



# Special Education Update 2016

Research Report No. 425

Office Of Education Accountability



# **Special Education Update 2016**

## **Project Staff**

David Wickersham, Director  
Bart Liguori, PhD, Research Director  
Brenda Landy  
Albert Alexander  
Deborah Nelson, PhD  
Sabrina Olds  
Logan Rupard

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### **Legislative Research Commission**

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## Foreword

For more than 25 years, the Office of Education Accountability has played an important role in reporting on education reform in the Commonwealth of Kentucky. Today, the 16 employees of OEA strive to provide fair and equitable accountability, documenting the challenges and opportunities confronting Kentucky's education system.

Given the breadth and depth of this analysis, at times it becomes necessary for OEA to revisit and update topics addressed by previous studies. In December 2015, the Education Assessment and Accountability Review Subcommittee approved the OEA 2016 study agenda, which included the report you are reading now. This report updates selected special education issues identified in 2008 and 2011 studies previously conducted by OEA. This study summarizes ongoing and emerging policy issues, discussing trends in the identification of students with disabilities deemed eligible for special education, special education personnel and finances, and student outcomes.

The Legislative Research Commission comprises more than 400 professionals who work to make the legislative process accessible, informative, and relevant to the citizens of the commonwealth. OEA is an important part of that mission. Thank you for your interest in this report and for your interest in special education in Kentucky.

A handwritten signature in black ink, appearing to read 'DAB', with a long, sweeping horizontal line extending to the right from the end of the signature.

David A. Byerman  
Director

Legislative Research Commission  
Frankfort, Kentucky  
August 16, 2016



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## Summary

### Background

On December 1, 2015, the Education Assessment and Accountability Review Subcommittee approved the Office of Education Accountability (OEA) 2016 study agenda, which included this update of selected special education issues identified in two previous studies conducted by OEA.

In a 2008 study of special education, OEA reviewed the federal and state regulatory and policy context, financial trends, districts' special education identification rates, and student outcomes.<sup>1</sup> A 2011 study delved further into disability identification practices, services, personnel, finances, and outcomes.<sup>2</sup>

The primary purpose of the 2016 study is to provide updates on several special education issues identified in previous OEA studies. In addition, the study identifies new and emerging issues that may be of interest to legislators.

Staff analyzed published and unpublished student, personnel, and finance data from the US Department of Education (USED), the Kentucky Department of Education (KDE), and the Kentucky Education Professional Standards Board (EPSB).

### Major Conclusions

The following concerns that were raised in OEA's 2011 study remain concerns in 2016. However, the first of these has diminished somewhat, as identification rates have declined and the specific learning disability category has been more clearly defined.

**Identification Rates.** Kentucky districts' relatively high and widely varying proportions of students identified for special education, especially for the 3-5 age group, likely reflect not only differences in disability prevalence but also other factors such as access to special education and related services as well as the availability of specialists to identify the nature and impact of disabilities. Even small differences and changes in identification rates can have substantial implications for revenue, staffing, and expenditures. (Chapter 3)

**Qualifications Of Teachers And Other Personnel.** Learning difficulties vary greatly by content area and severity, and OEA's 2011 study concluded that preparation programs do not always ensure that special education teachers have the necessary content knowledge for all grades they teach and the specific skills to address the learning needs of every individual. Other staff, such as reading or mathematics intervention specialists, may be able to help these students more. In response to a recommendation in OEA's report, EPSB established a task force in 2012 to recommend revisions to its teacher preparation program approval and certification process for special education teachers. However, the task force did not reach consensus to make recommendations. Professional development is available through regional education

cooperatives, but it is up to local leaders to ensure that staff take advantage of opportunities and develop a full range of skills. (Chapter 1)

**Settings And Funding.** OEA's 2011 report suggested that funds might be more efficiently and effectively used by addressing learning difficulties within general education settings. However, funding mechanisms provide disincentives for this. Requiring districts to use three tiers of interventions within the general education setting before evaluating students for suspected disabilities has reduced Kentucky's special education identification rates, according to KDE. However, districts that reduce special education identification rates lose funds earmarked for special education, while receiving no additional funds for the additional interventions in general education settings. (Chapters 1, 2, and 4)

In many districts, special education expenditures have risen more rapidly than revenue; increases in the state's per-child funding formula have not kept up with increases in salaries, benefits, and other expenditures. (Chapter 4)

### **New And Emerging Issues**

**Increased Scrutiny Of Student Outcomes.** In monitoring states' special education programs, USED's results driven accountability initiative shifted the focus in 2014 from compliance only to both compliance and student outcomes. Kentucky continues to meet Individuals with Disabilities Education Act (IDEA) requirements, but the new focus raises the importance of initiatives to close achievement gaps. (Chapter 2)

**Assessments And Accommodations.** The Every Student Succeeds Act (ESSA), the December 2015 reauthorization of the Elementary and Secondary Education Act, allows no more than 1 percent of a state's total students to be assessed with alternate assessments, which are designed for students with severe cognitive disabilities, unless the state obtains a waiver. Some policy makers have questioned whether regular assessments are appropriate for most special education students, and whether states can stay within the statewide cap given that ESSA forbids caps on individual districts and schools. However, the cap will have no immediate effect for Kentucky because the alternate assessment is already taken by less than 1 percent of students.

In 2011, Kentucky restricted the use of two testing accommodations: Students may not use a reader during comprehension tests or a calculator during noncalculator sections of math tests. This change aligned Kentucky's accommodation policies with those of national tests and may lead to more students with disabilities being included in national assessments.

In 2015, the US Department of Justice issued guidelines requiring that students taking the ACT or SAT be granted their usual accommodations and have their results reported in the same way as those of students not using accommodations. Perhaps this change will encourage more special education students to pursue postsecondary education. (Chapter 2)

**New Legislation On Bullying, Restraint, and Seclusion.** State and federal legislation regarding bullying, physical restraint, and seclusion are relevant to special education to the extent that

students with disabilities are more likely to be involved. Increasing awareness of bullying may lead to increased reporting, even if the number of actual incidents remains the same. However, Kentucky's implementation of positive behavioral interventions and redirection may reduce the number of incidents of bullying, restraint, and seclusion. (Chapter 2)

**Racial And Ethnic Disproportionality.** USED has proposed rules requiring all states to use a standard measure for determining whether school districts have significant racial or ethnic disproportionality in the identification of students with disabilities and in suspensions and expulsions of students with disabilities. Kentucky has an above-average percentage of districts with significant disproportionality in the percentages of African American students suspended, expelled, and identified as having emotional-behavioral disturbances. (Chapter 2)

### **Kentucky Compares Favorably To Nation In Several Ways**

USED's 2015 annual report to Congress on IDEA implementation revealed areas in which Kentucky's implementation compared favorably to that of the nation and other areas in which Kentucky compared less favorably. Compared to the US, Kentucky has special education students who are more likely to be included in regular education settings and assessments. Although the 3-5 age group has fewer special education teachers per student than average, the 6-21 age group has more. Although more complaints are filed on behalf of infants and toddlers, fewer are filed on behalf of children age 3-21. Kentucky special education students have far fewer suspensions and expulsions. (Chapter 3)

Compared to the US, Kentucky has special education students who are more likely to graduate. However, Kentucky's state measure of college and/or career readiness is much lower for special education students than for all Kentucky students, and this gap increased slightly each year between 2012 and 2015. (Chapter 5)

Kentucky also compares favorably to other states with respect to overall IDEA compliance and results. In July 2016, Kentucky was among 24 states determined to have met IDEA requirements; the other 26 states and the District of Columbia required assistance or intervention. (Chapter 3)



# Chapter 1

## Introduction

### Background

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The Education Assessment and Accountability Review Subcommittee approved the study agenda that included this update of two previous studies by the Office of Education Accountability.

On December 1, 2015, the Education Assessment and Accountability Review Subcommittee approved the Office of Education Accountability (OEA) 2016 study agenda, which included this update of selected special education issues identified in two previous studies conducted by OEA.

In a 2008 study of special education, OEA reviewed the federal and state regulatory and policy context, financial trends, districts' special education identification rates, and student outcomes.<sup>3</sup> A 2011 study delved further into disability identification practices, services, personnel, finances, and outcomes.<sup>4</sup>

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Special education is instruction specially designed to meet the unique needs of a person under age 21 who differs in one or more respects from same-age peers in physical, mental, learning, emotional, or social characteristics to such a degree that the student needs special education programs or services to be able to benefit from public education opportunities.

Special education is instruction specially designed to meet the unique needs of an exceptional child—that is, a person under age 21 who differs in one or more respects from same-age peers in physical, mental, learning, emotional, or social characteristics and abilities to such a degree that the child needs special educational programs or services to be able to benefit from the regular public education opportunities available in the district in which the child resides (KRS 157.200). Categories included within, but not limited by, the definition of exceptionalities in KRS 157.200 are orthopedic impairment, other health impaired, speech or language impairment, hearing impairment, mental disability, specific learning disability, emotional-behavioral disability, multiple disability, deaf-blind, visually disabled, developmental delay, traumatic brain injury, autism, and gifted and talented.<sup>a</sup>

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In addition to special education, students often receive specialized services.

In addition to special education, students often receive “related services” from specialists such as speech-language pathologists, audiologists, psychologists, physical or occupational therapists, and recreational therapists. They may also receive early identification and assessment of disabilities; counseling services,

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<sup>a</sup> Although the *exceptional child* definition in KRS 157.200 includes gifted and talented students, the US Department of Education began coding them separately in 2014. Also, Kentucky’s gifted and talented programs are funded and operated separately from special education programs. Hence, gifted and talented programs are beyond the scope of this study. The 13 disability categories have slightly different wording in 707 KAR 1:002(9).

including rehabilitation counseling; orientation and mobility services; medical services for diagnostic or evaluation purposes; school health services; school social work services; and parent counseling and training.

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A detailed individualized education program (IEP) is created and periodically revised for each child, under the direction of the child's admissions and release committee (ARC).

To ensure that special education and services are tailored to each child's unique needs, federal and state laws require that a detailed individualized education program (IEP) be created and periodically revised for each child, under the direction of the child's admissions and release committee (ARC), whose members include the child's teachers, parents, and special education experts.

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School districts must provide free special education and related services to children residing within their boundaries. State and federal funds support these efforts.

Because children with disabilities between the ages of 3 and 21 are entitled to "free appropriate public education," school districts must provide special education and related services to children residing within their boundaries. This extends, with some limitations, to those who do not attend public schools, such as those in private schools, residential facilities, and correctional facilities, as well as those suspended or expelled (707 KAR 1:290). To support these efforts, districts receive state and federal funds targeted to special education, in addition to the local, state, and federal funds districts receive for general (also called regular) education.

### **Organization Of This Report**

The remainder of Chapter 1 of this report describes the study objectives, methodology, and data sources. It then summarizes major conclusions and comparisons of Kentucky to the nation.

Chapter 2 summarizes recent legislative and policy changes, as well as federal and state monitoring.

Chapter 3 examines trends in the identification of students with disabilities.

Chapter 4 discusses personnel and finances.

Chapter 5 discusses assessment results and graduation rates.



## Study Objectives, Methodology, And Data Sources

### Purpose

The primary purpose of this study was to provide updates on selected special education issues identified in previous OEA studies. In addition, the study identified new and emerging issues that may be of interest to legislators.

### Methodology

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Staff analyzed student, personnel, and finance data from state and federal sources and interviewed state personnel who have responsibilities for monitoring or supporting special education programs.

Staff analyzed published and unpublished student, personnel, and finance data from the US Department of Education (USED), the Kentucky Department of Education (KDE), and the Kentucky Education Professional Standards Board (EPSB). In addition, staff interviewed KDE personnel who have roles relating to monitoring or supporting special education programs.

### Data

Most Kentucky student and personnel data came from information reported by districts to KDE's Division of Learning Services for federal reporting purposes. Title I, Part B, Section 618 of the Individuals with Disabilities Education Act (IDEA) requires states to report data about children, ages 3 through 21, who receive special education and related services under Part B of IDEA. Data include counts of children with disabilities, educational environments for these children, employees and contractors who provide special education and related services, circumstances under which students exit special education programs, disciplinary actions, assessments, dispute resolution, and maintenance of effort reduction and coordinated early intervening services.<sup>5</sup>

Some student data came from Kentucky's student information system, in which all districts and schools record student demographics, instruction, services, and other information. Some personnel data and all financial data came from the Munis financial accounting system in which all districts record revenue, expenses, and personnel data.

Certification data came from EPSB's certification database, combined with Local Educator Assignment Data.

National comparisons used data reported by all states to USED.

**Data Limitations.** Most education data is entered by school and district personnel during the course of their daily operations. Kentucky has been ahead of most states in providing standardized statewide student information and financial information systems that improve data integrity. However, no dataset is error free.

## Major Conclusions Of This Study

This section briefly summarizes the report's major findings. For more detail, refer to the chapter noted in parentheses.

The following concerns that were raised in OEA's 2011 study remained concerns in 2016. Only the first of these concerns has diminished somewhat, as identification rates have declined and the specific learning disability category has been more clearly defined:

### Identification Rates

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Kentucky districts' high and varying special education rates likely reflect not only differences in disability prevalence but also other factors such as access to services and the availability of specialists. Even small differences and changes have substantial implications for revenue, staffing, and expenditures.

Kentucky districts' relatively high and widely varying proportions of students identified for special education, especially for the 3-5 age group, likely reflect not only differences in disability prevalence but also other factors such as access to services and the availability of specialists to identify the nature and impact of disabilities. Even small differences and changes in identification rates have substantial implications for revenue, staffing, and expenditures. (Chapter 3)

### Qualifications Of Special Education Teachers

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Not all special education teachers have the content knowledge and skills they need. A task force to review teacher preparation and certification was unable to reach consensus on needed improvements. Regional special education cooperatives offer training, but it is up to local leaders to ensure that staff take advantage of these opportunities.

Learning difficulties vary greatly by content area and severity, and OEA's 2011 study concluded that preparation programs do not always ensure that special education teachers have the necessary content knowledge for all grades they teach and the necessary skills to address the learning needs of every individual. Other staff, such as reading or math intervention specialists, may be able to help these students more. In response to a recommendation in OEA's report, EPSB established a task force in 2012 to recommend revisions to its teacher preparation program approval and certification process for special education teachers. However, the task force did not reach consensus to make recommendations. Professional development is available through regional education cooperatives, but it is up to local leaders to ensure that staff take advantage of opportunities and develop a full range of skills. (Chapter 1)

## Settings And Funding

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Funds might be more efficiently and effectively used by addressing learning difficulties in general education settings, but funding is targeted to special education.

OEA's 2011 report suggested that funds might be more efficiently and effectively used by addressing learning difficulties within general education settings. However, funding mechanisms provide disincentives for this approach. Requiring districts to use three tiers of interventions within the general education setting before evaluating students for suspected disabilities has reduced Kentucky's special education identification rates, according to KDE. However, districts that reduce special education identification rates lose funds earmarked for special education, while receiving no additional funds for the additional interventions in general settings. (Chapters 1, 2, and 4)

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Special education expenditures have risen more rapidly than revenue.

In many districts, special education expenditures have risen more rapidly than revenue; increases in the state's per-child funding formula have not kept up with increases in salaries, benefits, and other expenditures. (Chapter 4)

## New And Emerging Issues

### Increased Scrutiny Of Student Outcomes

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After federal monitoring shifted from compliance only to both compliance and student outcomes, Kentucky has continued to meet requirements.

In monitoring states' special education programs, USED's results driven accountability initiative shifted the focus in 2014 from compliance only to both compliance and student outcomes. Kentucky continues to meet IDEA requirements, but the new focus raises the importance of initiatives to close achievement gaps. (Chapter 2)

### Assessments And Accommodations

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Kentucky is already within the new 1 percent cap on the administration of alternate assessments for students with the most severe cognitive disabilities.

The Every Student Succeeds Act (ESSA), the December 2015 reauthorization of the Elementary and Secondary Education Act, allows no more than 1 percent of a state's total students to be assessed with alternate assessments designed for students with severe cognitive disabilities, unless the state obtains a waiver. Some policy makers have questioned whether regular assessments are appropriate for most special education students, and whether states can stay within the statewide cap given that ESSA forbids caps on individual districts and schools. However, this will have no immediate effect on Kentucky because the alternate assessment is already taken by less than 1 percent of students.

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To align with national test accommodation policies, Kentucky restricted the use of readers and calculators.

In 2011, Kentucky restricted the use of two testing accommodations: Students may not use a reader during comprehension tests or a calculator during noncalculator sections of math tests. This change aligned Kentucky's accommodation policies with those of national tests and may lead to more students with disabilities being included in national assessments.

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Students taking the ACT or SAT now must be granted their usual accommodations and have their results reported in the same way as the results of tests without accommodations.

In 2015, the US Department of Justice issued guidelines requiring that students taking the ACT or SAT be granted their usual accommodations and have their results reported in the same way as those of students not using accommodations. Perhaps this change will encourage more special education students to pursue postsecondary education. (Chapter 2)

### **New Legislation On Bullying, Restraint, And Seclusion**

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State and federal legislation on bullying, restraint, and seclusion may increase awareness and reporting. Implementation of positive behavioral interventions and redirection may reduce the number of incidents.

State and federal legislation regarding bullying and the use of physical restraint and seclusion are relevant to special education to the extent that students with disabilities are more likely to be involved. Increasing awareness of bullying may lead to increased reporting, even if the number of actual incidents remains the same. However, Kentucky's implementation of positive behavioral interventions and redirection may reduce the number of incidents of bullying, restraint, and seclusion. (Chapter 2)

### **Racial And Ethnic Disproportionality**

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Proposed regulations would require states to use a uniform measure for determining racial or ethnic disproportionality in special education identification and in disciplinary actions. Disproportionality in Kentucky is above the national average.

USED is proposing new rules requiring all states to use a standard measure for determining whether school districts have significant racial or ethnic disproportionality in the identification of students with disabilities or in disciplinary actions. Kentucky has an above-average percentage of districts with significant disproportionality in the percentages of black students suspended, expelled, and identified as having emotional-behavioral disturbances. (Chapter 2)

### **Activities That Addressed Previous Recommendations**

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OEA's 2011 report made seven recommendations—four concerning guidelines and three concerning monitoring.

OEA's 2011 report made seven recommendations, four concerning guidelines and three concerning monitoring. Because the Kentucky Department of Education would be the main implementer, KDE provided a response to the recommendations in 2011 and an update in 2016. This section summarizes OEA's recommendations, KDE's 2011 response, and KDE's 2016 update, the full texts of

which are provided in Appendix A. The section also summarizes EPSB's efforts to address one of the recommendations.

## 2011 Recommendations Regarding Written Guidelines

### **Determining Adverse Effects On Educational Performance.**

The 2011 report recommended that KDE provide more guidance to help educators and parents determine the extent to which a disability has an adverse effect on educational performance.

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To help educators and parents determine the extent to which a disability has an adverse effect on educational performance, the Kentucky Department of Education (KDE) issued a policy letter, provided statewide training, and issued a guidance document.

In its 2011 response, KDE stated that it had issued a policy letter and an adverse effect guidance document and had provided several statewide training sessions. KDE's 2016 update cited the *Guidance Document for Individual Education Program (IEP)*, issued in 2012 and revised in 2015, which guides personnel and parents through the process of evaluating and documenting the student's performance in each identified area.<sup>6</sup>

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For every disability category, KDE requires three progressively intensive tiers of intervention before a child is referred for evaluation.

**Research-Based Interventions.** Federal regulations issued in 2006 added a requirement that a child experiencing learning difficulties be given research-based interventions in the general education setting and that the child's response to these interventions be considered when determining whether the child has a specific learning disability (34 CFR Sections 300.307, 300.309, and 300.311). As specified in KDE's Kentucky System of Interventions (KSI), KDE requires three progressively intensive tiers of interventions before a child is referred for evaluation for any type of disability. The 2011 report questioned whether three tiers of intervention should be required for every category of suspected disability. The 2011 report recommended that KDE clarify the categories for which research-based interventions are required and the standards for determining whether a child is responding to these interventions.

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KDE provides several forms of guidance on research-based interventions.

In its 2011 response, KDE averred that research-based interventions are appropriate for every disability category and cited guidance provided on its website. In the 2016 update, KDE stated that it had added numerous resources to its website in an effort to clarify the nature of the KSI. It also cited guidance in its *K-3 Program Review Guide* and a list of evidence-based practices in its State Systemic Improvement Plan.

**Qualifications Of Specialized Personnel.** OEA's 2011 report noted scarcities of some types of specialized employees in some districts, and it recommended that KDE specify when ARCs or

evaluation teams should add specialists, either as employees or as consultants.

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KDE issued documents specifying when related service providers are required at ARC meetings.

In the 2011 response and 2016 update, KDE said that it had issued documents specifying when related service providers are required at ARC meetings.<sup>7</sup>

**Teacher Preparation, Professional Development, And Training.** The 2011 report noted that special education teachers do not always have the knowledge and skills needed for the wide array of contents, grades, and student learning difficulties for which they are responsible. OEA suggested that training gaps across the state be addressed by making strategic use of the time and funds available for teachers' professional development. The report recommended that KDE collaborate with EPSB and subject area groups to develop best practice documents regarding professional development on identifying and supporting students with reading or math difficulties as well as administering and interpreting diagnostic assessments.

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To address teacher content knowledge and skills, KDE recommends that districts use the expertise and training available from regional special education cooperatives.

In 2011, KDE responded that Kentucky's 11 regional Special Education Cooperatives consistently deliver guidance and training. In its 2016 update, KDE reported that it continues to advise districts to use the expertise of these cooperatives. In addition, KDE developed a list of evidence-based practices as part of its State Systemic Improvement Plan and a resource list for reading and math interventions for House Bill 69.<sup>b</sup>

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The Education Professional Standards Board task force to review teacher preparation and certification lacked clear objectives and never reached consensus on recommendations.

EPSB also attempted to address this issue. In September 2012, EPSB established a task force comprising representatives of many Kentucky education stakeholder groups, including EPSB, KDE, the Council on Postsecondary Education, the Kentucky School Boards Association, university teacher programs, and school districts. The charter called for the task force to review and recommend revisions to the Education Professional Standards Board's special education teacher program approval and certification processes. An intermediate report was to be delivered by October 2013, followed by a final report with specific recommendations by March 31, 2014.<sup>8</sup> The task force held formal meetings in November 2012 and February 2013 and then divided into subcommittees that were to meet online. However, according to EPSB, the task force seemed to lack "a clear sense of mission or purpose, and never reached a level of discussion to form consensus and make recommendations."<sup>9</sup>

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<sup>b</sup> House Bill 69 is summarized in Chapter 2 of this report.

## 2011 Recommendations Regarding State Monitoring

OEA's 2011 report recommended the following three specific factors for KDE to consider when deciding which districts and issues to monitor more closely than others:

- **Unusual Child Count Data.** Regulation requires that KDE investigate unusual child count data, such as identification rates exceeding 15 percent and other examples listed in 707 KAR 1:380 Section 6(5)(e).
- **Qualifications Of ARC Members And Evaluators.** Districts varied substantially in the availability of specialized staff. This variation may affect the accuracy of evaluations and identifications of some types of disabilities.
- **Unusual Staffing Data.** Some districts relied heavily on instructional aides, whose training is much less than that of special education teachers.

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In 2011, OEA recommended closer monitoring of districts with unusual identification rates, scarcity of specialized staff, or above-average use of instructional aides. However, KDE uses consolidated monitoring to reduce the burden on districts of multiple visits for multiple programs.

KDE's initial response to all of these recommendations was that, based on federal guidance, KDE conducted "focused" monitoring, which may be different from year to year depending on statewide issues and trends. KDE's monitoring focus under IDEA was primarily on violations of the law (brought to KDE's attention through complaints and due process) and on student outcomes.

In its 2016 update, KDE stated that, in order to reduce the burden on districts of multiple visits to audit multiple programs, it had moved to consolidated monitoring of 14 districts chosen each year at random; these are audited on several major facets, including special education programs. In an interview with OEA, KDE personnel said that they do occasionally inquire into unusual child counts, but they do not routinely conduct additional monitoring of districts with child counts over 15 percent.

## Overview Of Kentucky's Special Education Programs Compared To Those Of The Nation

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Compared to the nation, Kentucky has more special education students in regular settings and tests, fewer special education teachers for age 3-5 students but more for age 6-21, far fewer out-of-school suspensions and expulsions, a higher graduation rate, and more complaints on behalf of children age 0-2, but fewer on behalf of those age 3-21.

Chapters 2 and 4 compare Kentucky to the nation on some measures, but it is helpful to review several measures together. Table 1.1 summarizes selected data from USED's annual report to Congress on the implementation of IDEA. Kentucky's implementation compared favorably to that of the nation in some areas, while other areas compared less favorably. Kentucky's special education students are more likely to be included in regular educational settings and assessments. Although the 3-5 age group has fewer special education teachers per student, the 6-21 age

group has more. Kentucky special education students have far fewer out-of-school suspensions and expulsions.

