

# Overview: Special Education

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| November 2015

### Legislation and Code Governing Special Education

#### Federal legislation governing Exceptional Children:

- The **Individuals with Disabilities Education Act 2004 (IDEA)** is a United States federal law that governs how states and public agencies provide early intervention, **special education, and related services to children with disabilities**. This law serves as the foundation of state code on special education.
- **IDEA does not apply if the student is classified as gifted only.** However, IDEA requirements apply if the gifted child is eligible under one or more of the specified classifications of “disability.”

#### Current Delaware Code:

- **Title 14 of the Delaware Code defines and addresses “Exceptional Children”—**meaning to a child with a disability or gifted and talented children.
  - **“Child with disability” is defined as** “a child who because of mental, physical, emotional, development, speech, or learning disability problems, as defined by the Department of Education rules and regulations approved by the State Board of Education, requires special education and related services in order to develop that person’s own capabilities. A child with a disability is eligible for services beginning on the child’s third birthday, or earlier if otherwise provided in this title.”
  - **“Gifted or talented child” is defined as** “a child in the chronological age group four through the end of the school year in which the child attains the age of 21 or until receipt of a regular high school diploma, whichever occurs first, who by virtue of certain outstanding abilities is capable of a high performance in an identified field. Such an individual, identified by professionally qualified persons, may require differentiated educational programs or services beyond those normally provided by the regular school program in order to realize that individual’s full contribution to self and society...”
- **The state is responsible for providing** “...each child with a disability as defined in this chapter shall receive a **free and appropriate public education** designed to meet that child with a disability’s own needs.”

“Least Restrictive Environment” (LRE) is a mandate under federal law (IDEA 2004).

- **According to federal law, “To the maximum extent appropriate, children with disabilities... are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.”**
- **Determining LRE for a student with disabilities is a critical component of the Individualized Education Plan (IEP) process.**
  - Least restrictive environment settings range from the “regular education classroom” to separate schools and homebound instruction.

## Context and Definitions: LRE Instructional Settings

Determining LRE for a student with disabilities is a critical component of the IEP process. Least restrictive environment settings range from the “regular education classroom” to separate schools and homebound instruction. (See slide four for definition of LRE under IDEA 2004.)

LRE Setting*	Description
<b>Regular Education Classroom</b>	Students are <b>instructed by a regular education teacher</b> and have access to the general education curriculum. Modifications and/or accommodations to instructional materials may be provided as documented by IEP.
<b>Inclusion Classrooms</b>	A <b>regular education teacher and a special education teacher share the teaching responsibilities</b> and often times, both teachers are in the classroom at the same time. Students have access to the general curriculum. One-third to one-half of the students are identified as having a disability while the other one-half to two-thirds of the classroom is comprised of regular education students.
<b>Resource Room Classrooms</b>	Students are instructed in a special education classroom with a certified special education teacher. All students have an identified disability. Students have access to the general curriculum to the greatest extent possible with supplementary and off-grade level materials being utilized when appropriate. Small group and individualized instruction are provided.
<b>Self-Contained Classroom</b>	Instruction is provided by a certified special education teacher for all academic subjects. The student may have the same teacher for all academic subjects or may have a teacher of special education that provides instruction. Transitions throughout the day are kept to a minimum.
<b>Integration Programs</b>	Students participating in this program are in need of a more functional, life skills curriculum. The curriculum focuses on the development of basic self-help skills, communication, applied academics and daily living skills. As the students enter their middle and high school years, vocational skills development becomes a major focus of the program. The goal of this program is to provide the skills necessary for the student to achieve increased independence in the home, school community and employment settings.
<b>Intensive Learning Center Programs</b>	The Intensive Learning Center is an alternative program that provides the student with a highly structured program. Academic and behavioral issues are addressed. Point systems are utilized to encourage appropriate behavior and students are rewarded for their efforts. The classroom consists of a special education teacher, a paraprofessional, and eight to 12 students.
<b>Separate Schools</b>	An alternative school setting where students are instructed in a separate special education school facility. All students have an identified disability (i.e. school of the deaf).
<b>Homebound/Hospital</b>	Homebound Instruction is an alternative program provided at home, hospital, or related site for children suffering from an illness or injury. It may also be provided on an emergency basis when the IEP team determines that such placement is both necessary and temporary and is consistent with requirements for the provision of a Free Appropriate Public Education (FAPE).

