

# SPECIAL EDUCATION FACT SHEET

-2022-



42,136 students ages 6 to 21 receive special education services in West Virginia according to the Disability Compendium 2021. While WV's population is shrinking, the number of students receiving special education services has increased by 3,365 since 2013. WV is ranked 3rd in the nation, or 12.5%, of students receiving special education services under the Individuals with Disabilities Education Act (IDEA). This is a 2% increase since 2013. Additionally, there are 5,142 students ages 3 to 5 served under IDEA. In some counties in WV, the percentage of students receiving special education is over 19% of the district's school population.

## OVERALL CONCERNS

Public education for all is a cornerstone of our democracy and is the mechanism by which West Virginia prepares all students to pursue the benefits of freedom and to exercise fully their rights and responsibilities. It is the Department of Education's (WVDOE) responsibility to ensure all students have access, equity, inclusion, and opportunities. This includes students with disabilities.

Over the past decade, in-person meetings have been held with staff of the WVDOE and the Office of Special Programs, Chairmen of the Senate, House, and Joint Education committees, other elected officials, as well as with other governmental, non-profit, and legal entities both from within and from outside of WV. The message of systemic failure in the provision of special education services throughout our state has been demonstrated and exhaustively communicated in an effort to see change. Unfortunately, that has not happened. Requests for assistance with special education advocacy have increased exponentially since this fact sheet was initially developed in 2013. Many of those requests have been from parents who have tried to navigate the system for years but have given up on all hope for success, combined with the ever-increasing number of calls coming from teachers, administrators, and other school personnel, make it clear that the current system is not only failing to provide a free and appropriate public education to students with disabilities, it is violating students civil and human rights as well.

## ISSUES

Professionals, parents, and others from both within and outside of the education system recognize that there is a systemic breakdown in WV relative to the minimum requirements under the Federal IDEA, ESSA, and Section 504 of the Rehabilitation Act, as well as WV Policy 2419 and other WV policies. This breakdown is present due to the following:

- Lack of knowledge and sufficient and thorough accountability on the part of teachers, school administrators, and district Boards of Education for appropriately writing and implementing effective IEPs and 504 Plans and adhering to existing special education laws and policies.
- Lack of enforcement by State and District personnel including superintendents, central office administration staff, compliance specialists, etc. for full implementation and enforcement of IDEA and other relevant laws and policies, although multiple guidance documents exist through the US Department of Education on the most critical issues.
- Increased school safety issues in the special education system, including but not limited to: the inappropriate and acceptable use of isolation, seclusion, and restraints for children with disabilities; refusal to conduct appropriate behavior assessments and implement meaningful positive behavior supports; lack of training on trauma-informed or best practice-established de-escalation techniques; and lack of mandated requirements of certifications for school and classroom crisis team members.
- Lack of responsibility amongst teachers and administrations to ensure students with disabilities have the same academic and social outcomes, including high expectations, access to meaningful curriculum, effective instruction, and inclusion alongside peers who do not receive special education services.

- Increased use of Alternate School/Classroom settings or Out-of-School Environment as placement without consideration of Least Restrictive Environment (LRE).
- The lack of assurance that students' and families' concerns, as well as concerns that educators have with their peers or superiors, are being documented and processed appropriately to ensure accountability is achieved. The fear of retaliation is real and present among teachers, staff, parents, and guardians of students with disabilities which result in a lack of reporting issues.
- The lack of appropriate and effective secondary education course training for teachers, aides, and other service personnel, as well as a lack of ongoing and mandated professional development for teachers and staff in the area of special education.
- The lack of appropriate standards for the preparation of students with disabilities, including students with the most significant cognitive impairments for a broad range of post-secondary training and experiences that will lead to integrated employment and meaningful inclusion in the community.

## RECOMMENDATIONS

- Fully implement all state and federal special education laws and policies to increase and improve outcomes for students with disabilities, and hold school administrators, teachers, paraprofessionals, and district Board of Education personnel sufficiently and thoroughly accountable for violations of laws and policies.
- Ensure non-discrimination in special education in order to avoid inappropriate over or under-identification of disability and the overuse of segregated settings or disciplinary actions, particularly for students of color.
- Increase the level of classroom positive behavior supports and interventions while expanding and increasing the quality of school-level preventative measures, and improve school safety through training all staff, including resource officers, on positive behavior supports, trauma-informed de-escalation, crisis intervention, and non-violent protocols. Furthermore, ensure that resource officers are prohibited from disciplining students.
- Ensure special education coursework and practicum experiences for all general education teacher candidates and long-term substitutes to prepare them to serve and support diverse learners in inclusive settings.
- Hold districts accountable for the progress of all students, including students with disabilities (not just schools with an N size of 10 or greater), and ensure that districts provide services and supports to disadvantaged students who are not making progress in schools that now has precedent substantiated in federal law in the Supreme Court Endrew F case.
- Incentivize teacher mentors with pay increases, sign-on/commitment bonuses for choosing to teach special education.
- Provide administrative staff to assist special education teachers in meeting timelines for IEP and 504 plans, evaluations, assistive technology, and etc.
- Develop and support an independent special education parent/student-advisory committee in each district to act as a mechanism for identifying and communicating concerns, serving as a liaison between parents, students, and district personnel to discuss areas for improvement and increased accountability practices.
- Ensure that school choice initiatives including public charter schools, education savings accounts such as the HOPE scholarship, and/or micro schools give inclusive opportunities to students with disabilities and comply with IDEA as well as the accountability provisions under ESSA and do not adversely affect public education by diverting public funds to private schools or reduce revenue through preferential tax treatment.
- Align the age of transition services to be consistent with the pre-vocational provisions in the Workforce Innovation and Opportunity Act (WIOA) of 2014 and provide the services that are required in WIOA.
- Strengthen transition from school to adult life by requiring schools to include instruction on self-advocacy, self-determination, and supported decision-making options throughout the transition process, and to provide meaningful and coordinated interaction with the Division of Rehabilitation in the implementation of transition individualized education program requirements and WIOA provisions.

*For more information contact:*

*WV Developmental Disabilities Council / Christy Black, Advocacy Specialist / [Christy.D.Black@wv.gov](mailto:Christy.D.Black@wv.gov) / (304) 558-0416  
 Disability Rights of West Virginia / [www.drofww.org](http://www.drofww.org) / 1-800-950-5250 (toll free)  
 Astrive Advocacy / Christina Smith, Director / [christina.smith@astrive.org](mailto:christina.smith@astrive.org) / (304) 483-6172*