Compared to those in the US, Kentucky special education students are more likely to graduate. However, Kentucky's state measure of college and/or career readiness is much lower for special education students than for all Kentucky students, and this gap increased slightly each year between 2012 and 2015; this gap is discussed in Chapter 5.

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Kentucky is among the half of states deemed to meet IDEA requirements without the need of assistance or intervention.

Although more complaints are filed on behalf of Kentucky's infants and toddlers, fewer are filed on behalf of children age 3-21. Kentucky was among the 24 states deemed to meet IDEA requirements; the remaining states needed assistance or intervention.



**Table 1.1**  
**Kentucky Special Education Programs Compared To Those Of The Nation**  
**Fall 2013 (Fiscal Year 2014)**

Performance Measure	IDEA Part C	IDEA Part B	
	Ages 0-2	Ages 3-5	Ages 6-21
Percent of population receiving IDEA services	Fewer (2.5% vs. 2.8% for US)	More (10.3% vs. 6.1% for US)	Slightly more (8.7% vs. 8.6% for US)
Settings for children with disabilities (CWD)	More at home rather than preschool or other setting (96.7% vs. 88.7% for US)	More in regular education settings rather than separate special education settings (92.7% vs 65.8% for US)	More in regular class (for example, 72.3% in regular class for at least 80% of the day vs. 62.1% for US)
CWD taking regular state assessments	N/A	N/A	Higher participation (average 88.8% vs. 75.9% for US)
Special education teachers	N/A	Fewer (2.5 per 100 students vs 5.3 for US)	More (8.9 per 100 students vs. 6.1 for US)
Exit status	By age 3, more eligible to receive IDEA B services (51.5% vs. 40.9% for US)	N/A	More graduated (72.1% vs. 60.6% for US) and fewer dropped out (18.7% vs. 22.4% for US)
	Ages 0-2	Ages 3-21	
Out-of-school suspensions and expulsions	N/A	Fewer (13 per 10,000 children vs. 89 per 10,000 for US)	
Complaints	More (2.2 complaints per 1,000 served, vs. 0.4 for US)	Fewer written signed complaints (2 per 10,000 children served vs. 8 for US), due process complaints (2 vs. 26), and mediation requests (2 vs. 15)	
States meeting IDEA requirements	KY was among 28 states meeting requirements	KY was among 24 states meeting requirements	

Note: N/A=not applicable. Part C services are provided under the auspices of Kentucky’s Cabinet for Health and Family Services, while Part B services are provided under the auspices of Kentucky Department of Education. Source: Staff summary of information from US. Department of Education. *Annual Report to Congress on the Implementation of the Individuals with Disabilities Education Act*. Washington: USED, 2015; and from US. Department of Education. 2016 Determination Letters On State Implementation Of IDEA. Washington: USED, revised July 10, 2016.



## Chapter 2

### Legislative And Policy Matters

#### Key Recent Legislative And Policy Developments

This section discusses key changes to statutes, regulations, and nonregulatory guidance that occurred after OEA's 2011 report. Appendix B provides a more comprehensive list, including relevant statutes and regulations that have not changed since 2011.

#### Federal

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The Every Student Succeeds Act (ESSA), the recent reauthorization of the Elementary and Secondary Education Act, appears to increase flexibility in some areas while imposing new requirements in other areas.

**Every Student Succeeds Act.** In December 2015, the Every Student Succeeds Act, which is the reauthorization of the Elementary and Secondary Education Act, replaced the No Child Left Behind Act. At the time of this report, regulations based on ESSA were not yet final, and the implications of ESSA were still being assessed, but it appeared that ESSA offers states more flexibility in some areas and sets new requirements in other areas, including the two described below.

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Kentucky is already within the new 1 percent cap on the administration of alternate assessments for students with the most severe cognitive disabilities.

One set of changes concerns alternate assessments, which are designed for students with the most severe cognitive disabilities. ESSA allows no more than 1 percent of a state's total students to be assessed with an alternate assessment, unless the state obtains a waiver from USED. This change will have no immediate impact on Kentucky, where the percentage of students taking the alternate assessment is already under 1 percent.<sup>10</sup> However, policy makers across the nation have questioned whether regular assessments are appropriate for most special education students. They have also raised concerns that, despite the statewide cap, ESSA does not allow caps on individual districts or schools. ESSA does require districts to submit information justifying the need to exceed 1 percent. ESSA also requires that parents and students be involved in decisions and informed of consequences; for example, students taking alternate assessments might not earn standard diplomas.<sup>11</sup>

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ESSA requires state plans to reduce bullying, harassment, restraint, seclusion, suspensions, and expulsions.

In addition, ESSA requires states to create plans to reduce bullying, harassment, restraint, seclusion, suspensions, and expulsions. These plans are relevant to special education to the extent that students with disabilities are more likely to be bullied, and to the extent that students with emotional-behavioral disabilities are more likely to be disciplined.

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After federal monitoring shifted from compliance only to both compliance and student outcomes, Kentucky has continued to meet requirements.

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Students taking the ACT or SAT now must be granted their usual accommodations and have their results reported in the same way as the results of tests without accommodations.

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Proposed regulations would require states to use a uniform measure for determining racial or ethnic disproportionality in special education identification and in disciplinary actions. Disproportionality in Kentucky is above the national average.

**Results Driven Accountability.** One key nonregulatory change is “results driven accountability,” implemented in 2014, which focuses federal monitoring on student outcomes in addition to process compliance. Even with this new focus, Kentucky was deemed to meet the requirements and purposes of IDEA.<sup>12</sup>

**Accommodations On College-Entrance Examinations.** With Kentucky and 22 other states now requiring high school students to take college-entrance exams, the Civil Rights Division of the US Department of Justice investigated complaints that students taking the ACT and SAT were denied accommodations routinely provided on other tests, or had their test results flagged as not college-reportable if they did use accommodations.<sup>13</sup> The department issued guidelines in 2015 requiring that students be granted their usual accommodations and have their results reported in the same way as nonaccommodated results.<sup>14</sup>

**Racial/Ethnic Disproportionality.** In 2016, USED proposed new rules requiring all states to use a standard measure of significant racial or ethnic disproportionality in the percentage of students identified as having disabilities or being suspended or expelled. Districts with significant disproportionality must set aside 15 percent of their IDEA funds for early intervention services. However, the proposed rules would give more flexibility in how funds are used and more time to correct issues.<sup>15</sup>

A federally funded analysis found that Kentucky had an above-average percentage of districts with significant disproportionality for three consecutive years for at least one group, category, or setting (65 percent of Kentucky districts, compared to 47 percent all districts in the US).<sup>16</sup> For example, the percentage of districts identifying more African American students as having emotional-behavioral disturbances was 9.66 percent in Kentucky, compared to 4.62 for the US. Kentucky districts also disproportionately suspended and expelled African American students.

## Kentucky

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House Bill 69 of 2012 required district reporting and KDE support for tiered intervention programs, aligned Kentucky’s definition of specific learning disability with the federal definition, and provided additional definitions.

**House Bill 69 (Regular Session 2012).** Passed in 2012, HB 69 defined aphasia, dyscalculia, dyslexia, phonemic awareness, and scientifically based research; required districts to report on the implementation of K-3 response-to-intervention (RTI), a tiered intervention program; required KDE to offer technical assistance, training, and a Web-based resource to assist districts in the implementation of RTI and scientifically based instructional tools; required KDE to collaborate with other state agencies and

organizations; stipulated that screening to determine appropriate instructional strategies shall not be considered evaluation for suspected disabilities; required KDE to report annually to the Interim Joint Committee on Education; and amended KRS 157.200 to conform to the federal definition of a specific learning disability.

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Senate Bill 228 of 2016 provides a statewide definition of bullying and sets policy and reporting requirements.

**Bullying Definition.** Senate Bill 228, passed in 2016, provides a statewide definition of bullying, to replace various definitions in practice across the state. It requires each school board's code of acceptable behavior to include a prohibition against bullying, procedures for investigating and responding to reports of bullying, and a method to protect a person reporting a bullying incident. Increased awareness of bullying might lead to increased reporting, even if the incidence does not increase.

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704 KAR 7:160, which went into effect in February 2013, bans the use of physical restraint and seclusion as punishment. It also requires annual training, intervention and redirection prior to the use of restraint, and documentation of any use of restraint.

**Restraint And Seclusion.** Especially relevant to those with emotional-behavioral disabilities, 704 KAR 7:160, which went into effect in February 2013, bans the use of physical restraint and seclusion as punishment. School personnel must receive annual training on positive behavioral interventions and supports (PBIS). Positive intervention and redirection must be used prior to the use of restraint. If restraint is used, it must be documented, including interventions used prior to restraint and plans for using PBIS to minimize the use of restraint in the future.

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To align with national test accommodation policies, Kentucky disallowed the use of readers during reading comprehension and calculators during noncalculator sections of math tests.

**Accommodations.** In 2011, 703 KAR 5:070 was amended to discontinue the use of a reader during reading comprehension tests and a calculator during noncalculator sections of math tests. The Kentucky Board of Education gave the following reasons:

- These changes align Kentucky's accommodation policies with those used by the National Assessment of Educational Progress (NAEP). Not aligning Kentucky's policies with those used nationally would call into question the validity of test results.
- Schools and districts must increase their efforts to move students with disabilities toward independence in reading comprehension and math fluency in order for them to be more successful in their postsecondary and/or career choices.
- Increased training must be offered to educators to support them in moving these students toward independence.<sup>17</sup>

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Senate Bill 43 of 2012, which went into effect with the graduating class of 2013, replaced the certificate of attainment with an alternative high school diploma. This diploma is not counted in federal graduation rates.

**Alternative High School Diploma.** Senate Bill 43 of 2012, which went into effect with the graduating class of 2013, replaced the certificate of attainment with an alternative high school diploma. Like the certificate, the alternative diploma is not counted in federally reported graduation rates because it is not fully aligned with state academic standards.

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Senate Bill 185 of 2016 made permanent two agencies charged with coordinating and enhancing services over the lifespan of people with autism spectrum disorders.

**Autism Agencies.** In 2016, the passage of Senate Bill 185 made permanent the Advisory Council on Autism Spectrum Disorders, created by executive order in 2013, and the state Office of Autism, created in 2014. These entities are charged with coordinating and enhancing services over the lifespan of people with autism spectrum disorders, to ensure there are no gaps in services.

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Kentucky's Dyslexia Task Force, established in 2016, will develop recommendations on policy, personnel, and instructional and fiscal resources to identify and support students with dyslexia.

**Dyslexia Task Force.** Established in 2016, Kentucky's Dyslexia Task Force will study dyslexia and develop recommendations on policy, personnel, and the instructional and fiscal resources needed to identify and support students with dyslexia. The group will review national data and research; conduct an environmental scan to determine implications for policy and programming; review policies and practices across Kentucky and other states for screening, identifying, and instructing students with dyslexia; and examine and analyze state-level intervention data and practices.<sup>18</sup>

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SB 179 of 2016 allows savings placed by individuals and their families in certain accounts to be used for disability-related expenses; these savings are not taxed or considered for determining eligibility for public assistance.

**ABLE Savings Accounts.** Senate Bill 179, passed in 2016, is Kentucky's version of the federal Achieving a Better Life Experience (ABLE) Act. Savings placed by individuals and their families in ABLE accounts can be used for disability-related expenses, and are usually not taxed or considered for determining eligibility for means-tested public assistance programs.<sup>19</sup>

## Monitoring

IDEA requires state and federal monitoring and reporting about special education programs. While monitoring supports improvements in IDEA implementation, it is still up to individual schools and districts to ensure that students' needs are met.

### State Monitoring And Support

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KDE personnel who monitor and support special education

- compile school- and district-level information for federally mandated reporting,
- answer questions and try to resolve issues,
- investigate complaints and monitor due process hearings, and
- audit 14 randomly selected districts each year.

At KDE, 34 personnel are assigned full time, and another four devote part of their time, to monitoring and supporting special education programs. Figure 2.A describes these personnel and the program areas they support. Their duties include

- compiling school- and district-level information for federally mandated reporting,
- providing consultants to answer questions and try to resolve issues before they become formal complaints,
- investigating complaints and monitoring due process hearings, and
- auditing 14 randomly selected districts each year.

**Figure 2.A**  
**Kentucky Department Of Education Personnel With Roles Relating To Special Education**

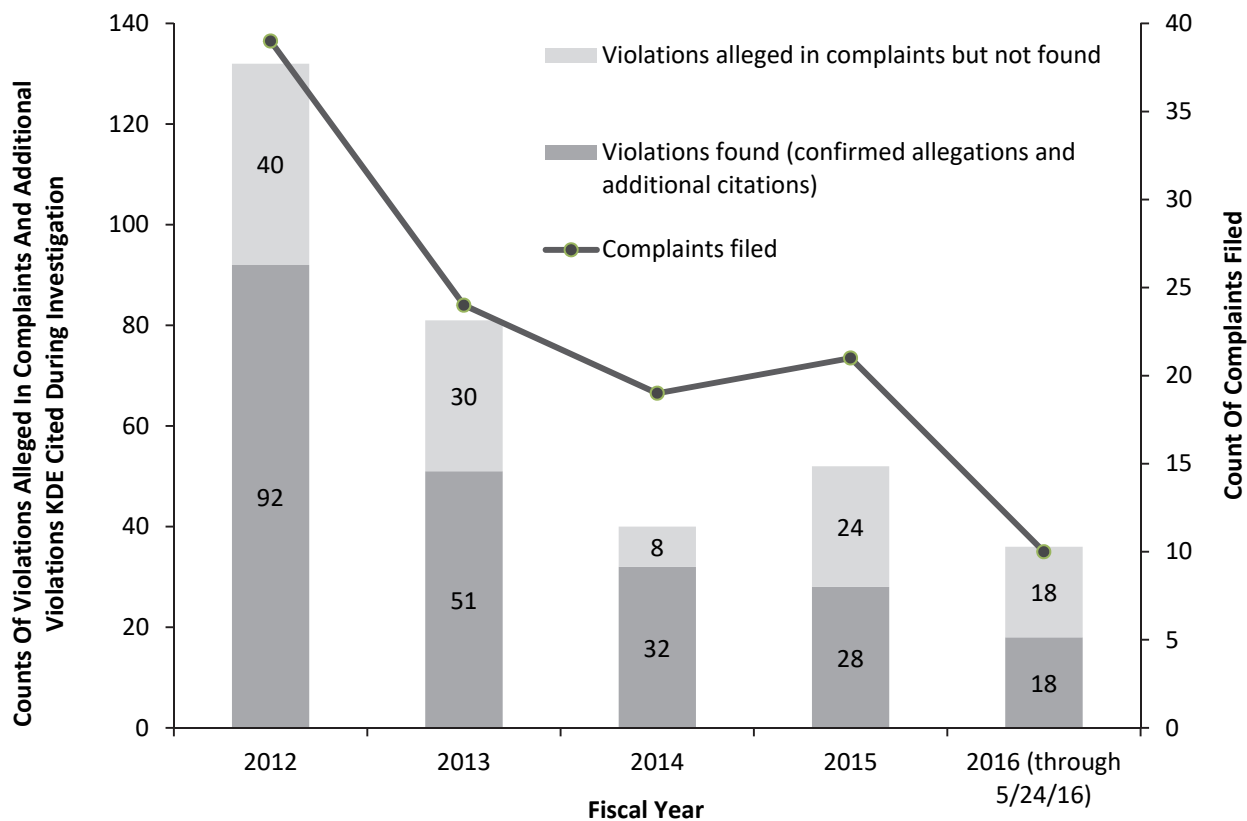


Source: Kentucky. Dept. of Educ. *Kentucky Schools Directory*, 2015-2016. Frankfort: KDE, 2015; Kentucky. Dept. of Educ. Division of Learning Services: Contact Information. Frankfort: KDE, April 12, 2016. Web. May 4, 2016.

Between 2012 and 2016, the number of formal complaints, violations, and citations decreased considerably.

**Formal Written Complaints.** KDE investigates formal complaints and tracks their dispositions, including any appeals. A complaint may allege multiple violations; in addition, KDE may cite additional violations discovered during the investigation. As Figure 2.B. shows, between 2012 and 2016, the number of formal complaints, violations, and citations decreased considerably. A definitive explanation for the decline in complaints would be difficult; it might indicate improvements in the implementation of special education programs and in the resolution of problems before they rise to the level of formal complaints. On the other hand, a decline could also happen if responses to previous complaints have been discouraging.

**Figure 2.B**  
**Formal Written Complaint Trends, Fiscal Year 2012 To Fiscal Year 2016**



Source: Staff analysis of unpublished data from Kentucky Department of Education.



Approximately half of alleged violations are confirmed; sometimes additional violations are discovered and cited as a result of the investigation. Very few of KDE's findings are appealed. When appealed, findings are usually upheld.

Table 2.1 summarizes characteristics and outcomes of complaints. Many are withdrawn or dismissed, or KDE determines that it does not have jurisdiction. Among complaints that are investigated, approximately half of the alleged violations are confirmed; sometimes additional violations are discovered and cited as a result of the investigation. Very few of KDE's findings are appealed. When appealed, findings are usually upheld.

**Table 2.1**  
**Characteristics Of Formal Written Complaints And Outcomes Of Investigations**  
**Totals For Fiscal Year 2012 To Fiscal Year 2016**

<b>Characteristics Of Complaints And Outcomes Of Investigations</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016 (through 5/24/16)</b>	<b>Total 2012- 2016</b>
<i>Characteristics Of Complaints</i>						
Total number of complaints filed	39	24	19	21	10	113
Nonjurisdictional	10	8	6	3	2	29
Withdrawn	3	3	3	6	0	15
Dismissed	11	8	7	3	0	29
Went to mediation	2	0	1	2	2	7
Due process hearing	0	0	0	0	1	1
Appealed	0	0	2	1	0	3
All findings upheld	0	0	2	0	0	2
One or more findings reversed	0	0	0	1	0	1
Class complaint (a complaint filed on behalf of multiple students)	0	0	2	0	0	2
<i>Outcomes Of Complaint Investigations</i>						
Total violations alleged in complaints	82	69	28	49	33	261
Allegations not confirmed—no violation	40	30	8	24	18	120
Confirmed alleged violations	42	39	20	25	15	141
Additional citations for violations discovered during the investigation	50	12	12	3	3	80
Total confirmed violations and citations	92	51	32	28	18	221

Notes: The appeals counts do not include one appeal in FY 2015 that was later withdrawn. Additional citations are violations that were not in the complaint but were discovered during the investigation. Out of all complaints investigated, only one finding in one complaint was reversed, and that was a finding of no violation; for that complaint, KDE had confirmed four of the five allegations, but upon appeal, all five allegations were deemed true. Source: Staff analysis of unpublished data from Kentucky Dept. of Educ.

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Most violations and citations concerned the IEP, especially its initial development and implementation, as well as missing content, such as behavior strategies, measurable goals, and research-based interventions.

Table 2.2 summarizes violations alleged in complaints and additional citations of violations discovered during the investigation. Most (97) of the confirmed violations and citations of state regulations concerned the student's individualized education program, especially its initial development and implementation (32 violations or citations) as well as missing content (33 violations or citations). For example, some IEPs lacked behavior strategies to curtail detrimental student behaviors, measurable goals tailored to each child's needs, or research-based instruction, modifications, or services.

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Other common violations and citations concerned identification, evaluation, and reevaluation of suspected disabilities and parent involvement in decisions.

Other common areas of concern related to the identification, evaluation, and reevaluation of students with suspected disabilities (32 violations or citations), and the participation of parents in placement decisions (29 violations or citations).

**Table 2.2**  
**Violations Alleged In Complaints Or Cited During Investigations**  
**Totals For Fiscal Year 2012 To Fiscal Year 2016**

<b>Regulations</b>	<b>Total Confirmed Violations And Citations</b>	<b>Alleged Violation Confirmed</b>	<b>Additional Violation Cited During Investigation</b>	<b>Alleged Violation Not Confirmed</b>
<i>State regulation violations—Total</i>	<i>210</i>	<i>136</i>	<i>74</i>	<i>112</i>
707 KAR 1:320 Individual education program (IEP)	97	62	35	55
Section 1 (Initial development and implementation)	32	29	3	18
Section 5 Contents of IEP	33	19	14	16
All other sections (ARC meetings and membership, parent participation, transfer students, transition services, private school placements, and IEP accountability)	32	14	18	21
707 KAR 1:300 Child find, evaluation, and reevaluation	32	24	8	22
707 KAR 1:350 (Parent involvement in placement decisions)	29	20	9	4
707 KAR 1:340 Complaint procedures	17	13	4	12
707 KAR 1:290 Free appropriate public education	16	13	3	11
707 KAR 1:002 Definitions of disabilities, services	9	2	7	0
707 KAR 1:310 Determination of eligibility	5	1	4	0
707 KAR 1:360 Confidentiality	4	1	3	7
702 KAR 7:125 Pupil attendance	1	0	1	0
703 KAR 5:070 (Inclusion of student in assessment)	0	0	0	1
<i>Federal statute/regulation violations—Total</i>	<i>11</i>	<i>5</i>	<i>6</i>	<i>8</i>
<b>Total state and federal</b>	<b>221</b>	<b>141</b>	<b>80</b>	<b>120</b>

Note: The ARC is the admissions and release committee created for each student with disabilities, whose membership includes the child’s parents; at least one regular education teacher; at least one special education teacher; a district special education expert; an expert in the instructional implications of evaluation results (who may also be one of the teachers or the district expert on the ARC); related service personnel, as appropriate; the student, if appropriate; and other individuals with knowledge or special expertise at the discretion of the parent or district.  
Source: Staff analysis of unpublished data from Kentucky Dept. of Educ.

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Each year, KDE conducts consolidated monitoring audits of 14 randomly selected districts, including detailed reviews of 18 IEPs per district. Systemic noncompliance leads to a corrective action plan.

**State Consolidated Monitoring Audits.** KDE's routine annual audits provide insights into the contents of IEPs. KDE chooses 14 districts each year for consolidated auditing of all programs requiring formal monitoring, including special education programs. In FY 2015 and FY 2016, audits included detailed reviews of 18 randomly selected IEPs from each district. Out of hundreds of data points in each IEP, KDE focused on 27 requirements that had particular relevance for closing achievement gaps, one of the state's strategic priorities. Although auditors made sure that IEPs contained certain required elements, it was still up to local officials to ensure that IEPs were properly implemented.

Districts must correct all deficiencies found in the randomly selected IEPs. In addition, they must follow a corrective action plan for any systemic noncompliance, which is defined as any regulatory requirement showing noncompliance more than once among the 18 IEPs examined. In effect, this means that systemic noncompliance equates to a compliance level of approximately 89 percent (16 of the 18 IEPs) or less.

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Of 27 requirements monitored, all had compliance rates of 90 percent or more except

- setting measurable goals,
- data collection and analysis regarding progress toward goals,
- description of adverse effects of disabilities, and
- documentation of the student's social and emotional status.

Table 2.3 shows the percentage of IEPs found to be compliant with the 27 requirements. Across all 414 IEPs audited, only 4 of the 27 requirements showed less than 90 percent compliance. However, compliance varied greatly by district, from six districts deemed compliant on all items, to one district compliant on only 50 percent of the items. Given the hundreds of data points contained in the average IEP, it is not surprising that only 55 percent of the 414 IEPs examined required no corrections.

The two requirements with the lowest level of compliance (73 percent for both) concerned the setting of measurable annual goals and the collection and analysis of data on progress toward those goals. KDE guidelines specify that, to be compliant, annual goals must relate directly to students' present levels of academic achievement and functional performance and must be measurable, specifying student, behavior, circumstances, degree/criteria, and evaluation/method of measurement.<sup>20</sup> Once goals are set, progress data must be collected and analyzed for each goal specified. IEPs must provide evidence of data collection and a written summary of the data analysis, including graphs, charts, or checklists.

Another area of relatively low compliance (77 percent) was the description of adverse effects of disabilities. A disability is not automatically assumed to have an adverse effect on the child's education. For a child to be eligible for special education, the IEP must provide specific documentation of the adverse effects of the

disability on the child's involvement and progress in the general curriculum, causing the child to be significantly and consistently behind peers.

Compliance was also relatively low (86 percent) for documenting the student's social and emotional status.

