

Shadow School Choice: When Public Schools Turn Students Away

Case Study: The School District of Philadelphia

SUMMARY

- The School District of Philadelphia outsources special education to private schools when the district is unable to meet the student's special education needs.
- The U.S. Department of Education guarantees a “free appropriate public education” (FAPE) to special education students as part of the [Individuals with Disabilities Education Act](#) (IDEA). School districts unable to fulfill this guarantee outsource special-needs learning to private schools at the district's expense.
- Although the [federal government](#) provides some special education funding for Pennsylvania's special education students, and Gov. Josh Shapiro's proposed [2025–26 Pennsylvania budget](#) contains a line item for this expense, the Pennsylvania Department of Education (PDE) [states](#) that the cost of educating special education students is the responsibility of the local school district.
- Right to Know (RTK) data reveals that during the 2023–24 school year, the School District of Philadelphia spent over \$35 million to educate 681 students at non-district schools.

FAST FACTS: THE SCHOOL DISTRICT OF PHILADELPHIA

- In the 2024–25 school year, 118,000 students assigned to the School District of Philadelphia enrolled in 250 district, magnet, and alternative schools; 64,000 chose charter schools; 14,200 chose cyber charters, and 2,100 district students enrolled in other schools, including private schools.
- According to PDE, 56 percent of the district's schools are [low-achieving](#) based on Pennsylvania System of School Assessment (PSSA) and Keystone standardized test scores.¹
- More than one out of two Philadelphia students attend a low-achieving school.
- Twenty percent of the district's students have an [Individualized Education Program](#) (IEP) which qualifies those students for special education.²
 - The district specifies that “special education is a service but not automatically a placement” and that a student's “[out-of-district placement](#)” depends on an IEP determination that the student needs “more intensive support than can be provided in their home district.”³ Notably, the district's cost to outsource learning for nearly 700 special education students in 2023–24 was more than \$35 million.

SCHOOL CHOICE WITHIN THE SCHOOL DISTRICT OF PHILADELPHIA

- Philadelphia has limited district school choice.
 - There are 81 brick-and-mortar charter schools [authorized](#) by the School District of Philadelphia. Although 64,000 students attend charter schools, nearly 20,000 remain on waiting lists.⁴
 - Despite extensive waiting lists, the district has not approved a new charter school since 2018, rather it has denied more than 20 charter school applications.⁵
 - Furthermore, the district requires that charter schools submit a [charter amendment request](#)—subject to board approval—to increase enrollment. This effectively caps enrollment, perpetuating the waiting lists. Charter schools with applications that exceed available spots must determine acceptance through a [random lottery](#).⁶
 - The district’s [school selection process](#) allows students to apply to “any school with available space” outside their assigned school catchment zone. The district determines placements and waiting lists through a centralized lottery.⁷
 - Awards for seats at coveted special admission magnet, or “criteria-based,” schools have, in addition, achievement, assessment, and attendance requirements.⁸
 - The [special admission](#) process for magnet schools has received criticism for “[rewarding the privileged while punishing the vulnerable](#)” and leaving citywide schools “[with hundreds of unfilled seats](#).”⁹
 - When the district cannot meet a student’s special education needs, federal, [state](#), and district funding provide tuition scholarships for special education students to attend private schools.
 - RTK data for the 2023–24 school year shows the district spent \$35,294,572 to educate 681 students at 56 non-district schools, including 45 private schools and 11 schools operated by intermediate units (IU).

PRIVATE SCHOOLS EDUCATING PUBLIC STUDENTS

- Private schools educate special education students whose manifold and varying needs cannot be met by the school district.
 - IDEA [stipulates](#) special education students receive their FAPE in the Least Restrictive Environment (LRE).¹⁰ The Code of Federal Regulations defines LRE requirements as: [Public agencies](#) must “to the maximum extent appropriate” ensure “children with disabilities ... are educated with children who are nondisabled; and [s]pecial classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.”¹¹
 - [Approved Private Schools](#) (APSs) for the deaf and blind consist of 37 schools across the state that receive funding from local school districts and the commonwealth to serve the unique needs of deaf and blind students.¹²
 - The 681 special education students residing in the School District of Philadelphia attend 56 non-district and APSs that are uniquely positioned to meet the needs of deaf and blind students,

children with cerebral palsy, autism, developmental and intellectual disabilities, medically complex students, students with neurological impairments, and those with extreme emotional or behavioral challenges.

