

# CRS Report for Congress

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## Individuals with Disabilities Education Act: Full Funding of State Formula

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### Summary

The grants to states program of the Individuals with Disabilities Education Act (IDEA) assists participating states to serve school-age children with disabilities. The state funding formula, which provides a foundation amount based on states' FY1999 grants and allocates remaining amounts based on states' shares of school-age children and of school-age poor children, authorizes a maximum allotment per disabled child served of 40% of the national average per pupil expenditure (APPE). Annual appropriations have never been sufficient to provide each state its maximum allotment; in FY2002, states will receive approximately 16.5% of the national APPE per disabled child served. Some advocates for the program have called upon the Congress to fully fund the formula. An estimated \$18.2 billion would be required to provide states the maximum allotment allowed per disabled child served in FY2002, about 2.4 times more than the appropriation of \$7.5 billion for FY2002. This report will be updated to reflect major legislation and changes in data related to full funding.

### Background

The grants to states program assists participating states in providing a free appropriate public education (FAPE) to school-age children with disabilities.<sup>1</sup> It is the centerpiece of IDEA, reaching nearly 6.5 million children with disabilities and receiving \$7.5 billion in appropriations in FY2002. The 1997 IDEA amendments (P.L. 105-17) required that funds be distributed to states under an "interim" formula based on the formula that was in effect prior to the enactment of the 1997 Amendments until appropriations for grants to states exceeded a trigger amount of \$4,924,672,200.<sup>2</sup> When

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<sup>1</sup> For further information on the grants to states program and on IDEA in general, see CRS Report RS20366, *Individuals with Disabilities Education Act: Overview of Major Provisions*, by Richard N. Apling and Nancy Lee Jones.

<sup>2</sup> The "interim" formula was based mainly on the number of children with disabilities in a state  
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the trigger was exceeded in FY2000, the “permanent formula” took effect. Under this formula, states receive a “base year amount,” which is the amount they received in the fiscal year prior to the fiscal year in which the trigger is surpassed (i.e., the FY1999 amount based on the “interim” formula). Of the funds above the amount necessary to provide these base year amounts, 85% is distributed in proportion to each state’s share of population ages 3 to 21 and 15% is distributed in proportion to each state’s share of population ages 3 to 21 living in poverty. Certain minimum grants and caps on increases are applied.<sup>3</sup>

Each state’s **maximum authorized award** is calculated as follows:

$$\text{maximum state award} = \text{number of children served} * 40\% \text{ of national average per pupil expenditure (APPE)}^4$$

It is important to note that the formula only specifies the maximum award a state can possibly receive.<sup>5</sup> In other words, the formula does not guarantee 40% of national APPE per disabled child served; rather, it caps IDEA allotments at 40% of national APPE. The actual size of state awards is contingent on annual appropriations for the program and allocations under the “permanent formula.”

## Full Funding Issue

IDEA is a voluntary program that assists states in educating children with disabilities. As the Supreme Court explained in *Smith v. Robinson*, one of its early IDEA cases, the program is “a comprehensive scheme set up by Congress to aid the states in complying with their constitutional obligations to provide public education for handicapped children.”<sup>6</sup> Thus, the financial assistance under the grants to states program is intended only to supplement state and local spending on the instruction of students with disabilities; states and localities remain primarily responsible for the expense of special education and related services.

The extent to which the federal government offsets the cost of special education and related services has come into question. Critics point to the allocation formula’s funding history as a failure on the part of the Congress to pay for its share of the cost of educating disabled children. Annual appropriations have never been sufficient to provide each state

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<sup>2</sup> (...continued)

counted as receiving special education and related services. At a state’s discretion, this count may be made on the last Friday of October or on December 1 of the fiscal year for which funds are appropriated.

<sup>3</sup> For further information on the “permanent formula,” see CRS Report RL30810, *Individuals with Disabilities Education Act (IDEA): Issues Regarding “Full Funding” of Part B Grants to States*, by Richard Apling. p. 5-11.

<sup>4</sup> The APPE is for all K-12 public school students in the most recent preceding year for which data are available.

<sup>5</sup> Section 611(a)(2) of IDEA states: “... the *maximum amount* of the grant a state may receive under this section for any fiscal year is ...” [emphasis added].