**Table 2.3**  
**Percentage Of Individualized Education Programs Found To Be**  
**Compliant With 27 Requirements, Fiscal Years 2015 and 2016 Combined**

Item Reviewed In IEPs	Percentage Of All IEPs Found To Be Compliant	District Compliance	
		Lowest	Highest
Sets next IEP review date within 365 days	96%	50%	100%
Specifies present levels of academic achievement and functional performance: average, minimum and maximum for all areas listed below	90	47	100
• Communication	94	50	100
• Academic performance	93	44	100
• Health/vision/hearing/motor abilities	90	38	100
• Social and emotional status	86	50	100
• General intelligence	90	44	100
• Transition needs (8th grade or age 14 or older)	97	50	100
• Functional vision/learning media/assessment and/or hearing, listening, and communication assessment	94	50	100
Describes adverse effect of disability on child's involvement and progress in general curriculum, causing child to be significantly and consistently behind peers	77	28	100
Specifies special factors consistent with present levels: average, minimum and maximum for all areas listed below	97	52	100
• Behavior	93	40	100
• Limited English proficiency	98	50	100
• Blind/visual impairment	98	50	100
• Communication needs	97	56	100
• Deaf or hard of hearing	98	50	100
• Assistive technology needs	96	50	100
Annual goals are measurable, relate to present levels, incorporate general curriculum or meet other needs, and include all required information	73	38	100
Specially designed instruction suits child's unique needs	95	50	100
Specifies methods of measuring child's progress toward annual goals	95	50	100
States when parents will receive periodic progress reports	98	50	100
Provides evidence of progress data collection and written summary of data analysis	73	6	100
Supplementary aids and services suit child's unique needs	94	20	100
Assessment accommodations suit child's needs, as supported by evaluation data	97	83	100
Documents decisions and reasons for child to take alternate assessment	100	100	100
Documents communication status (dimension A or B) for the alternate assessment	100	100	100
Specifies program modifications and supports on behalf of child to meet unique needs	91	50	100

Note: This table summarizes completed audits of 414 IEPs in 23 districts (14 districts in FY 2015 and 9 districts in FY 2016); 5 audits had not been completed at the time the audit data were analyzed. In each district, 18 randomly selected IEPs were reviewed for compliance with the 27 requirements listed in this table.

Source: Staff analysis of unpublished consolidated audit data provided by Kentucky Department of Education.

## Federal Monitoring

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Each year, the US Department of Education determines whether states meet requirements in their implementation of IDEA, based on mandated state reports, information gathered during monitoring visits, and other public information. Kentucky has met IDEA B requirements each year since 2008 and was one of 24 states that met requirements in FY 2014.

Since 2007, USED has made annual determinations as to whether states meet requirements in their implementations of IDEA.

Determinations are based, in part, on two federally mandated reports. Each state is required to submit a State Performance Plan (SPP) in which the state evaluates its implementation efforts, sets targets, and describes how it will reach those targets. Each state then submits an Annual Performance Report (APR) detailing its progress in meeting the targets established in its SPP. The annual determination is based on the APR, information obtained through monitoring visits, and any other public information.

Annual determinations have four categories:

- Meets requirements and purposes of IDEA
- Needs assistance
- Needs intervention
- Needs substantial intervention

In the latest determination (for FY 2014), Kentucky was one of 24 states that met requirements. Among the remaining 26 states, 25 were deemed to need assistance and one needed intervention; most of these 26 states had needed assistance for two or more consecutive years. In contrast, Kentucky has met IDEA B requirements each year since 2008.<sup>21</sup>

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Kentucky received its lowest scores on the percentages of students included in national and regular statewide assessments and the percentage scoring at Basic or above on national math assessments.

Appendix C presents the information on which the FY 2014 determination was based. Kentucky's score was 100 percent on compliance measures and 75 percent on student results measures. The areas in which Kentucky received the lowest scores were

- the percentages of students with disabilities included in national assessments (88 percent),
- the percentage of 8<sup>th</sup>-graders with disabilities participating in regular statewide assessments (88 percent), and
- the percentages of students with disabilities scoring at Basic or above on national math assessments (58 percent for 4<sup>th</sup>-graders, 28 percent for 8<sup>th</sup>-graders).





## Chapter 3

### Identification Of Students With Disabilities

#### Comparisons Of Kentucky To The Nation

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This section compares Kentucky to the nation in terms of the percentage of children identified as needing special education. Differences likely reflect not only differences in the prevalence of disabilities but also other factors such as access to special education and related services, and the availability of specialized evaluators. Even small differences and changes can have substantial implications for revenue, staffing, and expenditures.

This section of Chapter 3 compares Kentucky to the nation in terms of percentages of children identified as having disabilities that require special education and related services. Differences in identification rates likely reflect not only differences in the prevalence of disabilities but also other factors such as access to special education and related services, and the availability of specialists who can evaluate the nature and impact of disabilities. Even small differences and changes in identification rates can have substantial implications for revenue, staffing, and expenditures.

#### Trends For All Students With Disabilities By Age Group

Since at least 2001, Kentucky's special education identification rate has exceeded that of the nation, especially for the 3-5 age group. Whether this represents overidentification by Kentucky or underidentification by other states would be difficult to determine.

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Since 2001, Kentucky's identification rates have been near those of the nation for the 0-2 and 6-21 age groups but far exceeded the nation for the 3-5 age group. One factor might be greater access to state-funded preschool in Kentucky.

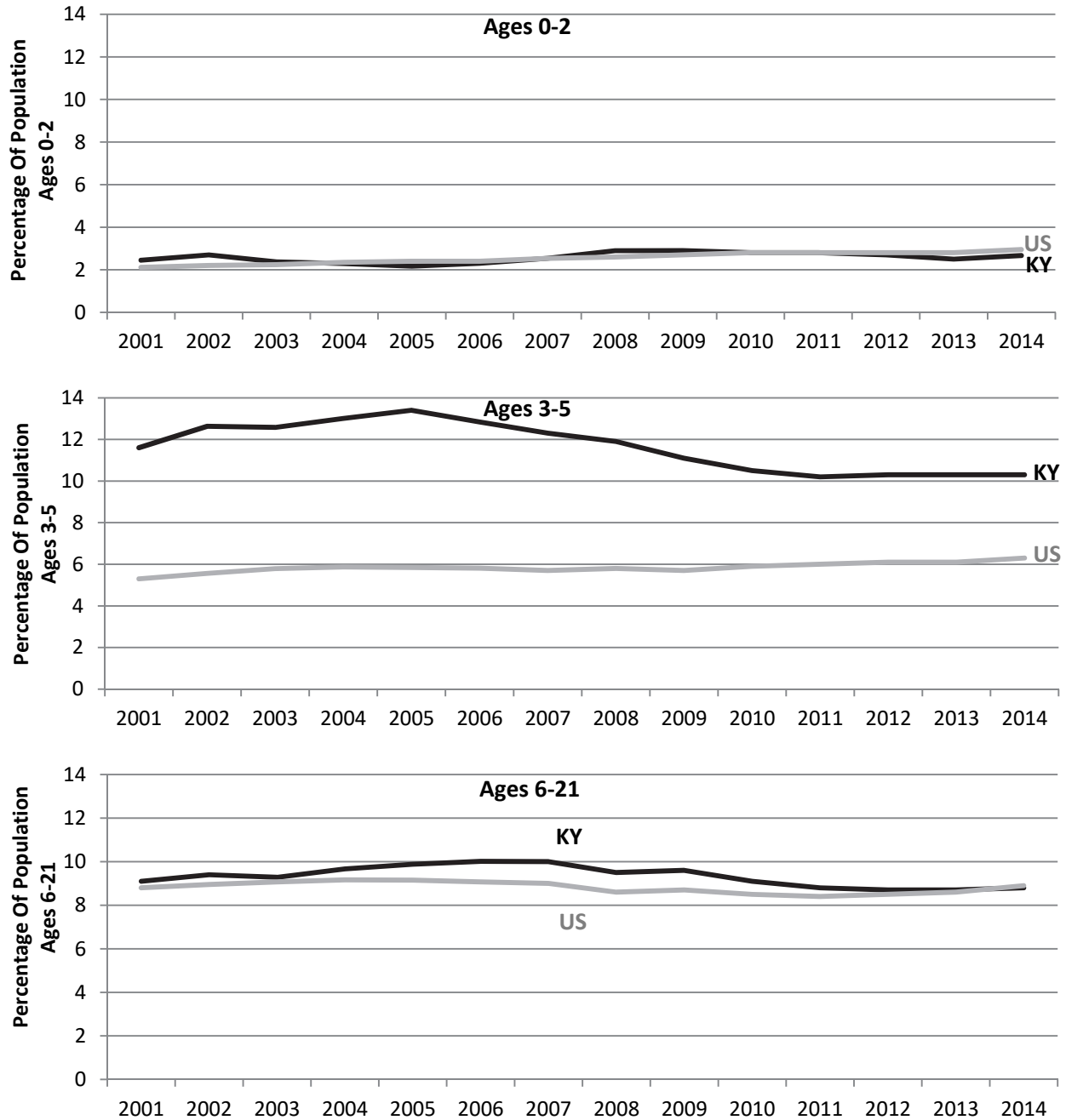
As Figure 3.A shows, in FY 2014, Kentucky's identification rates were almost identical to those of the nation for the 0-2 and 6-21 age groups. However, the rate for ages 3-5 was 10.3 percent, compared to a US rate of 6.3 percent. This is down from 13.4 percent in 2005, when the national rate was 5.8 percent. Although many factors may contribute to these differences, one factor might be that, since 1990, Kentucky has offered free preschool for 3- and 4-year-olds with disabilities; most other states fund preschool only for 4-year-olds, if at all. Kentucky has the 10<sup>th</sup> highest preschool enrollment for 3-year-olds.<sup>22</sup>

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For the 6-21 age group, Kentucky's identification rate slightly exceeded that of the nation for most years but fell below the nation in 2014; KDE attributes this drop to the implementation of response-to-intervention, the tiered intervention program used in general education settings.

Kentucky's 6-21 age group rate slightly exceeded that of the nation for all years except 2014 and was at its most divergent in 2007, when Kentucky's rate was 1 percentage point higher (10.0 percent compared to 9.0 percent for the nation). The rate for this group declined to 8.8 percent in 2014, just below the national rate of 8.9 percent. In discussions with OEA, KDE attributed the declining rate to the implementation of response-to-intervention, the tiered intervention program used in general education settings.

**Figure 3.A**  
**Children With Disabilities By Age Group:**  
**Comparisons Of Kentucky To US Based On Fall Student Counts, 2001 To 2014**



Source: US. Department of Education. *Annual Report to Congress on the Implementation of the Individuals with Disabilities Education Act*. Washington: USED. For years 2003 to 2015.

### Differences By Disability Category

Figure 3.B compares Kentucky to the nation in terms of the percentage of the population identified with each category of disability. Category definitions appear in Appendix D.

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Compared to the nation, higher proportions of Kentucky's young children are identified as having speech-language impairments and developmental delays; Kentucky's better access to preschool may make it easier to identify these difficulties. In contrast, Kentucky's slightly lower rates of autism and other health impairment might reflect slightly lower supplies of health care providers in Kentucky.

Among young children (ages 3-5), higher proportions in Kentucky are identified as having speech-language impairments and developmental delays. Among many possible factors that might explain these differences, Kentucky's better access to preschool may make it easier to identify these difficulties.

Kentucky's young children have slightly lower identification rates for autism and other health impairment; one of many possible factors affecting these rates might be Kentucky's slightly lower supply of health care providers.<sup>23</sup> Rural residents, in particular, may need to drive long distances to take children to health care providers in order to have autism or health impairments diagnosed.

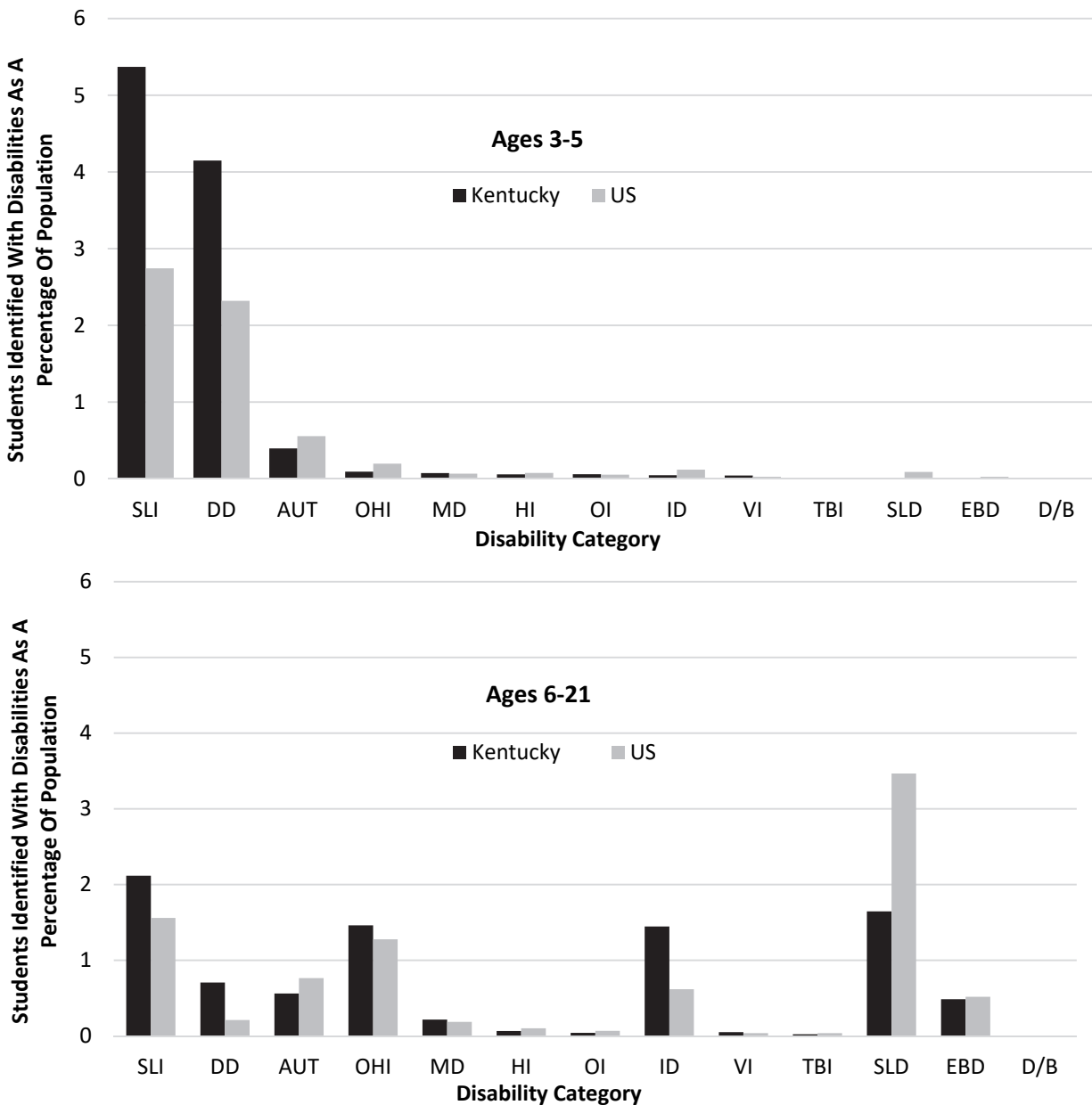
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In the 6-21 age group, Kentucky's lower rate of specific learning disabilities might reflect a shortage of specialized evaluators. The autism rate is also lower, though it has grown rapidly in recent years. Kentucky has higher rates of speech-language impairments, intellectual disabilities, other health impairments, and developmental delays. Kentucky's above-average developmental delay rate for ages 6-21 might reflect state variations in usage of that category.

In the 6-21 age group, Kentucky children have lower identification rates for specific learning disabilities, perhaps because many Kentucky districts lack specialized personnel to conduct the rigorous tests required to identify specific learning disabilities. Also relatively less prevalent is autism, although the rate has been growing rapidly in recent years, in both Kentucky and the rest of the nation. Kentucky has relatively high rates of identified speech-language impairments, intellectual disabilities, other health impairments, and developmental delays.

Kentucky's above-average developmental delay rate for ages 6-21 might reflect state variations in usage of that category, which is optional under IDEA. Data for 2004 through 2013 show that the category was used by almost all states for children age 3-5, but it was not used for ages 6-9 in several states, including the populous states California, New York, Florida, Ohio, and New Jersey. Kentucky uses the category for children age 3-8.<sup>24</sup>

**Figure 3.B**  
**Kentucky Compared To The US: Percentage Of The Population**  
**Identified By Age And Disability Category, Fiscal Year 2015**



Note: SLI=Speech-language impairment, DD=developmental delay, AUT=autism, OHI=other health impairment, MD=multiple disabilities, HI=hearing impairment, OI=orthopedic impairment, ID=intellectual disability, VI=visual impairment, TBI=traumatic brain injury, SLD=specific learning disability, EBD=emotional-behavioral disability/disturbance, D/B=deaf and blind. The federal definition restricts developmental delay to ages 3-9, but states are permitted to choose a narrower age range or to not use the category at all; Kentucky uses the developmental delay category for children ages 3-8 only.  
Source: US. Department of Education. IDEA Section 618 Data Products: State Level Data Files. Web. May 12, 2016.

## Identification Rates By SEEK Funding Level

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This section discusses characteristics of students whose education is supported, in part, by the exceptional child add-on within the Support Education Excellence in Kentucky (SEEK) state funding program.

To provide context for exploring relationships between funding and special education, this section discusses characteristics of special education students whose education is supported, in part, by the Support Education Excellence in Kentucky (SEEK) state funding program. The SEEK exceptional child add-on is explained in Appendix E.

### State-Level Totals

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SEEK funding levels and weights used for calculating each district's exceptional child add-on were established in the early 1990s.

Table 3.1 shows the percentages of students ages 6 through 20 identified with particular disabilities, grouped into the SEEK funding levels used for calculating each district's exceptional child add-on. The funding levels associated with each disability category have not changed since the early 1990s, when they were established as part of Kentucky's education reform efforts.

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In 2015, 26 percent of special education students had speech-language impairments, which are funded at the lowest level. A majority (55 percent) had disabilities funded at a moderate level, while 19 percent had disabilities funded at the highest level.

Students with speech-language impairments are funded at the lowest weight because they are believed to require less intensive services. This high-incidence category made up 24 percent of special education students in 2010 and 26 percent in 2015.<sup>a</sup>

The eight low-incidence SEEK categories are funded at the highest weight because students with these disabilities are believed to require more intensive services. Combined, these eight categories account for 19 percent of all special education students. The categories of visual impairment, hearing impairment, deaf-blind, orthopedic impairment, and traumatic brain injury each constitute less than 1 percent of special education students who are covered by SEEK. However, students enrolled in the Kentucky School for the Blind and the Kentucky School for the Deaf are not included in these counts because these schools are funded outside of SEEK.

The majority of special education students are identified in the five disability categories believed to require moderate services. Of special interest are the other health impairment and developmental delay categories because their broad definitions may lead to inconsistencies in identification and services.

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<sup>a</sup> In 2015, 26 percent of Kentucky's 88,090 exceptional children was 22,903, or about 3.8 percent of Kentucky's total average daily attendance.

**Table 3.1**  
**Percentage Of Kentucky Special Education Students, Ages 6-20,**  
**By SEEK Funding Category, December 2010 And December 2014**

Disability Category	Percentage Of All Students With Disabilities		Percentage Point Change
	2010	2015	2010-2015
<b>Total high incidence (0.24 added to SEEK guaranteed base)</b>	<b>23.65%</b>	<b>25.99%</b>	<b>2.34%</b>
Speech-language impairment	23.65	25.99	2.34
<b>Total moderate incidence (1.17 added to SEEK guaranteed base)</b>	<b>57.55</b>	<b>55.41</b>	<b>-2.14</b>
Other health impairment	17.34	15.51	-1.83
Specific learning disability	16.62	17.55	0.93
Mild mental disability	14.62	11.36	-3.26
Developmental delay	8.43	10.53	2.1
Orthopedic impairment	0.54	0.46	-0.08
<b>Total low incidence (2.35 added to SEEK guaranteed base)</b>	<b>18.81</b>	<b>18.60</b>	<b>-0.21</b>
Emotional-behavioral disability	6.02	4.95	-1.07
Autism	4.15	6.59	2.44
Functional mental disability	3.66	3.47	-0.19
Multiple disabilities	3.38	2.17	-1.21
Hearing impairment	0.74	0.64	-0.1
Visual impairment	0.57	0.51	-0.06
Traumatic brain injury	0.27	0.26	-0.01
Deaf-blind	0.02	0.01	-0.01
<b>All categories</b>	<b>100.00</b>	<b>100.00</b>	<b>--</b>

Notes: In the SEEK funding formula for districts, add-ons are adjustments to the guaranteed base reflecting the additional costs associated with educating some students. Other health impairment can include attention deficit disorder, asthma, or diabetes, but only if these conditions have an adverse effect on the student's education. Specific learning disability can include children with dyslexia, dyscalculia, and many other disorders if the disorders have an adverse effect on the student's education. Developmental delay is used only for ages 3 through 8. Although students with orthopedic impairment are included in the moderate-incidence category for SEEK purposes, they constitute less than 1 percent of students identified for special education. Per KRS 157.200(1)(h), the multiple disabilities category does not include those with speech-language or deaf-blind disabilities who also have one other disability. Because the Kentucky School for the Blind and Kentucky School for the Deaf are funded outside of SEEK, they do not report student counts and are not included in these percentages.

Source: Staff analysis of data from the Kentucky Department of Education.

### Variations Among Kentucky School Districts

Kentucky regulation mentions an identification rate of more than 15 percent as a reason to audit a district; in 2015, 52 districts had such rates, including 15 with rates of 20 percent or more.

Figure 3.C shows variations among Kentucky's 173 districts in the percentage of students identified for special education. Some district differences are to be expected simply due to random variation, especially in relatively small districts, where rates can change dramatically when a few students move in or out. Other

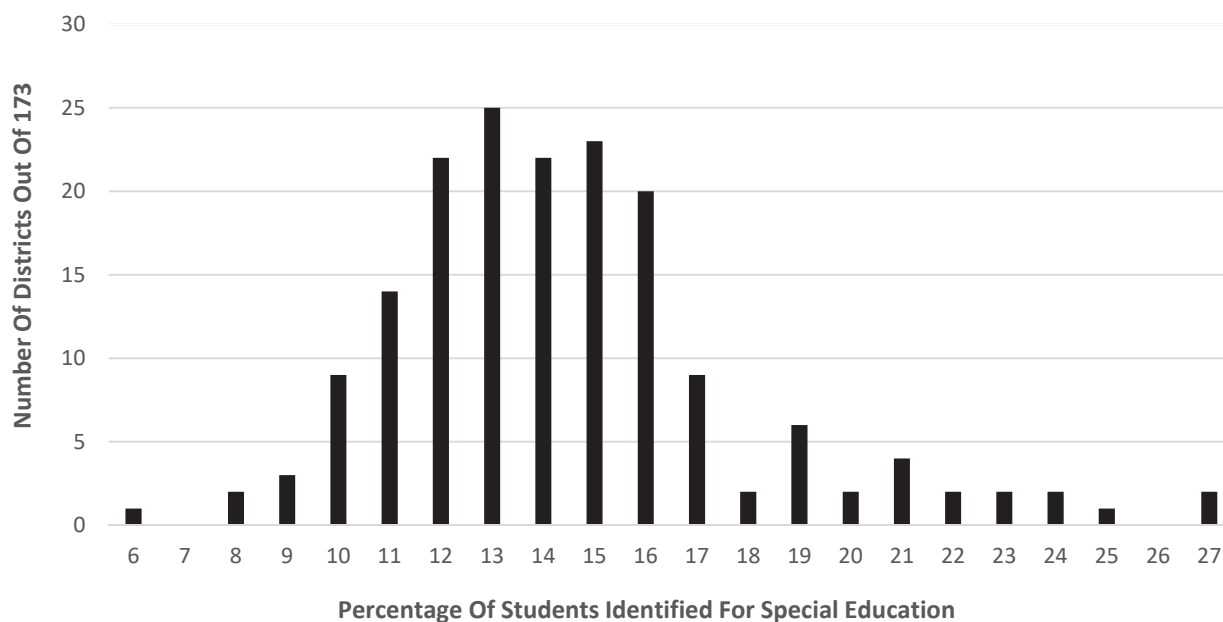
factors may include the quantity and quality of services available in a district, which may influence parents’ decisions about where to live.

**Relatively High Identification Rates.** 707 KAR 1:380 section 6(5)(e) lists a special education identification rate of more than 15 percent as a potential reason to audit a district. In 2015, the number of districts with rates higher than 15 percent was 52, down from 67 in 2010 and 100 in 2007. The number of districts with rates of 20 percent or more was 15, compared to 14 in 2010 and 20 in 2007.

In OEA’s 2008 report (which used 2007 data), districts with high identification rates tended to have lower wealth than others, but the 2015 data show little or no difference by wealth.

**Relatively Low Identification Rates.** Another potential audit criterion mentioned in 707 KAR 1:380 is an unusually low identification rate compared to similar districts. In 2015, the number of districts with rates less than 12 percent was 29, up from 16 in 2007.