Less intensive



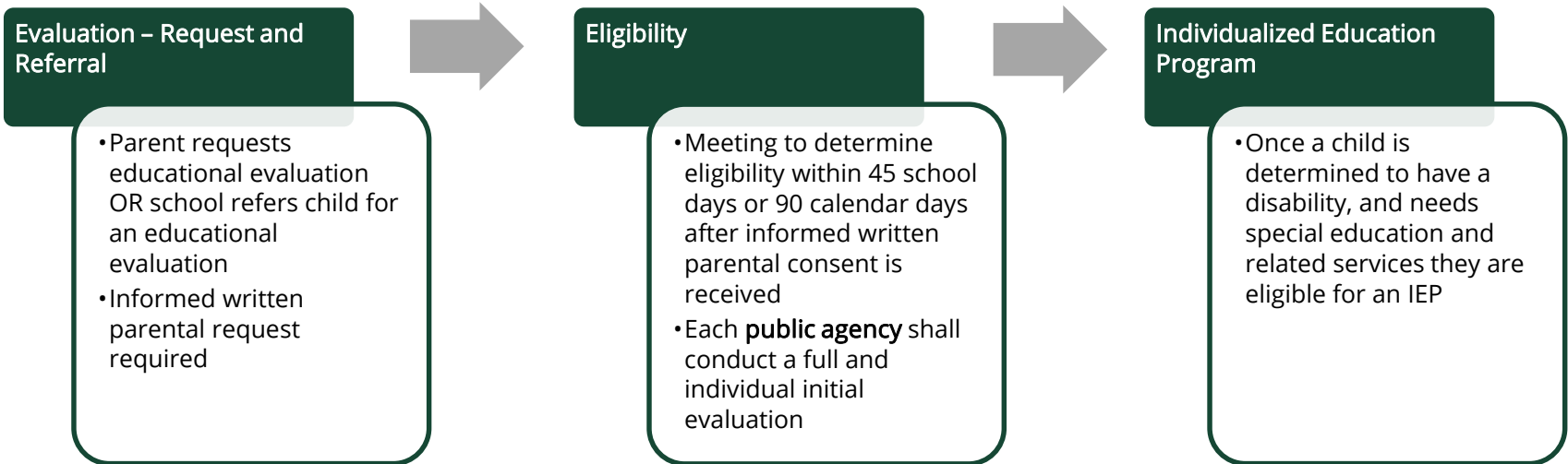
More intensive

\*This is not a comprehensive list of LRE settings, and is for informational purposes only

# Context and Definitions: Identification and Services of Special Education Students

How are special education students identified and placed in appropriate special education services, per IDEA mandate?

## Determination of Eligibility



## Fundamentals of the IEP Plan

### Define current level of academic achievement

- Detailed description of the student's functional performance
- Determine how the student's disability affects his or her involvement and progress in the general curriculum

### Determine appropriate modification(s) (which can include)

- Modifications to assessment: duration, exemption to a portfolio assessment, etc.
- Modifications to educational program: delivery location, Extended School Year, push in/pull out, one-on-one aide, speech therapy, etc.

