

CALIFORNIA LEGISLATURE

SENATE COMMITTEE ON EDUCATION,  
SENATE BUDGET & FISCAL REVIEW  
SUBCOMMITTEE NO. 1 ON EDUCATION,  
ASSEMBLY EDUCATION COMMITTEE, AND  
ASSEMBLY BUDGET SUBCOMMITTEE NO. 2  
ON EDUCATION FINANCE

JOINT INFORMATIONAL HEARING ON

# Special Education Finance



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FEBRUARY 28, 2018 • 9 AM

JOHN L. BURTON HEARING ROOM (4203)

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Pan, Richard  
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# California State Senate

## JOINT HEARING SENATE EDUCATION, SENATE BUDGET & FISCAL REVIEW SUBCOMMITTEE NO. 1 ON EDUCATION AND ASSEMBLY EDUCATION AND ASSEMBLY BUDGET SUBCOMMITTEE NO. 2 ON EDUCATION FINANCE

**Staff Director**  
Lynn Lorber

**Principal Consultant**  
Brandon Darnell  
Ogalilia Ramirez  
Ian Johnson

**Committee Assistant**  
Alissa Jimenez  
Irma Kam



**SENATORS ALLEN AND PORTANTINO  
ASSEMBLY MEMBERS O'DONNELL AND  
MCCARTY  
CHAIRS**

### **AGENDA**

Wednesday, February 28, 2018  
9 a.m. -- John L. Burton Hearing Room (4203)

- I. **Welcome and Hearing Purpose**
- II. **Overview and History of Special Education Finance in California**
  - *Ryan Anderson, Fiscal & Policy Analyst, Legislative Analyst's Office*
- III. **Local Perspectives on Special Education Finance**
  - *Francisco Escobedo, Superintendent, Chula Vista Elementary School District*
  - *Helio Brasil, Superintendent, Keyes Union School District*
  - *Anna Marie Villalobos, Director, Santa Clara County SELPAs*
  - *Jayne Christakos, Chief Business Officer, San Bernardino City Unified School District*
  - *Robbie Kreitz, Special Education Resource Teacher, Dublin Unified School District*
  - *Martha Penry, Retired Special Education Paraprofessional, Twin Rivers Unified School District*
  - *Karina Luquin, Parent Leader, Spanish language special education parent support group, Butte County*

**IV. Special Education Task Force & California Department of Education**

- *Maureen Burness, Co-Executive Director, Statewide Special Education Task Force*
- *Vicki Barber, Co-Executive Director, Statewide Special Education Task Force*
- *Kristin Wright, Director of the Special Education Division, California Department of Education*

**V. Public Comment**

**SPECIAL EDUCATION FINANCE  
BACKGROUND MATERIALS**

**1. Publications & Reports**

- a. *LAO: Overview of Special Education in California***
- b. *Statewide Task Force on Special Education***
- c. *PPIC: Special Education Finance in California***

# Publications & Reports

# LAO: Overview of Special Education in California

# Overview of Special Education in California



MAC TAYLOR • LEGISLATIVE ANALYST • JANUARY 3, 2013

AN LAO REPORT



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AN LAO REPORT

## EXECUTIVE SUMMARY

Special education is the “catch-all” term that encompasses the specialized services that schools provide for disabled students. This report provides a comprehensive review of special education—conveying information on applicable laws, affected students, services, funding, and student outcomes.

***Public Schools Must Provide Special Support for Disabled Students.*** Federal law requires schools to provide “specially defined instruction, and related services, at no cost to parents, to meet the unique needs of a child with a disability.” The law requires schools to provide disabled students with these special supports from age 3 until age 22, or until they graduate from high school, whichever happens first. These services are in addition to what a nondisabled student receives.

***About One in Ten California Students Receives Special Education Services.*** About 686,000 students with disabilities (SWDs) receive special education services in California, comprising about 10 percent of the state’s public school enrollment. Specific learning disabilities—including dyslexia—are the most common diagnoses requiring special education services (affecting about 4 percent of all K-12 students), followed by speech and language impairments. While the overall prevalence of students with autism and chronic health problems still is relatively rare (each affecting 1 percent or less of all public school students), the number of students diagnosed with these disabilities has increased notably over the past decade.

***Special Education Services Vary Based on Individual Student Needs.*** Federal law only requires schools to provide special education services to students with diagnosed disabilities that *interfere* with their educational attainment. To determine a student’s need and eligibility for special education, schools must conduct a formal evaluation process. If schools determine that general education programs cannot adequately meet a disabled student’s needs, they develop Individualized Education Programs (IEPs) to define the additional services the school will provide. Each student’s IEP differs based on his or her particular disability and needs. Specialized academic instruction is the most common service that schools provide. This category includes any kind of specific practice that adapts the content, methodology, or delivery of instruction to help SWDs access the general curriculum. Other commonly provided services include speech and language assistance and various types of therapies for physical and psychological needs that may be impeding a SWD’s educational attainment. Although federal law encourages schools to educate disabled students in mainstream settings, most (about three-quarters) of special education services are delivered in settings other than regular classrooms.

***In General, the State Uses a Regional Structure to Organize Special Education.*** Because economies of scale often improve both programmatic outcomes and cost-effectiveness, special education funding and some services are administered regionally by 127 Special Education Local Plan Areas (SELPA) rather than by the approximately 1,000 school districts in the state. Most SELPAs are collaborative consortia of nearby districts, county offices of education (COEs), and charter schools, although some large districts have formed their own independent SELPAs, and three SELPAs consist of only charter schools.

***The Excess Costs Associated With Providing Special Education Services Are Supported by Federal, State, and Local Funds.*** Schools receive billions of dollars to provide a basic educational program—including teachers, instructional materials, academic support, and enrichment activities—for *all* students, including SWDs. The average annual costs of educating a SWD, however, are more than double those of a mainstream student—approximately \$22,300 compared to \$9,600. (It is important to note that most SWDs require less severe, less costly services, whereas some students require intensive interventions that cost notably more than \$22,300 per year.) Schools receive categorical funds to cover a portion of these additional, or “excess costs,” associated with addressing students’ disabilities. Because federal and state special education funds typically are not sufficient to cover the costs of all IEP-required services, however, schools spend from their local unrestricted general funds to make up the difference. In 2010-11, special education expenditures totaled \$8.6 billion. State special education categorical funds covered the largest share of these costs (43 percent), combined with spending from local general purpose funds (39 percent) and federal special education funds (18 percent). Over the past several years, a combination of increasing special education costs and relatively flat state and federal special education funding has resulted in local budgets covering an increasing share of these costs.

***Special Education Funds Allocated to SELPAs Based on Overall Student Population, Not Number of Disabled Students.*** California relies primarily on a “census-based” funding methodology that allocates special education funds to SELPAs based on the *total* number of students attending, regardless of students’ disability status. This funding model implicitly assumes that SWDs—and associated special education costs—are relatively equally distributed among the general student population and across the state. The amount of per-pupil funding each SELPA receives varies based on historical factors. In 2011-12, the weighted statewide average per-pupil rate was \$645 per student (including both state and federal funds). After receiving its allocation, each SELPA develops a local plan for how to allocate funds to the school districts and charter schools in its region based on how it has chosen to organize special education services for SWDs.

***Mixed Academic Outcomes for Disabled Students.*** Some performance indicators suggest SWDs generally are performing well, whereas other indicators are less encouraging. For example, performance on standardized tests (including those specifically designed for SWDs) has improved over the past several years, but a majority of SWDs still fail to meet state and federal achievement expectations. As SWDs near the end of their time receiving special education services, data show that about 60 percent of SWDs graduate on time with a high school diploma and about two-thirds of SWDs are engaged productively after high school (with about half enrolled in an institute of higher education and 15 percent competitively employed within one year after high school).

## INTRODUCTION

Special education is the catch-all term that encompasses the specialized services that schools provide for disabled students. Policymakers might have several reasons for seeking a deeper understanding of the state’s approach to delivering special education. First, a notable share—roughly 10 percent—of California’s K-12 students receive special education services. As such, the effectiveness of these services relates directly to the academic outcomes of almost 700,000 of the state’s children. Second, special education is one of the most complicated and regulated areas of K-12 education, with multiple sets of federal and state laws governing how schools must provide services. Finally, special education is among the most

significant areas of K-12 expenditures, supported by a combination of the single largest state categorical allocation, one of the biggest federal education grants, and a substantial portion of local school budgets.

This report is intended to provide the Legislature and public with an overview of the state’s approach to educating disabled students. It provides a “primer-style” review—conveying information on special education laws, affected students, services, and funding. We also describe the academic outcomes of the students who receive these special services. Additionally, the end of the report includes a glossary defining some common terms related to special education.

## WHAT IS SPECIAL EDUCATION?

***Public Schools Must Provide Special Support for Disabled Students.*** Since 1975, federal law has required public schools to make special efforts to educate disabled students. Revised and reauthorized as the Individuals with Disabilities Education Act (IDEA) in 2004, federal special education law requires local educational agencies (LEAs) to provide “specially defined instruction, and related services, at no cost to parents, to meet the unique needs of a child with a disability.” (Throughout this report, we use the term “special education” to refer to both special instruction and related services, such as speech or behavioral therapy.) These services are in addition to what a nondisabled student receives. The IDEA requires schools to provide these special supports to children with disabilities from age 3 until age 22, or until they graduate from high school, whichever

happens first. (The IDEA also guarantees some early intervention services for infants and toddlers with developmental disabilities, but the state’s Regional Centers, not schools, typically are tasked with providing these services.)

***Both Federal and State Laws Govern Special Education.*** Most special education requirements are contained in federal law, although the state Legislature also has passed some additional laws governing how California schools must serve disabled students. Generally, state special education laws make relatively minor additions to the more substantial federal requirements. For example, whereas the federal entitlement for services ends on a student’s 22<sup>nd</sup> birthday, California law extends services for 22-year-old students through the end of that school term.

## WHO RECEIVES SPECIAL EDUCATION SERVICES?

Not all disabled children need special education services. Below, we discuss the process for identifying which students require special education services and the types of disabilities that commonly affect these students.

### How Do Schools Decide Which Students Require Special Education Services?

#### *Schools First Must Try to Meet Students' Needs Within the General Education Program.*

A student cannot qualify to receive special education services until after the school has tried to meet his or her needs within the parameters of the general education program. Educators typically attempt a series of informal strategies to address struggling students' needs before employing the formal special education process. Two such approaches include Student Study Teams (SSTs) and Response to Intervention (RtI). The SST—a group that usually includes the student's school-site administrator, teacher, and parent—typically discusses the student's progress and identifies in-class strategies for the classroom teacher to try. The RtI is an instructional approach designed to identify struggling students and provide interventions explicitly targeted to meet their needs.

***Schools Evaluate Whether Student Has Disability That Requires Special Education Services.*** If LEAs determine that general education programs cannot adequately meet a student's needs, they next refer the student for a professional evaluation to see if he or she qualifies to receive special education. Once the LEA makes the referral and the parent consents, the law requires that the evaluation be conducted within 60 days. The evaluator assesses whether the student has a disability and whether that disability

*interferes* with the student's education. Federal law only requires schools to provide special education services to students who meet both of these criteria.

***Students' IEPs Define Their Special Education Services.*** Once an evaluator recommends that special education services would be appropriate, a team of stakeholders come together to prepare an IEP—an individualized written statement defining the services the LEA will provide for the student. Federal and state laws outline the IEP process, including setting timelines for completing and reviewing the plan (at least annually, but more frequently if a student's needs change); specifying what the plan should include (described in Figure 1); and designating required IEP team participants. An IEP team typically includes the student's parents, a school administrator, a special education teacher or service provider, the student's general education teacher, the evaluator who determined the student's eligibility for services, and—when appropriate—the student. The IEP becomes a legal document requiring the LEA to provide the services described for the SWD. (Throughout the remainder of this report, we use the term SWD to refer to disabled students who have formally qualified to receive special education services.)

***Section 504 Plans Describe Noninstructional Accommodations.*** Some SWDs who need other special accommodations to fully participate in school activities may have a Section 504 Plan in addition to, or instead of, an IEP. Section 504 Plans, which also are federal entitlements for eligible students, typically cover noninstructional modifications like wheelchair ramps, blood sugar monitoring, or tape recorders for taking notes.

Figure 1

**Required Components of Individualized Education Programs**

- ✓ **Current Status.** The child’s present level of academic achievement and functional performance.
- ✓ **Goals.** Measurable annual goals for the child’s academic and functional performance.
- ✓ **Progress Measures.** How progress towards meeting annual goals will be measured.
- ✓ **Services to Be Provided.** Special education and related services to be provided, such as supplementary services and/or program modifications for the child. Details must include the projected beginning date, frequency, location, and duration of the services to be provided.
- ✓ **Inclusion in Mainstream Setting.** The extent to which the child will/will not participate with nondisabled children in the regular class.
- ✓ **Assessment Plan.** Accommodations necessary for child to participate in state and district assessments or alternate assessments necessary to measure the child’s academic achievement and functional performance.
- ✓ **Additional Considerations.** As appropriate: employment or career goals, alternative course of study for grade promotion and high school graduation, plan for transitioning to general education or postsecondary activities, specialized equipment or transportation needs, goals for learning English, and/or extended school-year services.

