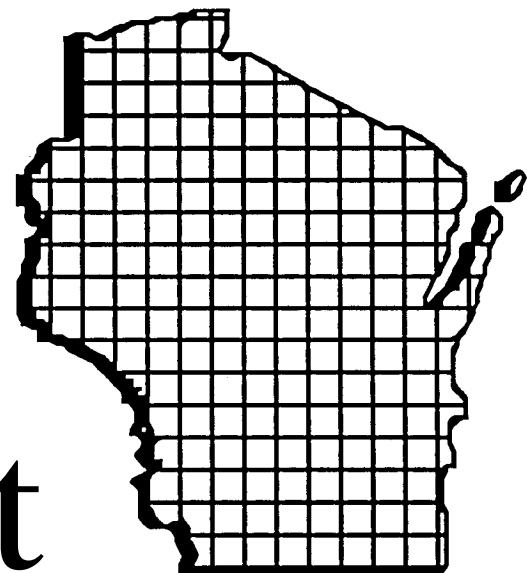


Wisconsin

Policy  
Research  
Institute

Report



July 2002

Volume 15, Number 5

**The Growth of  
Special  
Education in  
Wisconsin**

*(Summary)*

## REPORT FROM THE PRESIDENT:

No issue in Wisconsin government has grown faster in the last decade than special education. It has accelerated to a \$1 billion per year educational program with little accountability. The growth rates at every level are astonishing. These are the findings of a study we commissioned on this topic by one of the top young educational researchers in this state, Thomas Hruz, a resident fellow of our Institute. Hruz, a lawyer with a graduate degree in public policy from the La Follette School of Public Policy at the University of Wisconsin-Madison, has authored several studies and articles on Wisconsin education over the last five years.

Special education is one of the most complicated public policy issues that we face today. A combination of legal and educational policies determines the decision about who is selected to become a special education student in Wisconsin. The actual process varies wildly across the state. In addition, the local costs are even more startling, ranging from approximately \$40,000 per student per year in one district to less than \$7000 per student in another district. If a district spends \$40,000 on one special education student, it has much less to spend on other students. No one disagrees with the importance of spending extra money on the truly disabled, whether they have mental or physical disabilities or even possible learning disorders. However, current trends demonstrate that the growth today is being accelerated, not by rising numbers of the truly disabled but because of qualitative judgments about who is selected to become a special education student.

This identification process needs careful examination by all concerned government agencies, elected officials and taxpayers throughout Wisconsin. How can, for example, the number of autistic children explode in a four-year period by 145%? While the federal government supplies tremendous over-regulation and very few financial resources, it is at the local level where the real problem occurs. There does not seem to be any standard pattern used by our 426 school districts to determine who should be in special education. It appears that many students are selected for these programs based on a feeling, rather than a quantitative fact.

Then there is the question of racial composition. There is a larger percentage of black students than there are whites students in special education in Wisconsin. In some school districts that ratio is alarming. Percentage-wise, Madison will have twice as many black students as white students in special education. This is a pattern that is also occurring in Kenosha and Racine. Yet in Milwaukee, the largest district in the state, the figures for black students are only slightly higher than those for white students. If black children are truly in need of special education, why is it that the percentages are so much smaller in Milwaukee than in other large districts?

Finally, because of the length and complexity of this report, for the first time in fifteen years we are issuing this study in two formats. The first is an abridged version that will summarize the general findings of the study. The full version of the study will only be available on our website, [www.wpri.org](http://www.wpri.org).



James H. Miller

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# THE GROWTH OF SPECIAL EDUCATION IN WISCONSIN

Thomas Hruz

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## EXECUTIVE SUMMARY

In the 2000-2001 school year, Wisconsin school districts reported spending over one-billion dollars to educate and otherwise serve the state's 125,358 students enrolled in special education. This amount represents an astonishing 69% increase (in current dollars) from what state school districts spent during the 1992-93 school year, a mere eight years earlier. Contributing to this result, a sizable number of the state's school districts spent, on average, over \$20,000 on each child in special education during the 2000-01 school year.

To determine whether these special education dollars are being wisely spent, one key question is whether all of the students identified as in need of special education truly require such labeling and the comprehensive, costly special treatment that accompanies it. Addressing this question, this report analyzes the growing concern over the possible misidentification and over-identification of students into special education in Wisconsin.

Special education is one part education and at least two parts a system of bureaucratic and legalistic imperatives, all of which govern what is essentially a public policy decision over which students should be served by a differentiated mode of instruction. The process by which a student becomes placed in special education is immersed in procedural, legal, and administrative requirements. It can be an expensive, time-consuming process that does not yield direct educational results. It also is a process ripe for subjective determinations of special education needs.

The percentage of Wisconsin students identified as in need of special education has increased steadily in the past 25 years, with the rate of increase being significantly higher than that of the nation as a whole. However, across the state there exists a wide disparity among districts in the percentage of each district's students being identified as in need of special education. While the average percentage of students in special education across all 426 districts was about 12% in 2000-01, 88 districts placed over 15% of their students into special education (10 districts placed 20% or more), while others placed as little as 4 to 5%. If one assumes that disabled children in the state are randomly distributed, then one would theorize that the percentage of such students in any one district would be approximately equal. Ideally, a student who is deemed disabled in one district would also be found disabled by another district. The wide disparities suggest, however, that the process of identifying students for special education is far from being uniform and, at a minimum, should be adequately explained by district personnel involved in the decision-making process.

Therefore, there needs to be a greater inspection of how some of the eligibility criteria are used in Wisconsin — ostensibly at least — to determine which students are actually “disabled.” Students are placed in special education according to multiple eligibility categories. Some of these categories include students who are unquestionably fit for special education, such as the mentally and physically retarded. Other disabilities are determined by a more questionable “science” as a means for determining eligibility. In particular, these include the terribly subjective categories of “learning disabled” and “emotionally disturbed.” A close inspection of the eligibility criteria used for these disabilities shows little objective guidance, and helps explain the following findings:

- Over 55% of all special education students in Wisconsin have “learning disabled” or “emotionally disturbed” as their primary disability, with the majority of those being learning disabled.
- During the period between 1996 and 2001, the increasing number of learning disabled students alone accounted for 53% of the total increase of students in special education. In contrast, the number of students with cognitive disabilities remained constant during that period. This latter result has occurred even though the cognitive disability category, which is largely composed of the mentally retarded, is the primary category to which special education was originally directed.
- Notably wide variation exists across state school districts in the incidence of children labeled as learning or emotionally disabled. This variation shows that it is highly doubtful that sound science exists to guide the creation of eligibility criteria for these disabilities.
- The percentage of students found to be learning disabled and emotionally disturbed rises significantly after children reach the age of 12. Why a child is not learning or emotionally disabled when in the third grade, yet becomes disabled by the time he or she is in the eighth grade, is a troubling question. These figures lend credence to criticisms that current state special education policy operates as a “waiting to fail” system.

A startling disparity with special education placements rates by student ethnicity is also occurring. Across the state, and in some districts in particular, certain ethnic minorities are at a much greater risk of being placed in special education. Some within- and between-district comparisons show noteworthy discrepancies. For example:

- The incidence for black students is of special concern. In five of the state's 25 largest school districts (Appleton, Elmbrook, Madison, Oshkosh, and Wisconsin Rapids), black students are found in special education programs at a rate twice that of their white counterparts. Overall, in half of the 25 largest districts for which data are available, a black student is at least 50% more likely than is a white student to be placed in special education.
- Eighteen percent of black students in the Milwaukee Public Schools (MPS) are identified as in need of special education, compared to 31.6% of black students in Madison. Therefore, a black child in Madison is 70% more likely than one in Milwaukee to find himself or herself placed in special education. (Madison is not the only district more likely than MPS to place black students in special education.)

Many factors help to possibly explain these results, including improper bias, underlying social conditions, considerations of cost, and benign variations in judgment and procedure, but which still require a significant reevaluation of district policies on identifying students for special education. All of the factors need to be identified and examined if Wisconsin's educators wish to ensure that they are properly serving all students, regardless of race.

The over-identification of children into special education is a serious concern for academic, social, and fiscal reasons. Improper placement of students into special education is problematic when it stigmatizes students, separates them from their peers, results in lower academic expectations, generates undesirable educational outcomes, or causes any other adverse effects. The data are clear that students in special education in Wisconsin are, on average, suspended more often, graduate at a lower rate, achieve less success as adults, and score lower on statewide academic assessments. Furthermore, students placed in special education are unlikely to exit special education—districts average reevaluating students back into special education at a rate of 82%. To be sure, the negative correlations are not inherently the fault of the state's special education system, as students properly placed in special education programs are afflicted with disabilities that would tend to lead toward these results. The primary concern is with students truly on the margin, who may otherwise be adequately taught and educated without formal placement in the state's special education system.

Beyond the educational effects of over-identification, there are also the immense direct costs and lost opportunity costs that accompany the placement of students into special education. Students placed in special education require, on average, more than twice as much money per-pupil to educate as regular students. Of course, the amount spent on any individual special education student varies considerably between low-incidence, high-costs students (the severely retarded) and high-incidence, low-costs students (most learning disabled students). Yet if some students within that latter category are being misidentified for special education and, therefore, could be just as effectively taught under the methods of regular education, their education could be achieved at a dramatically lower cost. Wisconsin and its school districts must avoid erroneously allocating special education funds for students not truly in need of formal special education programs. Over-identification leads to one of two results: either 1) special education funds remain at the levels they are currently, and students who are not truly disabled will draw away funds that would otherwise go to help truly disabled students in special education, or 2) the state and local districts will spend even more money on these programs by either raising tax rates or reallocating funds that would otherwise serve the regular schooling of students who are not listed as disabled. To avoid these negative results, a funding mechanism for special education must be established to create a disincentive to over-identify students in special education.

Special education began as a policy to aid in the education of students with severe disabilities that inhibited their ability to learn effectively in regular education settings. This understanding — that special education is directed at the mentally and physically handicapped — is still maintained today to some extent, but it has lost its focus. As special education comes to serve a larger percentage of students, it is clear that students who are on the margins of fitting the classical image of a truly mentally or physically disabled student are nonetheless being placed in special education. This development is undesirable.

*Please note: This document represents an abridged version of the report. The unabridged version can be downloaded, on-line, at the Wisconsin Policy Research Institute web site: [www.wpri.org/Reports/reports.html](http://www.wpri.org/Reports/reports.html). The appendices referenced in the report are also available on-line. Please note that the tables and figures in the abridged version are numbered according to their location in the unabridged version, such that there will be gaps in the numerical sequence of these tables and figures in the abridged version.*

## INTRODUCTION

In the 2000-2001 school year, Wisconsin school districts reported spending over one-billion dollars to educate and otherwise serve the state's 125,358 students enrolled in special education. Special education accounts for an enormous part of the public education budget at both the state and local level. With healthy and growing levels of funding comes, as it should, the attention of a great many educators, politicians, public interest groups, and taxpayers as to whether special education dollars are being wisely spent and, if they are not being efficiently used, how that may be accomplished. A central issue is whether all the students identified as in need of special education truly require such labeling and the comprehensive, costly special treatment that accompanies it, or whether portions of the state's special education students could be just as effectively taught under the methods of regular education but at a dramatically lower cost. Addressing this issue, this report analyzes the growing concern over the possible misidentification and over-identification of students into special education in Wisconsin.

Statewide, slightly over 12% of the state's total K-12 student population is classified as in need of special education, and the percentage has been steadily rising. However, across the state there exists a wide disparity among districts in the percentage of each district's students identified as in need of special education. Likewise, there are large differences across districts in terms of rates of referral to special education, rates of placement in special education, rates of reevaluations resulting in continuing special education, the percentages of students placed according to all the disability groups, and so forth. The wide disparity found across all these measures suggests that the process of identifying students for special education is far from being uniform and, at a minimum, should be adequately explained by district personnel involved in the special education decision-making process.

Moreover, a startling disparity with special education placement rates by student ethnicity occurs in some districts. Across the state, and in some districts in particular, certain ethnic minorities are at a much greater risk of being placed in special education. This finding reflects national trends in the possible over-identification of certain racial minorities into special education. If a general occurrence of over-identification is happening in Wisconsin, then these students are particularly being harmed by such improper and unnecessary placement in special education.

Special education in Wisconsin is at a crossroads. While nearly every politician, education bureaucrat, teacher, parent, and other person involved in special education agrees that elements of the state's special education system need serious modifications, few agree as to the precise contours of these changes. The data and analyses presented throughout this report will help to inform this discussion. Specifically, this report raises concerns related to the system by which students, many of whom may not be truly disabled, come to be placed in the costly confines of special education.

## THE GENESIS OF SPECIAL EDUCATION

The premise behind special education is surprisingly simple. The notion is that all children, regardless of their disabilities, should receive an education that will enable them to live the fullest and most-complete life practicable. Under special education law, the technical term for this notion is "free and appropriate public education," colloquially known by its acronym FAPE. It is defined in Wisconsin as "special education and related services that are provided at public expense and under public supervision and direction, meet the standards of department [of public instruction], include an appropriate preschool, elementary or secondary school education and are provided in conformity with an individualized education plan."<sup>1</sup>

Prior to the enactment of major federal legislation in the 1970s, the perception — and to large extent the reality — was that children with mental and physical retardation, who due to their disabilities were less capable of learning through regular methods of schooling, were being inadequately acknowledged by school systems. As a result, a population of students was being poorly educated, if they were being formally schooled at all. Special education laws sought to ameliorate this inequity in the realm of public schooling and to ensure that all children are provided a roughly equal opportunity to learn. This noble goal, however, has generated new mandates and policies, many of them encoded in numerous state and federal laws. Implementation efforts have been marked with varying degrees of success.