### Set measurable annual goals including targets for:

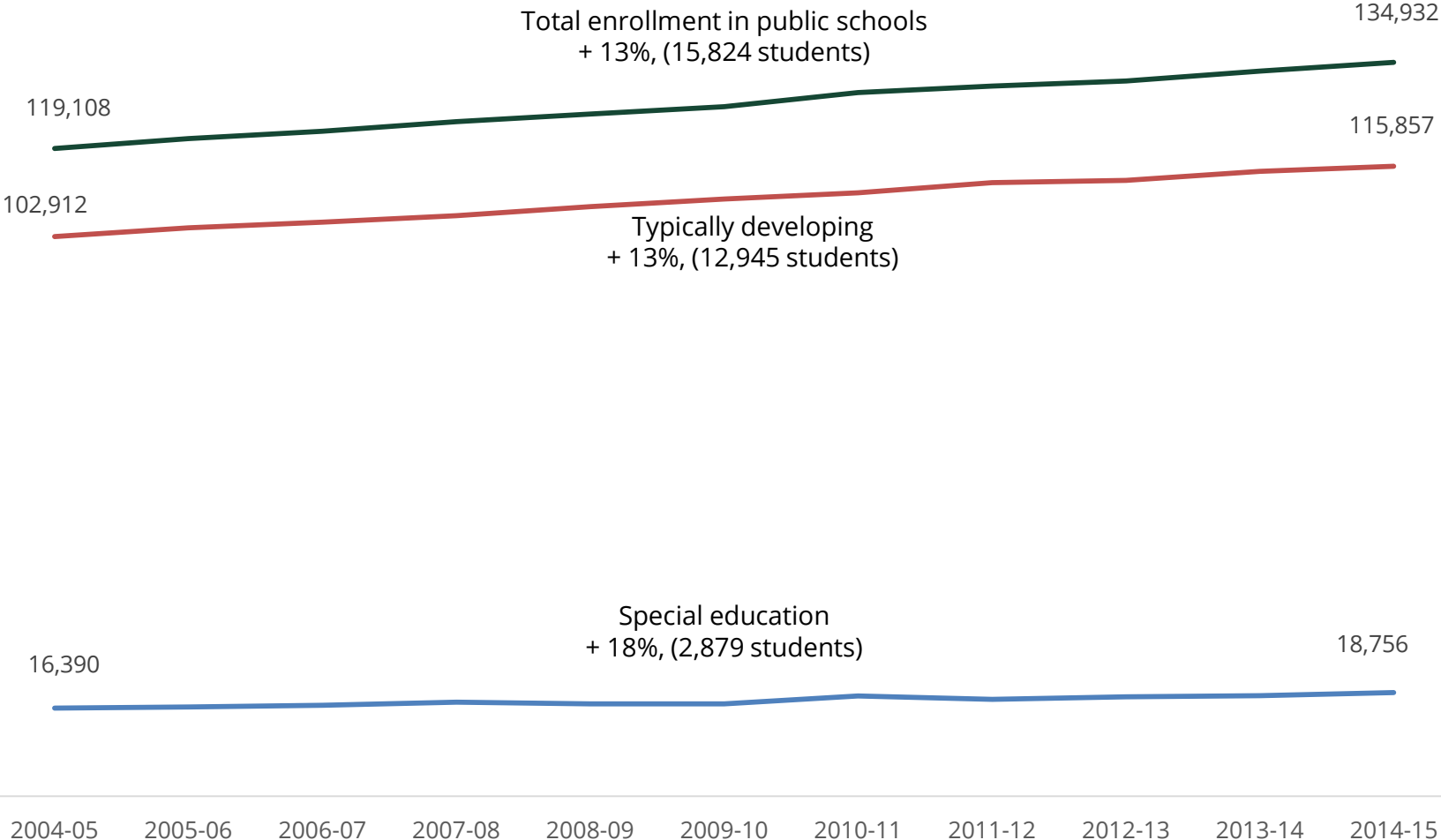
- State annual assessment
- Goals for specific academic and life skills
- Post-graduate transition planning

### Assign responsibility for special education services

- Specifically determine the execution of services and who will provide them
- Including supplementary aides or services outside the student's feeder school