**Figure 3.C**  
**Counts Of Districts By Percentages Of Students Identified For Special Education**  
**Fiscal Year 2015**



Source: Staff analysis of data from the Kentucky Department of Education.





## Chapter 4

### Personnel And Finances

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Personnel costs make up a large portion of education expenditures; this chapter discusses special education personnel and finances.

This chapter discusses personnel who provide special education and related services and special education revenue and expenditures. Personnel costs make up a large portion of education expenditures.

#### Personnel

##### State-Level Analysis

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Full-time equivalent employee and contractor data are annually reported to the US Department of Education. These data should be interpreted with caution because districts use different staffing strategies, and most personnel serve all students. It may be difficult to estimate the portion of each person's time spent specifically providing special education and related services.

Under the authority of Section 618(a)(3) of IDEA, USED requires states to annually submit data on the full-time equivalent of personnel employed or contracted to provide special education and related services. These data are used for federal reporting and for state personnel development plans required of those receiving State Personnel Development Grants.<sup>25</sup>

These data should be interpreted with caution because districts use different staffing strategies, and most personnel serve all students. It may be difficult to estimate the portion of each person's time spent specifically providing special education and related services.

Table 4.1 summarizes Kentucky districts' estimates of employee and contractor time for providing special education and related services. Student-personnel ratios are calculated by dividing the number of special education students by the full-time equivalent number of personnel.<sup>a</sup> The smaller the student-personnel ratio, the more personnel are available to serve students.

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Special education teachers make up the largest category. However, districts rely more on instructional aides for children age 3-5. Relatively few of the personnel reported as providing special education and related services are audiologists, school social workers, physical education teachers and recreational therapists, orientation mobility specialists, rehabilitation counselors, and interpreters.

As the table shows, special education teachers make up the largest category. However, districts rely more on paraprofessionals (instructional aides) than on special education teachers for children age 3-5. The reverse is true for children age 6-21.

Categories with relatively high student-personnel ratios, indicating fewer personnel providing special education and related services, include audiologists, school social workers, physical education

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<sup>a</sup> Because preschool is approximately half a day, student-personnel ratios for teachers and paraprofessionals serving ages 3-5 used half the number of children age 3-5. This could not be done for other personnel because their time is not reported by the age of the children they serve.

(PE) teachers and recreational therapists, orientation mobility specialists, rehabilitation counselors, and interpreters.

**Table 4.1**  
**Full-Time Equivalent Personnel Employed Or Contracted To Provide Special Education And Related Services, Fiscal Year 2015**

<b>Personnel Category</b>	<b>Personnel Count (Full-Time Equivalent)</b>	<b>Student-Personnel Ratio</b>
<b>Instruction—total</b>	<b>12,250</b>	<b>8</b>
Special education teachers—total	6,775	13
Special education teachers for ages 3-5	438	19
Special education teachers for ages 6-21	6,337	13
Paraprofessionals (instructional aides)—total	5,475	17
Paraprofessionals for ages 3-5	546	16
Paraprofessionals for ages 6-21	4,929	17
<b>Related services—total</b>	<b>2,265</b>	<b>44</b>
Speech pathologists	1,110	89
Psychological services	377	263
Occupational therapists	272	365
Medical nursing staff	159	625
Physical therapists	140	710
Interpreters	83	1,190
Rehabilitation counselors	47	2,135
Orientation mobility specialists	41	2,420
Physical education teachers/recreational therapists	18	5,485
School social workers	14	7,041
Audiologists	4	25,458

Note: Full-time equivalent is a standard measure that makes workloads or caseloads comparable across categories, even when some personnel spend only part of their time providing the indicated services. As a simple example, if an employee who is a physical education teacher and a recreational therapist under contract each spent half a day providing special education-related services, the total would be the equivalent of one full-time physical education teacher/recreational therapist. Data should be interpreted with caution because personnel serve a wide range of students, and it may be difficult for districts to estimate the portion of time spent specifically providing special education and related services. Because preschool is approximately half a day, student-personnel ratios for teachers and paraprofessionals serving ages 3-5 used half the number of children age 3-5. This could not be done for other personnel because their time is not reported by the age of the children they serve.

Source: Staff analysis of data from Kentucky Department of Education's Division of Learning Services.

### **District Variations In Personnel**

OEA examined district-level student-personnel ratios to identify outliers (districts standing out from others as having especially

high or low student-personnel ratios). Outliers might warrant further investigation to determine whether they represent staffing problems or simply clusters of students with unusual needs.

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Of Kentucky's 173 districts, 17 reported far fewer special education teachers and far more instructional aides per special education student. In contrast, 16 reported far more teachers and fewer aides. Four reported both fewer teachers and fewer aides.

OEA's detailed analysis found that, compared to the state average, 17 of Kentucky's 173 districts reported far fewer special education teachers per student and far more paraprofessionals (instructional aides) per student; there may be good reasons for these differences, but they raise questions as to whether some districts are overreliant on paraprofessionals. In contrast, 16 districts stood out from the others because they reported far more special education teachers and fewer paraprofessionals per student. Four districts stood out because they reported both fewer special education teachers and fewer paraprofessionals per student.

The reported use of specialized personnel for special education varied widely among districts. More than 80 percent of districts reported no audiologist, social worker, physical education teacher/recreational therapist, orientation mobility specialist, rehabilitation counselor, or interpreter. In addition, 71 percent of districts reported no medical nursing staff. However, when a district reports no personnel for IDEA B reporting purposes, it does not always mean that the personnel are not present; in some cases, it may simply mean that the district did not report the estimated portion of time these personnel spent specifically on special education and related services. For example, even though more than 80 percent of districts did not report PE teacher time, a 2015 OEA study found that most districts have PE teachers.<sup>26</sup> Those teachers serve all students, and federal reporting guidelines are not completely clear as to which activities are general education and which are special education-related services.<sup>27</sup>

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Analysis of federally reported data, partially corroborated with state data, suggests that services are rarely provided by audiologists, psychologists, interpreters, and social workers. Also relatively rare are physical/occupational therapist or speech pathologist services.

To better understand an apparent lack of personnel in some districts, OEA staff analyzed classified employee counts recorded by districts in the Munis finance system. Although Munis does not provide counts of contractors, the employee counts did provide some insights. Although the percentage of districts reporting no nursing staff for IDEA B reporting purposes was 71 percent, Munis showed 38 percent without nurses on the payroll. Similarly, although more than 80 percent reported no physical/occupational therapist or speech pathologist time for special education services, Munis showed that 63 and 68 percent, respectively, do not have these personnel on the payroll. On the other hand, Munis seemed to corroborate the low number of audiologists, psychologists, interpreters, or social workers; more than 80 districts did not have employees with these classifications.

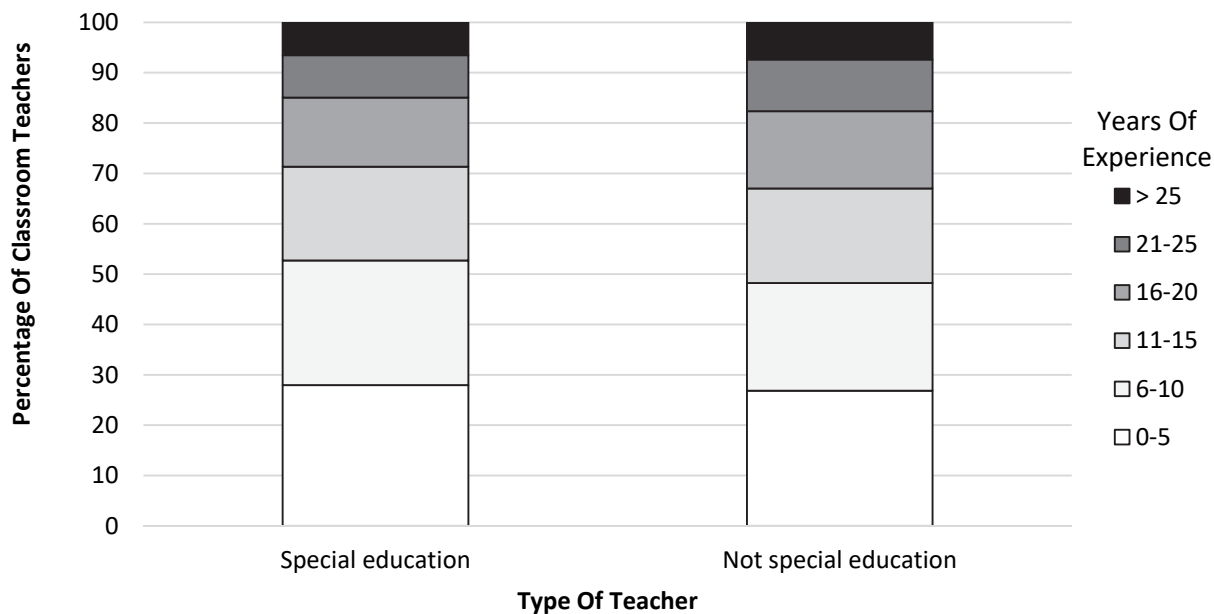
At the other end of the continuum, two small districts had more speech therapists per student than average because they had more children needing these services.

### Teachers' Years Of Experience

Special education teachers had slightly less experience (6 months less, on average) than other teachers

In FY 2015, special education teachers had slightly less experience (6 months less, on average) than other teachers, as shown in Figure 4.A. Those with less than 5 years of experience made up 28 percent of special education teachers, down from 33 percent in FY 2011. By comparison, 27 percent of non-special education teachers had less than 5 years of experience in both FY 2011 and FY 2015. The difference between FY 2011 and FY 2015 likely reflects the decreased use of less-experienced teachers with emergency and probationary certificates, which is discussed in the next sections.

**Figure 4.A**  
**Years Of Experience, Special Education Teachers Compared To Other Teachers**  
**Fiscal Year 2015**



Source: Staff analysis of data from the Kentucky Department of Education.

## Nonstandard Certifications

Obtaining a standard professional teaching certificate, as specified by 16 KAR 2:010, requires, at a minimum,

- a bachelor's degree, with a 2.5 cumulative grade point average (GPA) and a 3.0 GPA for the last 60 hours of credit, from a state-approved teacher preparation program;
- passing scores on teacher certification exams corresponding to the content areas, grade levels, and student populations (such as students with certain types of disabilities) to be certified; and
- participation in the Kentucky Teacher Internship Program under the supervision of an experienced teacher.

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Alternative routes to certification were created to relieve teacher shortages, though districts may hire alternatively certified teachers even when those with standard certifications are available. Temporary provisional certificates allow candidates to teach while completing requirements for a standard certificate.

Alternative routes to certification were created to relieve shortages of certain types of teachers, although districts are allowed to hire alternatively certified teachers even when those with standard certifications are available. Candidates receive temporary provisional certifications that allow them to teach while working toward attaining the requirements for a standard professional teaching certificate. In addition to these alternative routes, described in Table 4.2, EPSB also awards emergency and probationary certificates, which are discussed later in this chapter.

**Table 4.2**  
**Alternative Routes To Certification**

Option	Description
1	Exceptional Work Experience Certification requires 10 years of exceptional work experience in the area of certification, a bachelor's degree with a major in the area of certification or a passing score on a teacher exam in that area, recommendations from employers, and an offer of employment in a local school district.
2	Local District Training Program Certification requires a bachelor's degree, passing scores on assessments in the specialty area, completion of a 30-hour course of study or 5 years of experience in the specialty area, and an offer of employment in a local school district that has an approved training program.
3	College Faculty Certification requires a master's degree in the subject area of the certification and 5 years of full-time teaching experience at an institution of higher education.
4	Adjunct Instructor Certification requires expertise in a specific area, a high school diploma for vocational education certification or a bachelor's degree for elementary or secondary education, and an offer of employment in a local school district.
5	Veterans of the Armed Forces Certification requires an honorable discharge after 6 years of active duty, a bachelor's degree in the subject area of the certification, and passing scores on EPSB-approved assessments.
6	University-Based Alternative Route to Certification requires a bachelor's or master's degree and meeting university admission standards.
7	Institute Alternative Route to Certification requires a college degree in the area of certification, specified minimum scores on the Graduate Record Exam, passing scores on written content knowledge tests, and an offer of employment in a local school district.
8	Teach For America Alternative Route to Certification requires a bachelor's degree, training by and participation in the Teach For America program, passing scores on EPSB-required content assessments, and an offer of employment in a local school district.

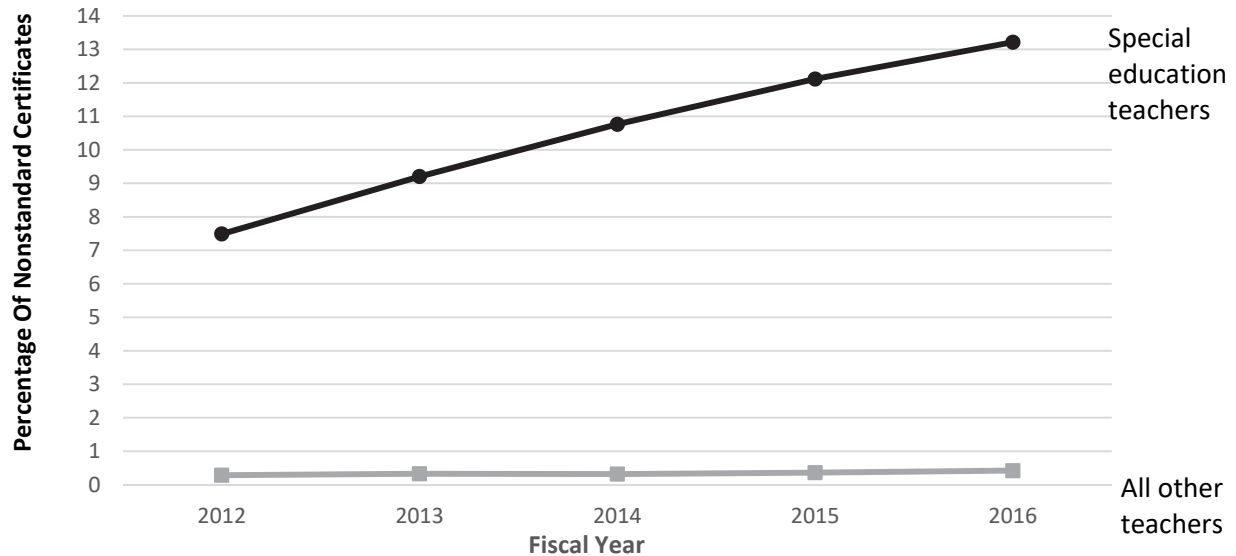
Note: Specific minimum grade point averages are required for all bachelor's degrees.

Source: Kentucky. Education Professional Standards Board. Alternative Routes to Teacher Certification. Web. July 8, 2016.

Between 2012 and 2016, the percentage of all special education teachers holding nonstandard certifications rose from 8 percent to 13 percent, while the percentage for all other teachers stayed below 0.5 percent.

As Figure 4.B shows, the percentage of all special education teachers holding emergency, provisional, or probationary certificates rose from just under 8 percent in 2012 to more than 13 percent in 2016. During the same period, the percentage of all other teachers holding nonstandard certificates remained below one-half of 1 percent.

**Figure 4.B**  
**Teachers With Nonstandard Certifications:**  
**Special Education Compared To All Other Teachers, Fiscal Year 2012 To Fiscal Year 2016**



Note: Nonstandard certifications comprise emergency, temporary provisional (also called alternative route), and probationary certifications.

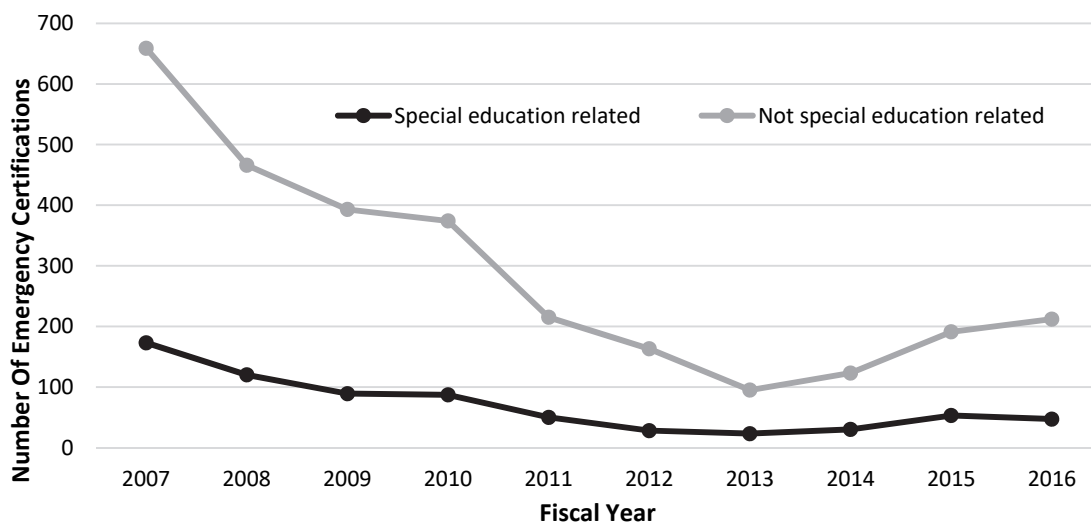
Source: Staff analysis of unpublished data from Kentucky Education Professional Standards Board.

To ease substitute teacher shortages, emergency certificates allow a person with a high school diploma to provide substitute teaching for a limited time. The number of emergency certifications has fallen in recent years.

**Emergency Certifications.** Seeking to ease substitute teacher shortages, EPSB established, in 1998, an emergency certification program that allowed districts to temporarily employ a person with a high school diploma when no other substitutes are available. The program began as a pilot in a limited number of districts and then expanded to all districts in 2000. Later, in response to concerns about the use of these less qualified personnel, 16 KAR 2:120 was revised to limit the length of time and renewability of emergency certificates.<sup>28</sup>

As Figure 4.C shows, between FY 2007 and FY 2013, the number of emergency certifications fell slowly for special education but rapidly for other fields; by 2013, one in five emergency certifications were for special education. In the past few years, the number of emergency certifications began to rise again.

**Figure 4.C**  
**Emergency Certifications, Fiscal Year 2007 To Fiscal Year 2016**



Source: Staff analysis of data from Kentucky Education Professional Standards Board.

The most common emergency certification in special education was for students with learning or behavior disorders or moderate or severe disabilities.

Table 4.3 lists the types of special education emergency certifications issued. The most common was for students with learning or behavior disorders or moderate or severe disabilities. Non-special education categories were too numerous to list, but the most common ones were for math, early childhood education, and elementary education; also relatively frequent were those for sciences, Spanish, English, and English as a second language.

**Table 4.3**  
**Special Education Emergency Certifications By Type**  
**Fiscal Year 2007 To Fiscal Year 2016**

	<b>Total 2007- 2016</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
Learning and behavior disorders	432	121	80	61	50	23	15	11	17	26	28
Moderate and severe disabilities	198	41	30	21	28	23	11	7	10	13	14
Visually impaired pupils	42	8	5	3	2	0	1	3	3	12	5
Hearing impaired pupils	26	2	4	4	7	4	1	2	0	2	0
Hearing impaired pupils with sign proficiency	2	1	1	0	0	0	0	0	0	0	0
<b>Total</b>	<b>700</b>	<b>173</b>	<b>120</b>	<b>89</b>	<b>87</b>	<b>50</b>	<b>28</b>	<b>23</b>	<b>30</b>	<b>53</b>	<b>47</b>

Source: Staff analysis of data from Kentucky Education Professional Standards Board.



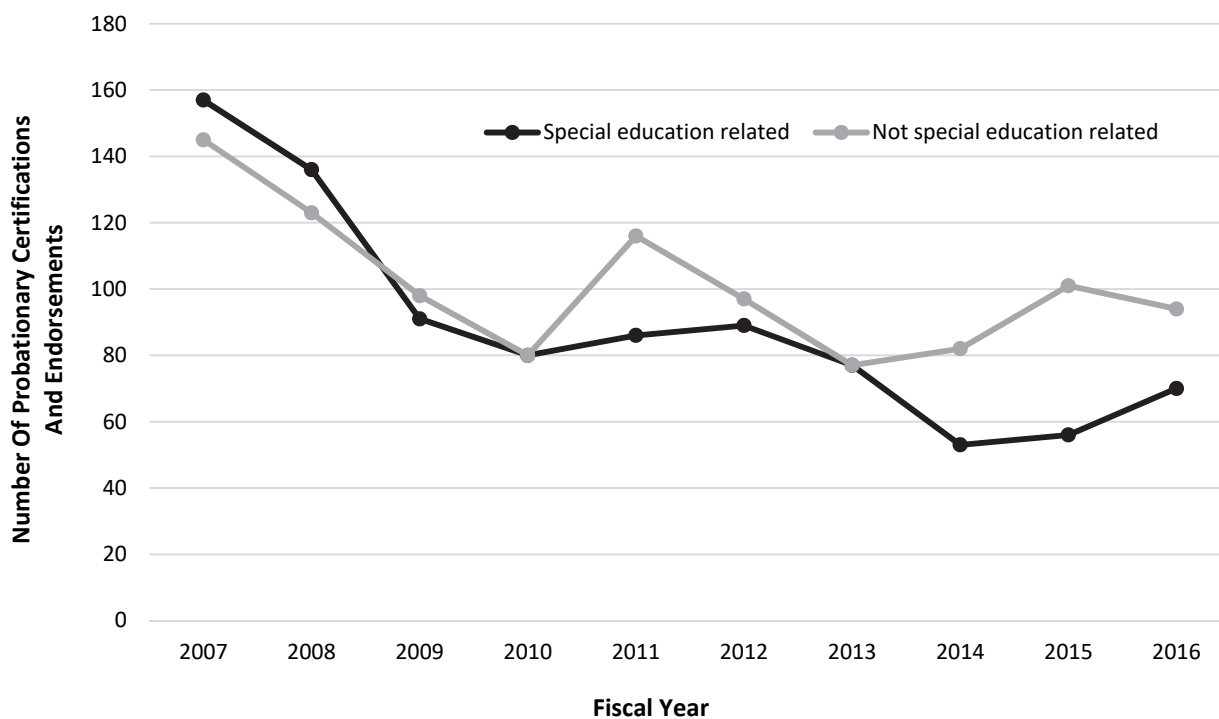
A 1-year probationary certificate can allow a teacher certified for general education to teach special education if a more qualified teacher is not available.

**Probationary Certifications.** Under 16 KAR 2:160, a 1-year probationary certificate for a teacher of exceptional children can be awarded if a district superintendent attests that a qualified special education teacher is not available. The teacher applying for this exceptional child certification must already hold a certificate for general education.

In most years, approximately half of probationary credentials relate to special education of students with disabilities. The number of probationary credentials decreased rapidly between 2007 and 2010; since then, it has fluctuated but stayed at lower levels than 2007.

As Figure 4.D shows, the numbers of probationary credentials issued annually decreased rapidly between FY 2007 and FY 2010 for both special education teachers and non-special education teachers. After FY 2010, the numbers have fluctuated but have stayed below 2007 levels. In most years, special education-related credentials for teachers of students with disabilities made up approximately half of probationary credentials issued; however, in the past 3 years, special education made up a smaller proportion.

**Figure 4.D**  
**Probationary Certifications And Endorsements, Fiscal Year 2007 To Fiscal Year 2016**



Source: Staff analysis of data from Kentucky Education Professionals Standards Board.

The most common probationary credential for students with disabilities is for moderate or severe disabilities, followed by language disorders, behavior disorders, and visual impairments.

Table 4.4 lists the types of probationary certificates for students with disabilities, gifted and talented students, and non-special education. The most frequent probationary credential for teaching students with disabilities is for moderate or severe disabilities; also relatively frequent are those for language disorders, behavior disorders, and visual impairments. Many probationary credentials

were issued for teaching gifted and talented students. The most frequent non-special education probationary credentials are for early childhood education.