**Students Attending Private Schools Also Are Entitled to Special Education Services.** Students with disabilities attending private schools also have the right to access publicly funded special education services. Those services, however, frequently are provided in the public school setting and may be less extensive than what would be available if the student opted to enroll in public school full time.

**What Types of Disabilities Affect Students?**

**Federal Law Has 13 Disability Classifications.** To be eligible for special education services under federal law, students must have a primary disability that falls into one of the 13 categories listed in Figure 2 (see next page). The figure shows that about 686,000 SWDs ages 3 to 22 receive special education services in California. About 618,000 are in grades K-12, comprising about 10 percent of the state’s overall K-12 public school enrollment.

**Learning Disabilities Are Identified Most Frequently.** As shown in the figure, 41 percent of the state’s SWDs and over 4 percent of all K-12 students are identified as having specific learning disabilities. These are disorders affecting one or more of the basic processes involved in understanding/using language or performing mathematical calculations. (Dyslexia is one commonly identified learning disability.) The next largest category—speech or language impairments—affects almost one-quarter of SWDs. Autism affects 10 percent of SWDs. Rarer disability categories include students who are blind, deaf, or have traumatic brain injuries. Students with these less common disabilities often require more intensive and expensive special education services.

**Prevalence of Some Disabilities Has Changed Over Past Decade.** Figure 3 (see next page) displays the number of California students identified in various disability categories over the past ten years.

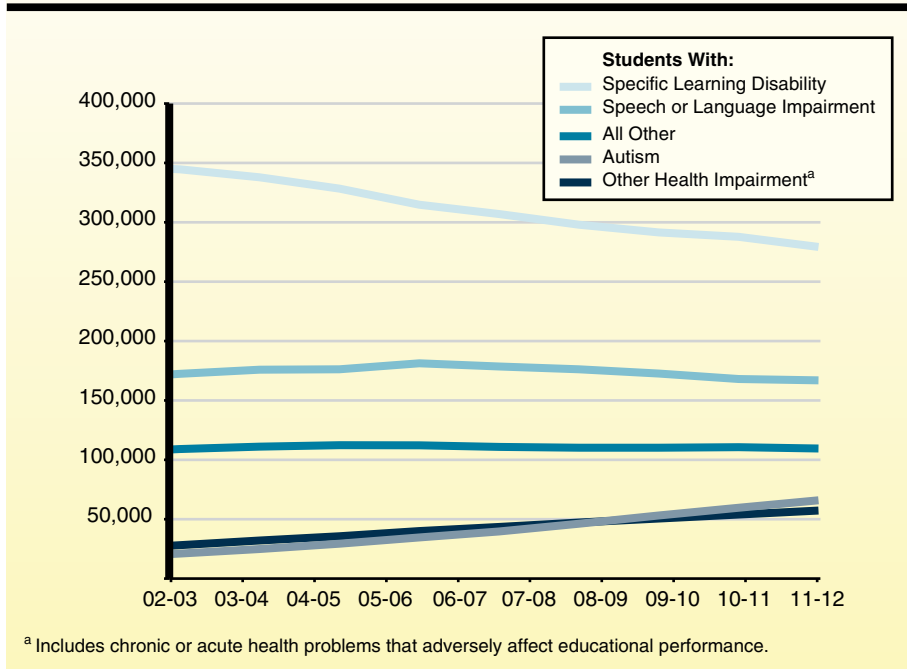
**Figure 2**  
**About 10 Percent of California Students Have Disabilities Affecting Their Education**

2011-12

Disability	Number of SWDs <sup>a</sup>	Percent of SWDs	Percent of Total K-12 Population
Specific learning disability <sup>b</sup>	278,698	41%	4.4%
Speech or language impairment	164,600	24	2.1
Autism	71,825	10	1.0
Other health impairment <sup>c</sup>	61,843	9	0.9
Mental retardation	43,303	6	0.5
Emotional disturbance	25,984	4	0.4
Orthopedic impairment	14,261	2	0.2
Hard of hearing	9,991	1	0.1
Multiple disability	5,643	1	0.1
Visual impairment	4,327	1	0.1
Deaf	3,946	1	0.1
Traumatic brain injury	1,771	— <sup>d</sup>	— <sup>e</sup>
Deaf and blind	160	— <sup>d</sup>	— <sup>e</sup>
<b>Totals</b>	<b>686,352</b>	<b>100%</b>	<b>9.9%</b>

<sup>a</sup> Reflects students with disabilities (SWDs) ages 3 to 22 receiving special education services.  
<sup>b</sup> Includes disorders resulting in difficulties with listening, thinking, speaking, reading, writing, spelling, or doing mathematical calculations.  
<sup>c</sup> Includes having chronic or acute health problems (such as a heart condition, asthma, epilepsy, or diabetes) that adversely affect educational performance.  
<sup>d</sup> Less than 0.5 percent.  
<sup>e</sup> Less than 0.05 percent.

**Figure 3**  
**Prevalence of Some Disabilities Has Changed Over Past Decade**



The figure shows that while the prevalence of many disabilities has stayed relatively constant, the number of students identified with specific learning disabilities has dropped by almost 20 percent. In contrast, while the overall prevalence of autism and other health impairments still is relatively rare, the number of students diagnosed with these disabilities has increased notably over the past decade—by 241 percent and 120 percent, respectively. While California’s identification rates vary somewhat from other states, these general trends also are visible across the nation. Experts believe these changes are partially related to evolving diagnoses and instructional practices. For example, some children who might previously have been classified with learning disabilities now are receiving early and intensive instructional interventions and avoiding special education designations. Some of the trends—such as the dramatic growth in autism—remain more difficult to explain.

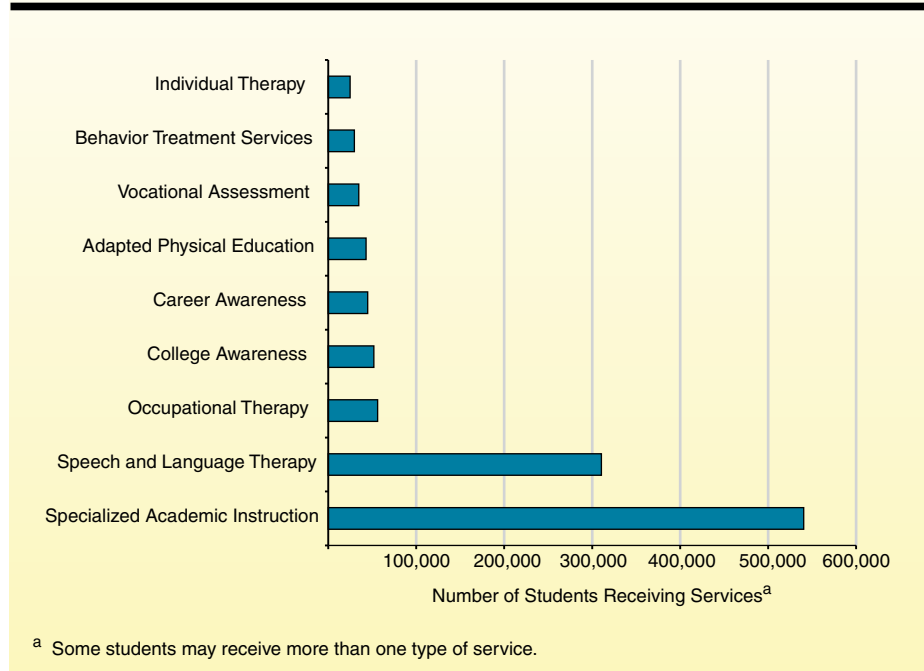


## WHAT SPECIAL EDUCATION SERVICES DO STUDENTS RECEIVE?

**Services for SWDs Vary Based on Individual Student Needs.** Figure 4 displays the most frequently provided special education services. As shown, specialized academic instruction is the most common service. This category includes any kind of specific practice that adapts the content, methodology, or delivery of instruction to help SWDs access the general curriculum. Examples include one-to-one tutoring, specialized instruction in a separate classroom, or modified assignments. Other commonly provided services include speech and language assistance, career and college awareness activities, and various types of therapies for physical and psychological needs that may be impeding a SWD’s educational attainment.

**Older SWDs Receive Services to Help Transition to Adulthood.** One of the IDEA’s goals is to prepare SWDs for success in life after high school, when the federal entitlement to

**Figure 4**  
**Most Common Special Education Services Provided to Students With Disabilities**



special education services typically ends. As such, beginning when students are age 16, LEAs are required to develop specific services in IEPs to help SWDs prepare for the transition to postsecondary activities. Transitional services typically include vocational and career readiness activities, college counseling, and training in independent living skills. The state provides some funding specifically targeted for these types of activities, including the “WorkAbility” program and specialized Regional Occupational Center/Program services.

## WHERE ARE SPECIAL EDUCATION SERVICES PROVIDED?

**Federal Law Encourages LEAs to Educate SWDs in Mainstream Settings.** Federal law requires that SWDs be educated in separate

settings only when the nature or severity of their disabilities is such that the regular educational environment is not practical, even with the use of

supplementary aids and services. Educating SWDs alongside their nondisabled peers often is referred to as “inclusion” or “mainstreaming.” Based on this principle of the “least restrictive environment” (LRE), around half of California’s SWDs spend at least 80 percent of their time in regular classrooms. This rate is somewhat lower, however, than most other states. On average, about 60 percent of SWDs across the country spend at least 80 percent of their instructional time in regular classrooms. Accordingly, California’s annual federal performance review for special education has set a goal of increasing inclusion rates even further—to at least three-quarters of SWDs being in the regular classroom for 80 percent of the day.

***Most SWDs Receive Specialized Services in Settings Other Than the Regular Classroom.***

Rather than focusing on student time, a somewhat different but related metric focuses on the extent to which special education services are delivered in the regular classroom. One reason California fails to meet federal LRE targets is that only about

one-quarter of its special education services are delivered in the regular classroom. By comparison, about half of specialized services are delivered at SWDs’ regular schools but in separate classrooms. These latter services consist of part-day “pull-outs” from or supplements to regular classroom instruction (for students with less severe needs) as well as “special day” classes (for students who need more intensive accommodations). Students in special day classes typically spend most or all of their days in a specially designed instructional setting. The remaining one-quarter of special education services are provided at locations other than the regular school. For students with very severe disabilities, services sometimes are offered at district-operated disability centers, specially certified nonpublic schools, or residential facilities. Other typical off-site locations include therapists’ offices. Teachers and service providers who work with SWDs must hold—or be supervised by someone who holds—special credentials from the California Commission on Teacher Credentialing.

## HOW IS SPECIAL EDUCATION ORGANIZED IN CALIFORNIA?

***In General, State Uses Regional Structure to Organize Special Education.*** Providing individualized services for SWDs—particularly for students with severe or low-incidence disabilities—can be costly and difficult for individual LEAs, especially small LEAs with limited fiscal and staffing resources. Because economies of scale often improve both programmatic outcomes and cost-effectiveness, special education funding and some services typically are administered regionally rather than by individual school districts or charter schools. The state distributes special education funding to 127 SELPAs, rather than to the approximately 1,000 LEAs in the state. State

law requires that every school district, COE, and charter school belong to a SELPA.

***SELPAs Organized in One of Four Ways.*** As shown in Figure 5, LEAs have arranged themselves into four distinct types of SELPA configurations. Most (81) are consortia of nearby districts, COEs, and charter schools. In these consortia, one entity—often the COE—is designated to receive funding, facilitate coordination, and meet state and federal data reporting requirements. In contrast to the consortia model, 42 school districts, including many of the state’s largest, have opted to form their own independent SELPAs. (A LEA must provide one-year notice if it plans to leave one SELPA and

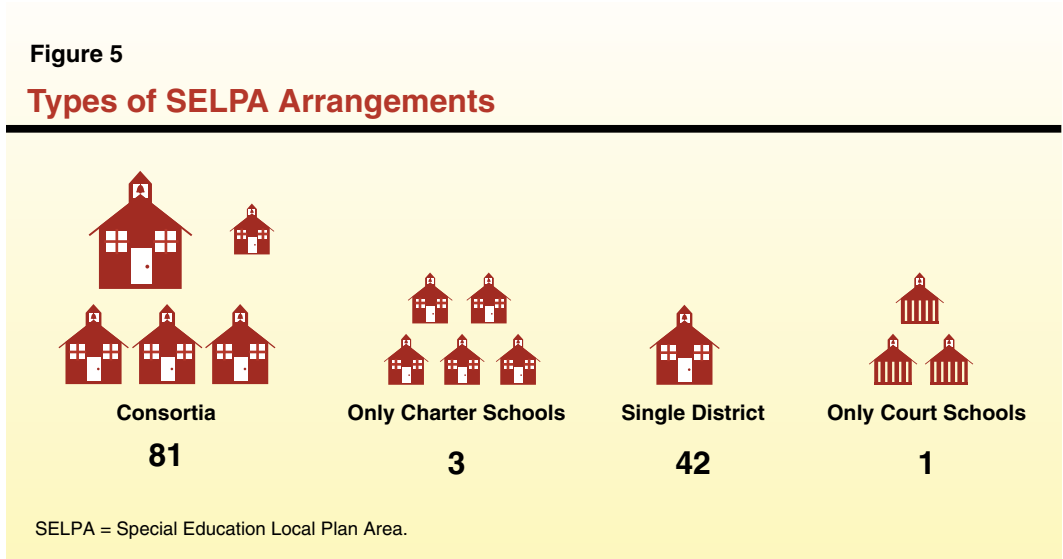
join another, and it must receive approval from the state in order to establish a new SELPA.) Three SELPAs—run out of COEs in El Dorado, Los Angeles, and Sonoma counties—consist exclusively of charter schools. Finally, one SELPA consists solely of court schools in Los Angeles County. The state’s SELPAs vary notably in size. In 2011-12, the state’s largest SELPA (Los Angeles Unified) served almost 82,300 SWDs, while the smallest (Sierra County SELPA) served 44 SWDs.

