

The End of SPED?

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Agenda - 30 minutes presentation/30 minutes discussion

- Here's what's happening - what we know, what we don't, what we can speculate upon
- Where does the money come from and where does it go?
 - And what are "strings"?
- Quick and dirty background on IDEA
- Here's our advocacy plan
 - What you can do now
 - Short term/long term
- Questions and discussion

What we know:

- On Monday, September 25th, Speakers Cameron Sexton and Randy McNally **announced the creation of a “Joint Working Group”** to study the feasibility and impact of refusing federal funding from the Department of Education
 - The group is tasked with studying the idea and making a recommendation for how to reject federal funds
- Members of the **General Assembly have generally expressed support** for idea of the working group (but not necessarily funding refusal)
 - Governor Lee has similarly expressed support for the working group, but has so far distanced himself a bit from its outcome (wait and see)
- Members of the General Assembly (particularly Speaker Sexton) have cited **“burdensome” regulations as the reason** he is commissioning the working group
 - Sexton has been vague/unspecific about *which* regulations he objects to, but has alluded to testing and reporting requirements, school lunch rules and federal influence on curriculum choices

What we know (2):

- We know the **composition of the working group**, which features 10 members of the General Assembly, including 8 Republicans and 2 Democrats
 - Senate: Sen. Jon Lundberg (co-chair), Sen. Joey Hensley, Sen. Raumesh Akbari, Sen. Bill Powers, Sen. Dawn White
 - House: Rep. Debra Moody (co-chair), Rep. Ronnie Glynn, Rep. John Ragan, Rep. Timothy Hill, Rep. William Slater
- The Joint Working Group began their activities on **November 6th**, and will meet 7 times over 5 days
- Last spring, when Speaker Sexton first floated the idea, he **commissioned a report that laid out federal funding sources, destinations and obligations**

What we know (3)

Trends in the first week:

- Despite slowing revenue and a potential budget deficit, **refusal is financially feasible for the state**
- **District leaders are unenthusiastic** about refusing funds
- There is an **odd** concern about food waste
- There are many questions that just **cannot be answered** in this forum
- Some members of the panel are **frustrated with the “tone” and focus** of the conversation thus far
- **“What ‘good’ do the funds actually convey?”**
- It’s **quiet** so far

What we can speculate upon:

- **We do not know the outcome of the work yet, but we can speculate:**
 - It is very likely that they make their recommendations **before the beginning of the 2024 General Assembly session** in January
 - It is also very likely that the working group **charts a path toward refusing all \$1.89 billion** in federal DOE funds currently provided to Tennessee (recommends refusing funds)
 - It is possible (leaning toward likely) that Speaker Sexton will **propose and attempt to pass legislation** that refuses federal funding
 - It is difficult to anticipate the substance of the bill (what happens to special ed), but it is most likely that it leaves much of the “details” to rulemaking by the State Board of Education
 - We can speculate about Sexton’s commitment to the idea (is it a stunt or does he really mean it?)
 - We as advocates will very likely have to spend **significant amounts of time, resources and energy** in addressing the working group’s proposal

What we don't know:

- What proposed funding refusal **legislation might look like** (the details)
- The **degree of support** in the House, Senate and Governor's office
- The **timelines** (when legislation would be introduced/heard, how long the refusal process could take, etc.)
- The **expectations of schools** in implementing changes
- The scope and extent of **support and/or opposition** from all interested parties
 - Short, incomplete list: disability groups, immigrant rights group, education rights groups, religious entities, business world, chambers of commerce, superintendents association, teachers unions, general public at large, etc.
- How the **federal government might respond** (we got a hint this week)