**Table 4.4**  
**Probationary Certifications And Endorsements By Type**  
**Fiscal Year 2007 To Fiscal Year 2016**

	<b>Total 2007- 2016</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
<b><i>Total For Teaching Students With Disabilities (Grade)</i></b>	<b>989</b>	<b>157</b>	<b>136</b>	<b>91</b>	<b>80</b>	<b>86</b>	<b>89</b>	<b>77</b>	<b>81</b>	<b>100</b>	<b>92</b>
Certificate, Moderately And Severely Disabled	486	25	33	30	45	54	55	57	62	63	62
Certificate, Learning And Behavior Disorders (K-12)	397	126	97	56	28	18	16	8	6	25	17
Certificate, Visually Impaired (K-12), Limited To One District	65	3	3	3	4	5	10	11	9	7	10
Certificate, Hearing Impaired (K-12)	10	2	2	0	0	5	1	0	0	0	0
Certificate, Hearing Impaired (K-12), Limited To One District	18	0	0	1	1	0	6	1	4	4	1
Endorsement, Visually Impaired (1-12)	9	1	1	1	2	3	0	0	0	0	1
Endorsement, Visually Impaired (7-12)	3	0	0	0	0	1	0	0	0	1	1
Statement For Certificate, Hearing Impaired (K-12), Limited To One District	1	0	0	0	0	0	1	0	0	0	0
<b><i>Certificate, Gifted Education, All Grades</i></b>	<b>125</b>	<b>12</b>	<b>11</b>	<b>6</b>	<b>9</b>	<b>17</b>	<b>16</b>	<b>15</b>	<b>8</b>	<b>13</b>	<b>18</b>
<b><i>Total Other Certifications (Grade)</i></b>	<b>915</b>	<b>145</b>	<b>123</b>	<b>92</b>	<b>71</b>	<b>99</b>	<b>81</b>	<b>62</b>	<b>45</b>	<b>43</b>	<b>52</b>
Certificate, Interdisciplinary Early Childhood Education (Birth-Primary)	416	74	55	59	42	49	41	32	14	21	29
Endorsement, English As Second Language (All)	117	0	0	0	1	33	22	12	16	17	16
Certificate, Middle School Math (5-9)	75	20	18	13	8	2	7	3	2	1	1
Certificate, Middle School Science (5-9)	64	19	15	9	6	3	3	4	4	0	1
Certificate, Middle School English (5-9)	48	10	9	5	4	5	3	4	4	1	3
Certificate, Middle School Social Studies (5-9)	41	6	8	4	6	3	2	4	4	2	2
Certificate, Engineering and Technology (5-12)	10	2	2	1	2	1	1	1	0	0	0
Certificate, Computer Information Technology (Primary-12)	6	0	1	0	0	1	1	1	1	1	0
Certificate, Industrial Technology (5-12)	6	2	2	1	1	0	0	0	0	0	0
Certificate, Computer Information Systems Only (Primary-12)	5	0	1	0	1	1	1	1	0	0	0
Statement For Certificate, Computer Information Systems Only (Primary-12)	2	0	1	0	0	1	0	0	0	0	0

Source: Staff analysis of data from the Kentucky Education Professional Standards Board.

## Revenue And Expenditures

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Revenue reported includes SEEK exceptional child add-ons, state funds for transporting special education students, IDEA B funds (minus preschool), and Medicaid funds for providing health services to children with disabilities.

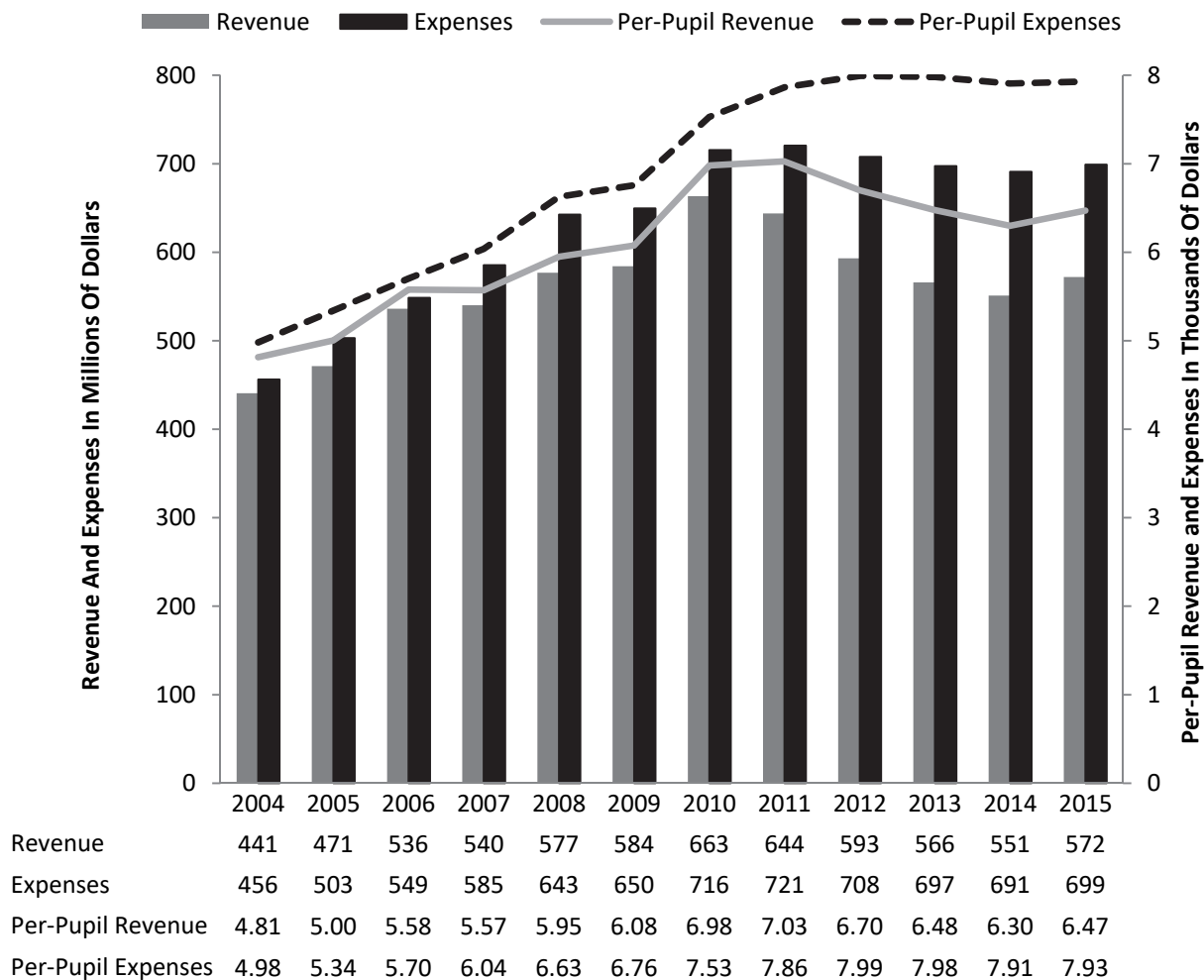
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Between 2004 and 2016, special education expenditures grew 59 percent, while revenue grew 34 percent. Expenditure increases include increases in salaries, benefits, and transportation costs.

The special education revenue shown in this section includes SEEK exceptional child add-ons, additional state funds that districts receive for transporting special education students, federal funds from IDEA Part B grants (excluding preschool), and revenue from Medicaid for providing health services to children with disabilities at school.

In Figure 4.E, bars show total district revenue and expenses, while lines show per-pupil revenue and per-pupil expenses. Revenue rose between 2004 and 2010, decreased between 2011 and 2014, and then rose again slightly in 2015. The revenue peak in 2010 reflects IDEA B funds provided by the American Recovery and Reinvestment Act. Expenditures outpaced revenue; between 2004 and 2015, expenditures increased by 59 percent while revenue increased by 34 percent. Factors reflected in expenditure increases include increases in salaries, benefits, and transportation costs.

**Figure 4.E**  
**Special Education Revenue And Spending, Fiscal Year 2004 To Fiscal Year 2015**



Note: Not adjusted for inflation; the US Bureau of Labor Statistics estimates that a dollar in 2015 had a purchasing power equivalent to 80 cents in 2004.

Source: Staff analysis of data from Kentucky Department of Education.

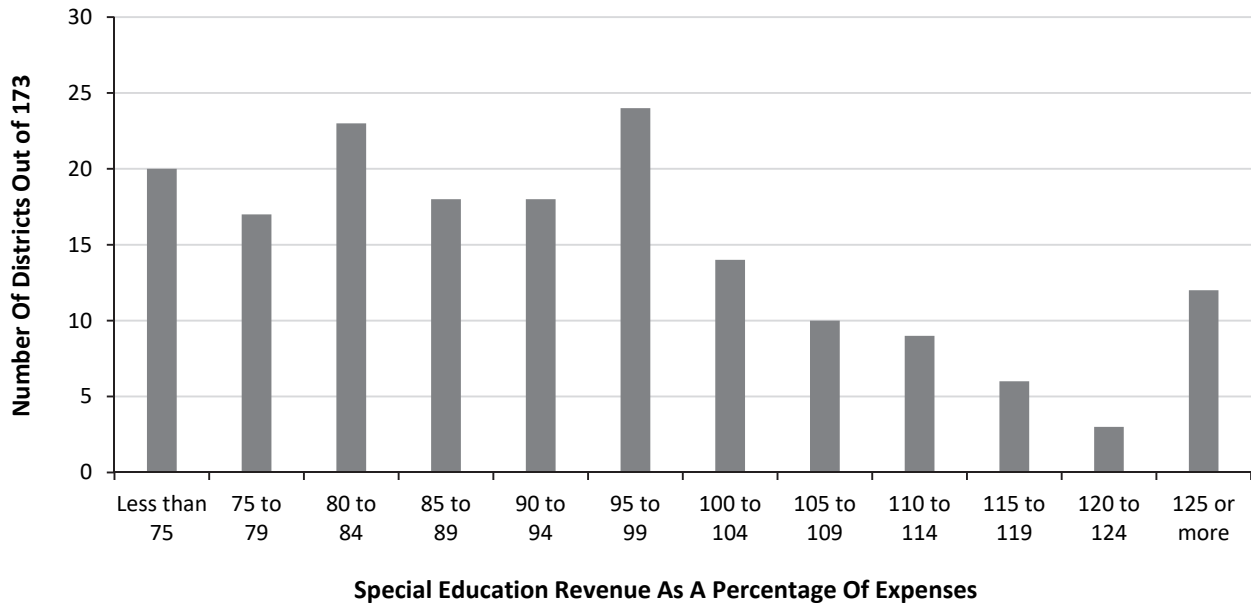
### District Variations In Revenue And Expenditures

A large portion of special education revenue reported here is state funds allocated through SEEK, which attempts to equalize funding for districts that receive less local revenue. For this reason, some districts spend much more special education revenue than they receive, while others spend much less.

Figure 4.F shows special education revenue as a percentage of special education expenses in FY 2015. At the low end, revenue accounted for only 75 percent of expenditures for 20 districts, while at the high end, revenue accounted for 125 percent of expenses. Put another way, 20 districts received only 75 cents in revenue for every dollar they spent, while 12 districts received \$1.25 in revenue for every dollar spent. A large portion of special education revenue is state funds allocated through the SEEK funding formula, which attempts to equalize funding for districts

that receive less local revenue than others. Districts that spent more than the amount of revenue they received were the more affluent districts, while those spending less were the less affluent districts.

**Figure 4.F**  
**District Variations In Special Education Revenue**  
**As A Percentage Of Special Education Expenses, Fiscal Year 2015**



Source: Staff analysis of data from Kentucky Department of Education.



## Chapter 5

### Student Outcomes

#### Assessments

##### Accommodations

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Accommodations are tools and procedures tailored to the needs of each student with disabilities to facilitate learning and allow the student to demonstrate knowledge of academic content.

Before discussing assessment results, it is necessary to consider accommodations, which are tools and procedures that are intended to allow students with disabilities to learn and demonstrate their knowledge of academic content, regardless of disability.

Accommodations are tailored to each student's needs. A particular accommodation may be provided for only one set of circumstances, but in most cases, an accommodation is used during all tests and during daily instruction to support the student's learning.

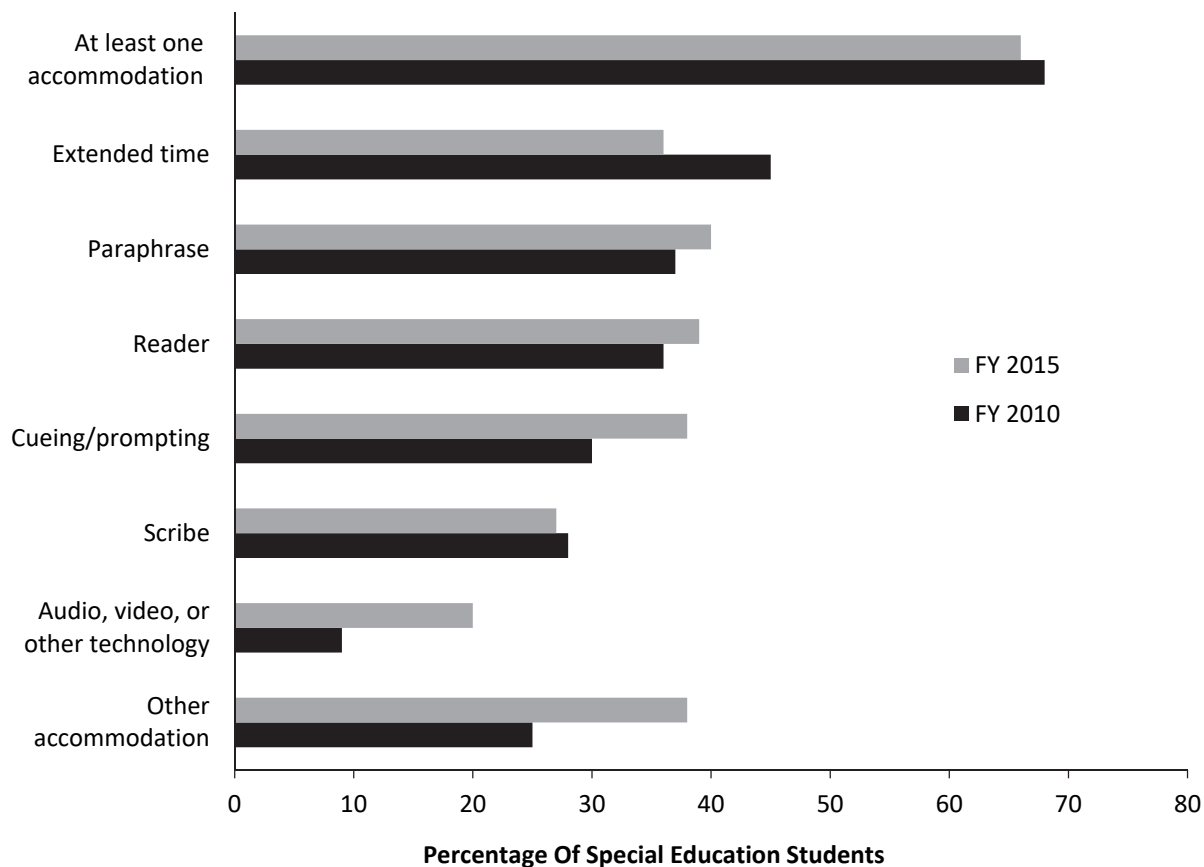
As noted in chapter 2, the Kentucky Board of Education voted in December 2011 to eliminate two accommodations that had previously called into question the validity of Kentucky's statewide test scores; students may no longer use a reader on the comprehension portion of the reading test and may no longer use a calculator on the non-calculator portion of the mathematics test. These accommodations may continue to be used on other portions of these tests and on other types of tests.

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Across all ages and categories of disabilities, two-thirds of students with disabilities use at least one accommodation, such as extended time, paraphrasing, readers, cueing, or prompting.

Data in Figure 5.A show that in FY 2015 the percentage of all children with disabilities whose IEPs specify at least one accommodation was 66 percent, down slightly from the 68 percent accommodated in FY 2010. More than one-third of students used extended time, paraphrasing, readers, cueing, or prompting. The most common examples from the "other accommodation" category were use of a calculator and alternative test environments (such as distraction-free, one-on-one, or small group).

**Figure 5.A**  
**Students With Disabilities Using Accommodations, All Ages And Grades**  
**Fiscal Year 2010 And Fiscal Year 2015**



Note: In FY 2015, most “Other” accommodations were calculators (21 percent) and alternative test environments to reduce distractions (10 percent) provided singly or in combination with other types of accommodations.

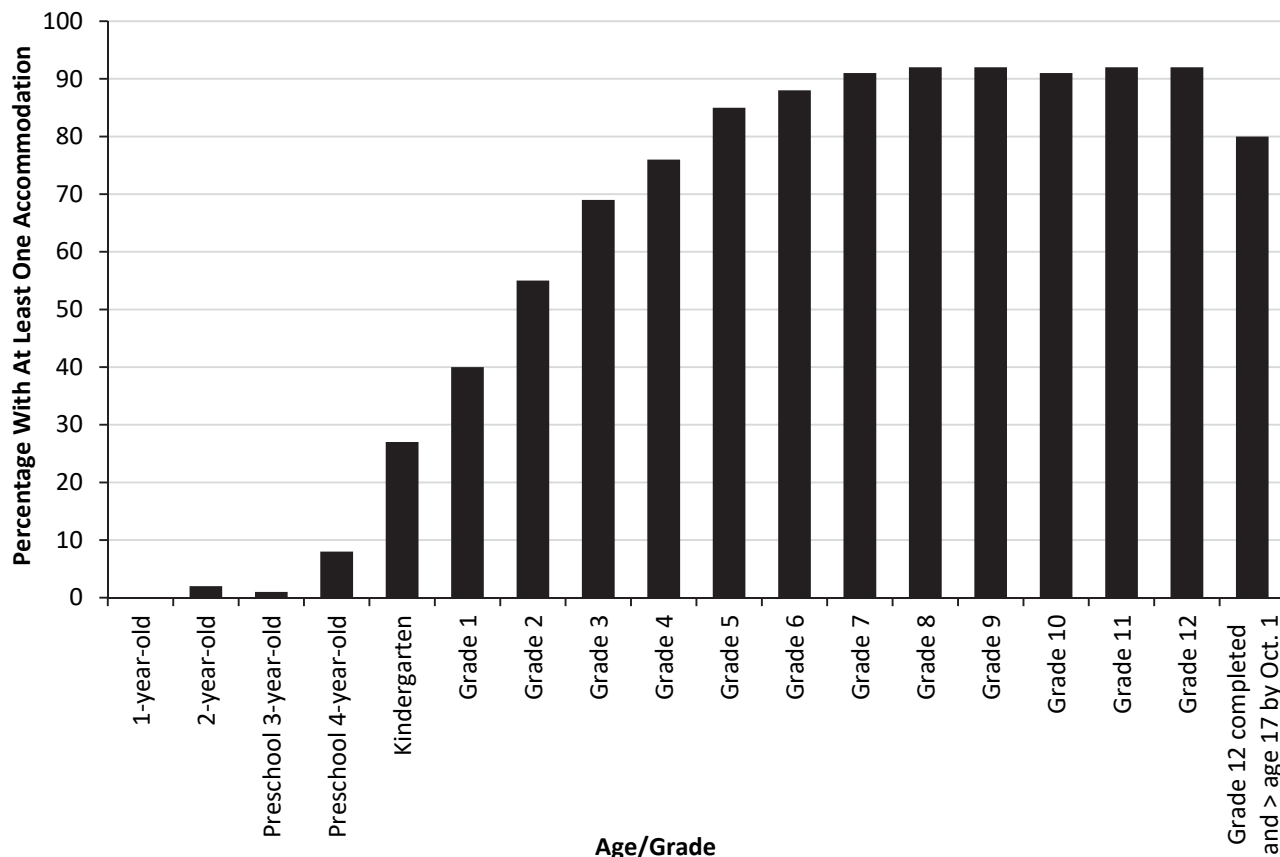
Source: Staff analysis of unpublished data from Kentucky Department of Education.

Accommodations are rare for young children with disabilities but are common for older students; in grades 7 through 12, more than 90 percent of special education students use accommodations.

As Figure 5.B shows, accommodations are rare for young children with disabilities but are common for older students. Although students of all ages use accommodations for daily classroom learning, perhaps the need for accommodations becomes more apparent starting in grade 3, when statewide assessments begin. By grade 4, three-fourths of special education students use at least one accommodation; in grades 7 through 12, more than 90 percent have accommodations.



**Figure 5.B**  
**Accommodations Provided To Students Receiving Special Education By Age/Grade**  
**Fiscal Year 2015**

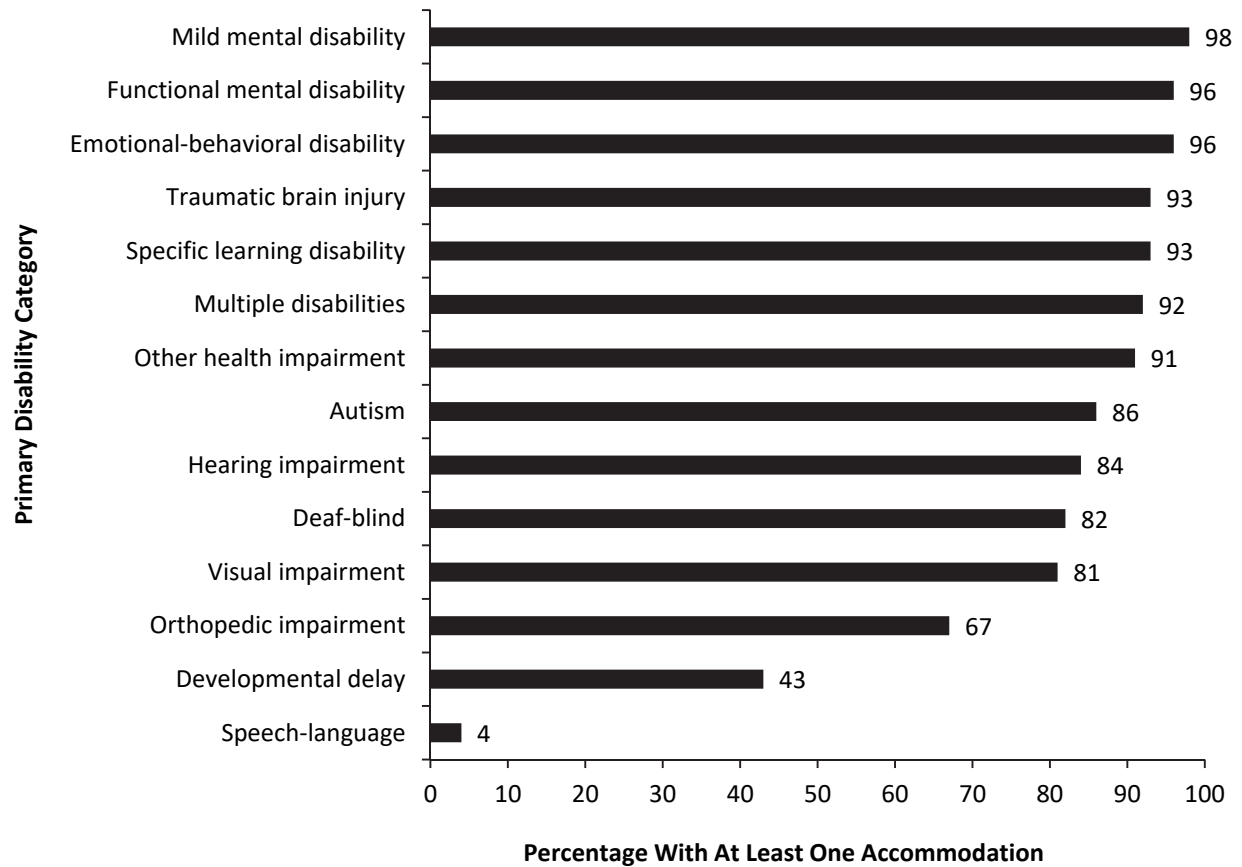


Source: Staff analysis of unpublished data from the Kentucky Department of Education.

The only categories in which less than 80 percent of students have accommodations are those with orthopedic impairments, speech-language impairments, or developmental delays.

Figure 5.C shows accommodation rates for each disability category; the only categories in which less than 80 percent of students have accommodations are those with orthopedic impairments, speech-language impairments, or developmental delays. The low percentage for developmental delay reflects, in part, that this category applies only to children age 3 through 8.

**Figure 5.C**  
**Accommodations By Primary Disability Category, All Ages And Grades, Fiscal Year 2015**



Note: Developmental delay category is used for students age 3 through 8 only.

Source: Staff analysis of unpublished data from the Kentucky Department of Education.

## Assessment Results

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Every 2 years, the National Assessment of Educational Progress (NAEP) measures reading and math proficiency of samples of 4<sup>th</sup>- and 8<sup>th</sup>-graders in every state. Kentucky's NAEP results should be viewed with caution because Kentucky excludes more students with disabilities than the national average.

---

In most NAEP administrations, Kentucky's students with disabilities had relatively high reading proficiency. For math, 4<sup>th</sup>-graders had higher proficiency in two of the testing years. Eighth-graders had lower math proficiency in one year, and were on par with their national counterparts in other years.