**An Increasing Number of Charter Schools Participate in Charter-Only SELPAs.** Charter schools can choose to organize special education services in three different ways: as a school of its authorizing school district, as an independent LEA member of a consortia SELPA, or as a LEA member of one of the three charter-only SELPAs. Charter schools that opt for LEA status—either within a consortia SELPA or as a member of a charter-only SELPA—assume legal responsibility for ensuring their SWDs receive the special services to which they are entitled under federal law. Charter schools increasingly are opting for the third option. The El Dorado County charter-only SELPA grew from 23 charter school members in 2008-09 to 138 charter school members in 2011-12. These schools are located across the state, not just in El Dorado County. The California Department of Education (CDE) also is anticipating increased membership in the two more newly

established charter-only SELPAs in Los Angeles and Sonoma counties.

**Consortia SELPAs Frequently Offer Some Regionalized Services.** While single-district SELPAs typically serve all of their SWDs directly, consortia SELPAs often pool resources to offer some regionalized special education services on behalf of member LEAs. For example, consortia SELPAs frequently organize professional development for teachers, preschool programs, and services for students with low-incidence disabilities at the regional level. Even if members of consortia SELPAs decide to provide some special education services on a regional basis, federal law still holds each LEA ultimately responsible for ensuring SWDs are served appropriately.

**Charter-Only SELPAs’ Service Model Typically Differs From Regional Consortia SELPAs.** Because charter-only SELPAs can include charter schools from across the state, their service model typically differs from those of traditional consortia SELPAs, which contain members from the same geographic region. Specifically, individual members of charter-only SELPAs typically run their own special education services, by either hiring or contracting with qualified staff. Some charter schools do seek economies of scale by



forming special education service collaboratives outside of the traditional SELPA structure, either with other charter schools or nearby school districts. Unlike with traditional SELPAs, however,

the COEs that administer charter-only SELPAs typically do not organize such collaborative arrangements.

## HOW IS SPECIAL EDUCATION FUNDED IN CALIFORNIA?

Special education is among the most significant areas of K-12 expenditures. Below, we discuss the sources that fund special education, how much special education services cost to provide, how the state distributes funds to SELPAs, and how SELPAs distribute funds to LEAs.

### Which Funding Sources Support Special Education?

***Services Supported by Federal, State, and Local Funds.*** Special education services are subsidized by a combination of three funding sources—federal, state, and local. Federal IDEA and state funds each are provided through discrete special education categorical grants. The state grant (which is comprised of both state General Fund and local property tax revenues) counts towards the Proposition 98 school funding requirement. The “local contribution” represents spending from LEAs’ unrestricted general funds.

### How Much Do Special Education Services Cost?

***Dedicated Special Education Funds Intended to Support the Excess Costs of Educating SWDs.*** Local educational agencies are allocated billions of dollars to provide an educational program—including teachers, instructional materials, academic support, and enrichment activities—for *all* students, including SWDs. To the degree their disabilities cause SWDs to require additional services beyond what mainstream students receive, LEAs use federal IDEA and state special education

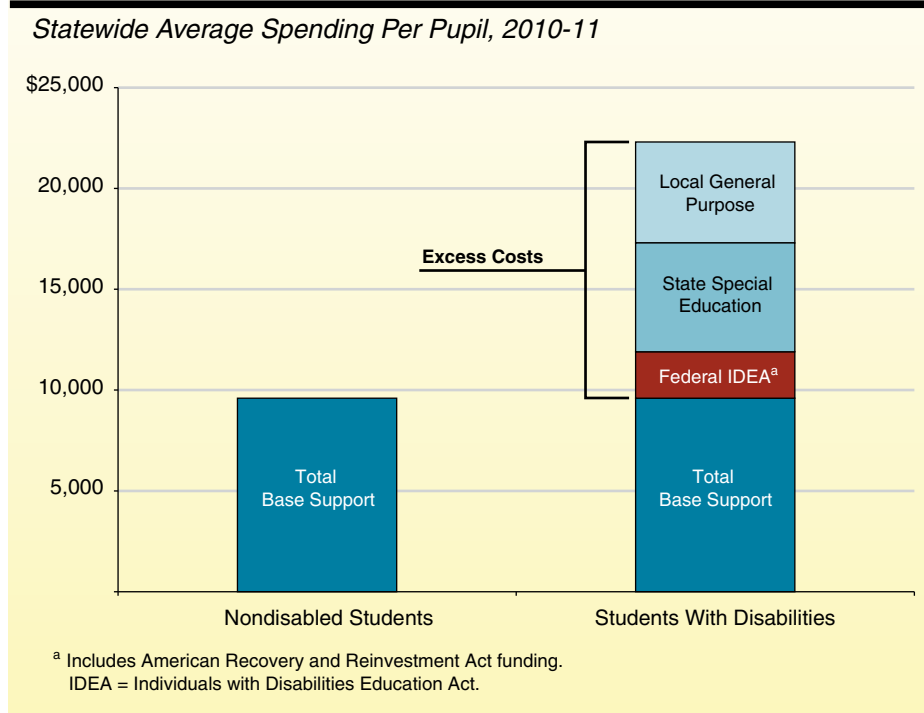
categorical funds to provide such services. That is, federal and state special education funds are not intended to support the *full* costs of educating a SWD—just the excess costs resulting from the need to address his or her disabilities. (See the nearby box for a discussion of this and another common misconception regarding local special education expenditures.) Because federal and state special education funds typically are not sufficient to cover the costs of all IEP-required services, local LEAs spend from their local unrestricted general funds to make up the difference.

***Average Costs of Educating SWDs More Than Double Those of Mainstream Students.*** Figure 6 illustrates the concept of excess costs. The figure shows that in 2010-11, LEAs spent an average of roughly \$9,600 in total funds per nondisabled student and more than twice as much, about \$22,300, per SWD. The additional \$12,700 to provide special IEP-required services for SWDs was supported by an average of about \$2,300 in federal funds, about \$5,400 in state funds, and about \$5,000 local funds. While \$12,700 was the approximate statewide *average* excess cost for an SWD, it is important to note that most SWDs require less severe, less costly services, whereas some students require intensive interventions that cost notably more than \$12,700 a year.

***Excess Costs of Educating SWDs Have Slowly Increased Over Past Several Years.*** Figure 7 (see next page) displays total special education expenditures from federal, state, and local funds

between 2004-05 and 2010-11, adjusted for inflation. (While these data are self-reported by LEAs and may contain some inconsistencies, they represent the best available proxy for calculating the excess costs associated with educating SWDs.) In 2010-11, total special education expenditures were covered by \$3.7 billion in state funds (including local property tax revenues), \$3.4 billion in local general purpose funds, and \$1.6 billion in federal funds. As illustrated in the figure, inflation-adjusted expenditures increased by an average of

**Figure 6**  
**Special Education Funds Support the “Excess Costs” Of Educating Students With Disabilities**



2 percent annually over the period, growing by a total of about 9 percent. The increases likely are

**Misconceptions About “Encroachment”**

Some local educational agencies (LEAs) complain that local contributions for special education “encroach” upon their general education programs, sometimes implying that *any* local dollar spent towards educating a student with disabilities (SWD) imposes unfair expenditure requirements on their general purpose budgets. This argument, however, is a mischaracterization of both federal and state laws. Federal Individuals with Disabilities Education Act (IDEA) and state special education categorical funds never were intended to cover the *full* costs of educating a SWD—instead the bulk of the “regular” education costs are intended to be covered using local revenue limit and categorical funding, just as for nondisabled students. Moreover, federal IDEA and state special education categorical funds never were intended to *fully* cover the *excess* costs of educating a SWD—the special education funding model always has been predicated on a three-way cost-sharing model, including local sources. Despite this basic design of the funding model, LEAs sometimes express frustration that their local share of special education costs is too high. This frustration tends to increase as their local share of special education costs increases, as this leaves them with fewer resources to serve other students.

due to a variety of factors, including the increasing prevalence of students with severe disabilities like autism who require more intensive and expensive services. Notably, adjusted expenditures dropped slightly—by 3 percent—between 2009-10 and 2010-11. The figure also shows that the federal government provided additional short-term funds for special education through the American Recovery and Reinvestment Act (ARRA) in 2009-10 and 2010-11.

**Local Budgets Have Covered an Increasing Share of Special Education Costs.** Figure 8 compares the proportion of special education expenditures covered by local, state, and federal funds in 2004-05 and in 2010-11. As shown in the figure, the share of overall costs funded through local contributions grew from 32 percent to 39 percent, while the shares covered by state and ongoing federal funds each declined. This is due to the combination of increasing overall costs and relatively flat state and federal funding. Moreover,

even if costs have remained flat in 2011-12 and 2012-13 (years for which data are not yet available), the local share of costs likely has grown since LEAs have had to backfill for the expiration of short-term federal ARRA funds.

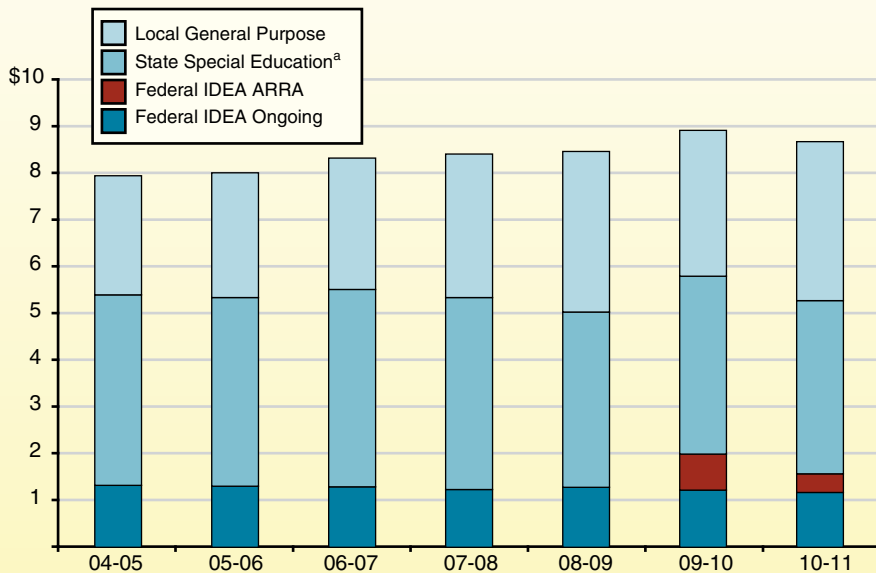
**Federal Share Has Never Reached Intended Contribution Level.** As shown in Figure 8, federal IDEA funds typically cover less than 20 percent of overall special education expenditures. This is notably lower than the amount the federal government originally committed to provide in support of special education services. The IDEA expresses intent to appropriate funding for each SWD up to 40 percent of the national average expenditure level per K-12 pupil, which would equate to roughly 40 percent of California’s overall special education expenditures. The federal budget, however, has never come close to providing states with this amount. We estimate that California would receive roughly \$2 billion more annually if the federal government were to “fully fund” the

intended level articulated in the IDEA.

Figure 7

**Special Education Expenditures Have Slowly Increased**

(In Billions, Inflation-Adjusted 2010-11 Dollars)



<sup>a</sup> Includes local property tax revenues.

IDEA = Individuals with Disabilities Education Act; ARRA = American Recovery and Reinvestment Act.

**How Are Funds Distributed to SELPAs?**

**Two Distribution Models Exist.** Across the nation, states generally use one of two approaches to distribute special education funding to the local level. Some use a “cost-based” model, with funding allocations driven by how many SWDs are served or the magnitude of special education costs incurred. In contrast, other states rely primarily on a census-based funding

methodology that is not linked to particular SWDs. Under this model, the state allocates special education funds based on the *total* number of students enrolled, regardless of students’ disability status. This funding model implicitly assumes that SWDs—and associated special education costs—are relatively equally distributed among the general student population and across the state. While the majority of federal special education funds are distributed using a census-based model, the IDEA formula does allocate a small portion (typically around 10 percent) of funds based on counts of economically disadvantaged students, on the assumption that this group contains a greater proportion of SWDs.