## SPECIAL EDUCATION AS APPLIED THROUGH FEDERAL LAW

Originally enacted in 1976 as the Education for All Handicapped Children Act<sup>2</sup> and significantly amended in 1990 and 1997, the Individuals with Disabilities Act (IDEA) operates as the most important set of legal requirements regarding the provision of educational services for disabled students.<sup>3</sup> The primary component of the law is its requirement for the establishment of a free, appropriate public education in the least restrictive environment for all students. Essentially, the law requires that states provide the means by which all children with disabilities will receive a full education as similar as possible to that of regular students. Other extensive provisions of the law and accompanying federal regulations specify the processes and other details for making the basic FAPE requirement complete.

Unfortunately, the federal government fails to be as aggressive in its funding of special education as it is in its legal mandates. The degree of federal financial aid for special education has diminished in the past few decades, both nationally and within Wisconsin. The federal government has woefully failed to meet its original promise to supply 40% of schools' excess special education costs (those above the normal per-pupil expenditure for that district). In 2000, the federal government only paid about 12% of national special education costs.<sup>4</sup>

Funds under the IDEA for special education programs are provided by "flow-through" funds to school districts on an entitlement basis. Statewide in Wisconsin, \$78,379,786 in federal entitlement funds were distributed in the 2000-01 school year (each district's amount of these funds is listed in Appendix B). In addition, \$7,995,834 in statewide FY2001 discretionary grants from the federal government were spent that school year in the state. Although these federal aid amounts appear to be large, as a percentage of total special education funding this aid is relatively small. While Wisconsin spent over \$1 billion in aid specifically for special education in 2000-01, the federal government aid for special education in Wisconsin for that year totaled only about \$86 million, or about 8% of the state's total special education expenditures.

## SPECIAL EDUCATION IN WISCONSIN

Against this backdrop of extensive federal law yet limited federal funding, Wisconsin has adopted its own methods for satisfying the needs of special education students within the state. The federal law operates to establish a minimum level of services that state schools must provide; yet states are permitted to either augment or change special education policies so long as they still meet the requirements of federal law. Moreover, states are able to modify their eligibility criteria for who deserves special education so as to make such definitions more inclusive.

### Financial Matters

Special education is financed by a combination of state, local, and federal funding. In the 2000-01 school year, Wisconsin school districts reported to the Department of Public Instruction (DPI) having spent a total of \$1,063,668,808 on special education and related services that would potentially qualify for state aid. This amount represents an astonishing 69% increase (in current dollars) from the approximately \$630,000,000 that state school districts spent during the 1992-93 school year, a mere eight years earlier.<sup>5</sup>

Given that 124,505 students in the state's school districts qualified in some manner for the receipt of special education services,<sup>6</sup> on average, approximately \$8,543 was spent statewide per special education student, over and above the per-pupil expenditures otherwise allocated to each district student. When each district's average per-pupil expenditure is added to this figure, approximately \$16,299 was spent in the state for each special education student. This amount is more than double the average per-pupil expenditure in the state during 2000-01 of \$7,852. Of course, in actuality, the amount spent varies considerably from one special education student to another. Some students require only modest accommodations to fulfill their needs for an appropriate education; therefore, the proper education of these students causes districts to incur relatively minor levels of additional expense to meet those students' FAPE requirements. Other students, however, are "high-cost." These students possess disabilities that are profound and severely debilitating, such that providing them with an appropriate education will require considerable human and financial resources.

The state reimburses portions of the costs of educating and otherwise serving students enrolled in special education. The State of Wisconsin spent over \$315,681,400 on special education categorical aid in the 2000-01 school

year. Special education state categorical aids, which are distributed on a prorated basis to districts, assist with the costs of providing special education and related services. In addition, “special education costs that are not reimbursed by federal or state categorical aids are eligible for reimbursement under state general equalization aids, and a larger portion of special education costs has been shifted to this funding source over time.”<sup>7</sup>

What is driving the high costs of special education? To be sure, the legal requirements dictated by federal and state special education laws generate a significant portion of the costs for implementing special education in Wisconsin. Yet there is wiggle room in which the state can adopt special education policies that, while satisfying the baseline requirements of federal law, will more efficiently provide the requisite special education to students in need. Generally, there are two primary approaches to keeping special education costs down: 1) to identify fewer students as eligible for special education aid and expand the capacity of regular educators to deal with these students; and 2) to provide more efficiently for the education of students who are identified as in need of special education. This report focuses predominantly on the first option.

In many ways, the funding system provides mixed incentives for the placement of students in special education. To some extent there is a financial disincentive to districts for placing more students in special education, because the administrative, legal, and instructional costs associated with special education can be high and many of those costs will be incurred by the district without reimbursement by the state or federal government. This concern will be stronger for low-incidence, high-cost students (e.g., the severely retarded); yet these students are also those whose disabilities are not susceptible to subjective determination. On the other hand, students who are identified as having low-cost disabilities, such as an emotional or a learning disability, will place a lower marginal cost on districts. Therefore, a positive financial incentive will exist to identify students into these disability groups. Districts that identify more low-cost disabled students will therefore receive extra aid, yet the districts may not be overly financially burdened. This will occur because a significant portion of state aid for special education is categorical aid and, therefore, is outside of the current revenue limits imposed by the state. Moreover, this categorical aid does not have to be equalized based on district wealth. Furthermore, even some of the costs not covered by categorical aid will be paid for, in part, by the state through equalization aid.

There is also great variation in the expenditures districts make to educate students identified with disabilities. The best measure for comparing special education costs among districts is the amount of money a district spends on average *for each student in special education*. Rather than looking to what districts reported as eligible special edu-

**TABLE 1 AVERAGE TOTAL DOLLARS (FEDERAL, STATE, AND DISTRICT) SPENT PER DISABLED STUDENT IN SPECIAL EDUCATION IN DISTRICT, 2000-01  
AMONG ONLY THE 100 LARGEST SCHOOL DISTRICTS BASED ON STUDENTS ENROLLED**

Highest Spending	Amount in Dollars (Number of Disabled Students)	Lowest Spending	Amount in Dollars (Number of Disabled Students)
Elmbrook	26,009 (823)	Burlington Area	7,084 (454)
Whitefish Bay	25,063 (194)	Elkhorn Area	8,617 (273)
Madison Metropolitan	22,679 (4402)	Delavan-Darien	8,809 (349)
Shorewood	22,287 (189)	De Pere	12,449 (299)
Franklin Public	22,037 (397)	Hortonville	13,368 (318)
Greenfield	21,902 (316)	Seymour Community	13,823 (306)
Mequon-Thiensville	21,491 (379)	D C Everest Area	14,021 (636)
New Berlin	21,399 (620)	Reedsburg	14,102 (393)
Wauwatosa	20,578 (635)	Sparta Area	14,297 (383)
Menomonee Falls	20,125 (520)	Howard-Suamico	14,311 (553)
Average across districts: \$16,928		Median across districts: \$17,082	Standard Deviation: \$2,802

**TABLE 2 AVERAGE TOTAL DOLLARS (FEDERAL, STATE AND DISTRICT) SPENT PER DISABLED STUDENT IN SPECIAL EDUCATION IN DISTRICT, 2000-01 AMONG ALL SCHOOL DISTRICTS**

Highest Spending	Amount in Dollars (Number of Disabled Students)	Lowest Spending	Amount in Dollars (Number of Disabled Students)
Arrowhead UHS	39,996 (127)	North Cape	6,137 (23)
Fox Point J2	29,096 (77)	Waterford Graded J1	6,469 (190)
Lac du Flambeau #1	27,673 (108)	Union Grove J1	6,779 (86)
Nicolet UHS	26,252 (132)	Burlington Area	7,084 (454)
Elmbrook	26,009 (823)	Raymond #14	7,173 (55)
Norris	25,534 (35)	Washington-Caldwell	7,193 (32)
Glendale-River Hills	25,496 (121)	Genoa City J2	7,753 (67)
Whitefish Bay	25,063 (194)	Yorkville J2	7,894 (41)
Cornell	24,604 (82)	Waterford UHS	8,045 (87)
Ladysmith-Hawkins	24,245 (168)	Walworth J1	8,092 (73)
Average across districts: \$16,299      Median across districts: \$16,294      Standard Deviation: \$3,405			

cation costs, the following tables include both these costs and the federal flow-through allocations for the 2000-01 school year. The combination better represents what each district spent in total on special education and does not reflect any double-counting, as the cost figures reported by the district do not include their federal aid. However, these special education cost figures are over and above the districts' average, per-pupil expenditures. Therefore, the special education costs for each district are added to the districts' per-pupil expenditure for 2000-01, as measured by each district's Current Education Cost per-student figure, to create the full, per-pupil special education cost.<sup>8</sup> The resulting average expenditures per-student in special education for specific school districts are presented in Tables 1 and 2. Figures for all districts are provided in Appendix B.

### The Process of Being Placed in Special Education in Wisconsin

The following is a summary of the process by which students come to receive special education services in Wisconsin.<sup>9</sup> This basic summary provides a context for understanding some of the problems with the current special education system, along with the consequences that may result from altering the current system. In particular, attention should be directed at how this process can foster the possible over-identification of students into special education. Within this summary are comparisons among school districts<sup>10</sup> regarding each district's ranking across various measures of special education policy and procedure. These variations show that districts have wide discretion in their decisions related to special education. The variations also suggest that special education in Wisconsin is anything but a science; rather, it is a system filled with discretionary policies and subjective forces within districts that are sometimes either over-anxious or, conversely, over-tentative to put numbers of their students into special education.

The special education process begins by a written request for a "referral." This request will essentially claim that the child in question is disabled as defined under federal or state law and, therefore, needs special education. The effect of a referral is to trigger an elaborate process in which multiple players work together to, ostensibly, evaluate the unique educational needs of the child and to then determine whether the child has at least one disability that would qualify the child for special education.

In the 2000-01 school year, 29,669 students in Wisconsin were initially referred to special education programs. About 66% (19,552) were eventually placed within special education. Yet the rate of initial referrals to special education varies across districts. Table 3 shows the ten districts among the state's 100 largest districts with the highest

**TABLE 3 RATE OF STUDENTS INITIALLY REFERRED FOR SPECIAL EDUCATION, 2000-01\***  
**AMONG 100 LARGEST SCHOOL DISTRICTS BASED ON STUDENTS ENROLLED**

Highest Initial Referral Rate	Rate (Number Referred)		Lowest Initial Referral Rate	Rate (Number Referred)
Beloit	4.66 (345)		Oshkosh Area	1.09 (136)
Portage Community	4.61 (133)		Shorewood	1.26 (33)
Ashwaubenon	4.42 (145)		Kimberly Area	1.47 (55)
Fort Atkinson	4.24 (130)		Whitefish Bay	1.49 (59)
Elkhorn Area	4.15 (113)		Mequon-Thiensville	1.52 (77)
Sauk Prairie	4.08 (114)		Beaver Dam	1.62 (69)
Menasha	4.06 (176)		La Crosse	1.72 (172)
Marinette	3.98 (117)		Manitowoc	1.83 (141)
Hudson	3.95 (184)		Wauwatosa	1.84 (175)
Reedsburg	3.89 (112)		Elmbrook	1.86 (204)

Average across districts: 2.76%      Median across districts: 2.67%      Standard Deviation: 0.75

\* According to the DPI, slight inconsistencies in these referral rates may occur because referrals are received by the district of residency, whereas enrollment is based on the district of attendance.

**TABLE 4 INITIAL REFERRAL RATE OF STUDENTS REFERRED FOR SPECIAL EDUCATION, 2000-01**  
**AMONG ALL SCHOOL DISTRICTS — EXCLUDING K-8 AND UNION HIGH SCHOOL DISTRICTS**

Highest Initial Referral Rate	Rate (Number Referred)		Lowest Initial Referral Rate	Rate (Number Referred)
Flambeau	7.88 (58)		Gilmanton	0.78 (2)
Webster	6.94 (54)		Rosholt	0.98 (8)
Potosi	6.50 (33)		Oshkosh Area	1.09 (136)
Mellen	6.29 (22)		Hilbert	1.20 (9)
Hillsboro	6.21 (41)		Shorewood	1.26 (33)
Siren	5.89 (30)		Pittsville	1.33 (11)
Waterloo	5.86 (65)		Lake Mills Area	1.34 (26)
Williams Bay	5.74 (43)		Beecher-Dunbar-Pembine	1.38 (6)
Lena	5.73 (30)		Green Lake	1.38 (6)
Owen-Withee	5.56 (38)		Darlington Community	1.45 (14)

Average across districts: 3.02%      Median across districts: 2.87%      Standard Deviation: 1.13

referral rates and those with the lowest rates. Table 4 provides the same ranking for all districts except for all K-8 districts and Union High School (UHS) districts. In both tables, these figures essentially present the rate of students referred for the first time to special education, which is derived by dividing the number of individual students referred by the total number of students in the district.