# Delaware Landscape: Student Enrollment Trends, 2004-2015

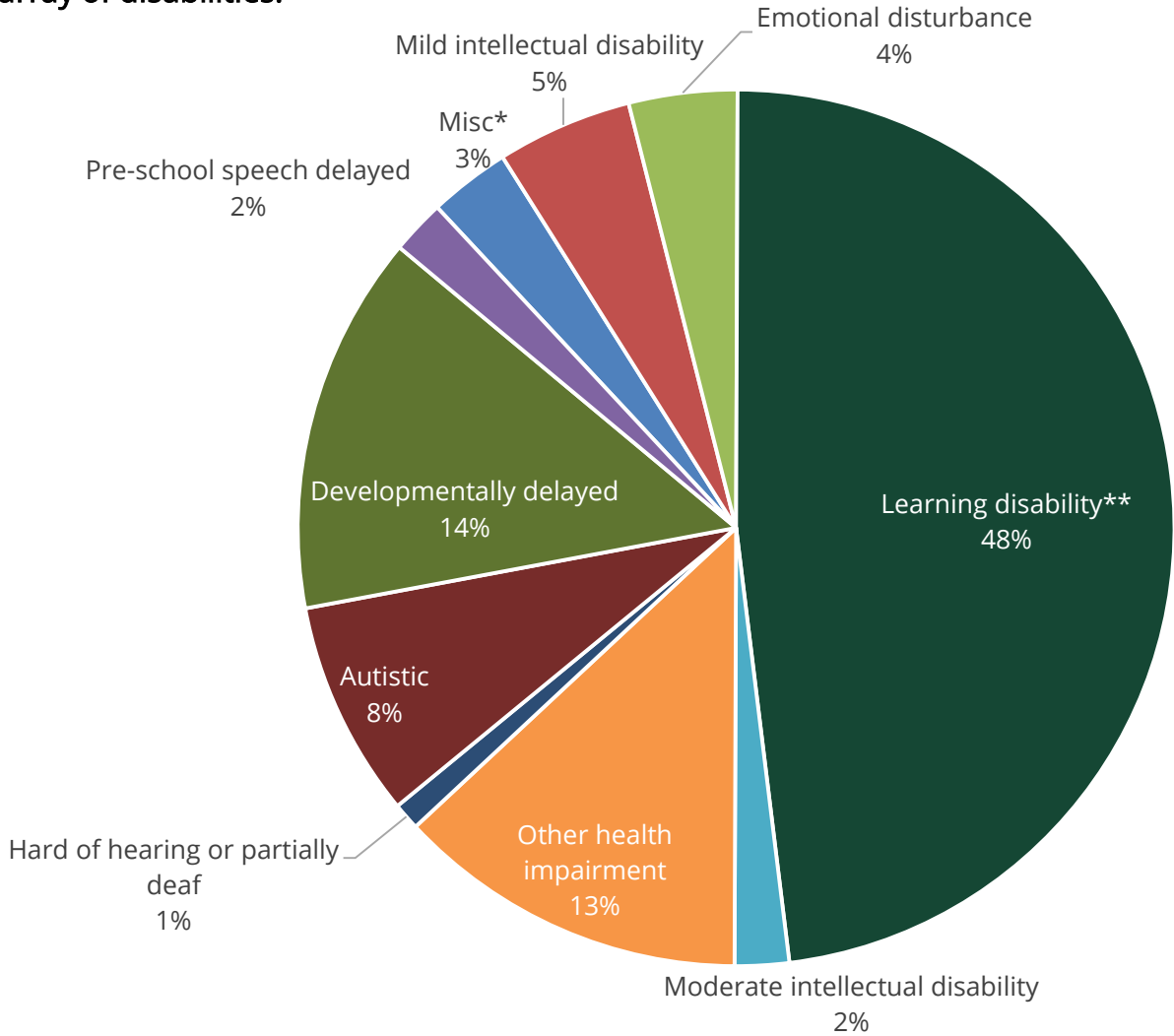
Students with disabilities comprise 14 percent of total enrollment in public school. There are approximately 19,000 students identified as special education. This population has increased by nearly 3,000 students over the past decade (18 percent growth).



Source: Delaware Department of Education, Detailed Student Enrollment Report (2014-2015)

# Delaware Landscape: 2014-15 Special Education Student Enrollment, by Disability

There are more than 18,000 special education students enrolled in Delaware public schools, reflecting a wide array of disabilities.