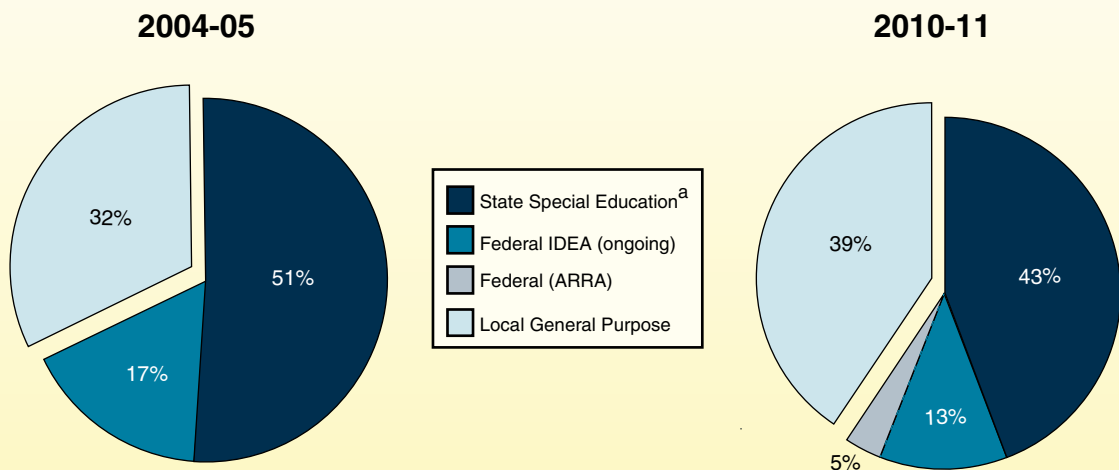
**California Now Uses Census-Based Model.** Beginning in 1998-99, California switched from a cost-based to census-based allocation model, which is commonly referred to as the “AB 602” formula after the authorizing legislation. Since that change, more than three-quarters of state special education funds are allocated based on a SELPA’s

total average daily attendance (ADA), with the remainder distributed based on specific students and circumstances. In general, data support the incidence assumptions underlying the census-based approach—that is, most SELPAs do report serving proportionally similar numbers and types of SWDs. (Charter-only SELPAs, however, tend to serve proportionally fewer SWDs than most traditional consortia or single-district SELPAs.) While SELPAs receive AB 602 funds based on overall ADA counts, they use them to support the IEP-driven excess costs of educating SWDs.

**The AB 602 Formula Blends State and Federal Funds to Provide Each SELPA a Unique Per-Pupil Rate.** Each SELPA has a unique per-pupil special education funding rate consisting of both state and federal funds. These “AB 602 rates” vary across SELPAs from about \$500 per ADA to about \$1,100 per ADA, based primarily on what the SELPA received before the AB 602 legislation was adopted. (In prior years the state invested some funding to equalize AB 602 rates, but large discrepancies

Figure 8

**Local Budgets Have Covered an Increasing Share of Special Education Costs**



<sup>a</sup> Includes local property tax revenue.  
 IDEA = Individuals with Disabilities Education Act; ARRA = American Recovery and Reinvestment Act.

remain.) In 2011-12, the weighted statewide average AB 602 rate was \$645 per ADA, with charter-only SELPAs having the lowest rates in the state. The exact mix of federal and state funds making up each SELPA's AB 602 rate varies based on a number of factors, however IDEA funds average about \$180 per ADA, with state funds making up the difference.

***State and Federal Funds Also Support a Number of Discrete Special Education Subprograms.*** The AB 602 base allocation—which in 2012-13 includes about \$2.9 billion in state funds and \$1 billion in IDEA monies—is the largest source of funding SELPAs receive for special education. The SELPAs, however, also receive almost \$1 billion in additional state and federal special education funds targeted for more specific purposes. The largest of these special education “categorical” programs allocates over \$400 million for SELPAs to provide educationally necessary mental health services to SWDs. Other separately funded initiatives include services for infants and preschoolers with disabilities, vocational education programs for SWDs, and staff development. Some SELPAs also receive supplemental funding if they have sparse population density or if they are located near licensed children's institutions (based on the assumption that these “group homes” will have higher rates of SWDs). In addition to SELPA-level grants, state and federal funds support state-level special education activities, including compliance monitoring and technical assistance.

## How Are Funds Distributed to LEAs?

***Consortia SELPAS Determine How to Allocate Funding Amongst LEA Members.*** Each SELPA develops a local plan for how to allocate funds in its region, based on how it has chosen to organize services. This process is relatively straightforward in the 42 single-district SELPAs, as they receive funding directly from the state and offer or contract for services on their own. The two-thirds of SELPAs that contain multiple LEAs work internally to decide how best to divvy up funding for all the SWDs in their region. These allocation plans differ notably across SELPAs based on local preferences and the service plans they have adopted. In most cases, consortia members opt to reserve some funding at the SELPA level to operate some shared, regionalized services, then distribute the remainder to LEA members to serve their own SWDs locally. In a slightly different approach, some consortia SELPAs choose to allocate essentially all funding to member LEAs, then fund any regionalized services on a “fee for service” basis for those LEAs who choose to participate. (Because charter-only SELPAs do not usually offer regionalized services, they tend to distribute the bulk of AB 602 funds directly to member charter schools.) The SELPAs are not required to use the state's census-based AB 602 formula to distribute funding to member LEAs. Rather, internal SELPA allocation plans can be based on ADA, specific student populations (for example, counts or characteristics of SWDs), or any other local priority or consideration.

## WHAT ARE THE STATE SPECIAL SCHOOLS?

***State Uses Different Model to Serve Some Deaf and Blind Students.*** Like students with other disabilities, most hearing and visually impaired students attend and receive special education services from their local school district

or COE. The state, however, also operates three specialized residential schools for deaf and blind students. The California Schools for the Deaf in Riverside and Fremont each serve around 400 students ages 3 to 22, totaling about 6 percent



of the state's deaf and hard of hearing students. The California School for the Blind in Fremont serves around 70 students, or about 2 percent of the state's visually impaired students. Parents and IEP teams determine whether to send children to these schools in lieu of being served by their

local districts. In contrast to the SELPA funding model, these schools are funded through a direct state appropriation—not linked to the school's enrollment—at a rate that far exceeds the amount SELPAs receive to serve comparable students.

## HOW ARE SPECIAL EDUCATION LAWS MONITORED AND ENFORCED?

### *Two Statutory Processes Help Ensure Compliance With Special Education Laws.*

While the IDEA was established to ensure all SWDs receive the special support they need to benefit from their education, the best approach to meeting those goals for an individual SWD can be complicated, subjective, and contentious. Anticipating difficulties and disagreements, federal and state laws specify two detailed processes for enforcing compliance with the IDEA—one process to ensure LEAs include appropriate *content* and services in students' IEPs and another process to ensure LEAs appropriately *implement* IDEA processes and IEP-required services. Disputes regarding the former are handled by the state's Office of Administrative Hearings (OAH), whereas the latter is monitored and enforced by CDE. (The following paragraphs describe each process in more detail.) The federal government funds Family Empowerment Centers and Parent Training Institutes to educate and assist parents of SWDs in supporting their children and navigating the legal and logistical facets of the special education system.

***Federal Law Provides Parents the Right to Dispute Which Special Education Services Their Child Is Entitled to Receive.*** Sometimes parents and LEAs disagree over the contents of a student's IEP. If parents fail to convince the IEP team that different or additional services are necessary

to ensure their child receives an appropriate education, they can file a formal complaint with the OAH to revise the IEP. Federal and state laws detail the dispute resolution process, typically beginning with dual-party resolution sessions, progressing to formal mediation sessions with an OAH facilitator, and ultimately—if necessary—to due process hearings with an OAH administrative law judge. Although the number of formal cases filed with OAH represents less than one percent of all SWDs, the dispute resolution process can be costly and contentious for both families and LEAs. Both parties therefore have incentives to avoid lengthy and litigious disagreements. Of the roughly 3,100 dispute cases filed with OAH in 2011-12, only 3 percent ultimately were decided through a due process hearing and legal ruling. The rest were resolved through mediation, settled before the hearing, or withdrawn. The state also provides small funding grants to some SELPAs to pursue alternative dispute resolution strategies and try to settle disagreements outside of the OAH process.

***The CDE Monitors LEA Compliance With IDEA Requirements.*** The CDE is tasked with investigating and resolving allegations that a LEA is failing to comply with federal or state special education laws. Parents, students, or teachers might file individual complaints, or CDE might identify problems while conducting LEA reviews

and audits. Commonly cited complaints include LEAs failing to provide IEP-required services or failing to meet statutorily required timelines (such as timelines for evaluating students' eligibility

for services or holding IEP meetings). The CDE tries to correct findings of noncompliance by implementing corrective action plans and increasing monitoring.

## HOW DO CALIFORNIA'S STUDENTS WITH DISABILITIES PERFORM ACADEMICALLY?

In addition to monitoring how well LEAs meet required special education *procedures*, federal and state laws also hold LEAs accountable for SWDs' academic *performance*. Below, we provide outcome data on how SWDs perform on state assessments and how prepared older SWDs are to transition to adult life.

### How Do SWDs Perform on State Assessments?

***Federal and State Accountability Systems Based on Standardized Assessments.*** The federal and state governments each have established systems to hold schools accountable for student achievement. While the two systems are somewhat different, both require schools to measure the academic performance of all students in grades 2 through 11—regardless of disability status—using standardized assessments based on state content standards. (California uses the Standardized Testing and Reporting, or STAR, assessments.) Additionally, each accountability system establishes performance expectations both for overall school performance and for the performance of specific student groups within the school, including SWDs. (The federal system also sets expectations for overall student performance and SWD performance at the LEA level.) The federal system sets Adequate Yearly Progress (AYP) benchmarks whereby progressively higher proportions of students must reach “academic proficiency” each year until 2014, at which point *all* students are to display proficiency. For example,

in 2011-12 the AYP target was for 78 percent of students to display proficiency. (In California, students meet federal proficiency requirements if they score at the “proficient” or “advanced” levels on the state's STAR assessments.) The LEAs and schools that fail to meet expectations for multiple years face increased monitoring and sanctions. In contrast to the federal system that sets the same annual proficiency requirement for all schools and LEAs, the state's accountability system—known as the Academic Performance Index (API)—requires individual schools to display annual *improvements* in student performance relative to their prior-year performance.

***Three Options for SWDs to Participate in State's Assessment System.*** Because academic outcomes understandably may vary depending upon the nature and severity of a student's disability, both the federal and state accountability systems allow some SWDs to meet performance expectations using modified or alternate assessments. As shown in Figure 9, California has developed three different sets of STAR tests for SWDs to meet federal and state testing requirements—the California Standards Tests (CSTs), the California Modified Assessment (CMA), and the California Alternate Performance Assessment (CAPA). Which assessment an individual SWD takes depends on the severity of his or her disability and the decision of the IEP team. The selected assessment must be clearly defined in the student's IEP. The figure shows

that in 2011-12 almost half of special education students in grades 2 through 11 took the CSTs, although in many cases with IEP-specified accommodations or modifications. (Such accommodations might include assistive devices, such as audio recorders or calculators, or having an extended period of time to complete the test.) Slightly more than 40 percent of special education students, or about 4 percent of all students in grades 2 through 11, took the CMA. Only about 10 percent of SWDs—those with the most severe cognitive disabilities—took the CAPA.

**The CMA Is a Unique Option for the State’s SWDs.** California is one of only 15 states to have developed a special assessment for SWDs with moderate disabilities—the CMA. (Federal law requires states to develop an alternative assessment such as the CAPA for students with the most severe disabilities, but leaves it up to states whether to develop another alternative for SWDs.) While the CMA covers the same grade-level

content standards as the CSTs, questions are presented in a more accessible fashion, including fewer questions and fewer possible answers, simplified language, more pictures, and larger type. To qualify to take the CMA in lieu of the CSTs, the IEP team must determine that students’ cognitive disabilities *preclude* them from accurately demonstrating their knowledge and achieving proficiency on the CSTs, even with testing modifications. The state first administered CMA tests with proficiency level standards for grades 3 through 5 in 2008-09, introducing tests for additional grades in subsequent years. Correspondingly, an increasing number of SWDs have taken the CMA in lieu of the CSTs in recent years. (Specifically, 20 percent of SWDs in grades 2 through 11 took the CMA in 2008-09, compared to 42 percent in 2011-12.)

**Federal Accountability System Seeks to Limit Over-Reliance on Alternative Assessments.** In an effort to ensure SWDs are held to the same

Figure 9

**Three Options for Assessing Students With Disabilities’ (SWDs’) Proficiency in Meeting California Content Standards**

2011-12

Test	Description	Number of SWDs Tested <sup>a</sup>	Percent of Total SWDs (Grades 2-11)
<b>California Standards Tests (CSTs)</b>	Assess students’ proficiency in California content standards for grades 2 through 11. Taken annually by majority of students. Some SWDs allowed some test-taking accommodations or modifications.	236,000	47%
<b>California Modified Assessment (CMA)</b>	Covers same content standards as the CSTs but designed to be more accessible for SWDs (for example: fewer questions, simpler language, more pictures). Taken by students whose disabilities preclude them from achieving grade-level proficiency on the CSTs, even with accommodations.	210,000	42
<b>California Alternate Performance Assessment</b>	Presents a series of tasks designed to display proficiency on those portions of content standards accessible to students with severe cognitive disabilities. The K-12 standards are grouped into five grade-span levels, and the Individualized Education Program team decides which level is most appropriate for each student to take. Taken by students whose disabilities prevent them from participating in either the CSTs or CMA.	48,400	10
<b>Totals</b>		<b>494,400</b>	<b>99%<sup>b</sup></b>

<sup>a</sup> Displays counts for English Language Arts exams.