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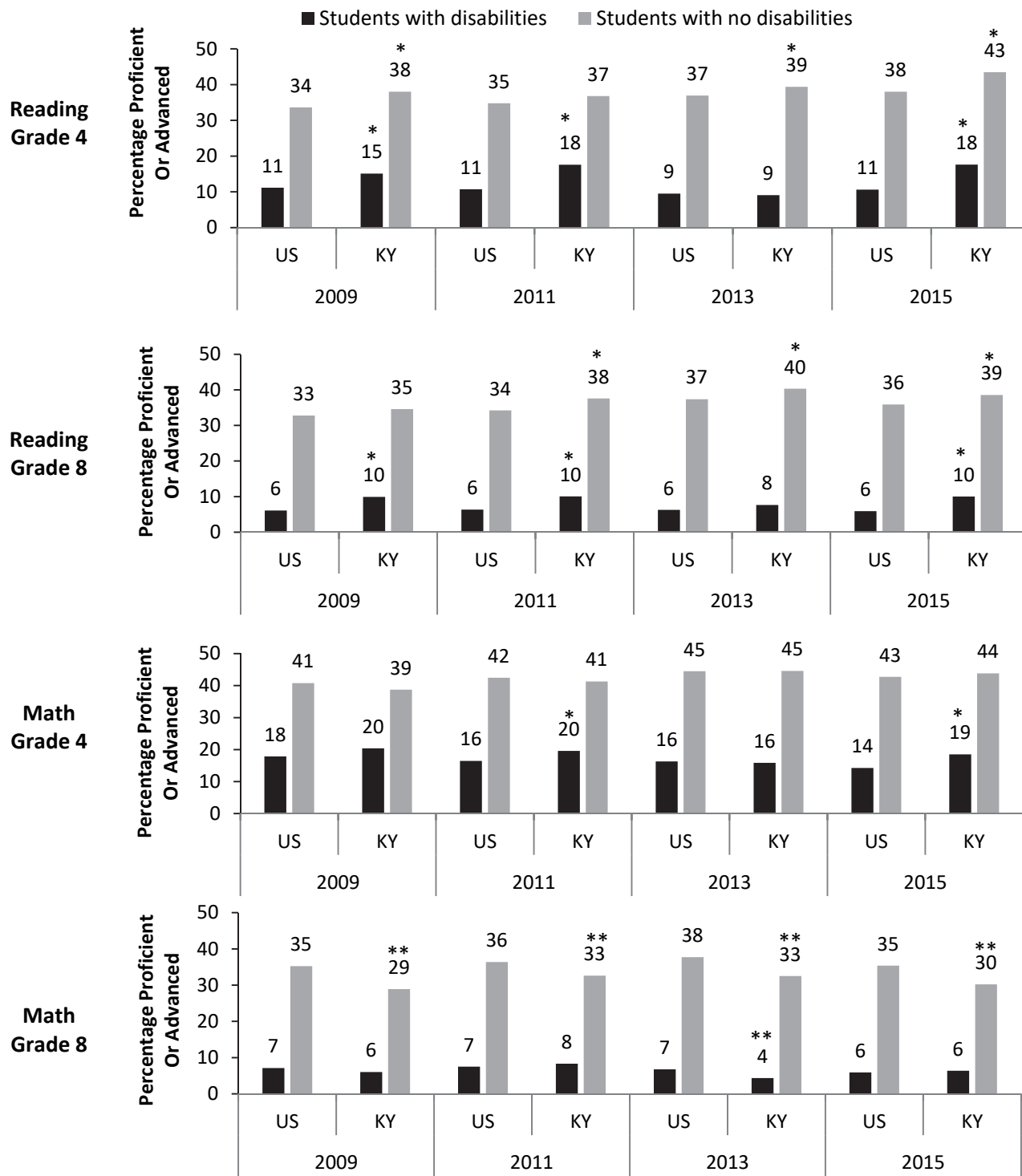
Achievement gaps between students with disabilities and those without were on par with the nation, except for 8<sup>th</sup>-grade math; in this subject and grade, Kentucky's gaps were smaller, but only because scores were lower for those without disabilities.

**Kentucky Compared To The Nation.** Every 2 years, the National Assessment of Educational Progress measures reading and math proficiency of samples of 4<sup>th</sup>- and 8<sup>th</sup>-graders in every state. Kentucky's NAEP results should be viewed with caution because Kentucky excludes more students with disabilities than the national average. One reason for excluding students is that NAEP does not permit the types of accommodations allowed by students' IEPs. Kentucky's exclusion rates might be expected to be lower in the future, now that Kentucky no longer permits students to use a reader on comprehension tests and a calculator on noncalculator portions of math tests.

As Figure 5.D shows, relative to the nation, Kentucky's 4<sup>th</sup>-graders with disabilities had significantly higher reading proficiency in 2009, 2011, and 2015. Similar results were found for 8<sup>th</sup>-grade reading and 4<sup>th</sup>-grade math: Kentucky's 8<sup>th</sup>-graders with disabilities had significantly higher reading proficiency in 2009, 2011, and 2015, and 4<sup>th</sup>-graders with disabilities had significantly higher math proficiency in 2011 and 2015. In contrast, Kentucky 8<sup>th</sup>-graders with disabilities had statistically significant lower math proficiency in all years.

Kentucky's gap between students with disabilities and those without was not significantly different from that of the nation except for 8<sup>th</sup>-grade math; for this subject and grade, Kentucky's gaps were smaller but only because scores were lower for those without disabilities.

**Figure 5.D**  
**National Assessment Of Educational Progress Proficiency Levels, Reading**  
**And Mathematics, Grades 4 And 8, Kentucky And US, 2009, 2011, 2013, And 2015**



\*For this group the proficiency level in Kentucky is significantly above that for the nation.

\*\*For this group, the proficiency level in Kentucky is significantly below that for the nation.

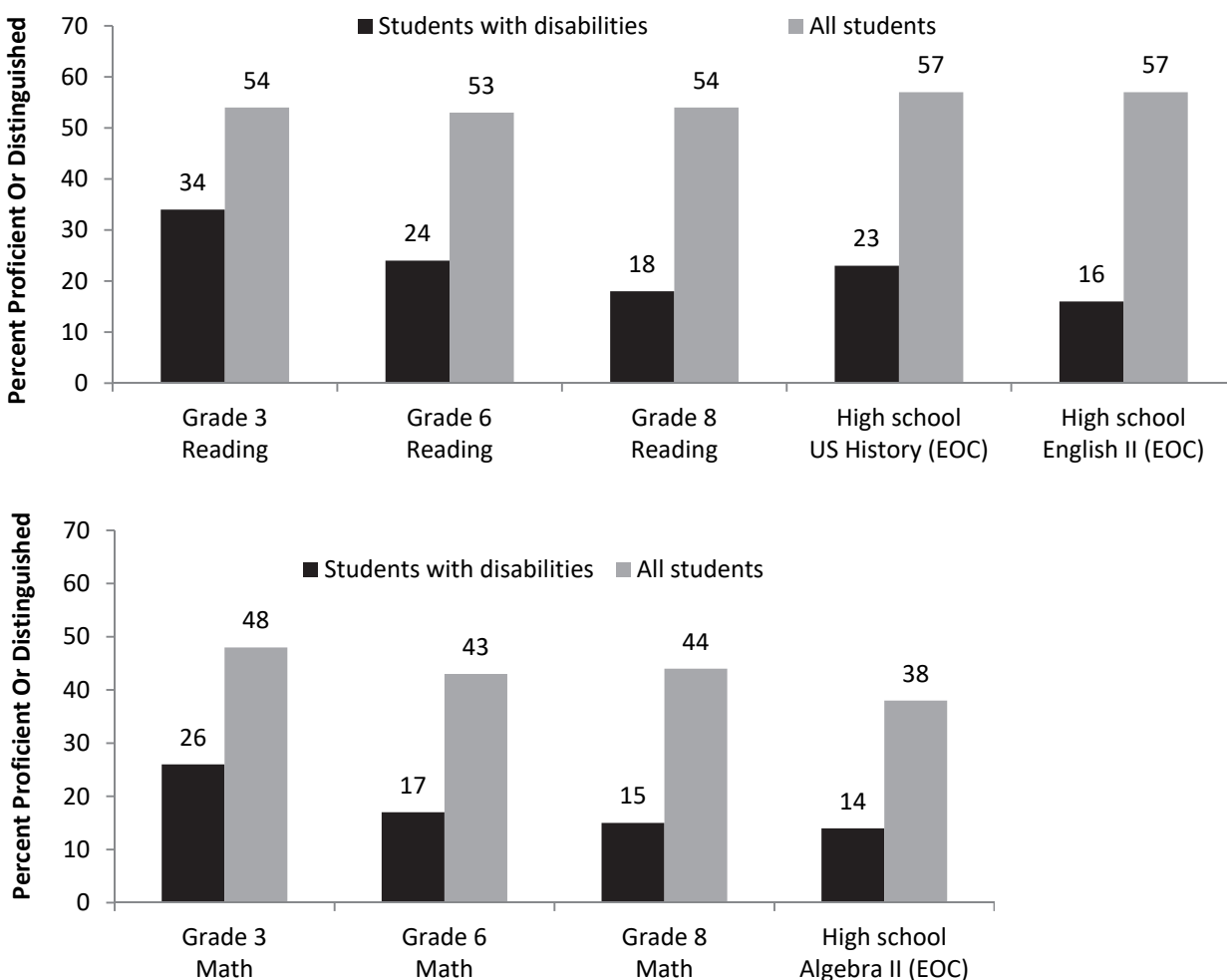
Source: Staff compilation of data from US Department of Education.

**Kentucky’s Statewide Assessments.** Staff analyzed Kentucky’s statewide assessment results for selected grades, looking at proficiency trends and differences between students with disabilities and all students.

On statewide assessments, the higher the grade, the lower the proficiency level.

Figure 5.E compares the proficiency of students with disabilities to that of all students on statewide general assessments and on related high school end-of-course exams. Among students with disabilities, the higher the grade, the lower the proficiency. This pattern is apparent, to some extent, for all students (including those without disabilities) in math, but not in reading.

**Figure 5.E**  
**Reading And Mathematics Proficiency On Kentucky Statewide Assessments**  
**Students With Disabilities Compared To All Students, Fiscal Year 2015**



Note: This figure shows proficiency levels for students with disabilities who had individualized education programs. EOC=end-of-course exam, which is administered after a high school student completes the indicated course.

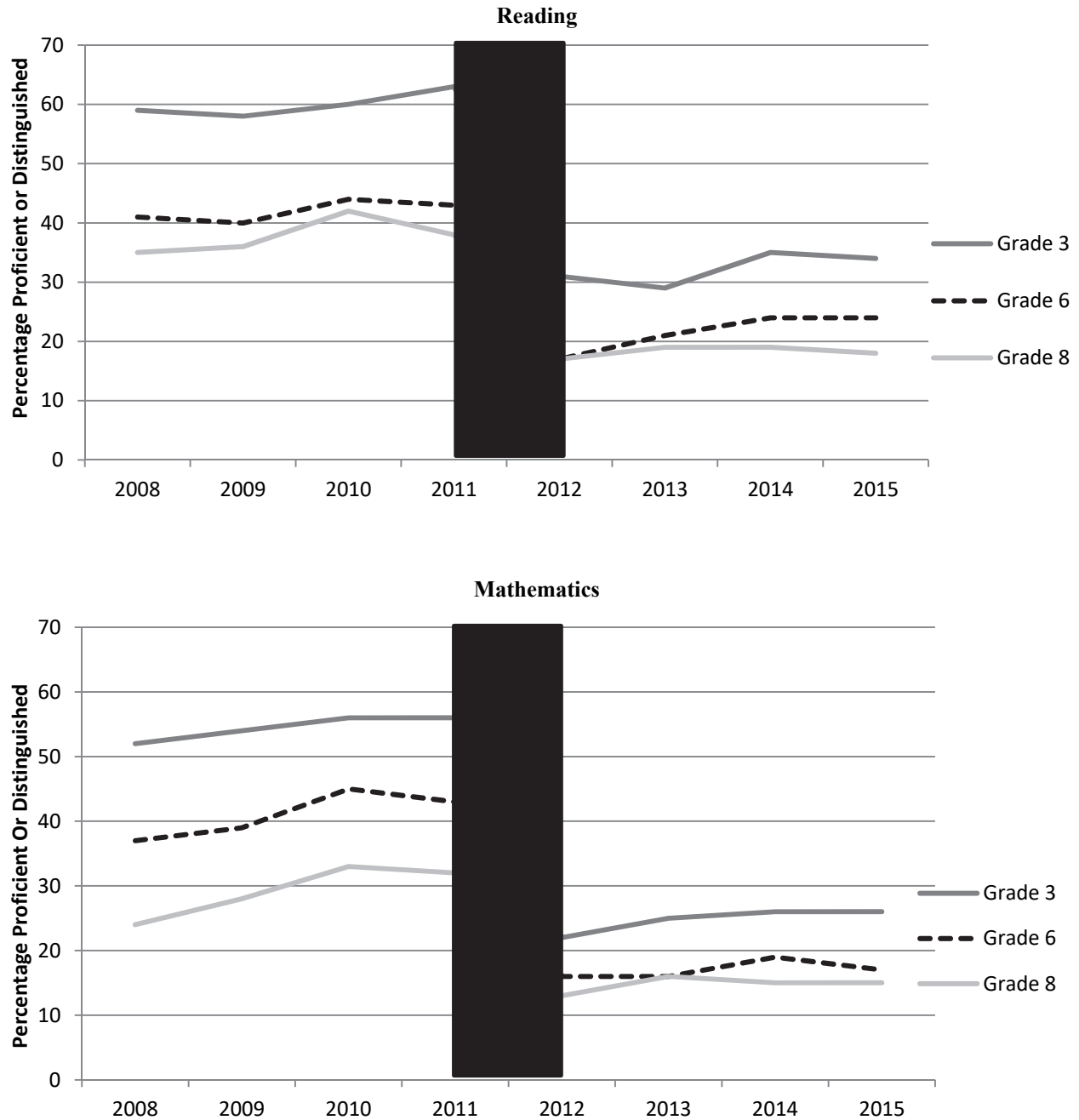
Source: Staff analysis of data from Kentucky Department of Education.

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Within each grade level, proficiency levels increased gradually over time; this is a common pattern that reflects, in part, educators' increasing familiarity with assessments. Proficiency levels dropped in 2012 when new assessments were introduced but then resumed their gradual increase.

Figure 5.F shows proficiency trends for students with disabilities. The dark vertical bar indicates a break in continuity as a consequence of substantial changes to Kentucky's statewide assessments in 2012. In addition to changes in content and format for grades 3, 6, and 8, the general statewide reading and math assessments were no longer administered in grade 10 and were therefore omitted from these trend analyses. Within each grade level, proficiency levels increased gradually over time; as a previous OEA study pointed out, this is a common pattern that reflects, in part, educators' increasing familiarity with the assessments.<sup>29</sup> With the introduction of new assessments in 2012, proficiency levels dropped but then resumed their gradual increases.

**Figure 5.F**  
**Proficiency Levels For Students With Disabilities, Kentucky Statewide Assessments**  
**Fiscal Year 2008 To Fiscal Year 2015**



Note: Proficiency levels are for all students with disabilities who had individualized education programs. The dark vertical bar indicates a break in continuity as a consequence of substantial changes to Kentucky’s statewide assessments in 2012.

Source: Staff analysis of data from Kentucky Department of Education.

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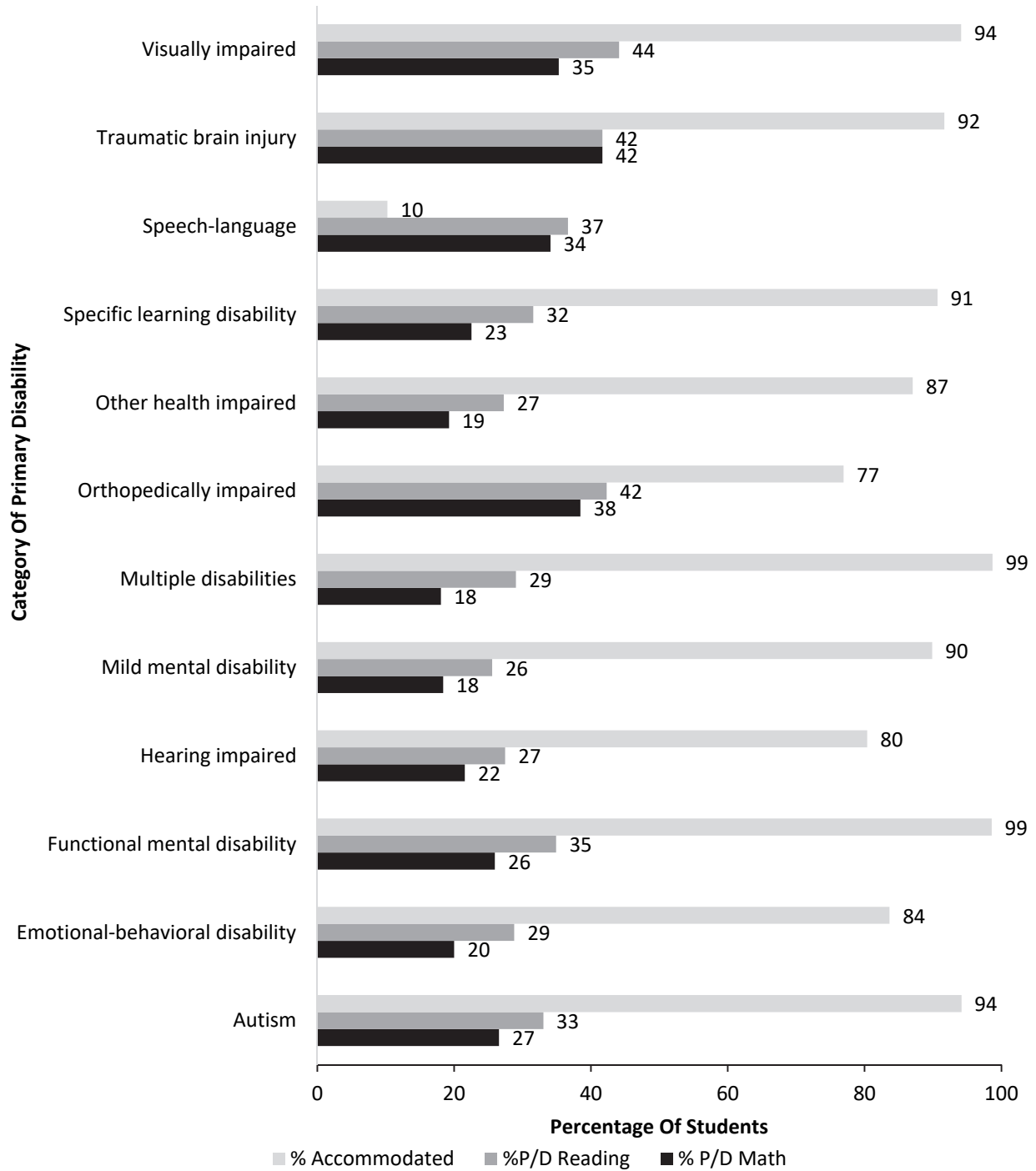
Relative to other students with disabilities, those with orthopedic or visual impairments have somewhat higher proficiency levels. Those with mild mental disabilities, hearing impairments, emotional-behavioral disabilities, and multiple disabilities have relatively lower proficiency levels. Some categories show differences by grade level; for example, students with traumatic brain injuries, hearing impairments, and emotional-behavioral disabilities are further behind in the 8<sup>th</sup> grade than in the 4<sup>th</sup> grade.

**Statewide Assessment Results By Disability Category.** Figures 5.G and 5.H show proficiency levels for 4<sup>th</sup>- and 8<sup>th</sup>-grade reading and mathematics by disability category. The percentages of students with accommodations are also shown for reference. Relative to other students with disabilities, those with orthopedic or visual impairments have somewhat higher proficiency levels. Those with mild mental disabilities, hearing impairments, emotional-behavioral disabilities, and multiple disabilities have relatively lower proficiency levels.

Some categories show differences by grade level. For example, 4<sup>th</sup>-graders with traumatic brain injuries have relatively higher proficiency than other students with disabilities, but 8<sup>th</sup>-graders with traumatic brain injuries have relatively lower proficiency. Students with hearing impairments and emotional-behavioral disabilities are even further behind other students with disabilities in the 8<sup>th</sup> grade than in the 4<sup>th</sup> grade.

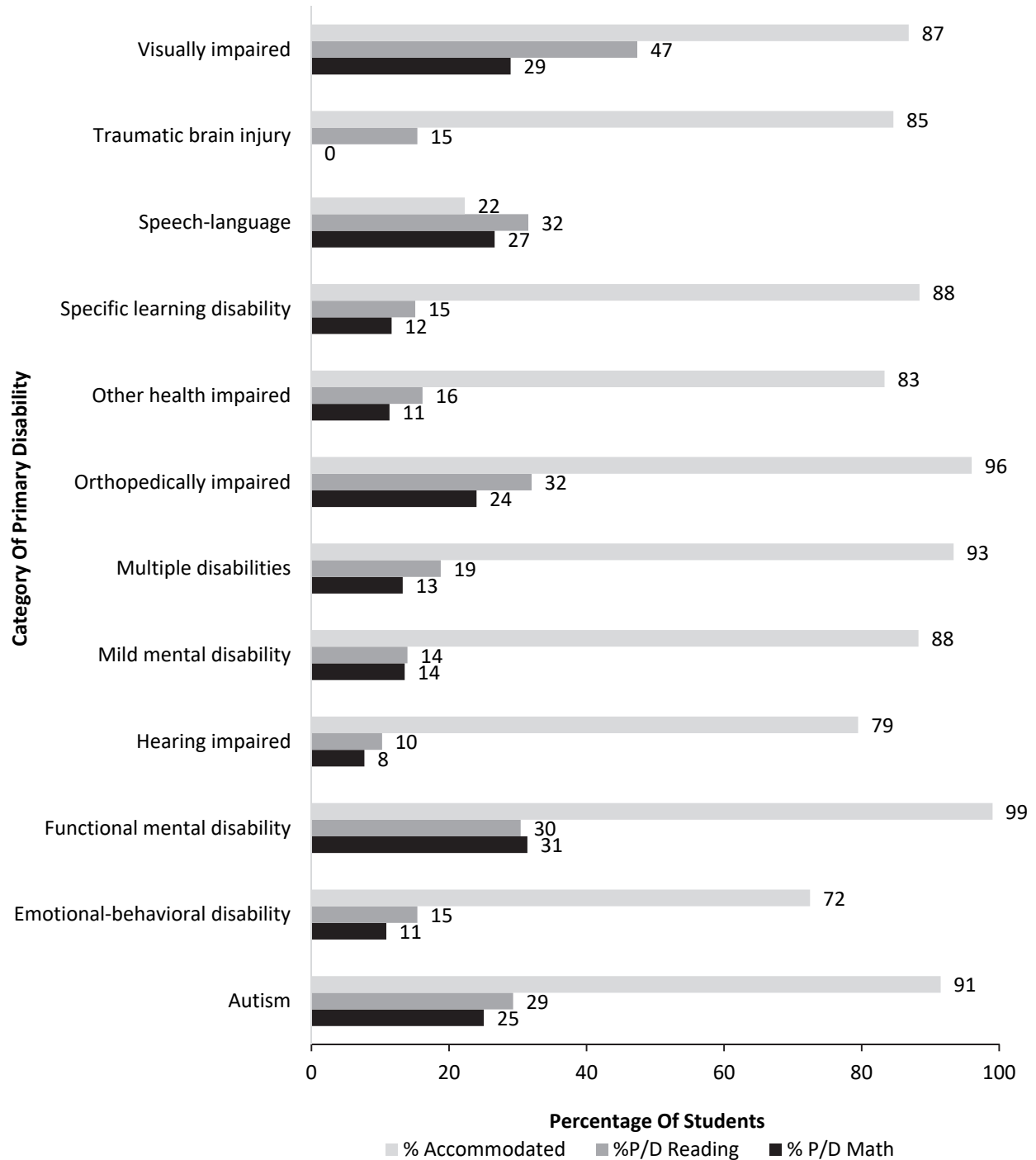


**Figure 5.G**  
**Fourth-Grade Proficiency In Reading And Mathematics**  
**And Percent Accommodated, By Disability Category, Fiscal Year 2015**



Note: The data in this figure is for students who had individualized education programs.  
% P/D is the percentage of students whose scores were deemed proficient or distinguished.  
Source: Staff analysis of data from Kentucky Department of Education.

**Figure 5.H**  
**Eighth-Grade Proficiency In Reading And Mathematics**  
**And Percent Accommodated, By Disability Category, Fiscal Year 2015**



Note: The data in this figure is for students who had individualized education programs.  
% P/D is the percentage of students whose scores were deemed proficient or distinguished.  
Source: Staff analysis of data from Kentucky Department of Education.