Referrals are a crucial step in the entire process, for no student may be placed into special education unless he or she is first referred to special education. It only stands to reason, therefore, that districts that refer a greater per-

FIGURE 1

### THE SPECIAL LANGUAGE OF SPECIAL EDUCATION

**Autism:** a developmental disability significantly affecting a child's social interaction and verbal and non-verbal communication, generally evident before age 3, that adversely affects learning and educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. The term does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance, as defined [as an emotional behavioral disability].

**Cognitive Disability:** significantly sub-average intellectual functioning that exists concurrently with deficits in adaptive behavior and that adversely affects educational performance.

**Emotional Behavioral Disability:** pursuant to s. 115.76 (5) (a) 5., Stats., means social, emotional or behavioral functioning that so departs from generally accepted, age appropriate ethnic or cultural norms that it adversely affects a child's academic progress, social relationships, personal adjustment, classroom adjustment, self-care or vocational skills.

**Hearing Impairment** (including deafness): a significant impairment in hearing, with or without amplification, whether permanent or chronically fluctuating, that significantly adversely affects a child's educational performance including academic performance, speech perception and production, or language and communication skills.

**Learning Disability:** a severe learning problem due to a disorder in one or more of the basic psychological processes involved in acquiring, organizing or expressing information that manifests itself in school as an impaired ability to listen, reason, speak, read, write, spell or do mathematical calculations, despite appropriate instruction in the general education curriculum. Specific learning disability may include conditions such as perceptual disability, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia.

**Other Health Impairment:** having limited strength, vitality or alertness, due to chronic or acute health problems. The term includes but is not limited to a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, diabetes, or acquired injuries to the brain caused by internal occurrences or degenerative conditions, which adversely affects a child's educational performance.

**Orthopedic Impairment:** a severe orthopedic impairment that adversely affects a child's educational performance. The term includes, but is not limited to, impairments caused by congenital anomaly, such as a clubfoot or absence of some member; impairments caused by disease, such as poliomyelitis or bone tuberculosis; and impairments from other causes, such as cerebral palsy, amputations, and fractures or burns that cause contractures.

**Significant Developmental Delay:** children, ages 3, 4 and 5 years of age or below compulsory school attendance age, who are experiencing significant delays in the areas of physical, cognition, communication, social-emotional or adaptive development.

**Speech or Language Impairment:** an impairment of speech or sound production, voice, fluency, or language that significantly affects educational performance or social, emotional or vocational development.

**Traumatic Brain Injury:** an acquired injury to the brain caused by an external physical force resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; speech and language; memory; attention; reasoning; abstract thinking; communication; judgment; problem solving; sensory, perceptual and motor abilities; psychosocial behavior; physical functions; information processing; and executive functions, such as organizing, evaluating and carrying out goal-directed activities. The term does not apply to brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma.

**Visual Impairment:** even after correction a child's visual functioning significantly adversely affects his or her educational performance.

*Source: Wisconsin Administrative Code, PI 11.36*

centage of their students for consideration of receiving special education will have a greater propensity to place a larger percentage of students. Once a student is referred as possibly in need of special education, a determination must be made. State law and regulations strictly define this process of evaluating a student's need for special education. The district evaluation team charged with this task (known in the vernacular as the "M-Team," for multi-disciplinary team) must use multiple, statistically valid evaluation materials and procedures to make its assessment of

whether a disability exists. Many of the criteria it must use are specifically set out in the Wisconsin Statutes and Wisconsin Administrative Code. The focus of this evaluation is on determining whether the student fits within the parameters of a variety of specifically defined disability categories. These categories, and their definitions, are presented in Figure 1.

Technically speaking, a student who is said to have a disability must additionally have that disability be deemed by the assessment team as one that *requires* special education.<sup>11</sup> In other words, the law does not require all students with a disability, as defined under the law, to be automatically placed in special education. Rather, the disability must also be one that requires special education instruction and services for the student with the disability to be adequately educated. Under present practice the finding of a disability almost invariably leads to the conclusion that the disability requires some special educational accommodation outside of regular education.

As with initial referral rates, districts vary widely in their rate of placing students who have been referred — which essentially measures the percentage of students initially referred to special education who actually end up placed in special education that school year. Table 5 shows the Wisconsin districts, among only the 100 largest, having the highest and lowest rates of placement in special education based on referrals in 2000-01.

**TABLE 5 PLACEMENT RATE BASED OF STUDENTS REFERRED FOR SPECIAL EDUCATION, 2000-01  
AMONG 100 LARGEST SCHOOL DISTRICTS BASED ON STUDENTS ENROLLED**

Highest Rate of Placement	Rate (Total Placements)	Lowest Rate of Placement	Rate (Total Placements)
Beaver Dam	97.10 (67)	Marshfield	38.79 (45)
Mequon-Thiensville	94.81 (73)	West Bend	41.74 (91)
La Crosse	91.86 (158)	Rhineland	43.07 (59)
Kettle Moraine	90.24 (111)	Superior	44.87 (70)
Hudson	90.22 (166)	Whitnall	46.81 (44)
Fond du Lac	88.89 (200)	De Forest Area	47.47 (47)
De Pere	87.74 (93)	Menasha	48.30 (85)
Green Bay Area	87.68 (676)	Baraboo	48.35 (44)
Greendale	84.51 (60)	Antigo	48.98 (48)
Rice Lake Area	83.33 (55)	Sauk Prairie/Oregon (tie)	50.00 (60/57)
Average across districts: 67.35%		Median across districts: 67.59%	Standard Deviation: 12.44

Once a student is identified as in need of special education by the district's evaluation team, another process begins to set out in detail how that individual child should be educated, why the education is needed, and how success in achieving the child's educational goals will be measured. Another multi-member team then constructs the child's individualized education program (IEP), which is a written plan describing the instruction and other services that will be designed specifically for that student. The focus of this plan is on how the child's educational needs relate to the child's strengths and weaknesses, ability to function in a classroom, and what support the child needs in order to learn. If a school does not properly develop an IEP, the district will be considered as having failed to provide a free appropriate public education to the student.<sup>12</sup> Moreover, it is a violation of the federal IDEA law to provide any special education services to a child unless that child has a current IEP.

After a child has been placed within special education, periodic reevaluations of the child's need for special education will be undertaken. These reevaluations can be at the request of district personnel or the child's parent, but must occur, at a minimum, at least once every three years. Statewide, the average rate of reevaluated students resulting in continued eligibility was 82.36% in 2000-01. This relatively high rate shows how generally uncommon it is for students placed in special education to eventually exit the program. Yet some districts have a much smaller percentage of special education students who, after their reevaluation, stay in special education. To help illustrate this

point, Table 6 shows those districts with the highest and lowest rates of special education students remaining in special education after reevaluation. Overall, if a special education student is continually reevaluated as in need of special education, then the student will remain in these programs until he or she either completes grade 12 or otherwise drops out of school.

**TABLE 6 REEVALUATION RATE RESULTING IN CONTINUED ELIGIBILITY IN SPECIAL EDUCATION, 2000-01  
AMONG 100 LARGEST SCHOOL DISTRICTS BASED ON STUDENTS ENROLLED**

Highest Rate of Reevaluation	Rate		Lowest Rate of Reevaluation	Rate
Portage Community	96.82		Neenah	57.34
La Crosse	95.44		Stevens Point Area	57.85
Oshkosh Area	95.04		Fort Atkinson	63.06
Cudahy	94.67		Germantown	64.15
Oconomowoc Area	94.59		West Bend	64.23
Burlington Area	94.34		Monona Grove	65.79
Reedsburg	94.17		Merrill Area	67.48
Wauwatosa	93.83		Manitowoc	70.29
Beaver Dam	93.75		Superior	70.33
Sun Prairie Area	93.72		Middleton-Cross Plains	70.87
Average across districts: 81.95%		Median across districts: 82.25%		Standard Deviation: 8.80

### Conclusion

Wide disparities exist across districts in rates of referral to special education, placement rates based on those referrals, and reevaluations of students as in continued need of special education. These wide variations need to be adequately explained, especially by those districts that perform at levels considerably different from the average found across districts in the state.

### Legal Matters: Securing Special Education Rights and Incurring Costs

Determining that a student is eligible for special education carries with it extra levels of administrative costs and concerns. Because the right to special education, or more specifically to a free and appropriate public education, is a legally conferred right, significant legal protections regarding the effectuation of these rights are accorded. As a result, disagreements between parents and district representatives at any point before, during, or after the process described above (whether due to action *or* inaction on the part of the district) must be properly handled. These disagreements will be addressed either informally or by the parent formally requesting an independent evaluation, filing a legal complaint, or initiating a due process hearing. Attendant to these disputes are, of course, legal costs and other incidental administrative costs, which can run high. The costs also go beyond those accounted for by the requisite proceedings. They are magnified by the mere threat of these proceedings, which are undertaken at little cost to parties bringing the claims against a school district.

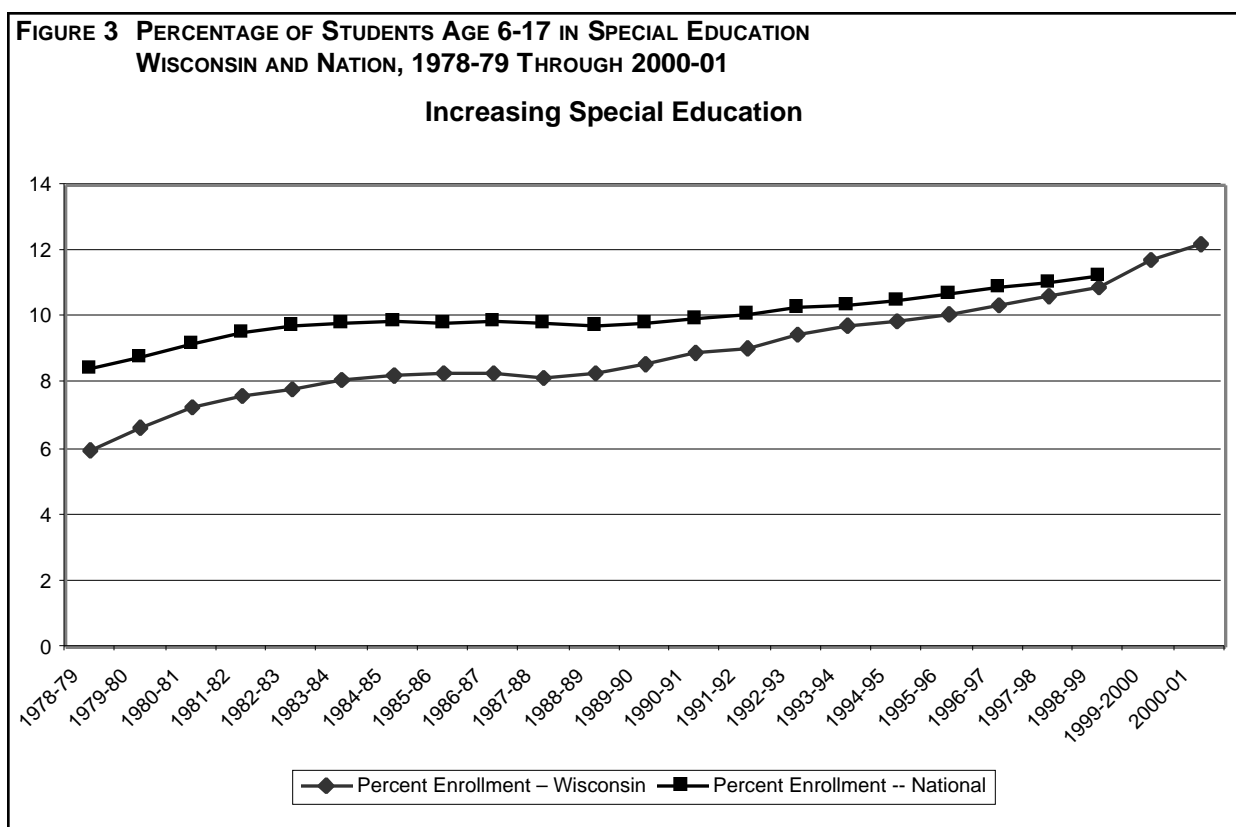
These costs are a growing concern, given that the number of complaints and due process filings has been steadily increasing during the past few decades. From 1997-2001 there were 53% more complaints heard and 32% more due process filings made than during the five years prior to that period. Moreover, the number of issues raised in these formal complaints has increased substantially during the past two decades. As recently as 1993, there were only 73 issues heard due to special education complaints, while in 2001 there were 215 issues raised, a startling rise of almost 300%.

## THE CONCERN OF OVER-IDENTIFICATION

An overarching and growing concern with special education policy is that there exists an over-identification of students as in need of special education. In other words, students who should not be deemed disabled in order for them to be properly educated are nonetheless being placed within special education.

Special education began as a policy to aid in the education of students with severe disabilities that inhibited their ability to learn effectively in regular education settings. This understanding — that special education is directed at the mentally and physically handicapped — is still maintained today to some extent, but it has lost its focus. As special education comes to serve a larger percentage of students, it is clear that students who are on the margins of fitting the classical image of a truly mentally or physically disabled student are nonetheless being placed in special education. The primary question is whether this development is desirable.