<sup>b</sup> As with nondisabled students, a small percentage of SWDs do not take assessments, due primarily to absences or disenrollments.

high standards as mainstream students, the federal government attempts to discourage states from having exceptionally high proportions of SWDs take alternative assessments. While federal law does not cap how many SWDs may *take* the alternative assessments, the percentage of *proficient scores* LEAs can count towards meeting federal AYP benchmarks is limited to 2 percent of all students for the CMA and 1 percent for the CAPA. (If greater numbers of students take the tests and score at the proficient level, their scores are counted as not proficient.) In contrast to the federal system, the state’s accountability system does not limit the share of students who may take the CMA or CAPA and have their associated scores count towards meeting annual API requirements.

***Performance Has Improved, but Majority of SWDs Score Below Proficient Level on State Assessments.*** Figure 10 displays the percentage

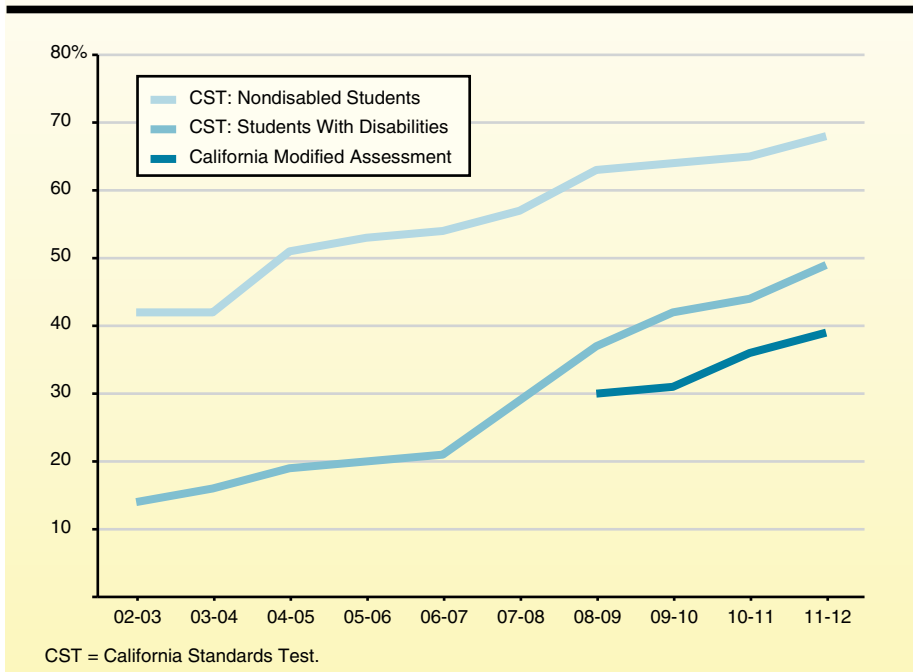
of fourth-grade SWDs and nondisabled students that met federally required proficiency targets in English Language Arts over the past several years. (The figure excludes results from the CAPA, as they are not based on grade-level specific standards and therefore are not comparable.) As shown, both groups have displayed improvements in recent years. Improvements for SWDs in recent years may be partially due to increasing proportions of students taking the CMA in lieu of the CSTs. A majority of SWDs, however, still fail to meet federal performance standards with either test. In 2011-12, only 49 percent of SWDs who took the CSTs scored at the proficient or advanced levels. This compares to 68 percent of nondisabled students. Moreover, only 39 percent of the students who took the CMA—which is specially tailored for SWDs—met proficiency targets.

***Many Schools and Districts Struggle to Meet Performance Targets for SWDs.*** As might

be expected given the performance levels displayed in Figure 10, a majority of LEAs are failing to meet federal proficiency requirements for their SWDs. In 2011-12, only 11 percent of LEAs met federal AYP benchmarks (that 78 percent of students score proficient or advanced in both English Language Arts and Mathematics) for their disabled student groups. This compares to 29 percent of LEAs that met this AYP

**Figure 10**

**Percent of Students Scoring Proficient or Advanced On Fourth Grade English Language Arts Assessments**



benchmark for their overall student population. Schools perform somewhat better on the state's accountability system, but SWD gains still lag. In 2011-12, 52 percent of schools met state API growth targets for their SWDs, compared to 67 percent that met the targets for their overall student populations. As described in the nearby box, however, these statistics exclude about half of the state's LEAs (for AYP) and almost 90 percent of schools (for AYP and API), as their populations of SWDs are deemed too small to report as discrete groups for accountability calculations.

### **What Happens to SWDs After High School?**

*Even With Exemption From Exit Exam Requirement, Many SWDs Struggle to Complete High School.* To meet federal testing requirements, all students—including SWDs—must take the California High School Exit Exam (CAHSEE) in 10<sup>th</sup> grade. State law also requires that most students pass the CAHSEE in order to graduate from high school. However, in 2011-12 only about 40 percent of SWDs passed the exit

exam as 10<sup>th</sup> graders, compared to 87 percent of nondisabled students. For the class of 2012, only 56 percent of SWDs had passed the CAHSEE by the end of 12<sup>th</sup> grade, compared to 95 percent of nondisabled students. Because of such low passage rates (and an associated lawsuit), state law was changed in 2009-10 to allow certain SWDs to receive diplomas without passing the CAHSEE. Specifically, students' IEPs or Section 504 Plans can explicitly exempt them from the requirement to pass CAHSEE if they meet all other local graduation requirements. The state currently is investigating alternative measures for SWDs to demonstrate the same content knowledge as the CAHSEE, but no new requirements have yet been adopted. Even with the CAHSEE exemption, Figure 11 (see next page) shows that only 59 percent of SWDs graduate on time and almost one-fifth drop out of school.

*Data Suggest More Than Half of SWDs Successfully Transition to College or Career Activities.* As discussed earlier, the IDEA requires that LEAs offer plans and services to

### **Size Thresholds Mean Majority of Districts and Schools Not Held Accountable for Disabled Student Group Performance**

Because a majority of the state's local educational agencies (LEAs) and schools serve smaller populations of students, many of them are not subject to federal and state accountability requirements and performance benchmarks for students with disabilities (SWDs). Specifically, to be held accountable for SWD group performance under both the federal and state systems, LEAs and schools must have valid test scores from either (1) at least 50 SWDs who make up at least 15 percent of the total number of valid scores *or* (2) at least 100 SWDs. If a school or LEA does not meet these thresholds, state law deems its SWD population too small to be numerically significant for federal Adequate Yearly Progress (AYP) and state Academic Performance Index (API) calculations. In 2011-12, 521 of the state's 1,016 LEAs (51 percent) did not have numerically significant groups of SWDs for AYP calculations. Even more notably, 8,759 schools out of 9,905 schools (88 percent) did not meet the threshold for calculating AYP or API targets for their SWDs. Thus, just over half of the state's LEAs and almost nine out of ten schools did not face achievement targets, monitoring, or sanctions related to how their SWDs performed.

help prepare SWDs for life after high school. While comprehensive information on these efforts is somewhat limited, data suggest many SWDs are successfully transitioning to postsecondary education and careers (some even without a high school diploma). Specifically, CDE estimates that about half of SWDs enroll in an institute of higher education after high school. The CDE estimates an additional roughly 15 percent of

SWDs are competitively employed within one year of leaving high school.

**Figure 11**  
**Students With Disabilities (SWDs)**  
**Struggle to Complete High School**

*Cohort Data for Class of 2010-11*

	All Students	SWDs
Graduate high school in four years	76%	59%
Drop out before completing high school	14	18
Remain enrolled past expected graduation date	9	19
Receive GED or certificate of completion <sup>a</sup>	1	4
<b>Totals</b>	<b>100%</b>	<b>100%</b>

<sup>a</sup> Certificates of completion are offered to SWDs who have not met the requirements to receive a high school diploma, but have completed prescribed alternative courses of study or met the goals of their Individualized Education Programs. Students with certificates of completion do not qualify for admission to postsecondary educational institutions.  
 GED = General Educational Development—the high school equivalency test.

## CONCLUSION

Developing a more thorough understanding of how California’s disabled students are served is the first step towards improving their educational outcomes. In this report, we provide a high-level review of special education laws, services, delivery

models, funding formulas, and outcomes. In almost all of these areas, special education is characterized by the complex interplay of policies and practices at the federal, state, and local levels.

# GLOSSARY OF COMMON TERMS RELATED TO SPECIAL EDUCATION

Term	Acronym	Description
<b>Assembly Bill 602 funding model</b>	AB 602	California legislation passed in 1997 that implemented a “census-based” special education funding model. The formula allocates funding based on total K-12 student counts rather than on the number of students identified to receive special education services.
<b>Behavioral Intervention Plan</b>	BIP	A written document developed for students with serious behavior problems that significantly interfere with implementing IEP goals. The BIP becomes part of the IEP.
<b>California Alternate Performance Assessment</b>	CAPA	State assessment designed for students with severe cognitive disabilities that preclude them from taking the California Standards Tests (CSTs) or California Modified Assessment.
<b>California Modified Assessment</b>	CMA	State assessment designed for students whose disabilities preclude them from achieving grade-level proficiency on the CSTs, even with accommodations.
<b>Child Find</b>		Federal requirement that school districts identify, locate, and assess all children in need of special education services, regardless of school setting or disability. Also referred to as “search and serve.”
<b>Due process</b>		Due process requirements specific to special education outline the right of parents to participate in—and challenge—their children’s special education assessments, identifications, and placements. These requirements specify processes for handling disputes, including resolution sessions, mediation sessions, and hearings.
<b>Encroachment</b>		Colloquial term referring to expenditures local school districts make from their general funds to serve SWDs.
<b>Excess costs</b>		The difference between the average expenditures for a SWD and those for a general education student.
<b>Extraordinary Cost Pools</b>	ECPs	Two allocations of supplemental state funding available to: (1) SELPAs that incur disproportionately high costs for students whose IEPs require placement in nonpublic schools and (2) exceptionally small SELPAs that incur high costs for students whose IEPs require placements based on educationally related mental health needs.
<b>Free and Appropriate Education</b>	FAPE	Federal requirement that eligible students have the right to special education and related services at no cost to the parent.
<b>Individualized Education Program</b>	IEP	A written statement describing the education program, including special services or accommodations, that a SWD shall receive. Pursuant to federal law, the IEP is a legal document entitling the student to receive the services and accommodations it describes.
<b>Individualized Education Program team</b>	IEP team	Group typically consisting of a student’s parents, school administrator, special education teacher or service provider, general education teacher, the evaluator who assessed the student’s eligibility for services, and—when appropriate—the student. Convened to develop, review, and revise an IEP.

(Continued)

## A N L A O R E P O R T

Term	Acronym	Description
<b>Individual Family Service Plan</b>	IFSP	Similar to an IEP but describes early intervention services for infants or toddlers with disabilities and their families.
<b>Individuals with Disabilities Education Act</b>	IDEA	Federal law governing how states and public agencies must provide services to children with disabilities. Part B requires special education and related services for children ages 3 to 22. Part C requires early intervention services for children ages birth to 2 and their families.
<b>Least restrictive environment</b>	LRE	Federal requirement that, to the maximum extent appropriate, SWDs should be educated alongside nondisabled children. Incorporating SWDs into regular classrooms also is referred to as “inclusion” and “mainstreaming.”
<b>Licensed children’s institution (group home)</b>	LCI	Residential facilities licensed by the state to serve six or more youth. Residents typically include foster youth (dependents of the state), wards of the court, and/or youth with serious emotional disturbances. Because children living in LCIs frequently require special education and related services, SELPAs that contain LCIs within their region receive additional funding.
<b>Low-incidence disability</b>	LID	Less commonly occurring disabilities such as hearing impairments, vision impairments, and severe orthopedic impairments.
<b>Nonpublic school or nonpublic agency</b>	NPS/NPA	Private schools and other entities that are certified by the state to provide services to SWDs.
<b>Office of Administrative Hearings</b>	OAH	State agency designated to provide mediation and hearing services in special education due process cases.
<b>Referral</b>		Formal request to identify and assess a child’s possible special education needs. A referral may be made by a parent, teacher, medical personnel, or anyone with specific knowledge of the child. Triggers federally required timelines for conducting assessments and holding IEP meetings.
<b>Related services</b>		Developmental, corrective, and other supportive services as required to assist SWDs in benefiting from special education. Services can include (but are not limited to): speech-language pathology and audiology services, psychological services, physical and occupational therapy, and counseling.
<b>Response to Intervention</b>	RtI	Tiered process of instruction designed to identify struggling students early—before referrals to special education—and provide targeted instructional interventions.
<b>Section 504 Plan</b>		Individualized plans detailing accommodations necessary to meet the special needs of disabled students. Unlike IEPs, which govern the provision of specialized educational services, Section 504 plans (required under the federal Rehabilitation Act, not IDEA) typically concern noninstructional accommodations.
<b>Special education</b>		Specially designed instruction to meet the unique needs of a SWD.
<b>Special Education Local Plan Area</b>	SELPA	Collaborative of one or more school districts, county offices of education, and/or charter schools that coordinate to provide special education services for SWDs in their service area.
<b>Special day class</b>	SDC	Special classes that serve pupils with severe disabilities whose more intensive educational needs cannot be met in regular classrooms. Typically located on a regular school campus.