## Graduation Rates

Figure 5.I shows trends in high school graduation rates for special education students and all students. Trends and comparisons should be interpreted with caution because Kentucky's graduation rate formula changed in 2010 and 2013.<sup>a</sup> Kentucky's calculation of graduation rates for 2005 through 2009 depended heavily on dropout rates. However, because dropout rates are often understated, USED required all states to move to a standard formula called the averaged freshman graduate rate (AFGR), which Kentucky adopted in 2010. The AFGR was intended as a temporary measure until states had the capacity to track individual students and calculate an adjusted cohort graduation rate (ACGR), which Kentucky began reporting in 2013. To include students whose IEPs allow 5 years to earn a standard diploma, KDE requested and was granted permission from USED to use 5-year ACGRs for state accountability.<sup>30</sup> For this reason, and to maintain comparability, Figure 5.I shows the 5-year ACGR for both special education students and all students in 2013 and 2014.

---

In 2005 and 2006, there was a 19 percentage point gap in graduation rates between special education students and all students. The gap narrowed over time but widened when a new calculation was introduced. The lower graduation rate in 2014 might reflect some data integrity issues.

As the figure shows, in 2005 and 2006, there was a 19 percentage point difference in graduation rates between special education students and all students. This graduation gap appeared to narrow over time, but jumped to 10 percentage points when Kentucky moved from the AFGR to the 5-year ACGR in 2013 and then widened to 13 percentage points in 2014.

In a federally mandated report, KDE described steps taken to understand the reasons for special education students' declining graduation rates.<sup>31</sup> Districts interviewed by KDE reported that one reason was an increase in the number of students in the alternate assessment who received alternative diplomas, which are not counted in graduation rates; only standard diplomas are included.

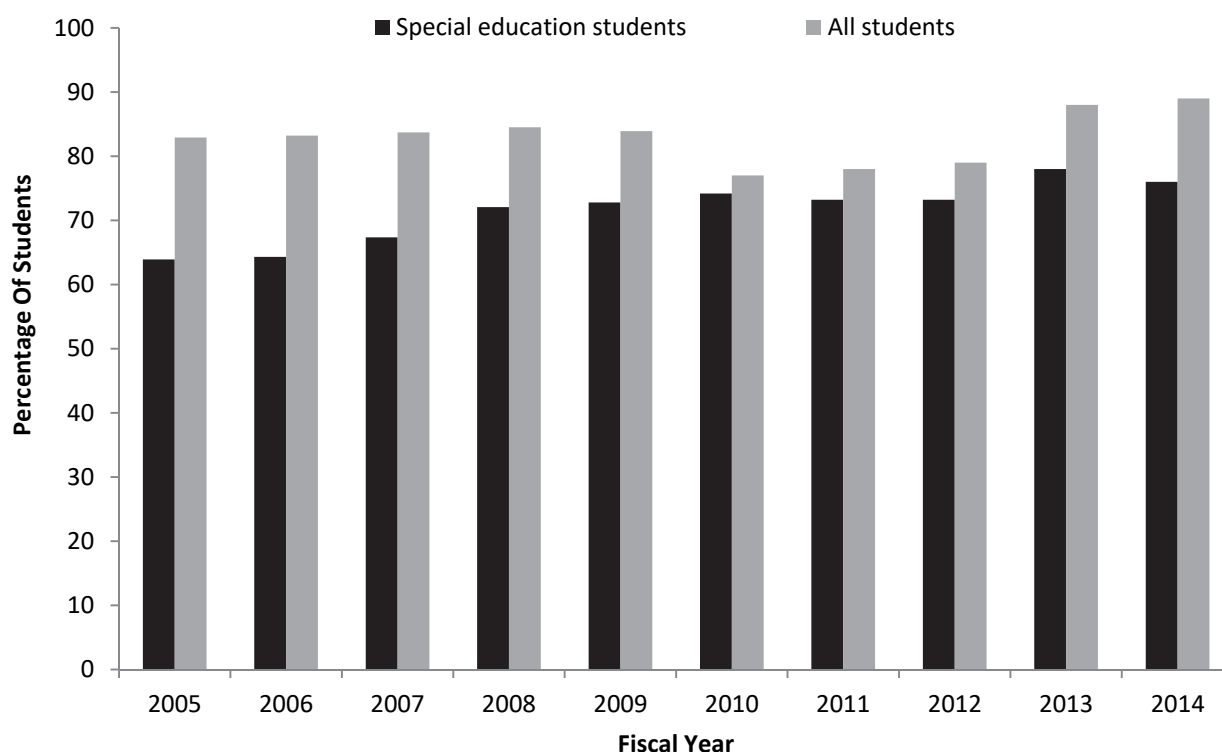
Another possible reason was that the data system that tracks students for calculating graduation rates may have misclassified some special education students as general education students. Winter weather closings required many Kentucky schools to extend their school year by as much as 4 weeks. KDE believes that some special education graduates may have been counted as general education graduates if their IEPs expired prior to their graduation date due to the extended school year. Any of those misclassified students who graduated in 5 years, as permitted by their IEPs, would not be credited to the special

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<sup>a</sup> Detailed formulas are provided under the entry for "Graduation rates" in Appendix B of this report.

education graduation rate.<sup>b</sup> KDE told USED it will try to modify its system to prevent such an occurrence in the future. However, KDE stated to OEA that it is the responsibility of the local district to ensure that the IEP does not expire in the data system when the school year is extended.

**Figure 5.I**  
**High School Graduation Rates, Special Education Students And All Students**  
**Fiscal Year 2005 To Fiscal Year 2014**



Note: For 2005 to 2009, Kentucky calculated graduation rates using a “leaver rate” formula that depended on dropout rates. The US Department of Education required that all states move to the averaged freshman graduation rate, which Kentucky adopted in 2010, and then to an adjusted cohort graduation rate (ACGR), which Kentucky began reporting in 2013. Kentucky and some other states obtained permission from the US Department of Education to use a 5-year rate to include special education students who earned a standard diploma in 5 years if permitted in their IEPs; thus, the 2013 and 2014 rates in this figure are 5-year ACGRs for special education students and all students.

Source: Staff analysis of data from Kentucky Department of Education.

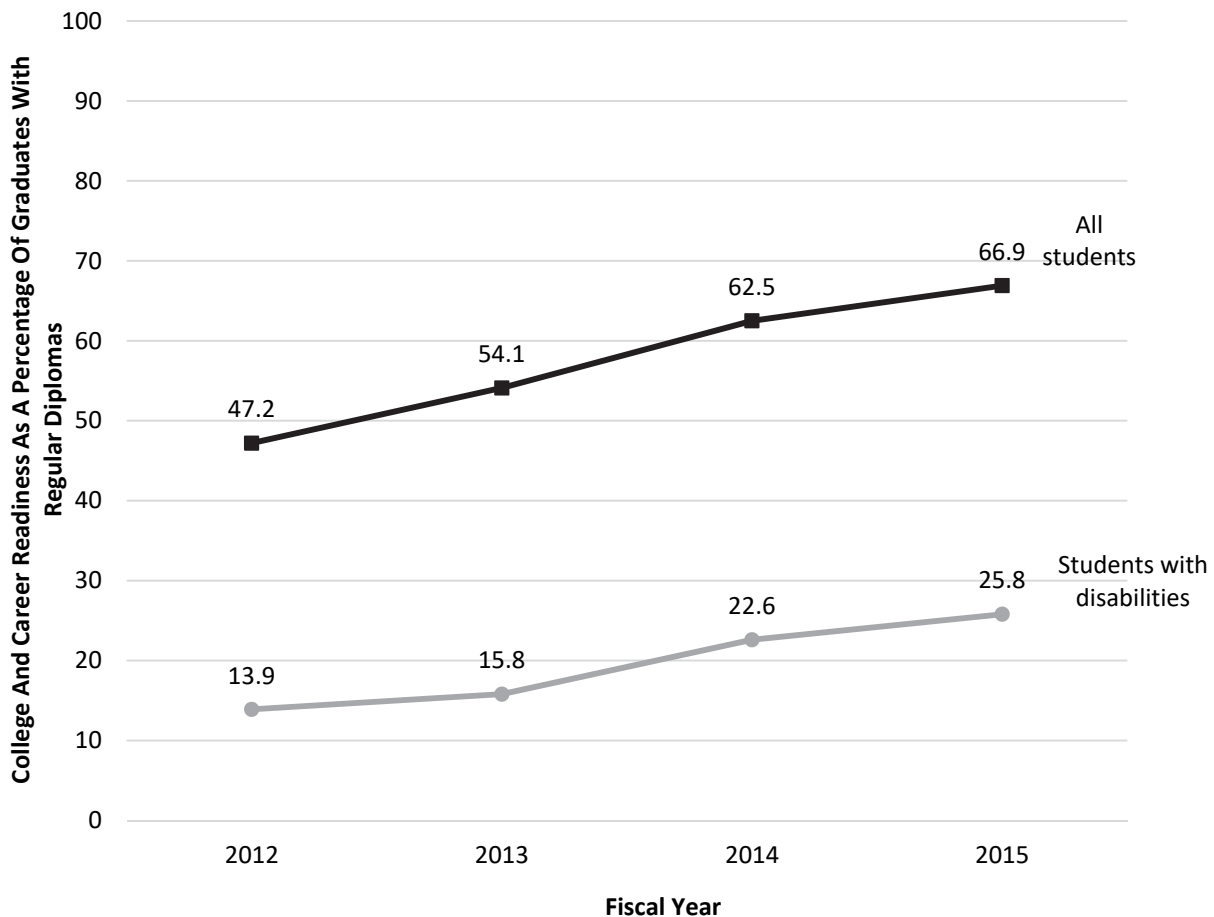
<sup>b</sup> Fortunately, these misclassified 5-year graduates would not have lowered the graduation rate for students without disabilities because they would have had to be considered in the denominator of the previous year’s graduation rate, which had already been reported and was not later revised to add the misclassified students.

### College And Career Readiness

While college and career readiness has increased over time, the gap has widened between students with disabilities and other students.

Figure 5.J shows trends in the college and/or career readiness of students who earned a regular high school diploma. This rate has increased over time, but there is a large gap between students with disabilities and all students, and this gap has increased slightly each year. In 2015, the overall college and/or career readiness rate for students with disabilities was approximately 26 percent, compared to a rate of 67 percent for all students. This is a gap of 41 percentage points, compared to a gap of 33 points in 2012.

**Figure 5.J**  
**College And Career Readiness For Regular High School Graduates, Students With Disabilities Compared To All Students, Fiscal Year 2012 To Fiscal Year 2015**



Note: College and/or career readiness rate shown is without the bonus for students who are both college ready and career ready. Students with disabilities are all students with individualized education programs.

Source: Staff analysis of data from Kentucky Department of Education.



## Appendix A

### Kentucky Department Of Education's Update On Activities That Address 2011 Recommendations

Matthew G. Bevin  
Governor



Hal Heiner  
Secretary  
Education and  
Workforce Development Cabinet

Stephen L. Pruitt, Ph.D.  
Commissioner of Education

#### KENTUCKY DEPARTMENT OF EDUCATION

April 1, 2016

Capital Plaza Tower • 500 Mero Street • Frankfort, Kentucky 40601  
Phone: (502) 564-4770 • [www.education.ky.gov](http://www.education.ky.gov)

Mr. David Wickersham, Director  
Legislative Research Commission  
Office of Education Accountability  
475 Coffee Tree Road  
Frankfort, KY 40601

**RE: OEA Special Education Report (2011) Update**

Dear Mr. Wickersham:

Thank you for your recent letter regarding the annual research agenda for the Office of Education Accountability (OEA). As you requested, listed below are updates from the Kentucky Department of Education (KDE). KDE provided initial responses to OEA's recommendations by formal response dated November 21, 2011. This letter serves as KDE's official response to supplement its previous November 21, 2011 response to OEA.

**Recommendation 1.1 (page 22 of report): The Kentucky Department of Education should provide guidance documents to be used by admissions and release committees and parents in determining whether a suspected disability has an adverse effect on educational performance. These documents should be incorporated by reference in 707 KAR 1:002, Section 1(2).**

*KDE comments from the 11/21/11 formal response: In order to provide additional guidance to ARCs and parents regarding eligibility determination, KDE issued a Policy Letter on August 30, 2010. Additionally, KDE has assisted in the development of an adverse effect guidance document which has been distributed statewide, as well as provided numerous statewide trainings specifically related to adverse effect.*

*While KDE plans to provide further guidance to be used by ARCs and parents in determining whether a suspected disability has an adverse effect on educational performance, KDE does not plan to incorporate the guidance by reference within 707 KAR 1:002.*

*The Policy Letter can be found at the following link:  
<http://education.ky.gov/specialed/excep/Documents/Guidance%20Documents/KDE%20Policy%20Letter%20-%20Eligibility%20Question%20and%20Answer.pdf>.*

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**KDE Update:** KDE provides extensive IEP development guidance to districts, ARCs and parents in its publication, *Guidance Document for Individual Education Program (IEP) Development*. This publication was first released in 2012 and most recently revised in July 2015. The portion of this publication titled *Present Levels of Academic Achievement and Functional Performance* provides detailed guidance on the topic of adverse effect on educational performance. The publication guides districts, ARCs and parents through the process of evaluating and documenting present level performance in each identified area. Guiding questions are included in the publication and serve as a prompt to identify current educational performance and to document baseline performance.

The publication, *Guidance Document for Individual Education Program (IEP) Development*, can be found at the following link:  
<http://education.ky.gov/specialed/excep/Documents/IEPGuidanceDocument.docx>.

**Recommendation 1.2 (pages 26-27 of report):** The Kentucky Department of Education should clarify 707 KAR 1:300, Section 3(3) by providing expectations and additional clarification for use of research-based intervention in determination of eligibility for special education.

**Clarification should include disability categories for which research-based interventions are required and standards to be used in determining whether a child is considered responsive to an intervention.**

*KDE comments from the 11/21/11 formal response: The Kentucky System of Interventions (KSI) provides guidance regarding highly effective, evidence-based instructional interventions for students who are not achieving grade-level expectations. The KSI includes guidance around the frequency and duration of the instructional intervention, establishing criteria for determining a student's responsiveness to intervention, the use of ongoing monitoring, and rules for moving between tiers, etc. Instruction through the tiers of intervention is a flexible and fluid process based on student assessment data and collaborative team decisions, with the student's performance level being regularly evaluated so instruction is adapted as needed.*

*KDE believes that the documentation of a student's response to appropriate, relevant, research-based instruction and intervention services in regular education settings, with the instruction provided by qualified personnel, prior to, or as part of the referral process, remains appropriate for all disability categories, as is clear from current regulations.*

*Information on the Kentucky System of Interventions (KSI) can be found at the following link:  
<http://education.ky.gov/education/int/ksi/Documents/KSIRtIGuidanceDocument.pdf>.*

**KDE Update:** Since its 2011 response, KDE added numerous resources to its website in an effort to clarify the nature of the KSI. Resources include archived webinars describing components of a successful intervention system, links to Kentucky schools with proven KSI success, and updated resource lists for schools and districts seeking additional content area information related to KSI.



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These resources can be found at the following link:

<http://education.ky.gov/educational/int/ksi/Pages/default.aspx>.

The K-3 Program Review required by 703 KAR 5:230 includes a strong focus on KSI and response to intervention (RTI).

The K-3 Program Review Guide can be found at the following link:

<http://education.ky.gov/curriculum/pgmrev/Documents/KDE%20K-3%20Program%20Review.docx>.

Finally, as part of its State Systemic Improvement Plan (SSIP), KDE developed a list of evidence-based practices for utilization with students with disabilities during instruction in mathematics. Development of these practices began in 2010 and involved mathematics experts throughout Kentucky. The practices are currently available on KDE's webpage and will be officially incorporated into Phase II of KDE's SSIP.

The mathematics instruction resources can be found at the following link:

<http://education.ky.gov/school/stratclsgap/instruction/Pages/default.aspx>.

**Recommendation 1.3 (page 30 of report): In accordance with 707 KAR 1:380(6)(e) the Kentucky Department of Education should continue to include unusual child count data, including, but not limited to district identification rates in excess of 15 percent, in the criteria it uses to identify districts for on-site and desk audits.**

*KDE comments from the 11/21/11 formal response: Based on federal guidance, KDE conducts focused monitoring of LEAs. The monitoring focus, while it may include Child Count data, must also reflect other statewide issues/trends. While Child Count data of over 15% is one key factor KDE may use in selecting districts for monitoring, it is not required.*

**KDE Update:** Since KDE's 2011 formal response, the United States Department of Education, Office of Special Education Programs (OSEP) amended its criteria for monitoring KDE and local school districts. Specifically, KDE is reviewed by OSEP for overall student results, as well as technical compliance. Student results, however, are more heavily emphasized by OSEP during reviews. Likewise, KDE monitors local school districts in the same manner it is monitored by OSEP, consistent with applicable regulations. Since its 2011 response, KDE changed its monitoring process to improve efficiency and decrease the burden on school districts of multiple monitoring visits throughout the academic year. Under its new consolidated monitoring process, KDE combines all program area monitoring into one visit to the district instead of multiple visits for each program area.

In an effort to prevent over identification of students with disabilities, KDE closely monitors Child Count data throughout the state. During the 2005-06 academic year, 108,798 students (16.95% of total student membership) were identified with disabilities and received special education and related services pursuant to the Individuals with Disabilities Education Act (IDEA). Since that time, and following extensive guidance provided by KDE, the number of

Mr. David Wickersham  
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students identified with disabilities and receiving special education and related services has decreased to 99,283 (14.98% of student membership) as of the 2015-16 academic year.

**Recommendation 1.4 (pages 30-31 of report): The Kentucky Department of Education should consider including in its audits of district eligibility requirements, when appropriate, an analysis of the qualifications and training of ARC members and of staff conducting comprehensive evaluations. When necessary, district Corrective Action Plans should include recommendations for districts to hire or consult with staff qualified to address deficiencies identified in audits.**

*KDE comments from the 11/21/11 formal response: KDE has advised districts to utilize the expertise present in its Special Education Cooperative, as well as other technical assistance providers to address training needs. Additionally, KDE's State Performance Plan (SPP) has included a provision requiring districts to hire staff, based on the district's failure to correct noncompliance.*

*When appropriate, KDE will continue to address instances when the qualifications/training of ARC members, including those conducting evaluations, have led to the ARC making inappropriate decisions related to eligibility determination.*

**KDE Update:** KDE continues to advise districts to utilize the expertise available through Special Education Cooperatives. Furthermore, the State Performance Plan (SPP) continues to require districts to hire staff based on failure to correct noncompliance. Since KDE's response to OEA in 2011, the United States Department of Education, Office of Special Education Programs (OSEP) amended its criteria for monitoring KDE and local school districts. Specifically, KDE is reviewed by OSEP for overall student results, as well as technical compliance. Student results, however, are more heavily emphasized by OSEP during reviews. Likewise, KDE monitors local school districts in the same manner it is monitored by OSEP, consistent with applicable regulations. The formal written complaint process set forth at 707 KAR 1:340, Section 7 provides KDE with the authority to order corrective actions to districts who fail to comply with federal or state special education requirements, including insufficient staffing. KDE routinely orders corrective action, including action related to staffing issues, when special education law is violated.

**Recommendation 1.5 (page 31 of report): The Kentucky Department of Education should consider providing guidance documents that specify when ARCs or evaluation teams should include members not specifically required by 707 KAR 1:320, Section 3.**

*KDE comments from the 11/21/11 formal response. KDE has issued guidance in its Compliance Record Review Document regarding when related service providers are required at ARC meetings.*

*The Compliance Record Review Document (School Year 2011-12) can be found at the following link:*

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<http://education.ky.gov/federal/progs/scmi/Documents/Compliance%20Record%20Review%20IDEA.pdf>.

**KDE Update:** KDE continues to amend and disseminate the Compliance Record Review Document. The document was most recently updated in January 2016. The document can be found at the following link:

<http://education.ky.gov/federal/progs/scmi/Documents/Compliance%20Record%20Review%20IDEA.pdf>

**Recommendation 2.1 (page 43 of report): In choosing districts for general monitoring required by 707 KAR 1:380, KDE should consider including unusual staffing data as one selection criterion.**

*KDE comments from the 11/21/11 formal response: Based on federal guidance, KDE conducts focused monitoring of LEAs. The monitoring focus may be different from year to year depending on statewide issues/trends. KDE's monitoring focus under IDEA has been primarily on violation of the law or SPP outcomes affecting proficiency of students with disabilities.*

**KDE Update:** Since its 2011 response, KDE changed its monitoring process to improve efficiency and decrease the burden on school districts of multiple monitoring visits throughout the academic year. Under its new consolidated monitoring process, KDE combines all program area monitoring into one visit to the district instead of multiple visits for each program area. Special education monitoring occurs within this consolidated monitoring process. As stated above, KDE monitors local school districts using criteria similar to that used by OSEP during state level monitoring and consistent with applicable regulations. However, KDE will conduct additional site visits if it becomes aware of any significant special education issues.

The process for identifying districts for consolidated monitoring can be found at the following link:

[http://education.ky.gov/federal/progs/scmi/Documents/SCM\\_District\\_ID\\_Process.pdf](http://education.ky.gov/federal/progs/scmi/Documents/SCM_District_ID_Process.pdf).

**Recommendation 2.2 (pages 45-46 of report): The Kentucky Department of Education and the Education Professional Standards Board, in collaboration with relevant subject area groups, should consider developing guidance and best practice documents regarding school and district staff training and continuing education in the following areas:**

- Identifying and supporting students with reading difficulties or disabilities;
- Identifying and supporting students with mathematics difficulties or disabilities; and
- Administering and interpreting diagnostic assessments.

*KDE comments from the 11/21/11 formal response: Guidance/training around instruction, intervention and best practice in the areas of reading and math is delivered consistently through the eleven (11) regional Special Education Cooperatives (Co-ops). Each Co-op has reading and math specialists on staff.*

Mr. David Wickersham  
April 1, 2016  
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*One concern that has been raised during discussions with OEA is that districts will be losing exceptional child add-on revenue in a time when they feel underfunded in other areas; the report does not make a recommendation but does state the concern and suggests that the General Assembly request additional research to determine, for example, the relative ability of poor and wealthy districts to provide supports in general education.*

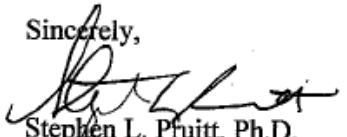
**KDE Update:** KDE continues to advise districts to utilize the expertise available through Special Education Cooperatives. In addition to this expertise, KDE developed a resource list for reading and mathematics interventions for use with students exhibiting difficulties in these subject areas. The resource list can be found at the following link:  
<http://education.ky.gov/educational/int/ksi/Pages/KSIRTIHB69.aspx>.

Furthermore, as part of its State Systemic Improvement Plan (SSIP), KDE developed a list of evidence-based practices for utilization with students exhibiting difficulty with instruction in mathematics. Development of these practices began in 2010 and involved mathematics experts throughout Kentucky. The practices are currently available on KDE's webpage and will be officially incorporated into Phase II of KDE's SSIP.

The mathematics instruction resources can be found at the following link:  
<http://education.ky.gov/school/stratclsgap/instruction/Pages/default.aspx>.

KDE appreciates OEA's attention to special education throughout the commonwealth and looks forward to working with your office as OEA executes its annual research agenda. If you have any questions, please contact Gretta Hylton in the Division of Learning Services. Ms. Hylton can be reached at [Gretta.Hylton@education.ky.gov](mailto:Gretta.Hylton@education.ky.gov).

