

# AMPLE SCHOOL FUNDING PROJECT FOR WASHINGTON STATE

## REPORT ON STATE FUNDING OF THE SPECIAL EDUCATION PROGRAM

### SUMMARY

- Article IX, Section I of the Washington State Constitution states “It is the paramount duty of the state to make ample provision for the education of all children residing within its borders...” Three major school finance cases in 1978, 1983 and 1988 have interpreted the state’s paramount duty.
- With respect to special education these court decisions held that:
  - The state must define and fully fund basic education. Programs considered basic education include special education.
  - Special excess levies cannot be required to fund any part of basic education.
  - Determination of the state’s special education funding obligation was delegated in large part to school districts since school districts have the responsibility to prepare individualized education programs (IEPs) for special education students.
  - The state’s special education funding mechanism must reflect districts’ actual costs, as close as is reasonably practicable, to the cost of properly formulated IEPs.
  - A state funding formula based on averages, by definition, overfunds and underfunds some school districts. Underfunded school districts had resorted to the use of special levies, which cannot be required to fund any part of basic education.
  - A state special education funding formula based on averages required some means to provide supplementary funding, such as a safety net, for districts that can demonstrate they are underfunded.
- In 1995 the State implemented a two-tier method for funding special education consisting of a) a formula allocation based on average costs per special education student, and b) a safety net process to provide supplementary funding for districts demonstrating funding need beyond formula amounts.
- The theory of the state’s two-tier funding methodology is flawed in practice because access to safety net funds is restricted by the State. Restricted access is due to:
  - A State maintenance-of-local funds requirement.
  - Limitations of legitimate expenditures (indirect costs or overhead) that can be included to establish initial safety net eligibility, and
  - Basing safety net award amounts exclusively on the number of high cost individual students in each district that exceed a high expenditure threshold established by the state.
- In 2002-03, total special education programs revenue from state and federal sources, including safety net awards, was \$595.7 million. Total expenditures were \$775.9 million, exceeding revenue by \$180.2 million or 30.3 percent.
- This \$180.2 million difference was equivalent to 15.8 percent of local levy revenues. In contrast, district safety net requests amounted to \$16.6 million and safety net awards were \$11.9 million.

**AMPLE SCHOOL FUNDING PROJECT FOR  
WASHINGTON STATE**

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**Research Report**

**September 23, 2004**

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**STATE FUNDING OF THE K-12  
SPECIAL EDUCATION PROGRAM**

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Project Consultant

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**Washington Association of School Administrators**

## **Executive Summary**

### **Rationale For the Ample School Funding Project**

The Washington Association of School Administrators (WASA) initiated the Ample School Funding Project in November 2003. The project emerged due to the perception that the State of Washington is not meeting its responsibility to fully fund basic education as required by the Washington State Constitution and the increased pressure and frustration being experienced by school administrators and board members in Washington State facing the challenge of closing the financial gaps caused by program cuts, employee demands for higher salaries and benefits, escalating operating costs, and demands placed on personnel and resources to attain new educational performance standards mandated by the state and federal government for all students.

While there were recent various proposals before the State Legislature to conduct a comprehensive K-12 study to examine the adequacy of basic education funding, no such studies were approved by the state legislature in 2003 or 2004. In the absence of such a state sponsored study, WASA established this project to study our state's K-12 finance system on a program-by-program basis. The first phase of the project concerns adequacy of state funding of basic education in the transportation, special education and apportionment programs. This research paper concerns special education program funding.

### **The Paramount Duty With Respect To The Special Education Program**

Article IX Section I of Washington State's Constitution states that "It is the paramount duty of the state to make ample provision for the education of all children residing within its borders..." The nature of the state's funding responsibility under the constitution has been litigated and court decisions in 1978, 1983 and 1988 have held that:

- The State must define and fully fund basic education. Programs considered basic education include special education.
- Special excess levies could not be required to fund any part of basic education.
- Determination of the state's special education funding obligation has been delegated in large part to school districts since districts are required to prepare Individualized Education Programs (IEPs).
- The State's special education funding mechanism must reflect costs, as close as reasonably practicable, to the actual cost of the special education needs in the properly formulated IEPs for all eligible handicapped students.
- A state special education funding formula based on averages by definition overfunds and underfunds some districts. Underfunded school districts had resorted to the use of special excess levies, which cannot be required to fund any part of basic education.