The percentage of Wisconsin students identified as in need of special education has increased steadily in the past quarter century, with the rate of increase being significantly higher than that of the nation as a whole. In fact, Wisconsin's rate of increase in the identification of students with special education needs from the mid-1970s to the mid-1990s was the seventh-highest in the nation.<sup>13</sup> This increase moved Wisconsin from ranking forty-fifth among the states and District of Columbia to being twenty-sixth, over the same period.<sup>14</sup> Figure 3 illustrates this rising incidence of students being identified as in need of special education.



### District-by-District Comparisons

Different school districts throughout the state, however, are driving this increase to widely varying degrees. Which districts have the highest proportion of their students classified as needing special education? Table 8 shows the ten state school districts with the highest percentage of students identified as in need of special education and the ten districts with the lowest percentage of such students. Table 9 presents the same numbers for only the largest 100 districts. Appendix A provides a complete ordering of all districts by their percentage of disabled students among all students.

**TABLE 8 PERCENTAGE OF STUDENTS IDENTIFIED AS DISABLED IN 2000-01  
AMONG ALL SCHOOL DISTRICTS**

Highest Percentage of Students with Disabilities	Percentage (Number)		Lowest Percentage of Students with Disabilities	Percentage (Number)
Norris	31.53 (35)		Lake County (K-8)	3.17 (46)
Menominee Indian	30.27 (300)		Maple Dale-Indian Hill (K-8)	4.35 (83)
Sharon J11 (K-8)	23.96 (69)		Fox Point J2 (K-8)	4.38 (77)
New Auburn	23.12 (80)		Whitefish Bay	4.90 (194)
Lac du Flambeau #1 (K-8)	21.09 (108)		Swallow (K-8)	5.22 (18)
La Farge	20.82 (66)		Geneva J4 (K-8)	5.38 (7)
South Shore	20.73 (51)		Arrowhead UHS	6.54 (127)
Wauzeka-Steuben	20.16 (76)		Wauwatosa	6.67 (635)
Benton	20.07 (60)		Whitnall	6.67 (267)
Mellen	20.00 (70)		Lake Geneva-Genoa City UHS	6.74 (75)
Average across districts: 12.90%                      Median across districts: 12.65%                      Standard Deviation: 3.31				

**TABLE 9 PERCENTAGE OF STUDENTS IDENTIFIED AS DISABLED IN 2000-01  
AMONG 100 LARGEST SCHOOL DISTRICTS BASED ON STUDENTS ENROLLED**

Highest Percentage of Students with Disabilities	Percentage (Number)		Lowest Percentage of Students with Disabilities	Percentage (Number)
Beloit	18.67 (1383)		Whitefish Bay	4.90 (194)
Monroe	17.44 (495)		Wauwatosa	6.67 (635)
Stoughton Area	16.00 (635)		Whitnall	6.67 (267)
Sauk Prairie	15.40 (430)		Shorewood	7.24 (189)
Madison Metropolitan	14.99 (4402)		Greendale	7.38 (230)
Ashwaubenon	14.56 (478)		Mequon-Thiensville	7.46 (379)
De Forest Area	14.48 (445)		Elmbrook	7.49 (823)
Green Bay Area	14.23 (3575)		Onalaska	7.84 (257)
Janesville	13.78 (1688)		Manitowoc	8.25 (637)
Reedsburg	13.65 (393)		Hamilton	8.28 (376)
Average across districts: 11.35%                      Median across districts: 11.41%                      Standard Deviation: 2.28				

These tables and their underlying data reveal some interesting observations that are reflective of trends beyond simply these top-ten and bottom-ten listings. First, districts with a larger percentage of students identified as disabled generally tend to be smaller school districts rather than those serving larger populations of students. In fact, only eight of the fifty school districts with the highest prevalence of disabled children were districts with over 1000 students enrolled.

A second observation is that this variation is not merely seen at the top and bottom districts ranked in the tables, based on but a few outliers. The standard deviation of the percentage of students in special education among all districts is 3.31%. Assuming a normal distribution, this means that approximately 35% of all school districts have either

more than 16.2% of their students in special education or less than 9.6% in such programs, which is distant from the average of 12.9%.

Third, districts with a higher percentage of students in special education appear to come from many different regions of the state. This is true when looking at all districts in the state, yet when looking only at the 100 largest districts, the top ten districts in terms of their percentage of students in special education seem to cluster around the Madison and Green Bay areas. Districts with the lowest percentages, however, appear to be overwhelmingly from the Milwaukee metropolitan area.

Overall, this evident variation is a genuine concern. Ideally, given that the mandates of special education laws revolve around satisfying the educational needs of each individual student, *wherever they may reside*, the law seemingly dictates that a student who is deemed disabled in one district would also be found disabled by another district's evaluation team. If this result does not obtain, as the foregoing data seem to suggest, then either some school districts are identifying students into special education who are not disabled or some districts are failing to identify disabled students who are in need of special education, or a combination of both.

To be sure, the mere high incidence of identifying children as in need of special education does not *per se* mean that such districts are “over” identifying students into special education. It is certainly plausible that these districts are populated by a disproportionate number of students in need of special education. Yet, without adequate explanation by districts as to why a higher or lower percentage of their students are deemed disabled and in need of special education programs, legitimate inquiries can be made as to why these vast differences occur. If one assumes that the number of children in the state who are disabled is randomly distributed, then one would theorize that the percentage of such students in any one district would be approximately equal. While this assumption likely does not hold true in all instances, the variation actually found should not be that great, especially among districts of similar economic and demographic characteristics. Nonetheless, the variation found in the state, as seen in Appendix A, holds across all types of districts. Therefore, it is incumbent upon districts that are well below or well above the state average to offer explanations for why the percentage of their students who are placed in special education deviates so noticeably from the norm.

### **DISSECTING IDENTIFICATION PHENOMENA BY DISABILITY GROUPS**

While special education aims to help the education of all students with disabilities affecting their learning, special education policies have been designed to address these students by their specific disability categories. In other words, children are not merely determined to be disabled when placed into special education; rather they are found to be disabled in one of ten different, although potentially overlapping disability categories. The question is, how do identification rates, trends, and potential for over-identification differ among these groups? Figures on the prevalence of each type of disability served under special education programs during the 2000-01 school year are presented in Table 12.

A couple of important observations can be made by inspecting these figures. First, these numbers show that the most prevalent disability in the state is that of “learning disabled” (42%), followed by “speech/language” disabilities (22%), “emotionally disturbed” (13%), and “cognitively disabled” (11%), with the remaining categories together constituting just twelve percent of the primary disabilities for all disabled students in Wisconsin. This distribution helps to provide some context when discussing which disability groups may be driving the increasing rate of identification of children with disabilities.

Another observation from these data is the curiously increasing figures on learning disabilities and emotional disturbance. There are 60% more students in the age group of 12-17 identified as learning disabled than in the age group of 6-11. If learning disabilities should be correctly understood as disabilities that exist *within* students, independent of their exposure to education within the schools, then it is troubling that a significantly greater number of students have been identified with learning disabilities in the six-year age group of 12-17 than in the six-year age group of 6-11. Why a child is not learning disabled when in the third grade, yet becomes learning disabled by the time he or she is in the eighth grade, is a troubling question. Similarly, in terms of emotional disabilities, it appears that emotional disturbances become much more commonly identified as children get older. There are 95% more emotionally disabled children in the older age groups than the 6-11 group. This makes intuitive sense in some ways, as children generally do not exhibit socially deviant behavior until they reach adolescence, commonly around the time

**TABLE 12 2000 - 2001 FEDERAL IDEA CHILD COUNT — WISCONSIN  
BY AGE GROUPS & PRIMARY DISABILITY — DECEMBER 1, 2000  
AS AMENDED OCTOBER 30, 2001**

Primary Disability	3-5	6-11	12-17	18-21	Total	Percent	Percent Change from 1996-97
Autism	306	1,206	525	93	2,130	1.70	148.8
Cognitive Disabilities	394	4,933	6,422	1,674	13,423	10.71	-0.1
Deaf-Blindness	1	3	4	0	8	.01	-11.1
Emotional Disturbance	255	5,182	10,102	1,026	16,565	13.21	0.6
Hearing	163	667	642	84	1,556	1.24	4.6
Learning Disabilities	117	19,161	30,549	2,861	52,688	42.03	17.6
Other Health Impaired	615	3,426	2,639	217	6,897	5.50	175.2
Orthopedically Impaired	286	721	518	86	1,611	1.29	-16.0
Significant Developmental Delay (Ages 3-5 only),	2,208	76	0	0	2,284	1.82	998.1
Speech/Language	9,973	15,289	2,055	85	27,402	21.86	-2.1
Traumatic Brain Injury	35	110	167	44	356	.28	27.1
Vision	30	195	189	24	438	.35	-3.3
<b>Totals</b>	<b>14,383</b>	<b>50,969</b>	<b>53,812</b>	<b>6,194</b>	<b>125,358</b>	<b>100.00</b>	<b>13.5</b>

Source: [http://www.dpi.state.wi.us/dpi/dlsea/een/cc\\_12\\_1\\_00.html](http://www.dpi.state.wi.us/dpi/dlsea/een/cc_12_1_00.html); based on Federal Data Collection form PI-2197 submissions.

of middle school. Together, these figures lend credence to criticisms that current state special education policy operates as a “waiting to fail” system, whereby student education needs are addressed only after it becomes clear that a student is not succeeding in regular education classes. Unfortunately, this recognition can occur well after a student has passed the age at which he or she might be helped most effectively.

Finally, another measure of interest relates to the relative rate of increase in students identified as in need of special education by the various primary disabilities. It is clear that some disabilities are being identified at a much higher rate than they were a mere four years ago. Between 1996-97 and 2000-01, an astonishing 149% more autism cases and 175% Other Health Impairment cases came to exist. The latter increase is likely caused by the recent federal guidelines allowing children with attention-deficit disorder — a problem that more and more children (correctly or incorrectly) have been found to hold in the past decade — to be placed in this group. Despite the dramatic percentage increases found in these disability groups, perhaps the most noteworthy increase, in terms of its effect on the overall special education system, is that found with learning disabilities. Even though the number of students with learning disabilities increased only by 17% in this four-year period, the significance of this increase is a function of this category being, far and away, the largest in terms of students identified into special education. In fact, during this four-year period, the increasing number of learning disabled students accounted for 53% of the total increase of students in special education.

In contrast to these disability groups, the number of students with cognitive disabilities remained constant from between 1996 and 2001. This disability, which is largely composed of the mentally retarded, is the one to which special education was originally directed. However, the trends show that, in Wisconsin, the percentage of students with cognitive disabilities among all students with disabilities is decreasing.

## THE USE OF ELIGIBILITY CRITERIA FOR SPECIAL EDUCATION: SCIENCE OR ART?

It is helpful to parse the disability groups currently recognized as eligible for special education by separating those that are based more on scientifically valid assessment mechanisms and those that may include a greater number of students who are actually not disabled. The eligibility categories discussed in detail below — learning disabilities and emotional disabilities — fall in to the second category, and they are open to great variation in opinion as to whether a student actually “qualifies” as being within that disability. There is little sound science behind the diagnosis of these “disabilities.” In fact, these categories have been dubbed “judgmental” categories, because “the children so classified typically do not exhibit readily observable distinguishing features, and the authoritative diagnosis of medical professionals, which is common in assessment of many of the low-incidence disabilities, is absent.”<sup>15</sup>

This nebulous nature of the criteria for being classified into these groups poses two problems. First, the criteria for these classifications, by failing to forge a bright-line standard that has the accompanying benefit of certainty, causes the need for a greater number of cases to be decided at the margins. These cases involve students who fail to manifest obvious physical or mental impairments, but rather are afflicted by some less-severe disability, such as mere behavioral or motivational problems. Allowing children with these characteristics to be considered for special education makes proper identification a more difficult and expensive process. Furthermore, while these criteria may provide an improved basis for identifying children who are actually disabled, they may also generate “false positives.”<sup>16</sup> That is, they may foster the misidentification of disability among children who are not in fact disabled, despite the hunches of some teachers, social workers, or parents.

The second problem is that the administrative costs associated with ensuring correct identification will increase relative to the special education dollars actually going to aiding the education of disabled students. In other words, dollars that could be better used to actually aid students in their learning and FAPE requirements are instead shifted to matters unrelated, at least directly, to actually aiding in children learning well.

### Learning Disabled

As was shown in Table 12, over 40% of all special education students in Wisconsin have “learning disabled” as their primary disability. As a result, learning disabilities are by far the largest cause for the placement of students in special education. Moreover, as was noted above, learning disabilities alone accounted for 50% of the growth in special education from 1991-92 to 2000-01 nationally, and approximately 47% of the increase in Wisconsin during that same period. Yet unlike disability categories such as, for example, speech impairment and cognitive disability, which are considerably more specific regarding what manifested disabilities fall under that term, learning disabled can mean a myriad of things. It is this difficult-to-grasp and difficult-to-limit definition that gives birth to concerns with these enormous increases in students identified by this disability, both nationally and in Wisconsin.

