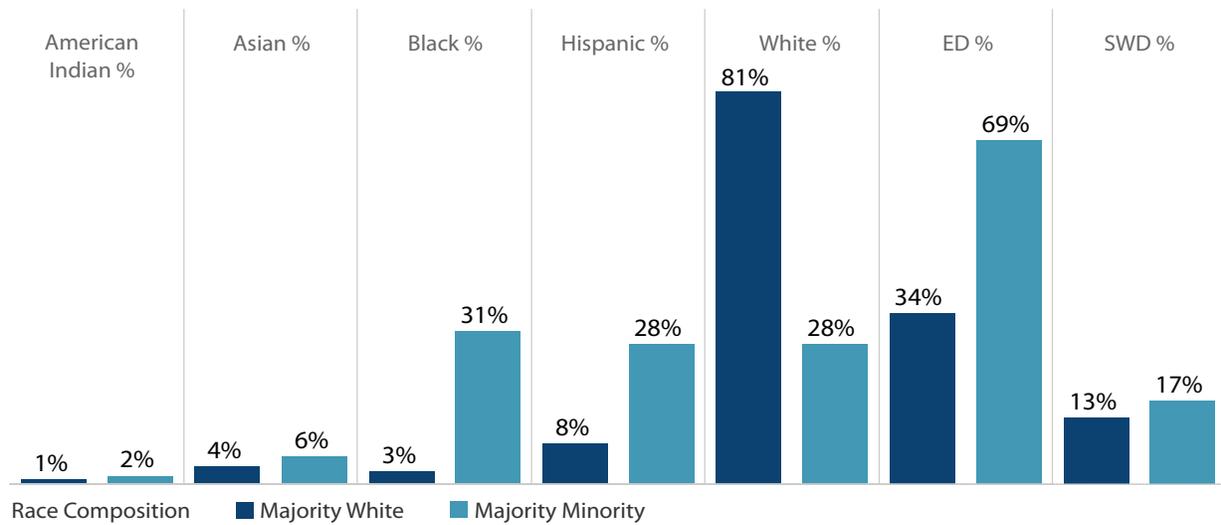
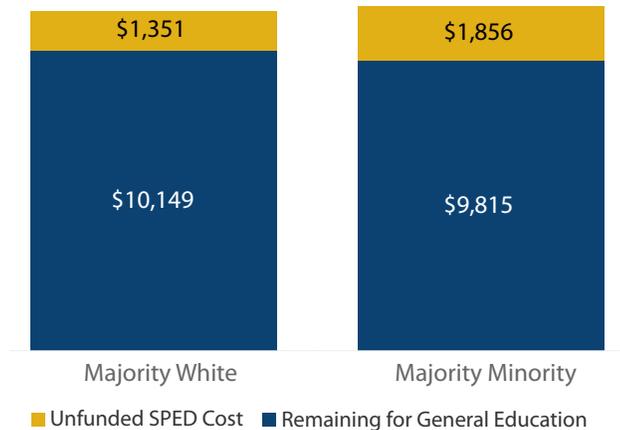


Figure 6: State and Local General Education Revenue and Unfunded Special Education Costs Per Pupil by District Race Composition



Increase Special Education Reimbursement Rate

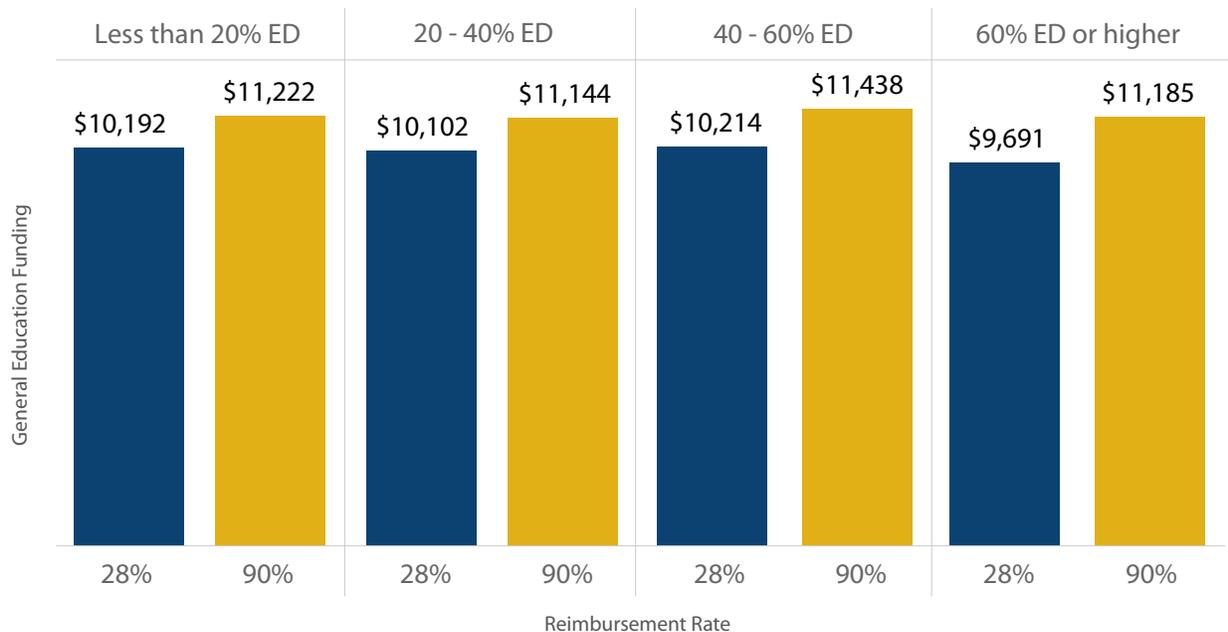
This report offers further evidence that Wisconsin's reimbursement rate for special education falls far short of what districts need to cover the mandated cost of serving students with disabilities.⁴ An obvious solution to this problem is for the state to substantially increase the reimbursement rate to districts. [Online district-level views](#) allow users to model various reimbursement rates ranging from 45% reimbursement rate to 100%.