- Continued use of a state special education formula based on averages requires some means to provide supplementary funding such as a safety net for districts that can demonstrate their program is underfunded.

### **Summary of Findings**

The State's special education funding method consists of a formula allocation based on average costs per special education student and a safety net process to provide supplementary funding for districts able to demonstrate funding needs beyond formula allocation amounts.

In 2002-03, aggregate special education programs revenue from state and federal sources including safety net awards was \$595.7 million. Total direct and indirect expenditures were \$775.9 million, exceeding state and federal revenues by \$180.2 million or 30.3 percent. The \$180.2 million was equivalent to 15.8 percent of local levy revenues. In contrast, district safety net requests amounted to \$16.6 million with \$11.9 million actually awarded.

School districts did not request \$180.2 million in safety net funds in large part due to restricted access to safety net funds. Access to the safety net is restricted due to:

1. A State maintenance of local revenue requirement for safety net applicant districts;
2. Limits on indirect cost expenditures that can be included for safety net purposes; and
3. Safety net awards based exclusively on a high expenditure threshold for State defined high cost students.

The local funds maintenance requirement as a condition for safety net access is not uniform across districts. The required local funds vary substantially as a percent of district special education program expenditures, on a dollar per student basis, and as a percent of district special levies. For example, in 2002-03, the expected contribution from local funds ranged from \$18 to \$5,854 per special education student for the 83 districts receiving safety net funds. And, in 2003-04 the expected local fund contribution ranged from 0.4 percent to 56.4 percent of district's special education expenditures.

Regarding the state's limit on indirect expenditures that can be used to establish need for safety net funds, this limit reduced safety net eligibility for the 79 applicant districts by \$38.6 million in 2003-04. System-wide, the indirect limitation reduced district's potential safety net eligibility by \$68.1 million in 2002-03.

Prior to 2002-03 the safety net could be accessed in various ways. Starting in 2002-03, access to the safety net was limited to one route, "high cost students". Unlike prior years, safety net awards were no longer made on the basis of unmet need. Rather, maximum awards are limited by the demonstrated unmet need and are based on the number of eligible high cost students a district can produce. In 2003-04, the safety net requests of 39 of the 79 applicant school districts were for less than their unmet need amount due to insufficient students meeting the state's definition of high cost student.

## **Conclusion**

Various court decisions regarding the paramount duty of the Washington State Constitution have held that: (1) the state must define and fully fund basic education; (2) special excess levies cannot be required to fund any part of basic education; (3) special education is considered part of basic education; and (4) the state's special education funding mechanism must reflect district's actual costs as reasonably practicable to the cost of properly formulated IEPs. Finally, if a state funding formula relies on averages for funding, some means to provide supplementary funding for underfunded school districts is required.

The underlying theory of the state's current special education funding methodology is that it complies with the court decisions because there is a two-tier funding process that can result in full funding as required. First, formula funds are allocated to school districts based on state average costs, and second, supplementary funding is available for districts with unmet needs.

In practice, the current safety net process as designed precludes the possibility of full funding for all of the state's school districts because access to the safety net is restricted in a number of ways by the State. These restrictions require districts to maintain expenditures of local funds as a condition for safety net access and exclude certain costs from consideration. Third, safety net awards are not based on demonstrated unmet need but rather on the number of high cost students in a district. The state's definition of "high cost student" is itself based on averages and thus fails to sufficiently recognize the needs of districts having above average cost students.

Compliance with the court decisions can be achieved in a number of ways. In the current funding context, the safety net could be modified by eliminating the local fund maintenance requirement, eliminating indirect expenditures limits that exist just for safety net purposes, and allowing additional ways to access the safety net besides high cost students.

Alternatively different funding formulas could be developed or the funding changed in the current formula allocation components. Such measures could reduce the current disparity between special education revenues and expenditures. However, any funding formula for special education in Washington that is based on average costs in whole or in part requires a safety net mechanism to account for districts with legitimate above average costs. Without such a safety net, districts with above average costs would not be fully funded as required.