- Families lose precious time when high-need, special education students—children who most need an individualized approach to education—languish in district classrooms that are ill-equipped to meet their disabilities while they wait to have their child’s case evaluated.
 - Families must traverse an arduous, time-consuming, and often expensive [Equitable Participation](#) process before the district will allow their child to attend a private school that meets the student’s special education needs.¹³
 - This process is expensive for families and the school district as both sides utilize lawyers to determine the best educational environment for each special education student.
 - For one [family](#), it took [more than a year](#) for the district to place their daughter with severe autism in a school that could meet her needs. The district repeatedly denied the child access to an appropriate education until an RTK request revealed that the district had already placed other children in the same school.¹⁴

POLICY RECOMMENDATIONS

Fund Lifeline Scholarships

- The [Lifeline Scholarship Program](#),¹⁵ funded at \$300 million annually, would provide scholarships for approximately 40,000 students across Pennsylvania to attend the private school of their choice.
- Each participating child would receive funds appropriated by the Commonwealth of Pennsylvania in the amounts of:
 - \$5,000 for K–8th grades (\$2,500 for half-day kindergarten).
 - \$10,000 for 9–12th grades.
 - \$15,000 per special education student, regardless of grade level.

Fund Students Directly

- Pennsylvania tax dollars should follow all students—including special education—to the school of their choice, whether to public, private, charter, career and technical, or home education programs.
- Funding students directly would be a step towards fulfilling Pennsylvania’s [Commonwealth Court](#) ruling, which states that lawmakers should work to ensure “every student receives a meaningful opportunity to succeed.”¹⁶

End Residential School Assignment

- Pennsylvania is one of the most restrictive states in the nation when it comes to public school choice. Most school districts assign public school attendance based on a student’s home address, a practice based on the discriminatory practice of [red-lining](#), resulting in discrimination by zip code.

- Allowing families to choose which public school their child attends through open enrollment, which [21 states have](#)—regardless of home address or socioeconomic status—would ensure that public schools are [truly open to every child](#) in Pennsylvania.¹⁷

Support the Educational Choice for Children Act (ECCA)

- Congress should pass the [ECCA](#)—which passed the House Ways and Means Committee in 2024 and then reintroduced for 2025—because it will provide a minimum of \$20 million in tax credit scholarships for low- and middle-income Pennsylvania families.¹⁸

¹ Pennsylvania Department of Education, “Opportunity Scholarship Tax Credit Program: Low-Achieving Schools,” accessed March 12, 2025, <https://www.pa.gov/agencies/education/programs-and-services/schools/school-services/opportunity-scholarship-tax-credit-program.html>.

² 22 Pa. Code § 14.131. IEP.

³ Office of Special Education and Diverse Learners, “Special Education: Out of District Eligibility,” School District of Philadelphia, February 7, 2025 [last modified], <https://www.philasd.org/specializedservices/#specialed>.

⁴ School District of Philadelphia, “Fast Facts,” March 6, 2025 [last modified], <https://www.philasd.org/fast-facts/>; Elana Galli, “2024-25 Apply Philly Charter Data Show An Increase in Applications, Applicants, Seat Offers and Seats Accepted Compared to Last Year,” Elevate 215, accessed March 12, 2025, <https://elevate215.org/news/2024-25-apply-philly-charter-data-show-an-increase-in-applications-applicants-seat-offers-and-seats-accepted-compared-to-last-year/>.

⁵ Krista A. Graham and Maddie Hanna, “Philly Could Make Changes to the Way It Approves, Supervises, and Closes Charter Schools. Here’s How,” *Philadelphia Inquirer*, February 25, 2025, <https://www.inquirer.com/education/charter-schools-philadelphia-approval-closing-evaluations-20250225.html>.

⁶ Charter Schools Office, “Charter Amendment Process,” School District of Philadelphia, March 6, 2025 [last modified], <https://www.philasd.org/charterschools/#1691608019961-6a6d497b-61fd>; Charter Schools Office, “How Do I Enroll a Student in a Charter School?” School District of Philadelphia, n.d., <https://www.philasd.org/charterschools/wp-content/uploads/sites/63/2019/10/CSO-Parent-Handout-Enrollment-1.pdf>.

⁷ Office of Student Enrollment and Placement, “School Selection: About the School Selection Process,” School District of Philadelphia, February 21, 2025 [last modified], <https://www.philasd.org/studentplacement/school-selection/#about>.