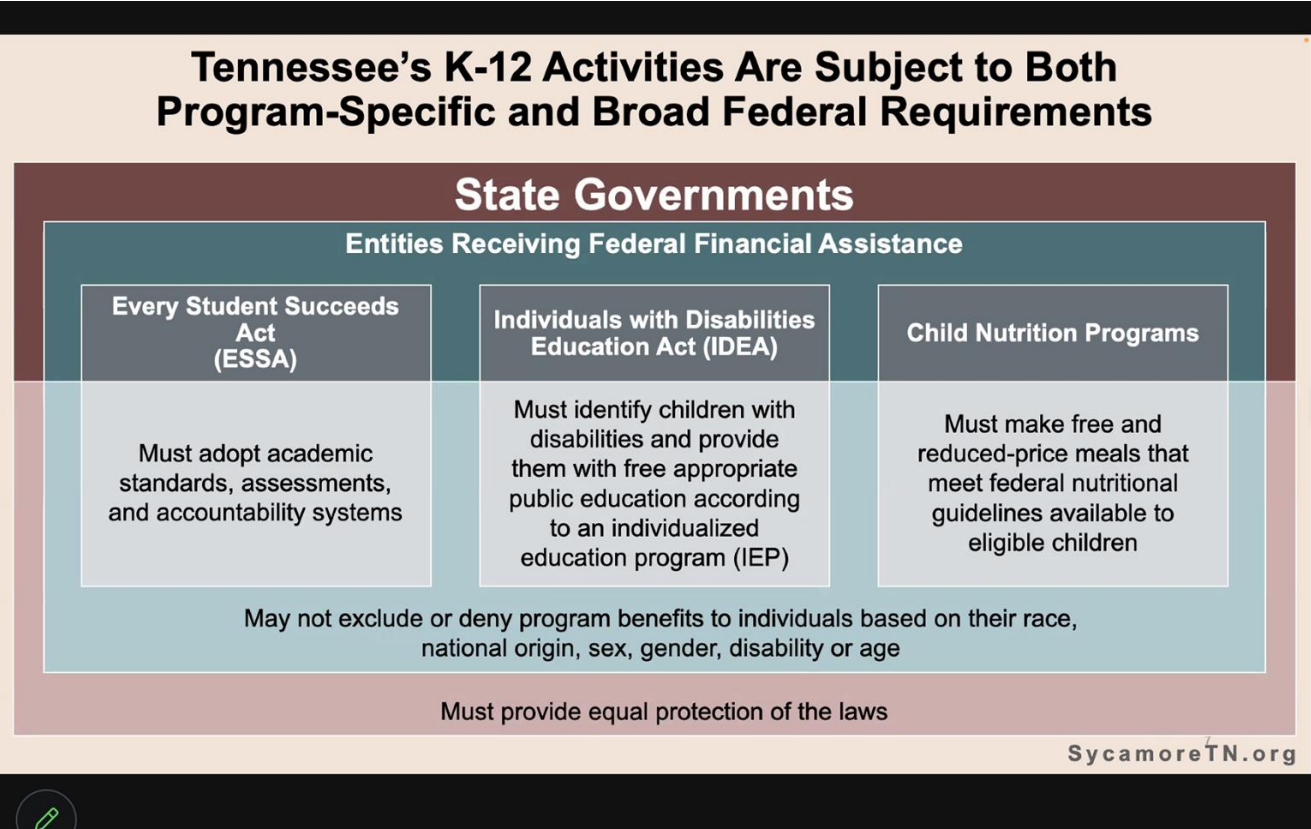
What we can do right now

- **We have a plan/strategy**, and we hope you will hear us out
- **Stay informed!**
 - tndisability.org news and resource center
 - Watch the proceedings on the General Assembly website
 - <https://wapp.capitol.tn.gov/apps/livevideo/>
 - Reach out to your local legislators - ask them
- **Stay resolved** - proponents of this potential legislation are purposefully drawing out the proceedings to make it difficult to stay engaged
 - This is a long-term fight and it will have different phases of engagement and advocacy
 - We may not know the outcome any time soon
 - No matter what, this is a red line
 - I don't see a compromise on a policy such as this

Context - federalism overview

- When the federal government provides funding to states (and other entities), those recipients must follow some rules
 - In this case, here are some of the rules the state must follow:
 - It must provide all 6 tenets of IDEA (IEP's, evaluation, LRE, FAPE, parent/teacher involvement and due process/procedural safeguards), and is subject to monitoring and oversight
 - It must not violate the Civil Rights Act (discriminate against protected classes)
 - It must participate in national testing (NAEP)
 - Note - states have lots of flexibility here
 - It must report certain data to the feds (performance of protected classes, discipline data, achievement data, ARP data, delineated data, spending, etc.)
- This is what refusal advocates mean when they say “**strings**” in reference to federal funding