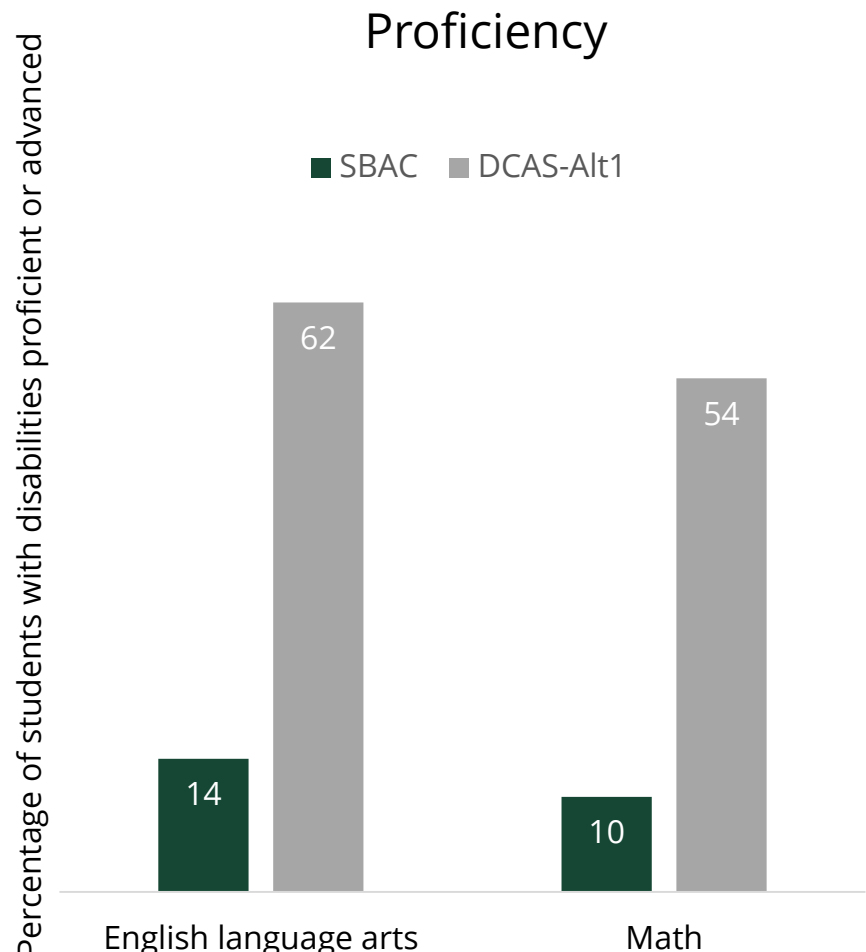
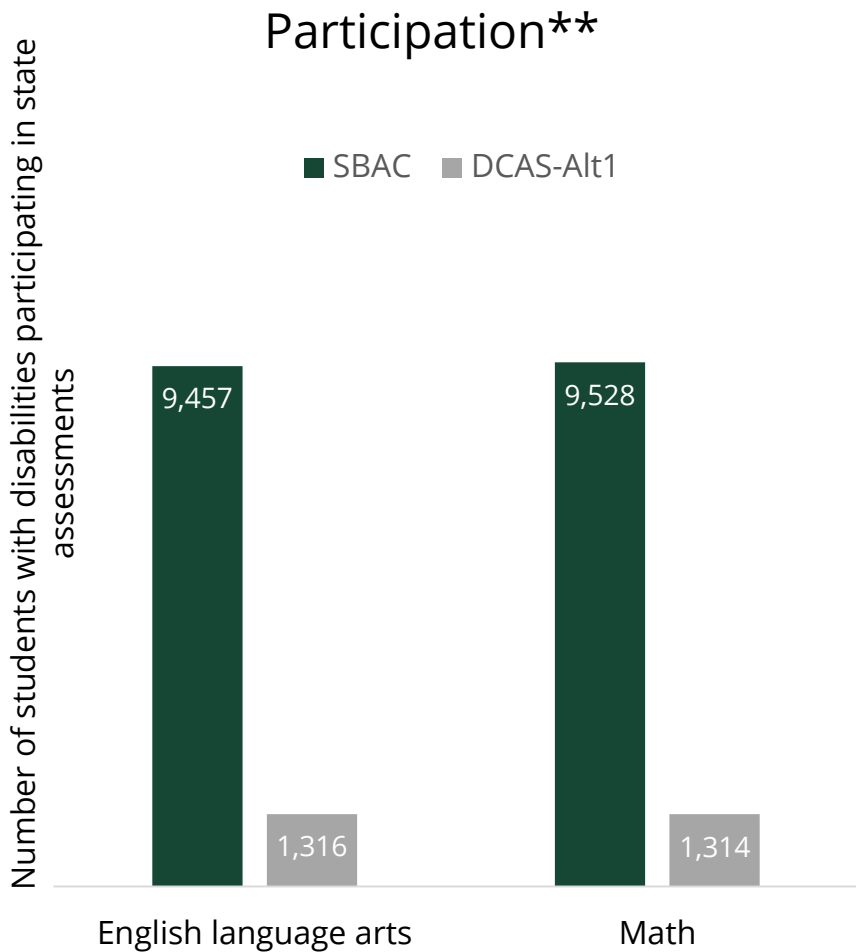
\*Miscellaneous includes disabilities that respectively make up less than 1% of the total special education population, including: partially sighted, blind, traumatic brain Injury, and severely mentally handicapped.