Based on 2019-20 special education costs eligible for reimbursement, increasing the rate to 90% would require an investment of an additional \$1 billion in state funding.⁵ The impact of this reimbursement rate on districts would be dramatic. Low-poverty districts would be able to retain just over \$1,000 per pupil for

general education expenditures for all students. In high-poverty districts, a 90% rate would result in an average of \$1,500 more per pupil in special education funding. This is the same amount these districts currently divert from general education.

Overall, the state's underfunding of special education costs would be mostly eliminated. This would allow districts to utilize those savings for general education resources for all students, along with additional resources for low-income students. This is crucial because Wisconsin's high-poverty districts are already starting from a position of disadvantage as the state's funding formula does not adequately fund the higher needs of student in poverty.⁶

Figure 7: Impact of Increasing Reimbursement Rate on General Education Funding



⁴ We note the ongoing efforts in Congress to substantially increase the federal share of funding for special education. Over the last decades, these efforts have not been successful.

⁵ A private school attended by a student with disabilities through the Special Needs Scholarship Program typically receives a standard per pupil amount for that student's education (\$12,977 in 2020-21), but a school may apply for reimbursement. When going through the reimbursement process, the rate of reimbursement ranges from 90-100%. See [Private School Choice and Special Needs Scholarship Program](#), Wisconsin Legislative Fiscal Bureau, Jan 2021.

⁶ See [Making the Grade 2021](#), and recommendation of increased "Aid for Low-Income Pupils" from the Wisconsin [Blue Ribbon Commission on School Funding](#) in 2019.

Conclusion: Increasing State Funding for Wisconsin Students with Disabilities Benefits All Students

A significant increase in state support for special education is an immediate path to improving Wisconsin public school funding. Boosting the reimbursement rate to districts for special education costs would directly benefit not just students with disabilities, but all students. The state's low reimbursement rate leaves districts with over \$10,000 per student with disability in unfunded special education costs, forcing districts to divert revenue from their general fund. Increasing the

reimbursement rate would also have a beneficial impact on districts that serve more students in poverty and a greater proportion of students with disabilities, both groups in need of additional resources and interventions.

While special education funding is only one aspect of adequate and equitable public school funding, it is an urgent and timely starting point to put Wisconsin on the road to updating and modernizing its school finance system.

The Constitutional Right to Public Education in Wisconsin

Wisconsin, like other states, guarantees a free public education to all resident children in its state constitution. The Wisconsin constitution mandates the Legislature to “provide by law for the establishment of district schools, which shall be as nearly uniform as practicable; and such schools shall be free and without charge for tuition to all children between the ages of 4 and 20 years . . .” Wis. Const. art. X, § 3. The Wisconsin Supreme Court has interpreted the constitutional right to public education as “fundamental.” The constitution, the Court held, confers upon children an “equal opportunity” for a “sound basic education,” defining such an education as “one that will equip students for their roles as citizens and enable them to succeed economically and personally.” *Vincent v. Voight*, 236 Wis. 2d 588 (2000). The Court also ruled that, to comply with this definition, the Legislature’s system of funding the state’s public schools must provide “sufficient resources so that school districts offer students the equal opportunity for a sound basic education.” *Id.*

The Wisconsin Legislature has enacted a school finance law to carry out its responsibility to provide for a constitutional sound basic education. Wis. Stat. § 121.004 et seq. The law declares, “[I]n order to provide reasonable equality of educational opportunity” for all the children the State “must guarantee that a basic educational opportunity be available to each pupil” through a program that meets state academic and education standards. *Id.* at § 121.01. The Wisconsin school finance law provides a three-tiered, cost-sharing formula for providing state aid to local districts.

As established in its constitution, Wisconsin has a mandate to provide “sufficient resources” for a sound basic education for all students. The Legislature’s arbitrarily low reimbursement rate for special education costs does not comply with this constitutional duty.

CELEBRATING
50
YEARS OF ADVOCACY

EDUCATION
LAW CENTER

LEARN MORE AT
edlawcenter.org