(Continued)



## AN LAO REPORT

Term	Acronym	Description
<b>Specific learning disability</b>	SLD	Disorder affecting one or more of the basic processes involved in understanding/using language or performing mathematical calculations. Most common disability diagnosis for students receiving special education services. Dyslexia is one commonly identified SLD.
<b>State Special Schools</b>	SSS	Three state-run residential schools for deaf and blind students: the California Schools for the Deaf in Riverside and Fremont, and the California School for the Blind in Fremont.
<b>Students with disabilities</b>	SWDs	Term used to refer to disabled students who have formally qualified to receive special education services covered under the IDEA.
<b>Student Success Team or Student Study Team</b>	SST	A team of educators convened at the request of a classroom teacher, parent, or counselor, that designs in-class interventions to meet the needs of a particular student prior to a special education referral or development of an IEP.
<b>Transition services</b>		Federal requirement that IEPs for SWDs ages 16 and older include a coordinated set of services to improve the transition from secondary education to postsecondary education, work programs, and/or independent living.
<b>WorkAbility Program</b>		State vocational education program that provides grants to about 300 middle and high schools to offer pre-employment skills training, employment placement, work-site training, and follow-up services for SWDs.

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This report was prepared by Rachel Ehlers and reviewed by Jennifer Kuhn. The Legislative Analyst's Office (LAO) is a nonpartisan office that provides fiscal and policy information and advice to the Legislature.

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# Statewide Task Force on Special Education

# ONE SYSTEM:



*Reforming Education  
to Serve All Students*



## **EXECUTIVE SUMMARY**

*Report of California's Statewide  
Task Force on Special Education*

MARCH 2015

Far too many children and young adults in California's schools are not acquiring the skills they will need to succeed in postsecondary education and secure stable employment. To be effective, schools must serve all children as the unique individuals they are. All children require and deserve quality instruction. Beyond that, a child who comes from a background of poverty or neglect, a child who doesn't speak English, or a child with a disability often requires additional educational supports and services as well as quality instruction. That child might need behavioral guidance, mental health therapy, language supports, or specially designed instruction. The key word here is "additional," especially if the child faces more than one of these challenges. A child who is an English language learner and who has a disability needs supports in English language development and special education. A child who grew up in poverty and who has a disability needs enhanced learning opportunities and special education services. A child who is in foster care and who has a disability needs social-emotional supports and special education services.

The state's new Local Control Funding Formula (LCFF) is making these kinds of services more readily available to the children who need them by allocating additional funds to the schools and districts that have higher percentages of students who are English language learners, who grew up in poverty, and who live in foster care. LCFF has also lifted strict spending restrictions on certain categories of funds and allows more local control—and accountability—over how that money is spent. But too many educational systems and services remain uncoordinated,

contributing in particular to a special education system that is isolated in much of its implementation and less effective as a result. Because of this lack of coordination, too many students are ending up with a disability label when they simply need good instruction and targeted support at key junctures in their learning.

Effective, research-based practices that create a unified system and ensure effective instruction have been identified and promoted for years. But education in California is made up of multiple parts and players, disparate divisions that operate under no single governing force, and often-competing requirements and agendas. Knowing where to begin to make changes so that California has a coherent and unified system of education has always been the challenge.

## A Coherent System

In a coherent system of education, all children are considered general education students first; and all educators, regardless of which students they are assigned to serve, have a collective responsibility to see that all children receive the education and the supports they need to maximize their development and potential so that they can participate meaningfully in the nation's economy and democracy.

Within a coherent system, students who struggle to compute or read receive specialized help as soon as they need it. These children's difficulties are identified in preschool or even before. Research has shown for years that, with appropriate supports, children with early signs of

learning problems may well catch up with their peers by the time they enter kindergarten.<sup>1,2</sup>

Within a coherent system, kindergarten and elementary school teachers have at their fingertips research-supported approaches for targeting specific needs. The child who continues to struggle receives more intensive levels of support. If that doesn't work, teachers use other, more concentrated and targeted approaches, closely monitoring the results and using data to decide what else might be done.

Special education teachers hold a critical place in this system, selecting, designing, and delivering appropriate early intervening services and—when it becomes apparent that extra, scaffolded, and targeted supports are not producing the desired effect—providing the additional special education services that only a teacher trained specifically for this role can provide. Even then, most children would spend as much time as possible with their classmates in their general education classrooms.

Central to a coherent system is the development of a culture of collaboration and coordination across the numerous educational and service agencies that influence how children are educated.

## The Charge of This Task Force

The California Statewide Special Education Task Force was formed in 2013 by a group of representative stakeholders charged with studying exactly why special education is not more successful and what must be changed in both policy and practice to improve services for all children. Many of the changes that this Task Force found central to improving special education,

1 *The Washington Post*. (February 3, 2015). Study: High-quality early childhood education could reduce costs. Retrieved from [http://www.washingtonpost.com/local/education/study-high-quality-early-education-could-reduce-costs/2015/02/03/b714bcee-ab6f-11e4-abe8-e1ef60ca26de\\_story.html](http://www.washingtonpost.com/local/education/study-high-quality-early-education-could-reduce-costs/2015/02/03/b714bcee-ab6f-11e4-abe8-e1ef60ca26de_story.html)

2 Shaywitz, S. E., & Shaywitz, B. (March 2004). Reading disability and the brain. *Educational Leadership*, 61(6), pp. 6–11. Retrieved from [http://educationalleader.com/subtopointro/read/ASCD/ASCD\\_323\\_1.pdf](http://educationalleader.com/subtopointro/read/ASCD/ASCD_323_1.pdf)

however, require change in general education. This discovery is perhaps not surprising, given that from its inception federal disabilities law envisioned special education as a set of special supports and services integral to and seamlessly coordinated with general education. This vision has been sidetracked, and the resulting division—with general education and special education viewed as separate entities—represents one of the two reasons that both special education and general education in this state have not been as effective as they could be. Significant barriers to school success for all students have grown out of the unfortunate evolution of two separate “educations.” Expectations and services for students, teacher preparation and credentialing, and funding patterns are compromised as a result.

The second but perhaps primary reason for the existing failure of our school system to adequately educate all students is the dearth of necessary and supportive early intervening services. Research shows that well-timed and well-executed early intervention reduces the number of students with learning disabilities—by far the largest cohort in the special education ranks—and improves school outcomes for everyone.<sup>3</sup> Without a robust and coordinated system of early intervention, many students are deprived of the chance to realize their full potential. Without this system, schools are saddled with burdensome costs for services, which, once children become adults, are then handed on to society at large, contributing to state and national spending on public assistance, social service, and incarceration. Early intervention—in learning, in behavior, in mental health, in physical challenges—has been proven time and again to provide exponential return on that first investment.

## California's Statewide Task Force on Special Education embraces the value and importance of

3 U.S. Department of Education. (1999). Start early, finish strong: How to help every child become a reader. Retrieved from <http://www2.ed.gov/pubs/startearly/index.html>

highly specialized programs for students with low-incidence disabilities; these programs are often in separate settings and are shown to have efficacy.<sup>4</sup> The purpose of this report is to examine the larger system. We have known that our schools are not as effective as they could be for the majority of students: students with disabilities whose least restrictive environment is the general education classroom and who could achieve rigorous standards if provided appropriate services and supports; and students who find themselves struggling but who never receive the help that “catches them before they fall.”<sup>5</sup>

This Task Force envisions general education and special education working together seamlessly as one system, which is carefully designed to address the needs of all students—as soon as those needs are apparent. Within this system, students who struggle and students with disabilities receive effective services, learn in classrooms that are guided by rigorous standards, and are ultimately equipped to make their own way as adults. Within this coherent system, children with disabilities receive services from the time they are born through preschool and until they graduate with a high school diploma or reach the age of 22—services that are devised and implemented by well-prepared general education and special education teachers who work in collaboration.

## This Report

This Task Force recommends changes to seven distinct—though deeply interconnected—parts of the educational system in California:

- Early Learning

4 However, a full continuum of services and placement options must be maintained for every student. See the comments and discussion to 2006 IDEA Part B Regulations, 71 Fed. Reg. 46586 (2006) at <http://idea.ed.gov/download/finalregulations.html>

5 Torgeson, J. K. (Spring/Summer 1998). Catch them before they fall: Identification and assessment to prevent reading failure in young children. *American Educator*. Retrieved from <http://www.aft.org/sites/default/files/periodicals/torgesen.pdf>

- Evidence-based School and Classroom Practices
- Educator Preparation and Professional Learning
- Assessment
- Accountability
- Family and Student Engagement
- Special Education Financing

If early intervening and coordinated services were provided in preschool and early education; if schools were designed around evidence-based practices that reflected a commitment to early intervention and that were coordinated and coherent at every level; if teacher preparation and ongoing professional learning opportunities were structured in direct alignment with that coordinated system; if accountability for all students were expected and enabled; if a rigorous and adaptive system of assessment were in place; if parents were included and supported in every aspect of that system and students given full and appropriate voice; and if financing were seamlessly coordinated and designed with the knowledge that strategically provided services cost a fraction of what ends up being needed when those services are not provided, then California could be proud of the way its school system served its children. This Task Force is convinced that the following recommendations would secure such a system. (Readers will find the full Task Force report, along with more extensive subcommittee reports, at <http://www.smcoe.org/about-smcoe/statewide-special-education-task-force/>.)

## The Recommendations

### I. Early Learning: Recommendations

The availability of quality services and places in high-quality preschools and care settings for toddlers should not depend on geography. And given the return of these services on the dollar, the state cannot afford not to provide them.

Indeed, federal Medicaid law requires states to provide them; yet in many parts of California they are not available. In recognition of the importance of coordinated, early intervention to children's futures, to their families, and to the fiscal health of the state's schools, California should ensure that all students, but especially those with disabilities, have access to high-quality infant and toddler programs and preschools, including the diagnostic and intervention services described. In support of that vision, the state needs policy change to ensure the following:

- Improved access to and coordination of high-quality early care and preschool for all students—but particularly for children with disabilities, children who grow up in poverty, and children who are dual language learners—with the access not dependent upon geography or service provider
- An increase in the funding formulas to provide equitable financial support for high-quality early care and education and to support equity in access throughout the state
- Clearly articulated and family-friendly protocols for transition between Part C and Part B services of the Individuals with Disabilities Education Act (IDEA)
- Program standards that all providers must use and that reflect evidence-based, developmentally appropriate practice
- Common assessments that are based on common standards, inform instruction in real time, accurately monitor student/child growth, and are educator-friendly
- Clear, specific competencies that are part of all early childhood educator preparation programs and that are part of required professional development training and technical assistance for educators already in the field

*The full subcommittee report for the recommendations on early learning can be found at <http://www.smcoe.org/about-smcoe/statewide-special-education-task-force/>.*

## **II. Evidence-Based School and Classroom Practices: Recommendations**

The application of Universal Design for Learning in all of its inclusive implications sets the foundation for a coherent system of education that provides instruction, services, and supports to students as they are needed—through a multi-tiered system of supports that incorporates response to intervention (including early intervention in its broadest sense) and social and emotional learning. Access to this system, however, now requires knowledge of technology and computers—which are now ubiquitous in schools, curriculum, and assessments and which have become essential for success in adult life as well as in school. Students with the most significant cognitive disabilities, arguably our most vulnerable students, deserve equal access to this system, as well as the best supports and assessments possible to ensure they too benefit from school and have every chance of realizing a productive adult life.

In support of these changes, California should ensure the following:

- Universal Design for Learning (UDL) is understood, is established as a key area of professional learning for educator training, and is implemented in all schools.
- A Multi-Tiered System of Supports (MTSS) is developed throughout the state, incorporating robust and aligned systems at all organizational levels that support response to instruction and intervention (RtI<sup>2</sup>) approaches and systematic programs of behavioral, social, and emotional learning.
- Social-emotional learning supports, which are provided through a system that is



comprehensive and blended, are available in all schools and districts; these supports include lessons of self-management, social interaction, and social responsibility that are infused in daily curriculum. These supports increase collaboration with community mental health resources in a structured, data-driven, and evidence-based way.

- General education resources are used to intervene as early as possible (infant/toddler/preschool/elementary) with evidence-based and multi-tiered social-emotional supports, prior to referral to special education services.
- Technology support is provided at the state, regional, district, school, and classroom levels to ensure the successful implementation of California's Common Core State Standards (CCSS) and use of its assessments; and to ensure that students with disabilities have and can use the assistive devices they need in order to learn.
- All students with disabilities have access to comprehensive and effective transition services and programs; model programs are identified, implemented, and aligned around college/career/independent living standards and expectations; collaboration among Local Education Agencies (LEAs), Charter Management Organizations (CMOs), and Regional Occupation Programs (ROPs) is expanded so that students with disabilities are included in Regional Occupation and Career Technical Education programs, including Pathway grants, as well in other local options.

*The full subcommittee report for the recommendations on evidence-based practices can be found at <http://www.smcoe.org/about-smcoe/statewide-special-education-task-force/>.*

### III. Educator Preparation and Professional Learning: Recommendations

California needs, and its students deserve, a coherent approach to educator preparation and learning, a common foundation for all instruction—a “common trunk”—and multiple pathways for teachers to earn a credential. California's system of teacher credentialing needs to ensure that all teachers—both general education and special education—enter the profession able to effectively use needs-based interventions and collaborate with other educators in a unified system. The system also needs to allow appropriate flexibility in teacher assignments to serve the staffing needs of all schools and districts, large and small. Finally, California and all of its students would be well served by an ongoing, research-informed system of professional learning that supports established teachers in implementing new initiatives and proven practices and that encourages and models purposeful integration of professional learning opportunities for special education and general education. Changes to this system of educator preparation carry with them a particular urgency, given the data cited in this report about the recent dramatic reduction in candidates entering education preparation programs in the state and the number of teachers on track to retire in the next five years.