The learning disability category has been commonly referred to as the “catch-all” of special education — it is the group in which poorly learning students can readily be placed with little need to find a manifest, specific accompanying mental or physical disability. Despite the fact that this group is now called “specific” learning disability, there is little that is specific about it. According to some experts on this subject, “[Learning Disability] remains one of the least understood and most debated disabling conditions that affect school-aged children.”<sup>17</sup>

The central diagnostic criterion for identifying a child as learning disabled is that the child reaches unexpectedly low levels of achievement.<sup>18</sup> This analysis relies on measuring a student’s under-achievement by an IQ/achievement discrepancy measure, which essentially looks at the difference between academic achievement and perceived intellectual ability. Many commentators have criticized this approach to identifying learning disabilities. The primary concern is that it operates on a “waiting to fail” model, whereby students must manifest a few years of poor performance before their learning troubles will be identified and then addressed. Another problem is that poor achievement is a function of many factors that may be redressible by means besides the placement of the student in the special education system. These factors include, but are not limited to, poor instruction, lack of parental support, lack of effort or motivation on the part of the student, or simply poor testing ability by the student. All of these factors do not point necessarily to a “disability” that requires special education to be accommodated, but rather to learning problems held by many students.

The most common, specific learning disability found is that of reading disabilities, often dyslexia. Beyond reading difficulties, federal regulations call for disabilities that appear in a variety of areas, which are all reflected in the Wisconsin eligibility criteria. In Wisconsin, specific learning disability is defined by the DPI as:

a severe learning problem due to a disorder in one or more of the basic psychological processes involved in acquiring, organizing or expressing information that manifests itself in school as an impaired ability to listen, reason, speak, read, write, spell or do mathematical calculations, despite appropriate instruction in the general education curriculum. Specific learning disability may include conditions such as perceptual disability, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia.<sup>19</sup>

IEP teams inquiring into the existence of this disability must base their assessments on a variety of qualitative and quantitative measures, but the weight given to any particular measure or measures is unspecified.<sup>20</sup>

An IEP team is supposed to identify a child as having a learning disability only if three specific types of disability manifestations *all* exist at the time of initial identification. The first concern is with a child's **classroom achievement**. Evaluators must inspect whether "the child's ability to meet the instructional demands of the classroom and to achieve commensurate with his or her age and ability levels is severely delayed" in the areas of either listening or reading comprehension, oral or written expression, basic reading skill, or mathematical calculation/reasoning.<sup>21</sup> The second concern revolves around whether there is a **significant discrepancy** between a child's academic achievement in any of the areas just discussed and a child's intellectual ability. The final matter required to be considered is whether a "child has an **information processing deficit** that is linked to the child's classroom achievement delays" under the two prior concerns.<sup>22</sup> According to the DPI, "[a]n information processing deficit means a pattern of severe problems with storage, organization, acquisition, retrieval, expression, or manipulation of information rather than relative strengths and weaknesses."<sup>23</sup>

Moreover, state law mandates that children may not be deemed in need of special education services solely due to the fact the child has received insufficient teaching or because of the child's socio-economic background. According to the Code, "The IEP team may not identify a child as having a specific learning disability if it determines that the significant discrepancy between ability and achievement is *primarily due to environmental, cultural or economic disadvantage* or any of the reasons specified under [section] 115.782(3)(a), Stats. . . ."<sup>24</sup> The reference to section 115.782(3)(a) is primarily to the equally interesting requirement that the IEP team "may not determine that a child is a child with a disability solely because the child has received insufficient instruction in reading or math or because the child has limited proficiency in English."<sup>25</sup> The insertion of this provision is significant, as it suggests that poor teaching cannot form the basis for children being identified as in need of special education. This stipulation makes intuitive sense, for if the provision of teaching for a certain set of students was so poor that, for example, most students in that teacher's class eventually become assessed as "learning disabled," this would be a serious indictment of that teacher's capabilities, not of the students' abilities. In fact, the DPI's basic definition of learning disabled, quoted earlier, assumes that the disability arose "despite appropriate instruction in the general education curriculum."

These two caveats, if not expressly, at least implicitly represent a concern on the part of education policy-makers to not allow either inadequate instruction or a student's social background to cause a student's identification as in need of special education. However, one must inspect the precise choice of words used within these eligibility criteria and restrictions to understand their truly weak limits on subjective determinations by those assigned the task of determining a child's need for special education. For example, notice that one restriction is qualified in that the significant discrepancy must not be *primarily due* to these socio-economic factors. This means that socio-economic factors may play a significant, while not the primary role in determining why an achievement discrepancy exists.

Furthermore, it is doubtful that many districts' IEP teams truly feel constricted by these limitations. There always remains a level of plausible explanations for the placement of many students. As a result, there is a legitimate fear that students categorized as learning disabled are, in part, composed of students that were poorly taught early on and as a result were left behind.

## Statewide Variation

Given these definitional concerns with the proper identification of students as learning disabled, it is perhaps not surprising that there is great variation across the state in terms of the percentage of districts' students who are identified as learning disabled.

**TABLE 13 PERCENTAGE OF TOTAL STUDENTS IDENTIFIED AS LEARNING DISABLED IN 2000-01  
AMONG 100 LARGEST SCHOOL DISTRICTS BASED ON STUDENTS ENROLLED**

Highest Percentage of Students with Learning Disabilities	Percentage (Number)		Lowest Percentage of Students with Learning Disabilities	Percentage (Number)
Sauk Prairie	8.31 (232)		Whitefish Bay	1.41 (56)
Beloit	8.10 (600)		Wauwatosa	2.18 (208)
Monroe	7.86 (223)		Whitnall	2.42 (97)
Rice Lake Area	7.49 (217)		Manitowoc	2.45 (189)
Antigo	6.72 (237)		Mequon-Thiensville	2.48 (126)
Madison Metropolitan	6.50 (1909)		De Pere	2.63 (89)
Janesville	6.39 (783)		Elmbrook	2.80 (308)
Fond du Lac	6.34 (595)		West Bend	2.82 (256)
Waupun	6.33 (178)		Greenfield	2.88 (104)
Cudahy	6.18 (201)		Onalaska	3.05 (100)

Average across districts: 4.76%

Median across districts: 4.85%

Standard Deviation: 1.26

**TABLE 14 PERCENTAGE OF DISABLED STUDENTS IDENTIFIED AS LEARNING DISABLED IN 2000-01  
AMONG 100 LARGEST SCHOOL DISTRICTS BASED ON STUDENTS ENROLLED**

Highest Percentage of Disabled Students with Learning Disabilities	Percentage (Number)		Lowest Percentage of Disabled Students with Learning Disabilities	Percentage (Number)
Rice Lake Area	57.11 (217)		Whitefish Bay	28.87 (56)
Wausau	55.15 (632)		Manitowoc	29.67 (189)
Sauk Prairie	53.95 (232)		De Pere	29.77 (89)
Slinger	53.57 (165)		Chippewa Falls Area	31.16 (186)
Hortonville	52.83 (168)		West Bend	31.88 (256)
Waunakee Community	52.33 (180)		Milton	32.05 (100)
Fond du Lac	51.29 (595)		Sun Prairie Area	32.32 (234)
West Allis	49.49 (628)		Rhineland	32.68 (116)
Antigo	49.48 (237)		Wauwatosa	32.76 (208)
Beaver Dam	48.10 (241)		Greenfield	32.91 (104)

Average across districts: 41.63%

Median across districts: 41.94%

Standard Deviation: 6.08

The one-hundred largest districts in the state comprised 65% of the state's total learning disabled population in 2000-01. Table 13 shows the ten districts among this group with the highest and lowest percentage of total students in the district who have been classified as possessing a learning disability. Statewide, most districts identify approximately 5% of their students as learning disabled. Yet districts vary greatly in this percentage, with about 35% of districts having either more than 6.0% or less than 3.5% students listed as learning disabled, assuming a normal distribution. The top districts have over 6% of their students identified as learning disabled, with four districts having over 7% of all their students identified as learning disabled. An amazing one out of twelve of the students in the Sauk

Prairie and Beloit School Districts are called learning disabled. On the other side of the spectrum are the Whitefish Bay School District, with only 1.41% of its students identified as learning disabled, and eight other districts with between 2% and 3%.

Table 14 shows variations between districts in terms of the percentage of *disabled students* who are listed as learning disabled. Since learning disabilities are the most prevalent disability in special education in the state, many districts have a significant percentage of disabled students in this group. Seven districts have more than 50% of disabled students identified as learning disabled, which is above the district average of 41.6%; meanwhile, three districts have fewer than 30% of their disabled students listed as learning disabled.

## Emotionally Disabled

One of the disability categories recognized under special education law that is most open to wide-ranging ascription of meaning is the terribly nebulous “emotionally disabled” category, now technically referred to in Wisconsin as “emotional disturbance” or “emotional behavioral disabilities.” Originally, the disability category was meant to address students with severe emotional depression and suicidal tendencies. The concern now is that this category of special education has become a repository for students who are simply disruptive or socially maladjusted. Yet, it was not intended to be a disciplinary program for disruptive children. In fact, current federal law states that eligibility criteria for emotionally disabled *may not* include bad behavior, even if based on drug use or other delinquency. Moreover, the federal term for this group is “serious emotional disability,”<sup>26</sup> with the modifier “serious” suggesting a greater sensitivity to not including mere “problem children.”

According to DPI regulations, emotional behavioral disability “means social, emotional or behavioral functioning that so departs from generally accepted, age appropriate ethnic or cultural norms that it adversely affects a child’s academic progress, social relationships, personal adjustment, classroom adjustment, self-care or vocational skills.”<sup>27</sup> On its face, the language of this definition is ripe for overly subjective determinations, both in terms of its general application as a district policy and also in how it may apply to any particular child or sets of children.

The regulations do attempt to further articulate the criteria that should ostensibly limit these highly subjective determinations by district IEP teams.<sup>28</sup> However, as with the learning disability criteria, the considerations for emotional disturbance appear terribly over-inclusive. The factors listed would seem to apply to a majority of middle school students, given the common physiological and social pressures experienced at those ages. Moreover, there are no objective measures of these criteria, which may suggest a tendency for districts to make mere relative comparisons between students.

To even further complicate matters, under Wisconsin law IEP teams are barred from using certain sociological considerations as the basis of classifying a student as emotional disabled. According to the Administrative Code:

The IEP team may not identify *or refuse to identify* a child as a child with an emotional behavioral disability solely on the basis that the child has another disability, *or is socially maladjusted, adjudged delinquent, a dropout, chemically dependent, or a child whose behavior is primarily due to cultural deprivation, familial instability, suspected child abuse or socio-economic circumstances*, or when medical or psychiatric diagnostic statements have been used to describe the child’s behavior.<sup>29</sup>

This concern echoes the language discussed above regarding the restriction from identifying any student for special education based on environmental or cultural disadvantage. Disabilities based on emotional disturbance should be based on severe misbehavior that has a cause properly assignable to some factor beyond the control of children, parents, or school staff. While the factors listed in the Code may not be considered openly, they still may animate the actions of special education evaluation teams.

Specific attention must be addressed to the emotional disability category. The criteria of this category carry a high potential for abuse or misuse. Moreover, attention to the relatively large incidence of students classified as emotionally disturbed is important because the ability of districts to discipline these students is severely restricted as compared to regular students. All students placed in special education are accorded different disciplinary protections from regular students, in that schools may not generally discipline special education students to the same standards or through the same process as regular students. These protections are especially pertinent with respect to emotionally disabled children who, by the definition of their disability, are prone to disruptive manifestations of their emotionally disturbed personality.

## Statewide Variation

As with identification by learning disabilities, the prevalence of emotionally disabled students across districts varies considerably. By way of context, the one-hundred largest districts in the state comprised 67% of the state's total emotionally disabled population in 2000-01.