⁸ Office of Student Enrollment and Placement, “School Selection: About the Criteria,” School District of Philadelphia, February 21, 2025 [last modified], <https://www.philasd.org/studentplacement/school-selection/#criteriadeined>.

⁹ Kristen A. Graham, “Special Admissions School Deadline Is Wednesday. Here’s What to Know,” *Philadelphia Inquirer*, October 21, 2024, <https://www.inquirer.com/education/philadelphia-school-district-criteria-based-application-deadline-20241021.html>; AJ Ernst, “District Race for Special Admission Schools Is like a High School ‘Hunger Games’,” *Philadelphia Inquirer*, September 26, 2024, <https://www.inquirer.com/opinion/commentary/special-admissions-schools-school-district-philadelphia-20240926.html>; Dale Mezzacappa, “Students Will Get More Power in Philadelphia’s Revamped School Admissions Process,” *Chalkbeat Philadelphia*, August 13, 2024, <https://www.chalkbeat.org/philadelphia/2024/08/13/selective-high-school-admissions-changes-for-students/>.

¹⁰ U.S. Department of Education, Individuals with Disabilities Education Act, “Building and Sustaining Inclusive Educational Practices,” January 2025, <https://sites.ed.gov/idea/idea-files/building-and-sustaining-inclusive-educational-practices-january-2025/>; U.S. Department of Education, “Free Appropriate Public Education,” Office for Civil Rights, January 14, 2025 [last reviewed], <https://www.ed.gov/laws-and-policy/individuals-disabilities/free-appropriate-public-education>.

¹¹ 34 C.F.R. § 300.114 – LRE Requirements.

¹² Pennsylvania Department of Education, “Directory of Approved Private Schools and Chartered Schools for the Deaf and the Blind,” May 2024, <https://www.pa.gov/content/dam/copapwp-pagov/en/education/documents/instruction/special-education/aps%20directory.pdf>.

¹³ Pennsylvania Department of Education, “Special Education: Equitable Participation Q&A,” accessed March 12, 2025, <https://www.pa.gov/agencies/education/programs-and-services/instruction/elementary-and-secondary-education/special-education/nonpublic-schools/equitable-participation/equitable-participation-qanda.html>.

¹⁴ Sharon Sedlar, “A Parent Begs for FAPE in Special Education,” *Delaware Valley Journal*, July 22, 2024, <https://delawarevalleyjournal.com/sedlar-a-parent-begs-for-fape-in-special-education/>; Sharon Sedlar, “Warrior Mom Fights District and Wins,” August 15, 2024, PA Families for Education Choice, <https://paedchoice.org/warrior-mom-fights-district-and-wins/>.

¹⁵ Commonwealth Foundation, “Lifeline Scholarship Program/PASS,” January 30, 2024, <https://commonwealthfoundation.org/research/lifeline-scholarship-program-pass/>.

¹⁶ William Penn School District et al. v. Pa. Department of Education et al., No. 587 M.D. 2014, (Pennsylvania Commonwealth Court, Feb. 7, 2023), 773–78, <https://pubintlaw.org/wp-content/uploads/2023/02/02.07.23-Memorandum-Opinion-Filed-pubintlaw.pdf>; Commonwealth Foundation, “PA Court Rules on Education Funding Lawsuit,” news release, February 7, 2023, <https://commonwealthfoundation.org/2023/02/07/pa-court-education-funding/>.

¹⁷ Jude Schwalbach, “Public Schools without Boundaries 2024,” Reason Foundation, October 29, 2024, <https://reason.org/open-enrollment/2024-public-schools-without-boundaries/>.

¹⁸ Rep. Jason Smith (R-MO), Chair, “H.R. 9462, the Educational Choice for Children Act of 2024,” U.S. House Ways and Means Committee, September 2024, <https://waysandmeans.house.gov/wp-content/uploads/2024/09/H.R.-9462-Educational-Choice-for-Children-Act-of-2024-One-Pager.pdf>; Rep. Adrian Smith (R-NE), H.R. 9462 – Educational Choice for Children Act of 2024, 118th Congress, <https://www.congress.gov/bills/118th-congress/house-bill/9462>; Laurie Todd-Smith and Julia Butch, “Bill Analysis: The Educational Choice for Children Act,” American First Policy Institute, February 4, 2025, <https://americafirstpolicy.com/issues/the-educational-choice-for-children-act>.