This Task Force recommends a teacher preparation program and learning system that would ensure the following:

- General and special education preparation programs require all aspiring teachers to master content standards, evidence-based strategies, pedagogy, intervention strategies, and collaboration among teachers and across assignments—essentially in a “common trunk.” All teachers are thoroughly prepared in the following:
  - » Universal Design for Learning (UDL)

- » A Multi-Tiered System of Supports (MTSS) that includes social-emotional learning and positive behavioral strategies and supports, and Response to Instruction and Intervention (RtI<sup>2</sup>)
- » The use of data to monitor progress, inform instruction, and guide interventions
- » Evidence-based reading instruction for struggling readers, including those with dyslexia; knowledge of and strategies for distinguishing between the typical struggles of an English language learner and the problems that reflect a potential disability
- » Digital Literacy and instructional technology
- » Cultural and linguistic responsiveness
- Most special education credentials are designed and funded to prepare teachers to address the instructional needs of all students, not specific disability types. At the same time, specific authorizations for educating students with low-incidence disabilities—students who have lost hearing or vision, for example—remain a critically valuable component of special education.
- All special education credentials prepare and authorize special education teachers to instruct and to provide any needed support to general education students.
- Preparation for a special education credential provides in-depth understanding of and strategies for supporting students who struggle with learning, students who struggle with behavioral disorders, and students who struggle because of physical disabilities and health care needs.
- Special educators are trained specifically in the following:
  - » Assistive technology and augmentative and alternative communication systems

- » The importance of critical transitions in the life of a student with disabilities and strategies for planning transitions, providing supports for student success, and supporting students and families through those transitions
- Paraeducators/Instructional Assistants receive professional learning opportunities and appropriate supervision as well as career pathway opportunities to become credentialed teachers.
- Professional learning opportunities for educators in both special and general education are purposefully integrated.
- The professional learning for all educators is extensive, coordinated across grades and disciplines, and aligned with the implementation of new standards and the site and district Local Control and Accountability Plan (LCAP) goals.
- Incentive grants are available to colleges and universities, local education agencies and county offices of education to develop innovative programs that combine preparation to become general and special education teachers.
- Service scholarships are available along with forgivable loans to candidates who will complete these programs and commit to at least three years of teaching in California schools.
- Fund educator preparation programs to ensure that all educators are prepared to serve a wide range of diverse students.

*The full subcommittee report for the recommendations on educator preparation and professional learning can be found at <http://www.smcoe.org/about-smcoe/statewide-special-education-task-force/>.*

#### IV. Assessment: Recommendations

As California schools continue to expand their implementation of the Common Core State Standards, it is imperative that the Individualized Education Program (IEP) process evolves and adapts to the changing expectations for all students. The IEP should be as coherent as the system it reflects. IEP team discussions about student expectations, performance, and progress should be guided by the new standards; and ultimately all IEPs should become aligned with the new standards. Assessments, which reflect the success of the IEP, must be selected with great care, their effectiveness monitored, and their alignment with curriculum and instruction secured for all students.

In support of this vision, the state and LEAs need changes in policy and practice to ensure the following:

- IEPs consist of goals that are aligned with the Common Core State Standards.
- Parents are kept informed of changes in standards, the rationale for those changes, the implications for IEPs and courses of study, and strategies for supporting their children at home.
- An assessment for students with the most significant cognitive disabilities is selected to replace the California Alternate Performance Assessment (CAPA) and is directly and rigorously aligned with the Common Core State Standards.
- Teachers and schools are accountable for the progress that students with the most significant cognitive disabilities make in meeting the standards.
- Samples of standards-aligned IEPs are created and disseminated, along with comprehensive training on adapting those examples or models for use in IEP meetings.
- The Smarter Balanced assessments, especially the use of the “Designated

Supports” and “Accommodations” for students receiving special education services, are carefully and thoroughly reviewed for effectiveness and accessibility.

- A common data-gathering system is created to record and report on student IEP goals, monitor progress toward goals, and evaluate implementation of standards-based IEPs statewide.

#### V. Accountability: Recommendations

Systems of accountability serve the critical function of strengthening all aspects of educational programming for students as they inform, direct, and support teacher preparation, classroom instruction, individual-goal setting, and meaningful assessment. Before California can implement a rigorous and seamless outcomes-based accountability system for students with disabilities, it must redress disjointed patterns and systems by collaborating to establish the most effective accountability system possible.

In support of this vision, the state needs policy change to ensure the following:

- A consolidated and integrated special education data system that identifies and eliminates duplicate reporting, especially in the areas of suspensions, expulsions, and postsecondary outcomes.
- An outcomes-based accountability framework that mirrors federal policy (i.e., the Results Driven Accountability framework) and state policy (i.e., LCFF and LCAP) to evaluate the compliance and performance of public schools throughout the state in educating students with disabilities; accountability efforts are congruent: efficient, non-duplicative, and integrated (e.g., using the LCAP to meet the Results Driven Accountability framework)
- Closely integrated and coordinated state and federal monitoring, data collection,

and technical assistance and support efforts from all state agencies and divisions: the Governor’s Office, the State Board of Education, the Department of Finance, the Department of Education (General Education and Special Education divisions), the California Commission on Teacher Credentialing, the Department of Rehabilitation, the Department of Developmental Services, Division of Juvenile Justice/Department of Corrections, Juvenile Court Schools, and the Department of Managed Health Care

## **VI. Family and Student Engagement: Recommendations**

Parents and family members are critical to the school and life success of their children with disabilities. In successful schools, they are asked to contribute their insights about how their children learn, and they work with educators to construct useful strategies for home and school. They receive frequent reports on their children and how their needs are being addressed. Given the importance of family involvement—in terms of later learning and employment options for students, in terms of their improved life satisfaction and capacity for community and social involvement, and in terms of the savings to public benefits when people become employed to their fullest capacity and live as independently as possible—all efforts to inform and effectively support parents who have children with disabilities and to enhance their involvement in the special education process should be expanded. As well, students must be heard and included in decisions about their education in every way that is appropriate for their age and their ability. In school they must be given every opportunity to learn how to become independent adults.

In support of improved family and student engagement, the state needs policy change to ensure the following:

- Fully funded Family Empowerment Centers (FECs) statewide, as already legislated in SB 511, so that each of the 32 FEC regions has a center
- Increased funding to Family Resource Centers (FRCs)
- Established data-collection systems to monitor the work done by the FRCs/FECs
- Clear and specific guidelines and reinforcements for teacher-parent-school collaboration and interaction
- Clear and specific guidelines and reinforcement for student involvement in their own IEP meetings and student-led IEPs
- Coordinated systems of cross-agency and community-based trainings that focus on collaborative, efficient, and effective services in a seamless delivery system that supports parents and students

## **VII. Special Education Financing: Recommendations**

California needs a system of financing that provides the resources necessary to meet the needs of all students with disabilities, encourages greater coherence between general education and special education, is sensitive to changes in enrollment, and invests in the systems and provides incentives for practices that will lead to greater success for students. Those recommended changes that will cost money—essentially anything that effectively supports the learning and development of children with disabilities—have been shown to be solid investments that provide a solid return in the form of productive, tax-paying citizens and in the avoidance of more intensive—and expensive—services and supports that would be needed later.

In support of an effective and efficient special education funding system, this Task Force recommends the following:

## Recommendations for State-Level Change

- Equalize the state's support for special education across California by overhauling the system of special education financing to give schools and districts more control over how they spend their money and to hold them accountable for adequately meeting the needs of students with disabilities (a model distinct from but coordinated with and similar to the LCFF).
- Ensure the availability of early intervention programs and services for all eligible students with disabilities and address the disparity of early intervention programs and services among early childhood care and education entities.
- Fund SELPAs based on ADA, but increase the amount allocated per ADA so that SELPAs are more equitably funded.
- Revise the special education funding formula so that the growth or decline in the enrollment of multi-district SELPAs is based on the growth or decline of ADA for each individual district, charter school, or county office of education instead of on these changes in the SELPA as a whole.
- Secure the integrity of specific special education dollars, especially the money that small SELPAs need in order to operate, funds for educationally related mental health care services, and for out-of-home care services.
- Update the electronic data systems that account for special education income and expenditures, thus allowing current CDE fiscal staff to devote more time to analyses, while also allowing SELPA fiscal staff to be more efficient.
- Use the broader federal definition of "low-incidence" disabilities and increase allocations of low-incidence funding to SELPAs.

- Increase the funding for WorkAbility programs so that all SELPAs are receiving adequate WorkAbility funds.
- Provide to LEAs sufficient funds to meet their mandated special education transportation costs.
- Expand alternative dispute resolution resources, supports, and services throughout the state.
- Mandate collaborative efforts among school districts, charter schools, county offices of education, and SELPAs whenever a new school is being planned or a modernization project is being developed to ensure that facilities are available to students with moderate to severe disabilities.
- Require and support availability of facilities that serve infants and toddlers with disabilities in preschool settings.

## Funding Recommendations for Federal-Level Change

- Work statewide and nationally to increase the federal share of the excess costs of serving students with disabilities to 40 percent.
- Determine how to break down the barriers that are preventing education entities from accessing and increasing Medi-Cal and Medicaid (LEA, MAA, and EPSDT) services and reimbursements.
- Clarify eligibility for college scholarships, under federal guidelines, to include students with disabilities who have received a certificate of completion.

*The full subcommittee report for the recommendations on special education financing can be found at <http://www.smcoe.org/about-smcoe/statewide-special-education-task-force/>.*

## Implementation

In service to implementing this vision, the Task Force recommends the following:

- State-level commitment to aligning policies, practices, and systems of support across initiatives.
- Clearly and thoroughly articulated and disseminated statewide standards of practice based on the following:
  - » Universal design for learning
  - » A tiered school and classroom system designed to coordinate and provide support to all students and that is primarily located in general education. This system incorporates a response to intervention approach and addresses both
    - academics and
    - social-emotional learning and positive behavioral supports and practices.
- A system for training current teachers and school administrators on evidence-based practices, including transition strategies, culturally responsive teaching, technology, and youth and family involvement

## Closing

Many children in this state are at risk for school failure. This report and these recommendations represent a call to action for California to eliminate that risk and give all children a secure pathway to school success. The way forward will not be easy nor will the implementation be quick. But California has seen recent movement toward collaborative systems, thanks to the Local Control Funding Formula and its plans. California

has established high standards for every student, thanks to the Common Core State Standards. And California has a chance to ensure that every student counts, thanks to the system of assessments that is being developed.

We know that early intervention at every stage of human development improves lives. We know that collaborative systems are efficient and cost effective. We know that when we use evidence-based practices, children learn more—and we even know what those practices are. We know that when teachers and staff are well prepared and when educators work together in a united effort to deliver effective programs and services, all children benefit. We know that when data informs what happens in the classroom, children succeed. And we know that, if we follow through with a strong commitment to each of these things and if we have adequate resources at all levels, we have the opportunity to create our own brand of educational excellence in California for all students.

This document presents an important vision. The next phase involves concrete steps: an implementation and accountability team from across agencies that has the experience, the will, and the ability to begin the work of turning this vision into reality. Now is the time for everyone involved to embrace these recommendations and move forward with this reform agenda to help ensure that all of California's children receive the education they need to become involved and contributing members of society. This Task Force asks every general and special education stakeholder to brave this difficult task and to take that first step—and the many following steps—to ensure that schools in this state serve every child well.

CONTACT INFORMATION:

Vicki L. Barber, Ed.D.  
Co-Executive Director  
916-947-6165  
vbarber@edcoe.org

Maureen O'Leary Burness  
Co-Executive Director  
916-698-6371  
moburness@gmail.com



# STATEWIDE SPECIAL EDUCATION TASK FORCE

## Finance Subcommittee

2014-2015

Mary Samples, Committee Chair

Committee Members

Todd Brose, Sara Jocham, Doreen Lohnes, Gina Plate, Michael Watkins

### 1. Establish a Target Rate for Special Education

#### **Problem:**

Currently, SELPA AB 602 rates have vastly different per pupil funding rates. The rates range from \$469.95 to \$917.46 depending upon the SELPA.

#### **Background:**

The purpose of special education is to ensure that children with disabilities receive appropriate educational services. The current special education funding model (Assembly Bill [AB] 602, Chapter 854/1007) was designed using a census-based average daily attendance (ADA) funding allocation model. The intent of the current census-based structure of AB 602 funding was to remove financial incentives to SELPAs to over-identify students with disabilities that existed under the previous J-50 model. However, when AB602 was implemented, the funding was based on previous special education expenditures by the LEAs. Therefore, the funding amounts varied and have continued to vary widely throughout the state. In the early years of AB602, two rounds of equalization funds were allocated; however, it was not sufficient to eliminate the wide funding gap between SELPAs.