**TABLE 15 PERCENTAGE OF TOTAL STUDENTS IDENTIFIED AS EMOTIONALLY DISABLED IN 2000-01  
AMONG 100 LARGEST SCHOOL DISTRICTS BASED ON STUDENTS ENROLLED**

Highest Percentage of Students with Emotional Disabilities	Percentage (Number)		Lowest Percentage of Students with Emotional Disabilities	Percentage (Number)
Ashland	3.53 (87)		Whitefish Bay	0.51 (20)
Ashwaubenon	3.44 (113)		Whitnall	0.65 (26)
Green Bay Area	2.90 (729)		Elmbrook	0.69 (76)
De Forest Area	2.70 (83)		Hamilton	0.73 (33)
Stoughton Area	2.65 (105)		Wauwatosa	0.79 (75)
Cudahy	2.65 (86)		Mequon-Thiensville	0.81 (41)
Hudson	2.62 (122)		South Milwaukee	0.82 (35)
Baraboo	2.57 (88)		Delavan-Darien	0.93 (30)
Monroe	2.54 (72)		Oak Creek-Franklin	0.94 (35)
Beloit	2.42 (179)		Kimberly Area	0.94 (52)

Average across districts: 1.57%

Median across districts: 1.52%

Standard Deviation: 0.58

**TABLE 16 PERCENTAGE OF DISABLED STUDENTS IDENTIFIED AS EMOTIONALLY DISABLED IN 2000-01  
AMONG 100 LARGEST SCHOOL DISTRICTS BASED ON STUDENTS ENROLLED**

Highest Percentage of Disabled Students with Emotional Disabilities	Percentage (Number)		Lowest Percentage of Disabled Students with Emotional Disabilities	Percentage (Number)
Ashland	26.44 (87)		Middleton-Cross Plains	8.08 (56)
Ashwaubenon	23.64 (113)		South Milwaukee	8.52 (35)
Green Bay Area	20.39 (729)		Delavan-Darien	8.60 (30)
Greendale	20.00 (46)		Rice Lake Area	8.68 (33)
Baraboo	19.86 (88)		Hamilton	8.78 (33)
Sheboygan Area	19.81 (295)		Sauk Prairie	8.84 (38)
Cudahy	19.63 (86)		Verona Area	8.98 (45)
Hudson	19.49 (122)		Merrill Area	9.19 (42)
De Forest Area	18.65 (83)		Elmbrook	9.23 (76)
De Pere	18.39 (55)		Kimberly Area	9.23 (35)

Average across districts: 13.64%

Median across districts: 13.28%

Standard Deviation: 3.48

## Other Disability Categories

Beyond students labeled with learning disabilities and emotional disabilities are those special education students who are labeled as impaired within the criteria of one of the eight other impairment categories specified by the statutes. This report refrains from inspecting the eligibility criteria for each of these groups. Nevertheless, it is helpful to note that, even among these disability groups, wide variation in identification rates exists across state districts.

### Summary

Notably wide variations exist across state school districts in how they handle special education decisions. This phenomenon is especially acute with those impairments that are not identified by means of precise, objective criteria but are instead the product of artful determinations by human actors in the process — namely learning disabled and emotionally disabled. This evident variation should not necessarily be construed as a need for a more specific and limited system, with more exacting state-determined diagnosis criteria, that restricts districts from being able to determine who among their students are disabled. It is highly doubtful that the science exists to guide the creation of such criteria. Rather, it is meant to show how utterly subjective the process for identifying students by particular disabilities is, and that it is necessarily so, regardless of the criteria developed.

## INCIDENCE OF RACIAL MINORITIES RECEIVING SPECIAL EDUCATION SERVICES

Another particularly interesting, yet terribly sensitive sub-issue with the concern about the over-identification of students into special education is that of how students from different social and ethnic backgrounds are treated within the identification process. Unfortunately, the data on this issue often raise more questions than they answer. Nevertheless, the presentation of these data must be made to spark an informed and intelligent discussion of why some minorities have an over-representation in special education, and why some districts in the state are much more pronounced in that disparity.

## National Trends and Issues

Attention has been growing with respect to the apparent over-incidence of certain minority students within special education. Although it has been known for years that minorities seem to be placed disproportionately in special education, a few national reports in recent years have brought attention to the apparently disproportionate identification of minority students, particularly black students, into special education.<sup>30</sup>

Overall, these findings suggest one of two conclusions (or some combination of both), each of which is troubling. The first is that minorities, particularly blacks, are truly in greater need of special education services because a greater percentage of these students possesses disabilities that inhibit their educational development. If this is the case, then educators, administrators, and social and political policy-makers all must search to identify the causes for having students within these discrete demographics being disproportionately in need of special education. The second conclusion, similarly troubling, is that some school districts are labeling minorities as disabled at a much greater rate than other students due to factors that are not truly reflective of these students' mental or physical disabilities. In other words, the fear is that, in many school districts, the policies and processes by which students are referred to, and classified for, special education appear to significantly impact black students, and that some of the children are inappropriately determined to require special education when, in fact, they do not.

## Special Education and Ethnicity in Wisconsin

How does Wisconsin fare on this issue? As for any correlations between a student's placement in special education and a student's racial minority status in Wisconsin, the following data present some intriguing, if not disturbing results. The statewide percentages of students identified as disabled within each ethnic group were: Asian (7.7%), black (18.9%), Hispanic (12.1%), Indian (18.6%), and white (14.2%).<sup>31</sup> In other words, of all the Asian students in Wisconsin in 2000-01, 7.7% percent were in special education that year, and so forth. These numbers, therefore, provide a type of benchmark percentage from which to weigh comparisons between districts. These numbers also show a higher prevalence for most ethnic groups than is seen by national figures.

Table 24 shows the percentage of special education students in the state's twenty-five largest districts (based on total public and private student enrollment in the district) by race/ethnicity of the student.\* This figure, sometimes referred to as a "risk index,"<sup>32</sup> is calculated by dividing the number of students in a given ethnic group having been placed in special education by the total public school enrollment for that ethnic group in the district.

By viewing the percentage of students of a particular ethnicity who are identified as disabled, and making comparisons based on these percentages, one can witness two different, but somewhat related occurrences. First, comparisons can be made *within districts* between ethnic groups and the overall percentage of students who are in special education. This type of comparison illuminates whether any district disproportionately identifies students of certain ethnicities as in need of special education, relative to students of other ethnicities in that district. In other words, regardless of whether a particular district tends overall to place a higher or lower percentage of students into special education, one can determine whether significant differences exist in the percentage of students by ethnicity. Second, *between-district* comparisons can be made to examine variations in the percentages of students by ethnicity that were identified as in need of special education.

### **Within-District and Between-District Comparisons**

Besides just viewing the disparities in percentage terms, the data from Table 24 have been further modified, as seen in Table 25, to present what are known as "odds ratios." These ratios, which were similarly employed in prior studies on racial over-identification, are achieved by dividing a district's percentage of students in special education from a particular ethnic group (the cells in Table 24) by the same percentage of another ethnic group (here, that of white students).<sup>33</sup> If the percentage — therefore risk of being identified — is the same between the two ethnic groups in that district, then the ratio will equal 1.0. A ratio greater than 1.0 means that the particular ethnic group is more likely to be identified than white students. For example, Sheboygan's ratio for blacks of 1.52 shows that blacks in that district have a 52% greater likelihood of being in special education than white students in that district. Conversely, a number less than 1.0 means students of that ethnicity are less likely than white students to be in special education.

Both the within- and between-district comparisons of identification by ethnic group reveal some interesting findings. Looking at the odds ratios we can see how each ethnic group fares across these 25 districts. Asian students are by far the least susceptible to being placed in special education, relative to white students, with none of the 19 known ratios exceeding 0.73 and the state ratio being only 0.55. Known odds ratios for Indian students are only available for 14 of the 25 districts. Not counting those ratios that equal zero due to the fact that no Indian students were in special education in those districts at the time of the 2000-01 child count, all of the ratios except Milwaukee and West Allis are greater than 1.0. The highest ratio is 2.06 in the Appleton School District, meaning that an Indian student in Appleton is more than twice as likely as his or her white peer to be found in special education programs. Overall, these districts appear to have a greater difference in identification between Indians and whites than what is witnessed nationally and in the average rate for the state as a whole.

Among Hispanic students, 20 districts have known odds ratios, with a majority (14) being less than 1.0. Those districts with the highest ratios between Hispanics and whites are Elmbrook, Kenosha, Waukesha, Sheboygan, and Wisconsin Rapids, with Elmbrook the highest at 1.50. The districts with the lowest ratio, signifying that whites were placed in special education to a greater proportion than Hispanics, were Janesville, Wauwatosa, Green Bay, and La Crosse. Overall, the figures for Hispanics seem to correspond well to the overall state ratio and the national ratio.

The ratios for black students present some of greatest disproportion—and concern. Twenty of the 25 districts have known odds ratios, with all of the five unknown ratios being at or below 1.0. Of the 20 districts, only five have a black-to-white ratio of less than 1.0, while another five have ratios greater than 2.0. These ratios, which are found in Appleton (2.08), Elmbrook (2.47), Madison (2.10), Oshkosh (2.17), and Wisconsin Rapids (2.07), show that black students in these districts are found in special education programs at a rate twice that of their white counterparts. Similar figures are found, to lesser extents, in eight other districts. Overall, of the 20 districts for which data are available, in ten of those districts a black student is at least 50% more likely than are white students to be placed in special education. In contrast, in Green Bay, La Crosse, Beloit, Janesville, and Menomonee Falls a higher percentage of white students than black students was found in special education.

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\* Together, these twenty-five districts enrolled approximately 42% of all students (public and private), 40% of all public school students in Wisconsin during 2000-01, and 43% of all disabled students in the state. These districts serve a disproportionate number of the state's minority students, especially black children in Wisconsin.

**TABLE 24 PERCENTAGE OF STUDENTS WITHIN ETHNIC GROUP IDENTIFIED AS DISABLED  
BASED ON ENROLLMENT OF PUBLIC STUDENTS IN DISTRICT  
FOR WISCONSIN'S TWENTY-FIVE LARGEST SCHOOL DISTRICTS**

School District (total public student enrollment)	Asians	Blacks	Hispanics	Indians	Whites	All Students	Total Number of Disabled Students
<b>Statewide (879,476)</b>	<b>7.69</b>	<b>18.91</b>	<b>12.10</b>	<b>18.60</b>	<b>13.99</b>	<b>14.16</b>	<b>124,505</b>
Milwaukee (97,985)	5.76	18.20	12.96	14.89	16.20	16.46	16,128
Madison Metropolitan (25,087)	9.32	31.56	14.50	26.38	15.01	17.55	4402
Racine (21,102)	9.05	25.32	13.44	20.29	13.65	16.52	3487
Green Bay Area (20,104)	8.67	18.92	10.46	26.06	19.12	17.78	3575
Kenosha (20,099)	7.86	22.07	12.97	20.51	12.90	14.07	2827
Appleton Area (14,793)	9.61	28.85	11.14	28.57	13.88	13.68	2024
Waukesha (12,760)	9.06	18.64	15.06	19.15	12.92	13.20	1680
Eau Claire Area (11,268)	7.40	<3.62	<5.38	<5.32	13.70	12.86	1449
Oshkosh Area (10,738)	9.18	30.57	<2.58	<12.50	14.06	14.00	1503
Sheboygan Area (10,418)	7.78	23.21	15.92	27.14	15.29	14.29	1489
Janesville (10,758)	<2.51	14.14	7.22	<13.16	16.22	15.69	1688
West Allis (8,795)	7.14	19.16	11.84	8.51	14.59	14.42	1268
Elmbrook (7,415)	7.66	25.96	15.74	0.00	10.49	11.10	823
Wausau (9,015)	8.84	21.25	<5.75	<8.77	13.98	12.71	1146
La Crosse (7,775)	9.79	14.39	9.46	19.05	16.35	15.33	1192
Wauwatosa (7,114)	<1.33	5.50	5.56	<10.64	10.03	8.93	635
Fond du Lac (7,241)	<2.05	25.42	12.12	<16.13	16.44	16.02	1160
Stevens Point Area (7,871)	9.46	<7.14	8.74	<11.11	13.52	13.02	1025
West Bend (6,779)	<12.50	<12.50	12.88	<9.80	11.89	11.85	803
Neenah (6,608)	4.92	<7.25	6.40	<10.64	14.14	13.67	903
Manitowoc (5,619)	6.38	<7.46	<3.07	0.00	12.23	11.34	637
Beloit (6,880)	<6.67	20.28	13.34	<23.81	21.56	20.10	1383
Wisconsin Rapids (5,948)	7.92	29.41	17.81	24.66	14.18	14.06	836
Watertown (3,725)	0.00	0.00	0.00	0.00	19.18	17.18	640
Menomonee Falls (4,232)	<4.39	3.21	<4.95	<17.24	13.74	12.29	520
<b>Total</b>							<b>53,223</b>

**Note:** The raw frequency of students identified as disabled includes both students in public schools and non-public schools that are receiving special education services. Unfortunately, at least for purposes of this data analysis, the DPI does not collect race/ethnicity data for children attending private schools. Rather, the private school enrollment collection only asks for a count of students by grade level and gender.<sup>34</sup> Therefore, the numbers for the district enrollment figures, both by ethnicity and by total students, used in Table 24 are only for public schools. Nevertheless, use of only the public schools figures on the number of students in each district by ethnicity should not significantly affect the percentages reported in Table 24. According to the DPI and the December 1, 2000 count of students with disabilities, of the 125,358 students with disabilities in Wisconsin schools in 2000-01, only approximately 1,521 (1.2%) of these students were reported as attending private schools.<sup>35</sup> Therefore, it is likely that the percentages provided are slightly inflated, but only to the extent that students identified as disabled are actually enrolled in non-public schools. In terms of cross-ethnicity or cross-district comparisons, however, there will only be a distortion to the extent the incidence of placement in non-public schools proportionally differs between district for any particular ethnic group.

< symbolizes that five or fewer students (but more than zero) within this district were of that ethnicity and deemed disabled. For confidentiality purposes, therefore, the actual numbers were not provided for that field, nor could percentages be computed. For purposes of this Table, the percentage given represents the maximum proportion of students in this ethnic group who could have been in special education; that is, if five students in that ethnic group were in special education. The actual percentage could be much lower, but is greater than zero.

**Sources:** The numbers of students with disabilities by ethnicity were provided from special data runs by DPI, January and April 2002. The numbers on total student enrollment by ethnicity were from Basic Facts and Wisconsin's Elementary and Secondary Schools, Section C: Student and Staff Data by Educational Agency.