Context: Federalism Overview (2)



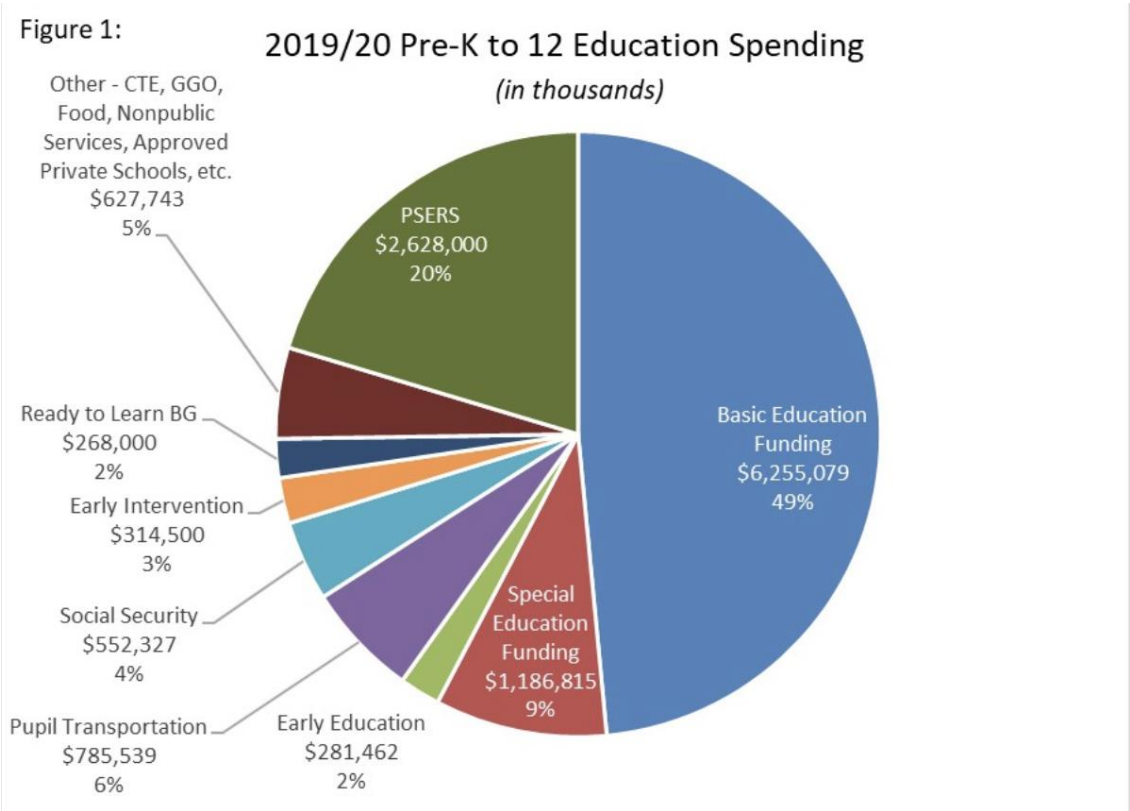
Context - federalism overview (3)

- Things the federal government **does not control** through federalism/federal funding (in this case):
 - State, district or classroom choices about curriculum
 - Reading materials available to students
 - Hiring and firing of teachers
 - School choices issues (charter schools, vouchers, ESA's, etc.)
 - Other state-level testing
 - What teachers can/can't say in the classroom
 - State levels of funding or how they choose to distribute funds (TISA)
 - School sports (except for discrimination in participation)
- In other words, some advocates will try to make the funding refusal issue about these issues - any assertion to the above is **not true**

Context - federal education funding overview:

In Tennessee:

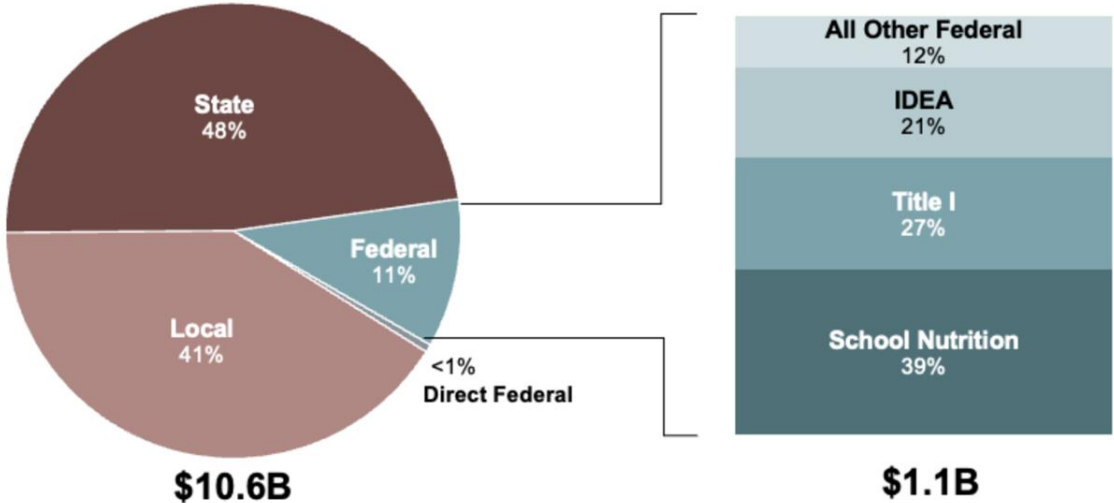
- 2019 - \$1.1 billion
- 2023 (proposed) - **\$1.89 billion**
- All of this is subject to change in forgoing federal funding



Context - what it looks like when it gets here:

In FY 2019, \$1.1 Billion in Federal Funds Provided 11% of Tennessee School Districts' Revenues

Total Tennessee School District Revenues by Source and Type (FY 2019)



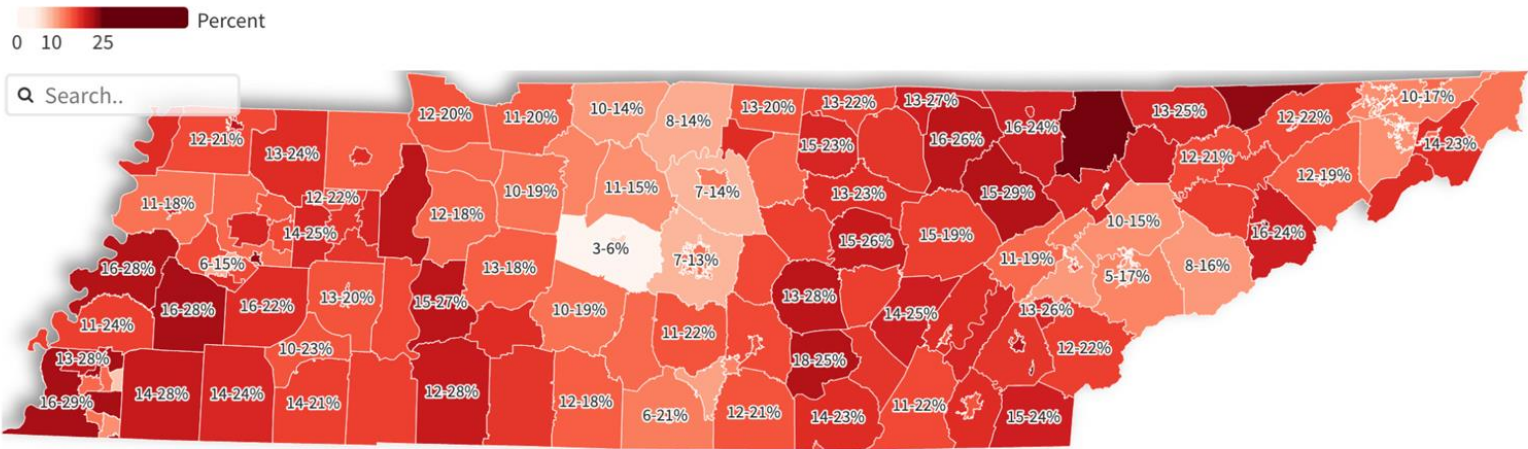
Note: "Federal" includes only federal funding awarded to school districts through the state. IDEA is the federal Individuals with Disabilities Education Act. Source: The Sycamore Institute's analysis of data from the Tennessee Department of Education