Sincerely,



Stephen L. Pruitt, Ph.D.  
Commissioner of Education

SLP/tga

cc: Kevin C. Brown, Associate Commissioner & General Counsel  
Tracy Goff Herman, Legislative Liaison  
Todd G. Allen, Assistant General Counsel  
Amanda Ellis, Associate Commissioner, Office of Next Generation Learners  
Gretta Hylton, Director, Division of Learning Services

## Appendix B

### Statutes, Regulations, And Recent Legislation Relevant To Special Education

Item And Date	Relevant Changes After 2011, If Any
No Child Left Behind Act of 2001.	Was replaced by Every Student Succeeds Act of 2015.
Every Student Succeeds Act of 2015.	Passed in December of 2015. Reauthorization of Elementary and Secondary Education Act.
Individuals with Disabilities Education Act (IDEA) of 2004.	No changes. Reauthorization is overdue.
IDEA regulation 34 CFR, part 300 – Assistance to States for the Education of Children with Disabilities.	April 28, 2015: Changes to district maintenance of effort calculation.
US Department of Education “accountability framework” for oversight of states’ use of IDEA funds (non-regulatory guidance). Implemented 2014.	Results driven accountability shifts focus from compliance only to both compliance and student outcomes.
SB 43 (Passed in Regular Session 2012).	Starting with graduating class of 2013, changes “certificate of attainment” to “alternative high school diploma.” Like certificate, alternative diploma is not counted in federal graduation rate.
HB 69 (Passed in Regular Session 2012).	Defines aphasia, dyscalculia, dyslexia, phonemic awareness, and scientifically based research; requires districtwide reporting on use of K-3 response-to-intervention (RTI) in reading by August 1, 2013, in math by August 1, 2014, and behavior by August 1, 2015; requires Kentucky Department of Education (KDE) to offer technical assistance, training, and Web-based resource to help districts implement RTI and instructional tools based on scientifically based research; requires KDE to collaborate with other state agencies and organizations; in conformity with federal law, screening of a student by a teacher or specialist to determine appropriate instructional strategies shall not be considered an evaluation for suspected disabilities; requires KDE to report annually to Interim Joint Committee on Education; amends KRS 157.200 to conform to federal

<b>Item And Date</b>	<b>Relevant Changes After 2011, If Any</b>
SB 179 (Passed in Regular Session 2016).	definition of specific learning disability. See KRS 158.305 and 704 KAR 3:095. Individuals' Achieving a Better Life Experience savings accounts for disability-related expenses are usually not taxed or considered for determining eligibility for means-tested public assistance programs.
SB 185 (Passed in Regular Session 2016).	Makes permanent the Advisory Council on Autism Spectrum Disorders and Office of Autism to address lifespan needs of individuals with autism spectrum disorders.
SB 228 (Passed in Regular Session 2016).	Amends KRS 158.148 to define <i>bullying</i> ; requires each school board's code of acceptable behavior to prohibit bullying; requires code to include procedures for investigating and responding to reports of bullying and a method to protect a person reporting a bullying incident.
KRS 157.200 Definitions for KRS 157.200 to 157.290.	See HB 69 (RS 2012). Definitions added and revised.
KRS 157.360 Base funding level -- Adjustment -- Enforcement of maximum class sizes -- Allotment of program funds -- Recalculation of allocated funds -- Lengthening of school days.	No changes to statute, but each new budget bill changes Support Education Excellence in Kentucky (SEEK) base funding level. Exceptional child add-on defined in (2)(b). Maximum class sizes for special education students defined in (5)(d).
KRS 158.6453 Definitions.	No changes.
KRS 158.6459 Intervention strategies for accelerated learning.	No changes.
KRS 158.649 Achievement gaps -- Data on student performance.	No changes.
KRS 158.792 Definitions for KRS 158.792 and 164.0207.	No changes.
KRS 158.844 Mathematics achievement fund.	No changes.
KRS 158.070(8) Continuing education for certain students.	No changes.
KRS 158.305 Response-to-intervention system to identify and assist students having difficulty in reading, writing, mathematics, or behavior -- District-wide use -- Department to provide technical assistance and training -- Annual report.	New in 2012. Codifies HB 69 (RS 2012)
KRS 164.0207 Collaborative Center for Literacy Development.	No changes.
16 KAR 4:020 Certification Requirements for Teachers of Exceptional Children	No changes.

<b>Item And Date</b>	<b>Relevant Changes After 2011, If Any</b>
702 KAR 3:270 SEEK funding formula.	No changes. Sec. 1(4) provides weights for exceptional child add-on.
703 KAR 5:070 Inclusion of Special Populations in the State-Required Assessment and Accountability Programs.	2011: disallow reader during comprehension tests and calculator during noncalculator portions of math tests. 2014: added emphasis that accommodations should be student-initiated. 2016: KDE directed districts to cease requiring that accommodations be student-initiated.
704 KAR 3:095 The Use of Response-to-Intervention in Kindergarten through Grade 3.	New in 2013.
704 KAR 3:305 Minimum requirements for high school graduation.	In 2013, alternative diploma replaced certificate of attainment (section 8).
704 KAR 3:285 Programs for the gifted and talented.	No changes.
704 KAR 7:160. Use of physical restraint and seclusion in public schools.	New in 2013.
704 KAR 19:002 Alternative education programs.	In 2013, alternative diploma replaced certificate of attainment.
707 KAR 1:002 Definitions.	No changes.
707 KAR 1:270 Kentucky special education mentor program.	No changes.
707 KAR 1:290 Free appropriate public education.	No changes.
707 KAR 1:300 Child find, evaluation, and reevaluation.	No changes.
707 KAR 1:310 Determination of eligibility.	No changes.
707 KAR 1:320 Individual Education Program.	No changes.
707 KAR 1:340 Procedural safeguards / complaints.	No changes.
707 KAR 1:350 Placement decisions.	No changes.
707 KAR 1:360 Confidentiality of information.	No changes.
707 KAR 1:370 Children with disabilities in private schools.	No changes.
707 KAR 1:380 Monitoring and recovery of funds.	No changes.

Source: Staff compilation.





## Appendix C

### Basis For Federal Determination That Kentucky Met IDEA B Requirements In FY 2014

### Kentucky

## 2016 Part B Results-Driven Accountability Matrix

#### Results-Driven Accountability Percentage and Determination<sup>1</sup>

Percentage (%)	Determination
87.5	Meets Requirements

#### Results and Compliance Overall Scoring

Results	Total Points Available	Points Earned	Score (%)
Results	24	18	75.00
Compliance	18	18	100

#### 2016 Part B Results Matrix

##### Reading Assessment Elements

Reading Assessment Elements	Performance (%)	Score
Percentage of 4th Grade Children with Disabilities Participating in Regular Statewide Assessments	92.78	2
Percentage of 8th Grade Children with Disabilities Participating in Regular Statewide Assessments	88.04	1
Percentage of 4th Grade Children with Disabilities Scoring at Basic or Above on the National Assessment of Educational Progress	44	2
Percentage of 4th Grade Children with Disabilities Included in Testing on the National Assessment of Educational Progress	77	0
Percentage of 8th Grade Children with Disabilities Scoring at Basic or Above on the National Assessment of Educational Progress	37	2
Percentage of 8th Grade Children with Disabilities Included in Testing on the National Assessment of Educational Progress	73	0

##### Math Assessment Elements

Math Assessment Elements	Performance (%)	Score
Percentage of 4th Grade Children with Disabilities Participating in Regular Statewide Assessments	92.77	2
Percentage of 8th Grade Children with Disabilities Participating in Regular Statewide Assessments	88.04	1
Percentage of 4th Grade Children with Disabilities Scoring at Basic or Above on the National Assessment of Educational Progress	58	2
Percentage of 4th Grade Children with Disabilities Included in Testing on the National Assessment of Educational Progress	87	1
Percentage of 8th Grade Children with Disabilities Scoring at Basic or Above on the National Assessment of Educational Progress	28	1
Percentage of 8th Grade Children with Disabilities Included in Testing on the National Assessment of Educational Progress	89	1

##### Exiting Data Elements

Exiting Data Elements	Performance (%)	Score
Percentage of Children with Disabilities who Dropped Out	12	2
Percentage of Children with Disabilities who Graduated with a Regular High School Diploma <sup>1</sup>	76	1

<sup>1</sup> For a detailed explanation of how the Compliance Score, Results Score, and the Results-Driven Accountability Percentage and Determination were calculated, review "How the Department Made Determinations under Section 616(d) of the *Individuals with Disabilities Education Act* in 2016: Part B."

Part B Compliance Indicator <sup>2</sup>	Performance (%)	Full Correction of Findings of Noncompliance Identified in FFY 2013	Score
Indicator 4B: Significant discrepancy, by race and ethnicity, in the rate of suspension and expulsion, and policies, procedures or practices that contribute to the significant discrepancy and do not comply with specified requirements.	0	Yes	2
Indicator 9: Disproportionate representation of racial and ethnic groups in special education and related services due to inappropriate identification.	0.57	N/A	2
Indicator 10: Disproportionate representation of racial and ethnic groups in specific disability categories due to inappropriate identification.	0	Yes	2
Indicator 11: Timely initial evaluation	99.45	Yes	2
Indicator 12: IEP developed and implemented by third birthday	99.29	Yes	2
Indicator 13: Secondary transition	99.19	Yes	2
Timely and Accurate State-Reported Data	100		2
Timely State Complaint Decisions	100		2
Timely Due Process Hearing Decisions	N/A		N/A
Longstanding Noncompliance			2
Special Conditions	None		
Uncorrected identified noncompliance	None		

<sup>1</sup> Graduated with a regular high school diploma as defined under the *IDEA* Section 618 State-reported data: These students exited an educational program through receipt of a high school diploma identical to that for which students without disabilities are eligible. These students met the same standards for graduation as those for students without disabilities. As defined in 34 CFR §300.102(a)(3)(iv), "the term regular high school diploma does not include an alternative degree that is not fully aligned with the State's academic standards, such as a certificate or general educational development credential (GED)."

<sup>2</sup> The complete language for each indicator is located in the Part B SPP/APR Indicator Measurement Table at: <https://osep.grads360.org/#communities/pdc/documents/4603>

Source: <https://osep.grads360.org/services/PDCService.svc/GetPDCDocumentFile?fileId=20456>.

## Appendix D

### Definitions Of Key Terms Relevant To Special Education

Term	Definition
Accommodation	Changes made in the way materials are presented or in the way students respond to the materials, as well as changes in setting, timing, and scheduling
Admissions and release committee (ARC)	A group that makes determinations on the best course of study for a student with disabilities; membership should include a regular education teacher, a special education teacher, a representative of the school district, the parent, individuals with specialized knowledge and others
Alternate assessment	An assessment designed for students with cognitive disabilities. Although policy makers and educators have temporarily experimented with more than one type of alternate assessment, the type most people mean by “alternate assessment” is the one based on alternate academic standards (the AA-AAS) for students with the most profound cognitive disabilities.
Alternative high school diploma	A credential awarded to an exceptional student who completes an alternative course of study because the student’s disability precluded the course of study that meets the requirements for a regular high school diploma. Unlike the regular course of study, the alternative course of study is not fully aligned with the state’s academic content standards and therefore the alternative diploma is not counted in the federally defined graduation rate. The alternative high school diploma replaced the certificate of completion starting with the graduating class of 2013 (704 KAR 3:305).
Assistive Technology	An item, piece of equipment, or system—acquired commercially off the shelf, modified, or custom-designed—that is used to increase or improve functional capabilities of individuals with disabilities. Examples include, but are not limited to, amplification equipment, magnifying devices, communication boards or devices, talking calculators, Cranmer abacuses, text-talk converters, text-to-speech software or devices, closed-captioned or video materials, Braille writers/Refreshabrilie, signing avatars, electronic dictionaries, noise buffers, non-calibrated rules or templates, word processors, speech-to-text software or devices, audiotaped directions, screen readers, auditory trainers, audio files of state-required assessments, and word prediction. <sup>32</sup>
Autism (AUT)	A developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age 3 that adversely affects educational performance. Characteristics of autism include: <ol style="list-style-type: none"> <li>1. Engagement in repetitive activity and stereotyped movement;</li> <li>2. Resistance to environmental change or change in daily routine; and</li> <li>3. Unusual responses to sensory experience.</li> </ol> The term does not include children with characteristics of an emotional-behavioral disability (KRS 157.200).

<b>Term</b>	<b>Definition</b>
Deaf-blind (D/B)	Auditory and visual impairments, the combination of which creates such severe communication and other developmental and learning needs that the pupil cannot be appropriately educated in special education programs designed solely for pupils with hearing impairments, visual impairments, or severe disabilities, unless supplementary assistance is provided to address educational needs resulting from the two disabilities (KRS 157.200).
Developmental delay (DD)	A significant discrepancy between a child's current level of performance in basic skills such as cognition, language or communication, self-help, social-emotional, or fine or gross motor, and the expected level of performance for that age. The term shall be used only for children ages 3 through 8 (KRS 157.200).
Early intervening services (EIS)	Tools to provide preventive support to children, especially those in kindergarten through grade 3, who are not yet identified as needing special education and related services. These tools enable educators to target instructional interventions to children's areas of specific need as soon as those needs become apparent. A district may spend up to 15 percent of the Individuals with Disabilities Education Act (IDEA) funds it receives to provide EIS, but it must meet federal reporting requirements for the use of these funds for delivering EIS. <sup>33</sup>
Emotional-behavioral disability (EBD)	A condition characterized by behavioral excess or deficit which significantly interferes with a pupil's interpersonal relationships or learning process to the extent that it adversely affects educational performance so that specially designed instruction is required in order for the pupil to benefit from education (KRS 157.200).
Exceptional children and youth (EC)	Persons under 21 years of age who differ in one or more respects from same-age peers in physical, mental, learning, emotional, or social characteristics and abilities to such a degree that they need special educational programs or services for them to benefit from the regular or usual facilities or educational programs of the public schools in the districts in which they reside (KRS 157.200).
Free appropriate public education (FAPE)	Under IDEA, a child with a disability is entitled to a free appropriate public education that emphasizes special education and related services designed to meet the child's unique needs and that prepare the child for further education, employment, and independent living (20 USC §1400(d)(1)(A)). Under IDEA, FAPE is provided through an appropriately developed individualized education program (IEP) based on the individual needs of the child.
General education (also called regular education)	A term used to distinguish education services for most students from special education services designed specifically for students with disabilities
Graduation rates	The US Department of Education defines graduation as completing a standard diploma within 4 years. In addition, the department allows Kentucky and some other states to count students who earn standard diploma within 5 years if their IEPs allow 5 years. However, graduation

Term	Definition
	<p>rates do not include certificates of completion, alternative diplomas, and nongraduates who passed the GED exam.</p> <p>Kentucky’s formula for calculating graduation rates has changed over time. Before 2010, Kentucky used a “leaver rate” that depended on dropout rates. For example, the 2009 leaver rate was the number of 12<sup>th</sup>-graders earning standard diplomas within 4 years in 2009 divided by the total of</p> <ul style="list-style-type: none"> <li>• the number of 12<sup>th</sup>-graders earning standard diplomas within 4 years in 2009,</li> <li>• the number of grade 12 dropouts in 2009,</li> <li>• the number of grade 11 dropouts in 2008,</li> <li>• the number of grade 10 dropouts in 2007, and</li> <li>• the number of grade 9 dropouts in 2006.<sup>34</sup></li> </ul> <p>Between 2010 and 2012, Kentucky reported the averaged freshman graduation rate (AFGR), which estimates the percentage of high school students who graduated within 4 years of first starting 9<sup>th</sup> grade. For example, the AFGR for the graduating class of 2011 is the number of regular high school diplomas awarded in 2011 divided by one-third of the total of</p> <ul style="list-style-type: none"> <li>• the number of 8<sup>th</sup>-graders enrolled in the fall 2006,</li> <li>• the number of 9<sup>th</sup>-graders enrolled in the fall 2007, and</li> <li>• the number of 10<sup>th</sup>-graders enrolled in the fall of 2008.<sup>35</sup></li> </ul> <p>Beginning in 2013, Kentucky reported 4-year and 5-year adjusted cohort graduation rates (ACGRs), based on individual students’ progress over time. For example, the 4-year 2013 ACGR was the number of students who entered 9<sup>th</sup> grade for the first time in the 2010 school year and then earned a regular high school diploma in the 2013 school year divided by the total of</p> <ul style="list-style-type: none"> <li>• the total number of first-time 9<sup>th</sup>-graders in fall 2009 (starting cohort), plus</li> <li>• students who transferred in, minus</li> <li>• students who transferred out, emigrated, or died during school years 2010, 2011, 2012, and 2013.</li> </ul>

<b>Term</b>	<b>Definition</b>
Hearing impairment	<p>A physiological hearing loss</p> <ul style="list-style-type: none"> <li>• ranging from mild to profound, which is either permanent or fluctuating, and is of such a degree that the pupil is impaired in the processing of linguistic information via the auditory channel either with or without amplification; or</li> <li>• that adversely affects educational performance so that specially designed instruction is required for the child or youth to benefit from education.</li> </ul> <p>The term shall include both deaf and hard of hearing children (KRS 157.200).</p>
Individualized education program	<p>Required by federal and state law, the individualized education program (sometimes called individual education plan in Kentucky) designed for each child by the child's ARC describes the child's unique needs and measurable academic and functional goals, as well as the services required to achieve these goals. By age 16, IEPs must include a statement of postsecondary goals relating to training, education, employment, and independent living skills, where appropriate (707 KAR 1:320). An IEP must take into account a child's present levels of academic achievement and functional performance, and the impact of that child's disability on his or her involvement and progress in the general education curriculum. IEP goals must be aligned with the state's academic content standards for the grade in which the child is enrolled.<sup>36</sup></p>
Maintenance of Effort	<p>Except as provided in Secs. 300.204 and 300.205, funds provided to a district under Part B of IDEA must not be used to reduce the level of expenditures for the education of children with disabilities made by the district from local funds below the level of those expenditures for the preceding fiscal year. The state's department of education is charged with monitoring to ensure that the amount of local funds each district budgets for the education of children with disabilities in that year is at least the same, either in total or per capita, as the amount it spent for that purpose in the most recent fiscal year for which information is available (34 CFR Sec. 300.203; 20 USC 1413(a)(2)(A)).</p>
Mental disability	<p>A deficit or delay in intellectual and adaptive behavior functioning, which adversely affects educational performance to the extent that specially designed instruction is required for the pupil to benefit from education, and which is typically manifested during the developmental period (KRS 157.200).</p>
Multiple disability (MD)	<p>A combination of two or more disabilities resulting in significant learning, developmental, or behavioral and emotional problems, which adversely affects educational performance and, therefore, requires specially designed instruction in order for the pupil to benefit from education. A pupil is not considered to have a multiple disability if the adverse effect on educational performance is solely the result of deaf-blindness or the result of speech or language disability and one other disabling condition (KRS 157.200).</p>

<b>Term</b>	<b>Definition</b>
Office of Special Education and Rehabilitative Services (OSERS)	The office within the US Department of Education that is charged with understanding challenges and improving results and outcomes for children, youth, and adults with disabilities. OSERS is composed of the Office of the Assistant Secretary, the Office of Special Education Programs, and the Rehabilitation Services Administration.
Orthopedic impairment (OI)	A severe physical impairment of bone or muscle that adversely affects educational performance to the extent that specially designed instruction is required for the pupil to benefit from education. The term includes physical impairments caused by congenital anomaly, disease, and other causes (KRS 157.200).
Other health impaired (OHI)	Limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, due to a chronic or acute health problem that adversely affects educational performance to the extent that specially designed instruction is required for the pupil to benefit from education. Chronic health problems may include, but are not limited to, a heart condition, tuberculosis, sickle cell anemia, hemophilia, epilepsy, rheumatic fever, nephritis, asthma, lead poisoning, leukemia, diabetes, attention deficit disorder, attention deficit hyperactive disorder, or acquired immune deficiency syndrome (KRS 157.200).
Related services	Transportation and the developmental, corrective, and other supportive services required to assist an exceptional child or youth to benefit from special education. These services may include, but are not limited to, speech-language pathology and audiology services; psychological services; physical and occupational therapy; recreation, including therapeutic recreation; early identification and assessment of disabilities; counseling services, including rehabilitation counseling; orientation and mobility services; medical services for diagnostic or evaluation purposes; school health services; social work services in schools; and parent counseling and training (KRS 157.200).
Response-to-intervention (RTI or RtI)	A provision in IDEA regulation for the evaluation of children for determining whether they have a specific learning disability. RTI is often used in association with early intervening services.
Results driven accountability	A revised accountability system introduced in 2014 by the US Department of Education's Office of Special Education Programs to shift the balance from the previous system's focus primarily on compliance to a system that puts more emphasis on results. The system comprises three components: <ul style="list-style-type: none"> <li>• A State Performance Plan/Annual Performance Reports, which measures results and compliance. States are currently developing State Systemic Improvement Plans, designed to improve outcomes in targeted areas.</li> <li>• Determinations, which reflect state performance on results, as well as compliance</li> <li>• Differentiated monitoring and support for all states, especially low-performing states.</li> </ul>

<b>Term</b>	<b>Definition</b>
Support Education Excellence in Kentucky Exceptional Child Add-on	Additional per-student funding allocated to districts for special education services. Different weights apply for students with mild, moderate, and severe disabilities.
Special education	Specially designed instruction to meet the unique needs of an exceptional child or youth (KRS 157.200).
Special educational facilities	Physical facilities designed or adapted to meet the needs of exceptional children and youth, and approved according to regulations promulgated by the Kentucky Board of Education (KRS 157.200).
Specific learning disability (SLD)	<p>A disorder in one or more of the psychological processes primarily involved in understanding or using spoken or written language, which selectively and significantly interferes with the acquisition, integration, or application of listening, speaking, reading, writing, reasoning, or mathematical abilities. May include conditions such as dyslexia, dyscalculia, dysgraphia, developmental aphasia, or perceptual motor disabilities. The disorder is lifelong, is intrinsic to the individual, and adversely affects educational performance to the extent that specially designed instruction is required in order for the pupil to benefit from education. Determination of the existence of an SLD shall include documentation that a child does not make sufficient progress in meeting age or grade-level content standards when provided with appropriate instruction and learning experiences delivered by qualified personnel, including the child's response to scientific, research-based interventions and additional information derived from an individual evaluation. The term does not include a learning problem which is primarily the result of</p> <ul style="list-style-type: none"> <li>• a hearing impairment;</li> <li>• visual, physical, mental, or emotional-behavioral disabilities;</li> <li>• environmental, cultural, or economic differences; or</li> <li>• limited English proficiency (KRS 157.200).</li> </ul>
Speech or language impairment (S/L)	A communication disorder such as stuttering, impaired articulation, impaired language, impaired voice, delayed acquisition of language, or absence of language that adversely affects educational performance to the extent that specially designed instruction is required for the pupil to benefit from education (KRS 157.200).
Transition services	<p>A coordinated set of outcome-oriented activities to promote a student's movement from school to postschool activities. The term includes</p> <ul style="list-style-type: none"> <li>• postsecondary education;</li> <li>• vocational training; and</li> <li>• integrated employment, including supported employment, continuing and adult education, adult services, independent living, or community participation.</li> </ul> <p>The coordinated set of activities shall be based on the individual pupil's needs, taking into account the pupil's preferences and interests, and shall</p>



<b>Term</b>	<b>Definition</b>
	include instruction, community experience, the development of employment, and other postschool adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation (KRS 157.200).
Traumatic brain injury	An acquired impairment to the neurological system resulting from an insult to the brain which adversely affects educational performance and causes temporary or permanent and partial or complete loss of <ul style="list-style-type: none"><li>• cognitive functioning,</li><li>• physical ability, or</li><li>• communication or social-behavioral interaction.</li></ul> The term does not include a brain injury that is congenital or degenerative, or a brain injury induced by birth trauma (KRS 157.200).
Visually disabled	A visual impairment, which, even with correction, adversely affects educational performance to the extent that specially designed instruction is required for the pupil to benefit from education. The term includes both partially seeing and blind pupils (KRS 157.200).

Sources: Staff compilation from Kentucky statutes and regulations and Kentucky. Department of Education. *Kentucky Department Of Education Glossary, Abbreviations And Acronyms*. Frankfort: KDE, June 25, 2012. Web. March 15, 2016.



## Appendix E

### Exceptional Child Add-On To The Support Education Excellence In Kentucky Funding Formula

#### SEEK Exceptional Child Add-On

Special education services for elementary and secondary students in the commonwealth are funded by revenue from local, state, and federal sources. The majority of revenue comes from the Support Education Excellence in Kentucky formula, which comprises both state and local dollars. SEEK contains specific calculations for educating and transporting students with disabilities.

The exceptional child add-on, an adjustment to the guaranteed base provided to districts through the SEEK formula, provides districts with increased funding that reflects the additional cost of educating exceptional children.<sup>a</sup> The exceptional child funding is based on the number and types of exceptional children as defined in KRS 157.200. The weights and categories of exceptionality are listed in Table E.1. The weights are multiplied by the guaranteed base and applied to the prior year’s December 1 child count by disability type. Disability types are grouped into three funding categories: high, moderate, and low incidences. Districts are not required to expend special education revenue dollar for dollar on identified students.

**Table E.1**  
**SEEK Add-on Weights for Students with Disabilities**

SEEK Funding Category	SEEK Add-on Weight	Disability Type
High Incidence	0.24	Communication disorders of speech or language
Moderate Incidence	1.17	Mild mental disability, orthopedic impairment or physically disabled, other health impaired, specific learning disability, developmental delay
Low Incidence	2.35	Functional mental disability, visual impairment, hearing impairment, emotional-behavioral disability, multiple disabilities, deaf-blind, autism, traumatic brain injury

Source: Kentucky Department of Education.

<sup>a</sup> A guaranteed base amount of per-pupil funding is established by the General Assembly for each budget cycle.



## Endnotes

- <sup>1</sup> Kentucky. Legislative Research Commission. Office of Educ. Accountability. *Review of Special Education in Kentucky*. Research Report No. 358. Frankfort: LRC, Dec. 9, 2008. Web. Jan. 4, 2016.
- <sup>2</sup> Kentucky. Legislative Research Commission. Office of Educ. Accountability. *Appropriate Identification and Service of Students With Disabilities: Special Education Eligibility, Funding, and Personnel Training*. Research Report No. 393. Frankfort: LRC, Nov. 15, 2011. Web. Jan. 4, 2016.
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