\*\*"Learning Disability" includes conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

Source: Delaware Department of Education, Detailed Student Enrollment Report (2015). Online School and District Profiles: State Enrollment History for Public Schools.

# Delaware Landscape: State Assessment Participation

Approximately 10,000 students with disabilities participated\* in a state assessment. Special education subgroup performance on DCAS does not reflect students with significant intellectual disabilities who cannot meaningfully participate in the general assessment, even with accommodations; an alternative assessment (DCAS-Alt1) is available for these students.

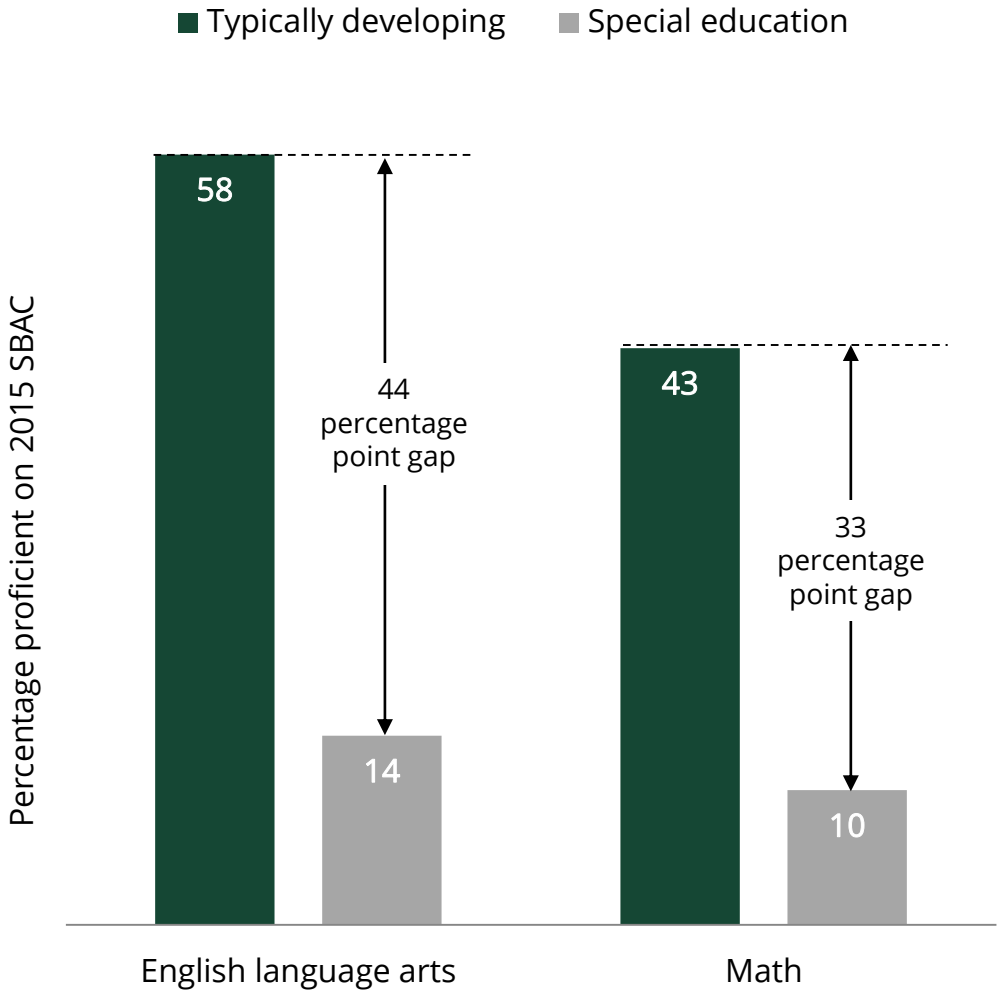


\*For DCAS-Alt1, grades three through 11 tested.  
Source: Delaware Department of Education, SBAC and DCAS-Alt1 Data (2014-15).  
\*\*For accountability purposes, federal guidelines cap the percentage of students (with disabilities) that may take an alternative state assessment to 1 percent of all students in a district or state—or about 10 percent of students with disabilities in a district or state.  
Source: <http://www2.ed.gov/policy/elsec/guid/raising/alt-assess-long.html>