**Note:** The particular labels employed for each ethnic group conform to those reported by the DPI.

**TABLE 25 ODDS RATIOS FOR STUDENTS WITHIN ETHNIC MINORITY GROUPS BEING IDENTIFIED AS DISABLED, COMPARED TO WHITE STUDENTS, FOR WISCONSIN'S TWENTY-FIVE LARGEST SCHOOL DISTRICTS 2000-01 SCHOOL YEAR**

District	Asians	Blacks	Hispanics	Indians
<b>Statewide</b>	<b>0.55</b>	<b>1.35</b>	<b>0.87</b>	<b>1.33</b>
<b>United States (1999)*</b>	<b>0.45</b>	<b>1.15</b>	<b>0.83</b>	<b>1.29</b>
<b>United States (1997)‡</b>	<b>0.45</b>	<b>1.48</b>	<b>0.96</b>	<b>1.37</b>
Milwaukee School District	0.36	1.12	0.80	0.92
Madison Metropolitan School District	0.62	2.10	0.97	1.76
Racine School District	0.66	1.85	0.98	1.49
Green Bay Area School District	0.45	0.99	0.55	1.36
Kenosha School District	0.61	1.71	1.01	1.59
Appleton Area School District	0.69	2.08	0.80	2.06
Waukesha School District	0.70	1.44	1.17	1.48
Eau Claire Area School District	0.54	<0.26	<0.39	<0.39
Oshkosh Area School District	0.65	2.17	<0.18	<0.89
Sheboygan Area School District	0.51	1.52	1.04	1.78
Janesville School District	<0.15	0.87	0.45	<0.81
West Allis School District	0.49	1.31	0.81	0.58
Elmbrook School District	0.73	2.47	1.50	0.00
Wausau School District	0.63	1.52	<0.41	<0.63
La Crosse School District	0.60	0.88	0.58	1.17
Wauwatosa School District	<0.13	0.55	0.55	<1.06
Fond du Lac School District	<0.12	1.55	0.74	<0.98
Stevens Point Area School District	0.70	<0.53	0.65	<0.82
West Bend School District	<1.05	<1.05	1.08	<0.82
Neenah School District	0.35	<0.51	0.45	<0.75
Manitowoc School District	0.52	<0.61	<0.25	0.00
Beloit School District	<0.31	0.94	0.62	<1.10
Wisconsin Rapids School District	0.56	2.07	1.26	1.74
Watertown School District†	0.00	0.00	0.00	0.00
Menomonee Falls School District	<0.32	0.23	<0.36	<1.25

\* The source for these national figures is from the NCR Report, Appendix 2-A.

‡ The source for these national figures is from the Harvard Civil Rights Project report, Table 2.

† The odds ratios for all ethnic groups for the Watertown School District are zero since, according to the DPI, no students of any of these races were in special education in the district at the time of the 2000-01 child count.

**Note:** Those districts with ratios preceded by less-than symbols (<) represent districts in which data of actual known odds ratios are unavailable due to confidentiality concerns. As was done in Table 24, these figures show the maximum odds ratio that would occur if five students within that ethnicity were in special education. If the actual number of students within that ethnicity in special education decreases from five to one, the corresponding ratio will also decrease accordingly.

Some other between-district comparisons also show noteworthy discrepancies. For example, 18.2% of black students in MPS are identified as in need of special education, compared to 31.6% of black students in Madison. Therefore, a black child in Madison is 70% more likely than one in Milwaukee to find himself or herself placed in special education. But Madison is not the only such district. Other districts with a much higher percentage of their black students in special education than the Milwaukee Public Schools are Oshkosh (30.5%), Wisconsin Rapids (29.4%), Elmbrook (26%), and Fond du Lac (25.4%).

### Compelling Issues and the Need for Answers

Why are black students in some of the state's largest districts being disproportionately identified as in need of special education? What effects does this higher incidence of identification have on students within the racial/demographic group, both in terms of their learning possibilities within school and opportunities in life after school? Why does this higher identification percentage not occur in the state's largest district, which is also the state's district with the greatest number and percentage of black students?

These are terribly sensitive questions, ones that this author does not claim to have the competency to answer completely or necessarily accurately. The factors influencing the results in question may include improper bias, underlying social concerns, cost concerns, and other, benign reasons. Nevertheless, the reasons for these variations must be identified and examined if educators in this state wish to ensure they are properly serving all students in the state, regardless of their race.

Some of the disparity between Madison and Milwaukee in their percentages of black students placed in special education may be attributable to the overall percentages of black students in Madison versus Milwaukee. In 2000-01, 60.8% of MPS students were black, while only 18.5% of Madison Metropolitan School Districts students were black. Therefore, one may theorize that districts with a higher percentage of black students will tend to identify a smaller percentage of their black students as in need of special education, and may even identify a percentage similar to that of white students. However, this explanation does not completely hold true for the Wisconsin school district with the second highest percentage of black students — Beloit. Twenty-eight percent of Beloit's public school students are black, and while the percentage of blacks identified for special education is high (20%), that percentage is roughly equal to that of white students (21%). Nonetheless, no school district in Wisconsin even approaches the proportion of black students found in Milwaukee, and it may be the very size of the black student population that is restricting Milwaukee from placing a higher percentage of black students in special education.<sup>36</sup> The prime question, then, is whether there are black students in Milwaukee who are truly disabled and are not being placed within special education. Or are other districts, such as Madison, placing a greater number of black students in special education than are needed to be educated through such programs?

Some further questions are also worthy of being asked regarding the phenomena surrounding racial disparities in special education in Wisconsin. For example, it would be helpful to know which disabilities the respective ethnic groups are being identified with and if there is any disagreement across ethnic groups both within districts and across districts. A recent study by the Civil Rights Project at Harvard University presented figures on this issue based on U.S. Department of Education data from 1997, the most recent year for which data were available at the time of the Harvard study. These numbers, replicated in Table 26, show both the national and Wisconsin breakdown.

These figures show that, for all disabilities, students from most minority ethnic groups in Wisconsin have a higher risk of being identified versus white students than is seen at the national level. Second, we see that the greatest rate of higher identification for blacks occurs, by far, in the area of mental retardation placement, referred to as cognitive

**TABLE 26 ODDS RATIOS BY ALL DISABILITIES AND SPECIFIC DISABILITY CATEGORIES BY ETHNICITY, 1997**

Disability	All Disabilities				Mental Retardation (CD)				Emotional Disturbance				Learning Disabilities			
	I	A	B	H	I	A	B	H	I	A	B	H	I	A	B	H
<b>U.S.*</b>	1.37	0.45	1.48	0.96	1.31	0.54	2.88	0.77	1.24	0.29	1.92	0.74	1.50	0.39	1.32	1.17
<b>WI</b>	<i>1.65</i>	<i>0.78</i>	<i>1.81</i>	0.99	1.44	1.16	3.16	1.25	2.63	<i>0.21</i>	1.99	0.75	<i>1.58</i>	<i>0.67</i>	<i>1.41</i>	0.97

Legend: **I = American Indian**    **A = Asian/Pacific**    **B = Black**    **H = Hispanic**

Source: <http://www.law.harvard.edu/civilrights/conferences/SpecEd/parrishtable2.html>

\* All of the national ratios are statistically significant at the .01 level. The italicized Wisconsin ratios are those which are significant at this level.

disabilities in Wisconsin. This finding is also consistent with the national data. Third, while nationally Asians and Hispanics were less likely than whites to be found mentally retarded, in Wisconsin children in these ethnic groups, along with Indians and blacks, were more likely than white students to be found cognitively disabled. Finally, regarding emotional disturbance rates, black students in Wisconsin are placed at a much higher rate than whites (as is also witnessed at the national level). The most interesting finding regarding emotional disabilities is the ratio for Indians in Wisconsin, which shows that students of this ethnicity are more than two-and-a-half times as likely as white students to be found emotionally disabled — a rate much greater than that found for Indian students across the nation as a whole.

### Summary

As for further analysis of these data, this author will generally defer to those involved in these districts' special education placement decision-making processes to explain the descriptive statistics, including their cause and interpretation. To be sure, a correct and thorough explanation of these disparities, both within and between districts, will involve a series of analyses of the district-by-district policies and procedures that actually drive these results. Of the theories for why these differences occur, district personnel are in the best position to explain which is most likely at play, or to offer other theories for these results. Nonetheless, whatever the causes, explanations must be forthcoming. The findings presented here suggest that some districts are either over-identifying minority students or that other districts are under-identifying minority students. Given the nature of the special education process, one must be concerned with the possible negative impact this will have on a population of students who commonly face difficult odds of success in their schooling.

## POSSIBLE CAUSES OF OVER-IDENTIFICATION

It is an open question as to what are the causes of over-identification. Some observers suggest that in order to justify new special education funding from the state, there is a need for establishing more categories of disabilities and a broader range of criteria for placement in these groups that would be open to adding more children within those categories.

The primary concern is that districts — or the state through its regulations — are placing students into special education who are simply low-achieving, and that this lack of achievement is not due primarily to any true physical or mental disability. While the causes for this low achievement can be numerous — environmental deprivation for children in low-income areas, lack of parental support and early childhood education, classroom effects from students learning around other low-achieving students, and so forth — not all of these causes are derived from innate disabilities of the child. Rather, they are merely factors that may make a child more difficult to teach, which is the job of schools to attempt to overcome for all students.

In its June 2001 *Preliminary Report on Eligibility Criteria*, the DPI outlined what it considers to be some of the possible factors affecting incidence rates and perhaps the variation of these rates across districts. These proffered possible factors are wide-ranging, but primarily focused on the notion that “difficult-to-teach” students need special education and that stigmatization has diminished for students in special education. This theory reflects the emergence of a newer and much broader conceptualization of the role of special education. To suggest that students who are merely poorly taught by teachers and/or parents will be deemed learning disabled departs from a proper understanding of special education as a means to assist the learning of children who possess mental and physical disabilities. Although this approach is now being advocated by some,<sup>37</sup> the danger it entails is that it will transform a growing segment of special education programs into remedial education. There are strong policy and educational reasons for keeping these concepts distinct. For that matter, it is also incumbent upon teachers and schools to first attempt to teach well all students in regular education, even if success comes more quickly for some students than for others.

In all, many of the DPI's explanations suggest that students are being identified for special education not because a mental or physical disability requires that they receive special aid in the school setting. Instead, they are merely performing poorly, either due to poor instruction, home environment, student effort, or other factors, all of which are not properly understood under the traditional mix of factors that special education is meant to address. Other explanations seem to be thinly veiled demands for more expenditures, whether on special education staff, regular education staff, or the administrative referral process.

## WHY THE CONCERN WITH OVER-IDENTIFICATION?

Improper placement of students into special education can have direct, negative effects. Some commentators are correct to point out that increasing eligibility rates for special education are positive if such placement results in increased opportunities to learn and improved access to high-quality curriculum and instruction.<sup>38</sup> Yet, incorrectly or inappropriately identifying students as in need of special education can be problematic when it stigmatizes students, separates them from their peers, results in lower academic expectations, generates undesirable educational outcomes for these students, or causes any other adverse effects.<sup>39</sup> Beyond the educational effects of over-identification there are also the immense direct costs and lost opportunity costs that accompany placement of students into special education. The imposition of these costs, if erroneously allocated to students not truly in need of formal special education programs and protections, is a fiscal result that Wisconsin and its school districts must avoid.

### Administrative Costs

Resources used for labeling and categorizing students in various special education disabilities are excessive and possibly wasteful. These are merely transactional costs, and the questionable science of diagnosis under these criteria raises further doubt as to why such effort is put into this process. Plus, once a child is placed within special education, an enormous amount of legal requirements affix to that child that would not be necessary for a child who, while low-achieving, can perhaps be aided by effective teaching without the full complement of special education rights and duties.<sup>40</sup>

This elaborate due process system that accompanies special education is needed and works well for that population of students for whom the IDEA and similar laws were initially targeted. In other words, it helps ensure access to a reasonable education to those physically and mentally retarded who in the past were bypassed by school districts. However, this system of due process and paperwork was designed to ensure access for a small population of students. It does not have the capacity, nor is it necessary, to apply this cumbersome bureaucracy to these rapidly increasing populations that were never denied basic access to an education. Unfortunately, it is difficult to itemize the portion of special education costs that go to satisfying the administrative aspects of special education versus those that directly advance the education of disabled students. Nonetheless, this portion of the cost is commonly recognized as being high, especially relative to non-instructional costs in regular education.

### Stigmatism and the Inability of Students to Exit the Program

Perhaps one of the most troubling aspects of special education is the general stigma that goes along with becoming a student in these programs. To be sure, frequent declarations that placement in special education is not a fault of the student's merit but rather derives from factors beyond his or her control help to mitigate the negativity of that label. Regardless, it is difficult to shed the label. After all, special education programs are modified by the term "special," and it is a label that will be carried by those who pass through the programs for the remainder of their lives. Moreover, the label often fosters lower expectations for the students in question, which may not otherwise happen if they properly remained in regular education.