<sup>6</sup> 468 U.S. 992, 1009 (1984).

with 40% of national APPE per disabled child served. At 16.5% of APPE, the FY2002 amount is as close as annual appropriations have ever been to 40%.<sup>7</sup>

Critics interpret the formula and the legislative history of P.L. 94-142, the Education for All Handicapped Children Act of 1975 (which created the grants to states program), as committing Congress to fully fund the program. In particular, they believe that Congress would not have devised a specific formula if it did not intend to utilize it. They argue that Congress gave careful thought to the proper federal contribution and settled upon an expenditure factor of 40% of national APPE to represent the federal share that should be provided to states to help with the expense of instructing students with disabilities. Indeed, the House committee report for P.L. 94-142 addresses this point:

The Committee would fail to meet its obligation if it did not assess the full cost of educating a handicapped child and assign some share of that cost as an equitable portion to be borne by the Federal Government in carrying out the national policy and objectives of the legislation. To have failed to set any dollar amount to be paid for each handicapped child would have provided no guidance whatsoever to the budget and appropriations committees. The Committee has in fact exhaustively studied the educational needs of handicapped children and has made an informed determination of what should be an appropriate contribution to State and local educational agencies to help meet those needs. In making this determination, the Committee has considered the urgent needs of handicapped children and the large burden borne by State and local educational agencies in meeting those needs.<sup>8</sup>

The formula was one of the main issues debated during consideration of P.L. 94-142. The House and Senate versions of the formula differed from the prior law formula and from each other. The final version of the formula was developed by the conference committee.<sup>9</sup> In regard to Congress's "commitment" to fully fund the formula, it is interesting to note some of the floor statements made during House and Senate debate on the conference report. For example, the ranking minority member on the House Education and Labor Committee, Representative Albert Quie, stated:

I do not know in the subsequent years whether we will appropriate at those [authorized] levels or not. I think what we are doing here is laying out the goal. Ignoring other Federal priorities, we thought it acceptable if funding reaches that level. However, there will be another Congress by that time, as well as many appropriations processes, and

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<sup>7</sup> Before FY2001, when appropriations accounted for 14.6% of APPE, the nearest the annual appropriation has ever come to providing the maximum allotment per disabled student served was in FY1979 when allocations to states represented 12.5% of national APPE.

<sup>8</sup> U.S. Congress. House. Committee on Education and Labor. Education for All Handicapped Children Act of 1975. Report to accompany H.R. 7217. H.Rept. 94-332, 94<sup>th</sup> Cong., 1<sup>st</sup> Sess. Washington, GPO, 1975. p. 23. The House's formula would have made allotments on the basis of number of disabled children served multiplied by 50% of national APPE.

<sup>9</sup> The conference report does not provide a rationale for the final version of the formula, including the adoption of 40% of national APPE as the expenditure factor. See: U.S. Congress. Committee of Conference. Education of Handicapped Children. Report to accompany S. 6. S.Rept. 94-455, 94<sup>th</sup> Cong., 1<sup>st</sup> Sess. Washington, GPO, 1975. p. 32-34.

at that later time if it is felt too high a level has been set and false promises have been made, we could be making the change at that time.<sup>10</sup>

The chairman of the Senate Budget Committee, Senator Edmund Muskie, stated:

And so, Mr. President, I believe we need to understand clearly that large outyear authorizations, such as those included in this bill, do not mean that we will necessarily spend at those levels.<sup>11</sup>

Such statements seem to indicate that there was some doubt among Representatives and Senators about Congress's obligation or ability to fully fund the formula. The views expressed by Representative Quie and Senator Muskie illuminate the tension between the authorization and appropriations processes and the effect on the federal role in financing special education and related services.

## Estimated Federal Contribution

The FY2002 appropriation for the grants to states program is approximately \$7.5 billion. An additional \$10.7 billion (or \$18.2 billion overall) would be required to fully fund the formula.

**Figure 1**, below, illustrates the magnitude of the difference between recent appropriations levels and the approximate amounts necessary to fully fund the formula of the grants to states program. The upward trend in the estimated full funding level is attributable to both the rise in the national APPE and the increasing numbers of disabled children served. ED's estimate of the national APPE has increased by about 25% between FY1996 and FY2002. The number of disabled children served has increased 15% during that time period. The estimated full funding amount has increased 43% during that period. In this same period, appropriations for the Part B grants to states program has more than tripled — from \$2.3 million to \$7.5 billion.<sup>12</sup>