Context - how much each district gets from the feds:

Unequal reliance

Some Tennessee school districts have upped their reliance on federal funds in recent years. But that money could go away.

*Numbers show how much each school district relied on federal money in 2019 (before COVID-19) and last year.



•Source: [The Sycamore Institute](#), Tennessee Department of Education • Created by Adam Friedman, Tennessee Lookout



Context - 21% of federal funds go to IDEA

- **Where did IDEA come from?**

- AKA - The Individuals with Disabilities Education Act (IDEA)
- Passed in 1975 as the Education for All Handicapped Children (EHA)
- Reauthorized as IDEA in 1990
- Reauthorized again in 2004 to align with “No Child Left Behind” (New DOE Commish Lizzette Gonzalez Reynolds’ brainchild)

- **What happened before EHA/IDEA?**

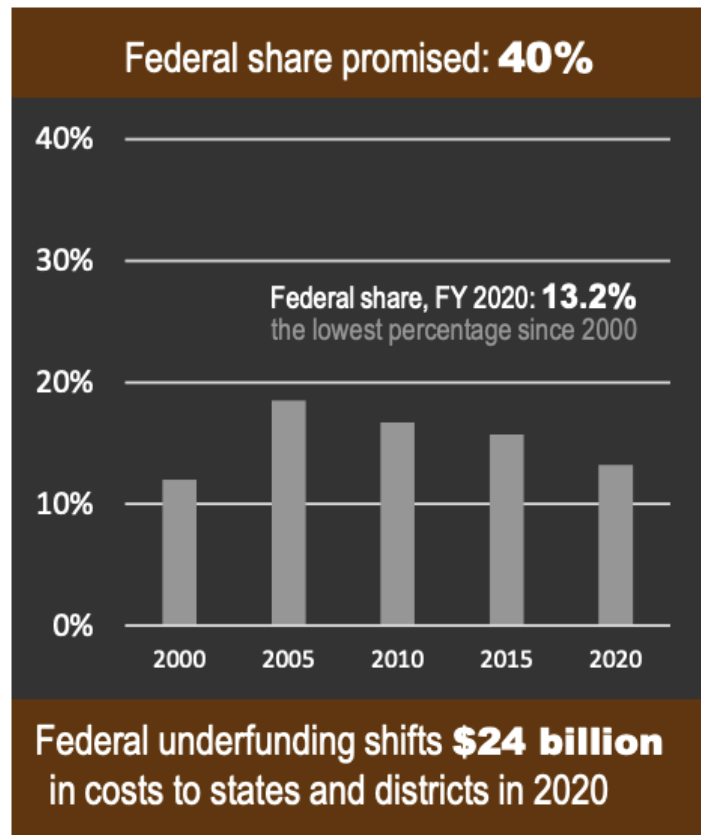
- Most children with disabilities were “educated” at institutions or in parental educational cooperatives
 - **Public schools served only 1 in 5 children with disabilities**
- Many children with disabilities were **specifically and legally excluded** from public schools, including those who were deaf or blind, those with behavior disorders or those with intellectual disabilities
- Today, **more than 65% of children with disabilities** in Tennessee are educated in the general education setting for **more than 80% of the day**

Context - more of IDEA

- Provides for **6 “pillars” of special education** (requirements for fed funds):
 - Free and Appropriate Public Education (FAPE)
 - Individualized Education Programs (IEP)
 - Least restrictive environment (LRE)
 - Appropriate evaluations
 - Parent and teacher involvement
 - Procedural Safeguards/Due Process
- Interacts with **Section 504** of the Vocational Rehabilitation Act of 1973 and the **Americans with Disabilities Act (ADA)**

