

IAASE Illinois Alliance of Administrators of Special Education

A subdivision of the Council of Administrators of Special Education
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TO: Dr. Beth Purvis, Secretary of Education, State of Illinois
Members of the School Funding Reform Commission

FROM: Dr. Kevin Rubenstein, President-Elect, IAASE

DATE: January 4, 2017

SUBJECT: Unfunded Mandates – Special Education

In recent discussions of the School Funding Reform Commission, there have been several questions regarding unfunded mandates. One area of particular concern has been related to where Illinois law extends beyond what is required by the Individuals with Disabilities in Education Act (IDEA) of 2004. Below, please find a non-exhaustive summary of the areas where Illinois law exceeds the requirements of the IDEA:

Section of Illinois Regulations	Area of Focus	Information
226.110	Evaluation Procedures	Illinois has a shorter response timeline than is required by federal law to respond to a request for an initial evaluation.
226.130	Additional Procedures for Students Suspected of Having a Specific Learning Disability	Requires the use of the Response to Intervention process as the method for identifying whether a child has a Specific Learning Disability.
226.210	Make-up of IEP Team	More specific requirements for the general education representative who participates in the IEP meeting.
226.220	Development, Review, and Revisions of the IEP	More stringent timelines and notices for development of IEP
226.230	Content of the IEP	Particularly need for short term objectives for all students rather than just those who take alternate assessment, behavioral requirements, and transition plans beginning at 14 ½ rather than 16.
226.720	Facilities and Classes	Age Ranges are more stringent in Illinois
226.730	Class Size	70/30 definition of general education class, special education class sizes
226.735	Workload plan for special educators	No similar language exists in IDEA

It is important to note that all of these regulations were developed through the regular rulemaking process and feedback from stakeholders, including IAASE, was almost always included in drafting the final regulations.

One rule that IAASE has supported the repeal of is Rule 226.730 regarding Class Size. Specifically, the rule requires that general education classes be made up of no more than 30% of students with special education needs. While there have been some changes and flexibility in recent years which have changed these rules, the rule still remains in place. There has been some speculation that this rule is costing districts a great deal of money and so we have attempted to analyze the costs associated with this mandate through data that has been gathered from ISBE.

School districts seeking to deviate from the 70/30 class size rule must submit a request form to the State Board of Education. Since 2009, there have been 1150 requests for class size deviations. Of the 1150 requests, 1087 of them (94%) have been approved. It is important to note that there has been a sharp uptick in the deviation requests since 2013 when the State Board last attempted to repeal the rule.

The costs associated with the 70/30 mandate are difficult to quantify at best given the number of factors involved in the equation (cost of teacher, cost of aide, is the class size reported or not reported, etc.) However, at your request, we have attempted to quantify the costs associated with this issue. We must emphasize that these are rough estimates.

To address the issue, a district would have two possible options if their deviation request were to be denied:

- Possible solutions include hiring a paraprofessional to assist in the classroom or
- Adding time to a teacher's schedule to teach an additional section of students.

Using numbers from the Evidence Based Funding Model, an annual classroom teacher salary would be estimated at \$67,565 for five sections per day. One additional section each day would cost the district \$13,533. A teaching assistant salary would cost the district \$25,000 each year and so if we added one section to the teaching assistant day, then it would cost \$5000. Therefore, we would estimate that the costs for either of these solutions would range somewhere between \$5000 and \$13,533 each year per section. Using that math, for each of the denied requests alone, districts would be looking at a cost ranging from somewhere between \$315,000 - \$852,579.

However, it is important to note that given some informal conversations with colleagues and other professionals throughout the State of Illinois, a number of things could be occurring that could be causing this issue to be underreported. First and foremost, since 2013, a number of school districts across the State of Illinois have chosen to adopt this class size language in their collective bargaining agreements. While there is no evidence that this ratio is important to the makeup of a class (the rule came out of the *Corey H.* Federal Consent Decree in 1999), districts that have a class size restriction of 70/30 (or something even more restrictive) might not be seeking waivers from the State Board of Education.

Second, the deviation request form must be completed by the general education teacher and the special education teacher. In districts where relationships between labor and management are positive, then this is an easy task. In other districts, this might not be the case. An easier solution would be to work internally to meet the state requirement so that there is not a class size deviation request required.

We are hopeful that this has provided you with some useful information regarding unfunded mandates as they pertain to special education. Should you have any further questions, please feel free to let us know.