# Delaware Landscape: State Assessment Proficiency Gaps

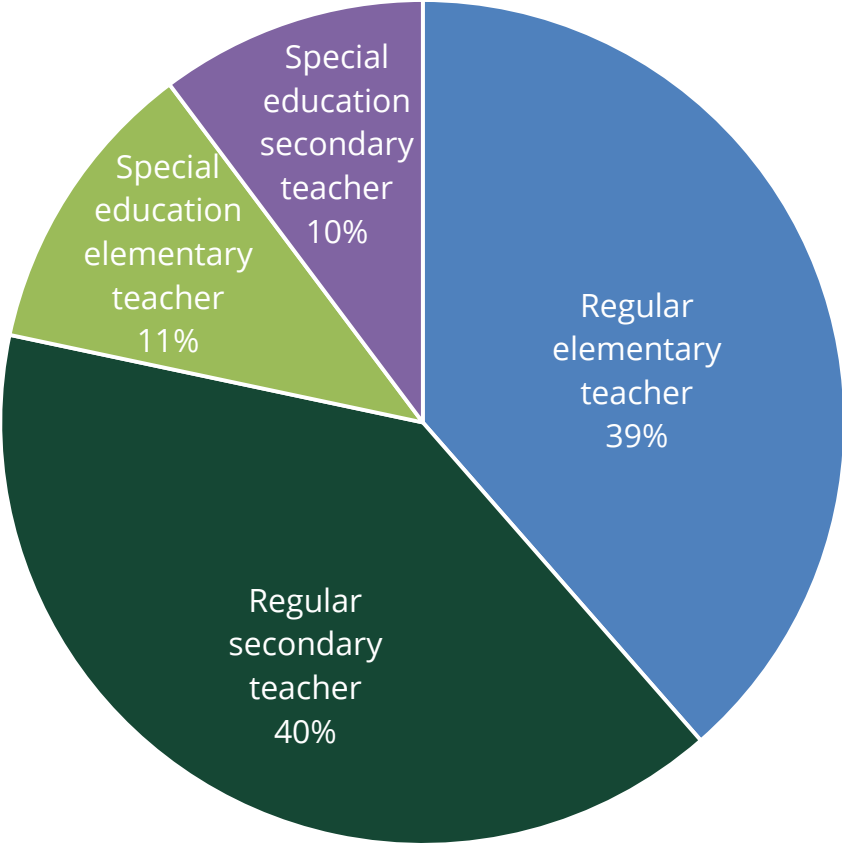
Significant Smarter Balanced proficiency gaps persist between students with disabilities and students without disabilities.



*Note: Percentage of students scoring proficient or advanced calculated by dividing the total number of students scoring proficient or advanced by the total number of exams administered. Grades 3-8, and 11 tested. Special education subgroup performance does not reflect students with significant intellectual disabilities who cannot meaningfully participate in the general assessment, even with accommodations; an alternative assessment (DCAS-Alt1) is available for these students.*  
Source: Delaware Department of Education. (2015). 2015 Smarter Balanced Assessment Results.

# Delaware Landscape: Special Education Teachers\*

There are nearly 2,000 special education classroom teachers, making up 22 percent of full-time classroom teachers in Delaware. The classroom roles of the special education teacher vary depending upon the special education model implemented at a given school or classroom.