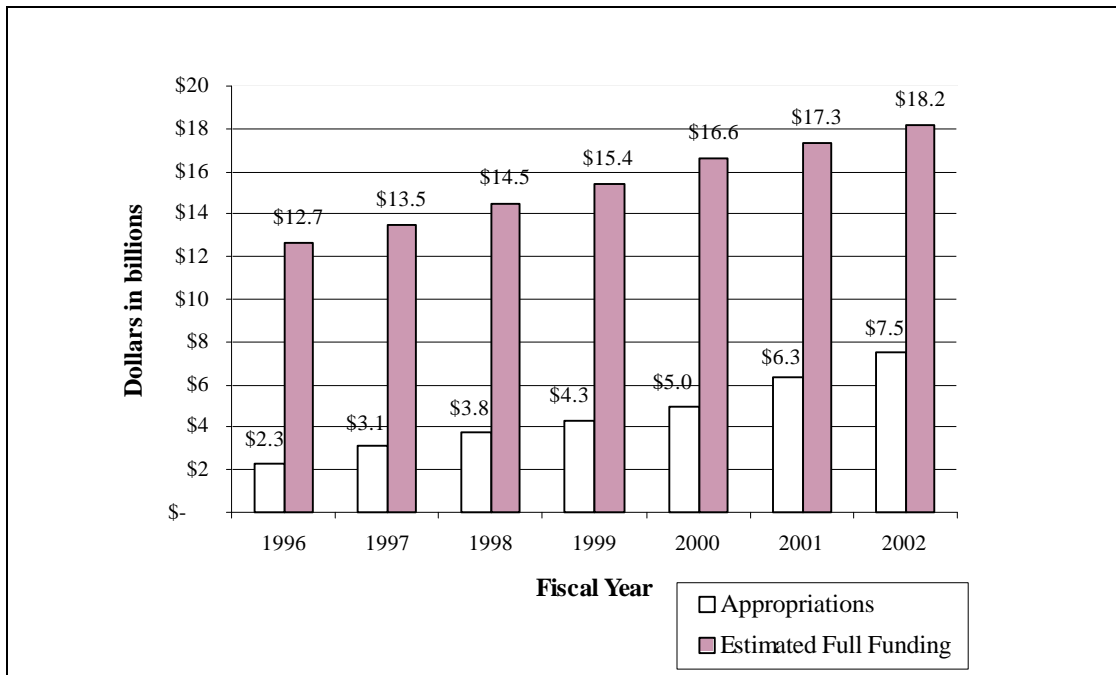
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<sup>10</sup> *Congressional Record*, v. 121, Part 29, November 18, 1975. p. 37026-27.

<sup>11</sup> *Congressional Record*, v. 121, Part 29, November 19, 1975. p. 37419.

<sup>12</sup> It is important to note that the estimated full-funding amount (and therefore the percentage of APPE that an appropriated amount accounts for) changes during the year when ED updates its estimates of APPE and the number of children with disabilities. The updated full-funding amount is usually somewhat higher and the resulting percentage somewhat lower.

**Figure 1. Estimated Full Funding versus Recent Appropriations for Selected Fiscal Years**



It should be noted that fully funding the formula would fall short of providing 40% of the actual expense above and beyond what would be spent on average for a child if he or she were not disabled — i.e., the **excess cost** of providing special education and related services. This is because the 40% maximum payment in the IDEA statute is based on the assumption that children with disabilities are, on average, twice as expensive to educate compared with the cost of educating other children. The measure of that excess cost is the national average per pupil expenditure, which ED estimates is \$7,034 for FY2002. In fact, the average cost to educate children with disabilities is almost certainly more than twice the cost of educating other children. ED estimates this excess cost for FY2002 to be \$8,230. Thus, using this estimate of “actual” excess cost, fully funding the IDEA formula would only account for about 34% of the excess cost of serving disabled students.

## Recent Legislation

During consideration of the reauthorization of the Elementary and Secondary Education Act (ESEA), the Senate adopted an amendment (sponsored by Senators Harkin and Hagel) to authorize *and* appropriate increased funds (in \$2.5 billion annual increments) for IDEA, until an estimated full funding amount was reached in FY2007. Estimated full funding amounts then would have been appropriated for FY2008-FY2011. No specific amounts would have been appropriated for subsequent fiscal years. Some Members argued that providing “mandatory” funding for IDEA would remove any impetus to reform the program and that Congress is committed to full funding, as evidenced by the 224% increase in Part B state grants since FY1995. Ultimately the Conference Committee on H.R. 1 rejected the Senate proposal.