Yet the negative effect of a student being placed in special education could be limited if a significant portion of students placed in special education were able to "graduate" out of that program and be fully integrated back into the general student population. This desire is especially acute for those students on the fringes of being in need of special education, especially those who are only slightly behaviorally, cognitively, learning, or otherwise disabled. One may even see a badge of accomplishment assigned to such students, for they will be understood as having come from further behind and having worked harder to reach a level of learning realized by students who were not encumbered with learning disabilities. Unfortunately, as was shown in Table 6, students who become categorized into one of the learning disabilities that makes them eligible for special education rarely shed that label through the course of their education.

## **Student Performance and Achievement**

Given that disabled students are frequently, almost by definition, more difficult to teach, it is not surprising that students enrolled in special education generally perform at lower levels of achievement. The question is, how much below the performance of students without disabilities do students in special education perform? Results from the Wisconsin Knowledge and Concepts examinations reveal that students with disabilities perform at lower levels of performance, more performing at the minimal and basic performance categories and, conversely, fewer performing in the proficient and advanced categories. The achievement gap is wide across all the subjects, but particularly strong with respect to lower levels of proficiency for disabled students in mathematics and higher levels of proficiency for non-disabled students in Reading and Social Studies.

## **Completion**

Two other common measures of educational success relate to individual students' likelihoods of successfully completing their formal schooling. Graduation rates and dropout rates provide a significant measure of whether a student has satisfactorily reached even a minimum level of educational performance. Based on the Wisconsin School Performance Report, the Wisconsin statewide graduation rate in 2000-01, for public school students, was 89.95% and the statewide dropout rate was 2.12%. The query to be asked in the context of special education is whether students within special education graduate or drop out at differing rates from students who do not have disabilities. Statewide for all students (public and private), the graduation rate for students with disabilities was 87.3% in 2000-01, compared to 94.5% for students without disabilities. Conversely, 2.94% of students with disabilities dropped out of school in the 2000-01 school year, while only 2.01% of students without disabilities dropped out. While this difference appears not to be that great, it represents a dropout rate for all grades in only that year. The cumulative effect of these different rates over time is dramatic, as evidenced by the actual difference in graduation rates.

## **Suspension Rates**

As discussed earlier in the context of analyzing the emotional disturbance eligibility criteria, students placed in special education are accorded greater protection from disciplinary action than may otherwise be appropriate for a child. Nonetheless, district personnel are still allowed to suspend children with disabilities when the action giving rise to the suspension was not caused by the disability the child possesses. What is amazing is the much higher rate at which students with disabilities are suspended in most districts and across Wisconsin as a whole, as compared to students not in special education. In 2000-01, the out-of school suspension rate for public school students in the state was 6.52%. Yet, statewide, 12.6% of students with disabilities were suspended at some point during the 2000-01 school year, while only 5.5% of children not labeled as with a disability were given out-of-school suspensions.

## **General Concerns with the Impact on Public Schooling**

Beyond these performance and cost concerns, there is a more fundamental and overarching worry about the developing special education system. Policy-makers and educators should be concerned about a system of formal schooling that separates students by labels of special education versus traditional or "regular" students. Moreover, under current state funding mechanisms, many districts must use their general state aid or local funding to help finance their special education programs. This takes away funds from regular instructional activities, and is contributing to a growing animosity among parents, educators, and others depending on whether their interests are in special education or regular schooling.

There is also the developing, two-tiered society in schools that breeds concern. If students who are not truly mentally or physically disabled are being placed in special education, one has to wonder what this accomplishes that could not be achieved through regular education. Many students now in special education are the types of students who were in our schools already in 1976 when the IDEA was enacted. They were not being overlooked because of some disability. The implication in the present system is that not labeling any low-achieving student as disabled there-

by denies the child a free, appropriate public education. This is in error. Such a view has been used to justify entitlements for some children — increasingly at the expense of other, non-special education students. It shows how a poor assumption for the continuing purpose of special education can negatively affect the long-term survival of public education.

### **Summary**

Educators, parents, students, and policy makers should be concerned with the possible over-identification of students as in need of special education. The data are clear that special education students in Wisconsin are, on average, suspended more often, graduate at a lesser rate, achieve less success as adults, and score lower on statewide academic assessments. Furthermore, students placed within special education are often unlikely to exit special education. To be sure, these correlations are not invariably the fault of the state's special education system, as students properly placed in special education programs are afflicted with disabilities that would tend to lead towards similar results. This qualification is especially keen for academic performance measures. The primary concern is with students truly on the margin, who may otherwise be adequately taught and educated without formal placement in the state's special education system.

In addition, the administrative costs associated with Wisconsin's special education system may be wasteful. Many of these costs are not mandated by federal law and may have little positive effect on the actual learning that students accomplish. Rather, the immense focus on labeling students detracts from a focus on helping all children — with or without disability and whether having a mild or severe disability — learn well and effectively. Finally, policy-makers and educators should be concerned about a system of formal schooling that is prone to the segregation of students by labels of special education versus traditional or “regular” students.

## **CONCLUSION**

The provision of specialized education for disabled students can be an effective education policy to help children otherwise excluded from quality learning opportunities. Yet it can also be a system that is abused so as to include a greater number of students in the ranks of children with special needs than is necessary.

Wisconsin school districts vary widely in their rates at which they refer, place, and reevaluate students as in need of special education. Since the process of referring students to special education is almost entirely localized in the sense that district personnel are permitted wide latitude by the state to identify students, districts that wish to place more students are largely able to do so with impunity. In this context, not due to some true disability, but rather because of the inability of some teachers to teach well, students are falling behind in learning and are therefore suddenly thought to be in need of placement as special education students.

Over-identification of students has caused and will cause serious problems to public school financing. Students placed in special education require, on average, more than twice as much money per-pupil to educate as regular students. Over-identification leads to one of two results: either 1) special education funds remain at the levels they are currently, and students who are not truly disabled will draw away funds that would otherwise go to help truly disabled students in special education, or 2) the state and local districts will spend even more money on these programs by either raising tax rates or reallocating funds that would otherwise serve regular schooling of students who are not listed as “disabled.” To avoid these negative results, a funding mechanism for special education must be established to create a disincentive to over-identify students into special education

Special education is an important and dynamic element of Wisconsin's elementary and secondary education system, and its prominence seems to be growing — along with its cost. The time has come to examine special education with a keen eye for possible flaws and needed improvements. One of the best places to start is by an inspection of the criteria and process by which an increasing number of Wisconsin's students are being placed in special education.

## NOTES

1. Wis. Stat. 115.76(7) (1999-2000). This language mirrors the federal definition:
 

special education and related services that -- (A) have been provided at public expense, under public supervision and direction, and without charge; (B) meet the standards of the State educational agency; (C) include an appropriate preschool, elementary, or secondary school education in the State involved; and (D) are provided in conformity with the individualized education program required under section 614(d).

Pub. L. 91-230 § 602(8), 20 U.S.C.A. § 1401 (2000).
2. Pub. L. 94-142 (1975).
3. The IDEA is the primary law dealing with the education of disabled students. However, two other federal laws also apply to the education of disabled children and impose legal requirements on school districts serving these students: (1) Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination based on disability in programs or activities receiving federal financial assistance; and, to a much lesser extent, (2) Title II of the Americans with Disabilities Act of 1990, which prohibits discrimination against qualified individuals with disabilities in all programs, activities, and services provided by state and local governments. Many of the dictates of the IDEA, Section 504, and the ADA overlap, but on occasion the force of the latter two statutes can have an important, independent effect on the requirements of educating children with disabilities.
4. Joetta L. Sack. "Schools Grapple with Reality of Ambitious Law," *Education Week*, Dec. 6, 2000.
5. The figure for 1992-93 is taken from Wisconsin Legislative Audit Bureau, "An Evaluation of Special Education Funding," 99-7, p. 14 [hereinafter, LAB Report].
6. Note that this number is less than the 125,358 figure cited earlier. The difference is due to the exclusion of children identified as in special education that were served in non-traditional settings, such as the Department of Corrections, Department of Health of Family Services, the Wisconsin School for the Deaf, and the Wisconsin Center for the Blind and Visually Impaired.
7. Letter from Janice Mueller, State Auditor, to State Senator Gary George and State Representative Carol Kelso, Co-chairpersons, Joint Legislative Audit Committee, May 3, 1999, available in LAB Report.
8. These figures are from the DPI's Complete Annual School Cost (CASC) data, available at <<http://www.dpi.state.wi.us/dpi/dfm/sfms/sectd.html>>.
9. For a more complete explanation of the process by which students become eligible for special education, and the rights that attach to those students and parents of those students, see Jay Grenig, *Guide to Special Education Law in Wisconsin*, Marquette University Law School (1996) [hereinafter, Grenig].
10. By the term "school district," I am referring to what the state terms Local Education Associations (LEAs). The Wisconsin Department of Public Instruction employs the term LEA instead of "districts," yet these two terms are essentially the same and "school districts" are what conventionally demarcate local public school units.
11. Grenig, p. 11.
12. Grenig, p. 29.
13. LAB Report, p. 20.
14. *Id.*
15. National Research Council (2002), *Minority Students in Special and Gifted Education*. Committee on Minority Representation in Special Education. M. Suzanne Donovan and Christopher T. Cross, eds. Washington, DC: National Academy Press, p. 2-2 [hereinafter, NRC].
16. NRC, p. 2-3.
17. Chester E. Finn, Jr., Andrew J. Rotherham, & Charles R. Hokanson, Jr. (eds.) (2001). *Rethinking Special Education for a New Century*. Washington, DC: Thomas B. Fordham Foundation and Progressive Policy Research Institute, p. 259 [hereinafter, *Rethinking Special Education*].
18. NRC, p. 7-7.
19. Wis. Admin. Code, Chapter PI 11.36(6)(a).
20. According to the Code, PI 11.36(6)(b):
 

(b) The IEP team shall base its decision of whether a child has a specific learning disability on formal and informal assessment data on intellectual ability, academic achievement, and learning behavior from sources

such as standardized tests, error analysis, criterion referenced measures, curriculum-based assessments, student work samples, interviews, observations, and an analysis of the child's response to previous interventions, classroom expectations, and curriculum in accordance with s. 115.782, Stats.

21. Wis. Admin Code, PI 11.36(6)(b)1.
22. PI 11.36(6)(b)3.
23. *Id.*
24. PI 11.36(6)(c)(1).
25. Wis. Stat. 115.782(3)(a) (1999-2000).
26. 20 U.S.C.A. § 1401(3)(A)(i) (2000); 34 C.F.R. § 300.7(a)(1).
27. PI 11.36(7)(a).
28. PI 11.36(7)(b).
29. PI 11.36(7)(d).
30. These studies include: the National Academy of Sciences report, *supra* note 15; *Rethinking Special Education*, *supra* note 17, Chapter 5; and a set of presently unpublished papers by the Harvard University Civil Rights Project. These papers were presented in conjunction with a November 2000 conference on Minority Issues in Special Education in Public Schools. The three papers are: Donald P. Oswald, et al. (2000), "Community and School Predictors of Over-Representation of Minority Children in Special Education"; David Osher, et al. (2000), "Exploring Relationships between Inappropriate and Ineffective Special Education Services for African American Children and Youth and their Overrepresentation in the Juvenile Justice System"; Tom Parrish (2000), "Disparities in the Identification, Funding, and Provision of Special Education."
31. Special data runs, Department of Public Instruction, April 2002.
32. NRC, p. 2-7.
33. This calculus is essentially the same as described by the NRC in its report, p. 2-7.
34. Furthermore, the private school enrollment collection is not a required report for private schools to make, although most do report enrollment to the DPI. Nancy Fuhrman, Special Education Team, Wisconsin Department of Public Instruction, e-mail, May 8, 2002.
35. Nancy Fuhrman, Special Education Team, Wisconsin Department of Public Instruction, e-mail, May 8, 2002.
36. See *Rethinking Special Education*, Chapter 5.
37. *Rethinking Special Education*, Chapter 12.
38. NRC, p. 1-3.
39. *Id.*
40. See 20 U.S.C § 1401(a)(17); 34 CFR 300.16(a); Wis. admin code, PI 11.02(45).

## ABOUT THE INSTITUTE

The **Wisconsin Policy Research Institute** is a not-for-profit institute established to study public-policy issues affecting the state of Wisconsin.

Under the new federalism, government policy increasingly is made at the state and local levels. These public-policy decisions affect the life of every citizen in the state. Our goal is to provide nonpartisan research on key issues affecting Wisconsinites, so that their elected representatives can make informed decisions to improve the quality of life and future of the state.

Our major priority is to increase the accountability of Wisconsin's government. State and local governments must be responsive to the citizenry, both in terms of the programs they devise and the tax money they spend. Accountability should apply in every area to which the state devotes the public's funds.

The Institute's agenda encompasses the following issues: education, welfare and social services, criminal justice, taxes and spending, and economic development.

We believe that the views of the citizens of Wisconsin should guide the decisions of government officials. To help accomplish this, we also conduct regular public-opinion polls that are designed to inform public officials about how the citizenry views major statewide issues. These polls are disseminated through the media and are made available to the general public and the legislative and executive branches of state government. It is essential that elected officials remember that all of the programs they create and all of the money they spend comes from the citizens of Wisconsin and is made available through their taxes. Public policy should reflect the real needs and concerns of all of the citizens of the state and not those of specific special-interest groups.