- **Consultative Model:** Special education students remain in the general classroom. A special education teacher assists the general education teacher in adapting and modifying for the special education students. Direct teaching is the responsibility of the regular education classroom teacher.
- **Collaborative Model:** A regular classroom teacher and a special education teacher/paraprofessional work together and have mutual responsibilities. The special education teacher/paraprofessional provides accommodations and modifications for any student needing additional strategies for learning. Lead teacher of inclusion, special education and non-special education classroom.
- **Resource/Small Group Model:** A pull-out model where special education students receive instruction outside the regular classroom. A special education teacher provides direct instruction. Special education students are served up to three hours per day.
- **Self-Contained Model:** A pull-out model where special education students receive instruction outside the regular classroom. A special education teacher provides direct instruction. Special education students are served for more than half of the school day.

\*These numbers do not reflect other educators that directly support students with disabilities supports in the classroom, including para educators and other specialists. Source: Delaware Department of Education, 2014-15.

## Delaware Landscape: Recent Legislative Actions

Special education issues have become a more pressing area for policymakers in recent years.

Legislation	Date Approved	Synopsis
SCR63	7/1/2014	Creates a task force to review the Individualized Education Plan process and make recommendations for supporting parents in this process.
SCR65	7/14/2014	Establishes an Autism Educational Task Force to review a comprehensive statewide appraisal of the ongoing needs of Delawareans with autism spectrum disorder and to make recommendations regarding the initiation of Educational and Technical Assistance Teams and a statewide Autism Resource Center.
SB229	7/15/2014	Created a process by which students with significant cognitive disabilities could opt out of the state's assessment system and opt into an alternative portfolio option.
SB255	7/1/2014	Appropriated funds to support a comprehensive review of special education services within public schools the department has been authorized to create a new position. This position will be responsible for engaging stakeholders and for managing the implementation of new initiatives in special education. Search is currently underway.
SCR2 with SA1	1/28/2015	This Concurrent Resolution creates the Blind and Visually Impaired Education Task Force.
SCR22	5/14/2015	This resolution establishes a task force on State Educational Technology, including assistive technology*. The task force will review how technology is used in public education classrooms. The task force must make certain determinations and issue recommendations. A task force report shall be completed by March 30, 2016.
SB33 with SA3	6/18/2015	This Act implements the legislative recommendations of the IEP Improvement Task Force created by the 147th General Assembly. The Amendment makes a number of changes to better implement the recommendations of the Individualized Education Program (IEP) Improvement Task Force. It adds new emphasis to the law requiring that notices to parents must be in writing. It clarifies that charter schools and school districts have similar obligations in educating students with disabilities and that charter schools have an ongoing obligation to have a designated staff person trained in the legal requirements of educating students with disabilities. It provides clearer protections to those advocating for students with disabilities by adding the protections existing under Delaware's whistleblower laws. Finally, it adds a specific task force recommendation that progress on transition-related goals be regularly reported.

\* **Assistive technology** is an umbrella term that includes assistive, adaptive, and rehabilitative devices for people with disabilities and also includes the process used in selecting, locating, and using them.

What upcoming special education issues will the state have to address in the near future?

- U.S. Department of Education's Office of Special Education Program gave Delaware a **"needs intervention"** rating.
  - Deficiencies noted:
    - Performance
      - Delaware has a significant performance gap for students with disabilities on DCAS
      - Delaware has low participation rates for special needs students on NAEP
    - Compliance
      - The state reported significant deficiencies in its transition planning of secondary students with disabilities
  - Failure to show improvement within three years could lead to corrective action and/or federal funds being restricted or withheld
  - DOE is currently conducting comprehensive review of special education services in order to take action to correct this issue
- Legislation/regulation based on the recommendations of task forces:
  - Autism Task Force is planning the initiation of Educational and Technical Assistance Teams and a statewide Autism Resource Center
    - Researching appropriate funding streams to enable the creation and implementation of these two programs
  - Education Technology Infrastructure Task Force will propose recommendations for improving access to and use of assistive technology