Context - even more of IDEA

- Funding associated with the implementation of IDEA pays for “**the excess cost of special education**”:
 - State Department of Ed-level compliance monitoring
 - Special education teachers
 - Paraprofessionals
 - Other licensed related service providers (OT/PT, SLPs, school psychologists, BCBA’s, etc.)
 - Assistive technology devices
 - Alternative and supplementary curriculums
 - Small class sizes
 - Due process enforcement
- IDEA itself is underfunded by the Feds
 - Full funding would provide an **additional \$429.2 million to Tennessee for SPED**



What would happen to IDEA if Tennessee rejected federal funding?

1. It's **impossible to know** for sure
2. BUT, the state would no longer be obligated by the Federal Government to provide special education services in line with IDEA
3. The state DOES have IEP's/eval, LRE and FAPE rights already in the state code
 - a. The **code is missing parent/teacher involvement and due process/procedural safeguards**
4. HOWEVER, the state would then be the only party monitoring and enforcing the existing SPED provisions and rights found in the state code
 - a. And they could change them at any time for any reason if they wanted to
5. Probably lawsuits
6. Very likely chaos

So here is the plan:

- Short term: Hold your fire until there is something to shoot at
 - Don't get out ahead of what's been said or proposed
 - Reiterate 3 things:
 - This is concerning
 - IDEA and Special Education are *very* important
 - We look forward to educating the Joint Working Group
 - Cautious contact
- Long term: If/when the Joint Working Group proposes a “plan”, we have options:
 - Committee testimony
 - Meet your legislators
 - Media
 - Protest/demonstrations
 - Email campaign
 - Lawsuits

The plan, continued:

- However, it is vitally important that the disability community is on the same page
 - They will try to divide and conquer
- There is no compromise on any future proposal
 - They will offer to codify IDEA
 - They will say that they can refuse all funding *except* IDEA
 - We won't accept State Board of Education rulemaking
- We **MUST** make this about disability and disability only
 - There are others who can make the financial/Title 1/ESL/culture wars/this is silly arguments
 - Don't let them distract us
- Stay the course
 - It's going to be a long battle - stick to the plan
 - Stay behind our skis

The plan, talking points (draft):

- Merely “asking the question” has thrown the already hectic lives of Tennessee children with disabilities and their families into turmoil
- There are no strings, aka minimum standards, that would justify functionally destroying special education in Tennessee
- “These are civil rights, not strings” - the civil rights of kids with disabilities are not burdensome strings
- IDEA is the bare minimum of protections of students with disabilities, students with disabilities, we don’t believe the state can do equal or better
- Asking Tennessee to hold itself accountable for special education is like asking the fox to guard the henhouse
 - There is a powerful motivation for the state to limit expensive services and rule on its own behalf in disputes and the only one holding it to account is itself

The frame

Talk about:

- Why special ed and IDEA are important
- What is missing from the TN Code and what that means (especially oversight)
- What happened before IDEA - “rolling back 50 years of progress”
- What it would mean for you and your family
- Just asking the question causes chaos
- The apparent lack of concern for families of kids with disabilities

Don't talk about:

- The finance stuff - others can do that
- How silly all of this is
- Book bans, defunding public schools, bathroom bills, etc.
- Ad hominem insults
- School lunches, administrative overhead, etc. (the stuff they want to talk about)
- Compromises

What you can do now:

- Stay informed
 - tndisability.org
 - Other disability organizations
 - Read everything
- Talk to your friends and neighbors
 - Let them know that this is a disability issue and it affects you and your family
- Talk to your legislators
 - Remember the talking points! Concern-importance-collaboration
 - Use our Voter Voice message system - [LINK](#)
- Look to the long term
 - What will happen if...
 - Set aside some time in the future (if you can) for in-person advocacy

Takeaways

- There is a lot we don't know
- Keep every arrow in the quiver - bide your time
- 3 things (for now) - concern/importance/education
- Know that when the time comes, we'll be ready
- We have options
- We will need people to advocate on behalf of SPED in order to save it

Questions

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