The new Local Control Funding Formula (LCFF) has begun to gradually equalize general purpose and other categorical funding rates across school districts by supplying additional funding to districts and charter schools with higher concentrations of specific student groups. In contrast, the special education funding rates continue to vary widely based upon the LEA's special education expenditures from the late 1990's. This disparity is not primarily the result of differences in populations, but rather the result of a system causing many SELPAs with historically lower per-pupil rates to receive less funding while needing to meet the same state and federal responsibilities for students with disabilities. In the figure below, you can see an example of the existing disparity. The two SELPAs serve approximately the same number of students, and even identify similar numbers of students with special needs. However, one SELPA receives nearly \$230 more per pupil in AB 602 funds, which results in over \$2,400 in additional funding per special education pupil.



SELPA	AB 602 Bifurcated 13-14	SELPA Total Prior Year ADA	Special Ed Pupil Count	AB 602 Funding per sped pupil
SELPA A	\$721.52	4,338.23	474	\$6,604
SELPA B	\$492.84	4,372.15	518	\$4,160

**Rationale:**

Two recent studies recommended changes to the special education funding formula: Special Education Financing in California a Decade After Reform, Public Policy Institute of California (PPIC) and Students First: Renewing Hope for California’s Future, Governor’s Committee on Education Excellence. It was significant that both studies were developed by researchers and groups outside of the special education program community. It was also significant that neither study recommended folding special education funding into a larger general education funding system. Both studies agree that special education funding should remain as a separate categorical program, that the census-based funding system using average daily attendance should continue, and that SELPA-based funding should be equalized. The LCFF took the necessary steps to reform funding for students in California. Now, we must offer the same level of innovation to students with disabilities by revising the funding structure with the intent of meeting the needs of all. Students with disabilities living in different areas of the state should have equitable access to special education programs and services through equitable funding.

**Recommendations:**

- In keeping with the LCFF structure, provide new funding toward a target based rate consistent across all SELPAs based upon ADA, to support the education of students with disabilities. It is recommended that all SELPAs be funded at a new statewide target rate (90% of the current statewide average) which would be \$564.67. As in the implementation of the LCFF, there should be an assurance of a hold harmless, that no SELPA would receive less funding than it did the year prior, with only adjusting for growth/decline in ADA. This amount would be adjusted in future years to reflect the cost of living adjustments (COLAs) adopted by the state. The cost of the recommendation would be approximately \$315 million annually. It is further recommended that the state develop a methodology for increasing the statewide target to \$665, prior to adjustment for COLAs, within five years.
- Continue to be sensitive to the financial needs of the few small and sparse SELPAs which have additional challenges (such as geography and availability of programs) when serving students with disabilities. Small and sparse SELPAs should continue to receive a minimum of \$225,000 each to pay for their operations.

- The State should continue to provide special education funds for the Out of Home Bed allowances; and for educationally related mental health services (currently at \$71 per student based on average daily attendance).

2. **Calculating Growth and Decline**

**Problem:**

SELPA funding is determined by aggregating the actual current year ADA for each LEA in a multiple LEA SELPA. This method penalizes some SELPAs and their member LEAs. If a SELPA has both growing and declining LEAs, the decline in some LEAs offsets the growth in other LEAs.

**Rationale:**

Total SELPA ADA each year is calculated by adding the current-year ADA of each member LEA. The test to determine if the SELPA is growing or declining is based upon total SELPA ADA only. If the SELPA is declining as a whole, there is a one-year grace period before funding is decreased, and the SELPA is funded based on prior-year total SELPA ADA. Funding based on the greater of current year or prior year ADA is the same process used to calculate general education ADA revenue.

Because SELPA ADA is calculated by aggregating current-year ADA of all LEAs that are members of the SELPA and comparing that to the total ADA from the prior year of again all LEAs participating in the SELPA, if some LEAs are growing and others are declining, there may not be any funding for growth. Also, if charter schools are joining a SELPA as LEAs, the same lack of growth funding could occur.

Example under the Current Funding Model:

<b>Funded ADA</b>	<b>Difference</b>	<b>Prior Year ADA</b>	<b>Current Year ADA</b>
1,200	District A: +200 ADA	1,000	1,200
900	District B: -100 ADA	1,000	900
900	District C: -100 ADA	1,000	900
3,000		3,000	3,000
	Total: 0 growth ADA		

While there would be no decline penalty in funding in the next school year, there is also no growth funding generated by the AB 602 calculation. This means either District A will receive no growth funding or Districts B & C’s funding will need to be decreased in order to provide growth funding for District A.

For single district SELPAs this issue has no bearing. However, for the majority of SELPAs in the state that are serving multiple LEAs, this is a significant issue. The current practice of averaging ADA across the entire SELPA, essentially penalizes smaller districts and charter schools that are LEAs and by necessity need to join together in a multi-LEA SELPA. Two other conditions complicate the ability of a SELPA to move funds between growth and decline LEAs. First ADA is taken from P2 which is after the

deadline for notice to be given to certificated employees for reduction in force. Second, with multi-LEAs involved, staff cannot be simply moved from one LEA to another with bargaining agreements and other employment issues that would be involved.

If funded ADA for each LEA is used to aggregate total SELPA ADA, growth will be funded in the year in which it occurs even if there are districts declining in the same SELPA. The SELPA will still incur a declining ADA penalty in the succeeding school year if declining ADA is greater than growth ADA.

Example under Proposed Funding Model:

Funded ADA	Difference	Prior Year ADA	Current Year ADA
1,200	District A: +200 ADA	1,000	1,200
1,000	District B: 0 ADA	1,000	800
1,000	District C: 0 ADA	1,000	800
3,200		3,000	2,800
	Total: +200 growth ADA		

In this example, the SELPA will receive growth funding for 200 ADA in the current year. Assuming that the two districts stayed at the same level, or continued to decline, in the succeeding school year the SELPA will be assessed a decrease in funding for the 200 ADA decline in the prior school year. In other words, the ADA of each LEA participating in the SELPA would be calculated on the greater of the current or prior year ADA, in the same manner that LCFE calculates ADA for each LEA. The ADA would still be aggregated and funding provided to the SELPA to be distributed based on the SELPA allocation plan.

**Recommendation:**

Growth and decline funding should be calculated using funded ADA at the LEA level, rather than it being based on changes in ADA for the entire SELPA, at the target rate described in item #1. Funding would continue to be provided to SELPAs and their allocation plans would outline the distribution of funds within the SELPA.

3. **Preschool**

**Problem:**

Funding to serve preschool students with disabilities is woefully insufficient and unequal across the state.

**Background:**

It is the responsibility of LEAs to provide services for students with disabilities beginning at age 3. Currently programs and services for preschool students with special needs are primarily, but very insufficiently funded, by two federal grants (Preschool-Local Assistance and Federal Preschool). These preschool students are not included in the census based average daily attendance (ADA) funding provided to SELPAs. The number

of preschoolers with more significant disabilities, such as autism, has greatly increased in the past few years. LEAs, understanding the importance of early intervention, must use AB 602 or general fund dollars to provide the needed services, thus leaving even less funding for K-12 students with disabilities. The current public school funding (Local Control Funding Formula – LCFF) is intended to serve K-12 students, not preschool children.

There are numerous studies which discuss the benefits of early intervention, including a study described in *Journal of Child and Family Studies*. The study discusses the financial implications of early intervention and its potential to both assist students at the earliest ages and to save money in the long term.

In fact, early intervention efforts in recent years have certainly contributed to reducing the number of preschoolers with milder disabilities who are in need of intensive special education services once they reach the primary grades. However, at the same time the incidence of preschoolers with more significant disabilities such as autism, requiring intensive and costly services, has increased exponentially.

Adding to the preschool issue, is the severe shortage of “general education” preschool options which would provide these students with services in the least restrictive environment (LRE) with their typically developing peers.

### **Rationale:**

Early Intervention is the key to future success for students, especially for those with disabilities. Many students who receive interventions as infants and preschoolers make significant gains and are able to be educated in general education with their peers with little or no special education support, as they enter the primary grades. If students enter kindergarten with well developed language skills and age level skills in the basic domains, the number of students needing ongoing special education services will be significantly reduced. Therefore, by funding early intervention programs at necessary levels, the benefits to students as well as the cost savings would be significant across the remainder of the students’ educational careers.

### **Recommendations:**

- An additional \$150 million dollars should be provided to SELPAs in the form of a “supplemental grant” for preschool children with disabilities. This would equate to approximately \$3,000 for each preschool child with disabilities identified as needing special education services. A cap on the supplemental grant funding for each SELPA would not exceed 11% of the total current kindergarten and first grade population of the SELPA.
- The State should provide additional facilities or facility funds for the purpose of operating inclusive preschool programs through the Budget Act. This would need to include consideration of the specialized facility needs such as: bathrooms with modified toilets, changing tables and specialized playground design.
- Provide additional professional learning opportunities for preschool staff working with students with disabilities, as outlined in the Early Learning Committee Report.

- Specifically increase the availability of preschool “slots” in LRE environments (such as state preschools) for students with disabilities including students with moderate/severe disabilities.

#### 4. **Transportation Funding for Student with Disabilities** (A Related Service)

##### **Problem:**

The funding formula for public school transportation in California has been antiquated, and under-appropriated. In 1982-1983, the state capped funding for transportation at 80% of approved expenditures. Since then, there have only been minimal adjustments and COLA increases along with several deficits in the funding while the approved costs have increased significantly. Due to no significant revenue increases over the past 30 years, the total state funding for approved costs has dropped to 35%. This has placed an incredible burden upon school districts’ unrestricted funds, especially in large rural areas. Though general ridership has decreased over time, the cost to provide transportation to Students with Disabilities (SWD) has not.

##### **Background:**

According to the Legislative Analyst Office (LAO) Report dated February 2014, the cost per SWD can be up to six (6) times as much as that of a general education student. The Federal Individuals with Disability Education Act requires that districts ensure that SWDs receive a Free and Appropriate Education (FAPE), including the IEP team’s determination whether or not transportation is necessary for a student to access his/her education. If the team determines that it is necessary, transportation becomes a mandated related service. Students with severe disabilities often require more assistance, specialized equipment, and longer bus routes. Rural districts especially, are faced with challenges in providing transportation for all students, especially for SWDs. The statistics show that while the number of SWDs has remained relatively flat over the past few years, the number of students with more significant disabilities has increased dramatically. These students generally require transportation as a related service in their IEPs. Thus, LEAs have been required to fund the additional transportation costs resulting from services on the students’ IEPs. The Home to School Transportation program is no longer in effect, and a “fixed” amount for transportation is an “add on” to the LCFF amounts. That amount is the capped amount, at approximately 80% of approved expenditures in 1982 minus all of the deficits applied in recent years. Therefore, transportation for SWDs is not currently being identified or funded as a service mandated by law.

##### **Rationale:**

Home to School Transportation for Special Education students is a related service as designated on an IEP. LEAs must fund these services if they are warranted as per the IEP team and written into a student’s IEP. Over the past few years these costs have dramatically increased due to the increase in students with moderate to severe disabilities. The chart below demonstrates the increase in students with moderate/severe disabilities over the past few years.

With the increase in the number of students in the moderate to severe categories, and the documented lack of adequate funding for the mandated related service of special education transportation, there is a need to augment the resources provided to LEAs to provide this service. A shared model of funding the special education transportation is suggested, with the state providing funding for 70% of the approved and documented costs for special education transportation. In order to reach a 70% funding base, LEAs should be required to report all of their special education transportation costs separately.

<b>California December Counts, Growth and Percentages of Pupils With Significant Disabilities</b>				
<b>Year</b>	<b>Total December Count</b>	<b>Yearly Growth or Decline</b>	<b>Significant Disability Count</b>	<b>Significant Disability Percent</b>
1991	495,252		72,630	14.67%
1992	519,431	24,179	81,532	15.70%
1993	539,073	19,642	84,643	15.70%
1994	550,293	11,220	88,395	16.06%
1995	570,834	20,541	92,720	16.24%
1996	589,279	18,445	96,331	16.35%
1997	610,037	20,758	101,269	16.60%
1998	628,848	18,811	106,003	16.86%
1999	646,191	17,343	110,393	17.08%
2000	650,719	4,528	115,160	17.70%
2001	663,220	12,501	123,492	18.62%
2002	675,332	12,112	130,183	19.28%
2003	681,980	6,648	136,086	19.95%
2004	681,969	(11)	141,673	20.77%
2005	683,178	1,209	146,961	21.51%
2006	679,648	(3,530)	150,601	22.16%
2007	677,875	(1,773)	156,454	23.08%
2008	678,105	230	163,366	24.09%
2009	680,164	2,059	170,409	25.05%
2010	678,929	(1,235)	175,956	25.92%
2011	686,352	7,423	180,211	26.26%
2012	695,173	8,821	186,865	26.88%
2013	704,805	9,632	191,750	27.21%

**Recommendations:**

- Implement a plan to bring pupil special education transportation support to 70% of approved costs to each LEA. In addition, provide a COLA yearly for annual operational cost increases. The funding should be phased in over the next (7) years, beginning in 2015-2016, keeping with the pattern established under LCFF. This approach recognizes that SWD transportation is a mandated related service, and should be funded as such.
- An extraordinary cost pool should be created for districts, counties and charter schools with extraordinarily high special education transportation costs.

- Offer incentives to LEAs/SELPA's to explore and implement ways to more efficiently operate home to school transportation for SWDs (coordinated schedules, school breaks, etc.)

## 5. **Low Incidence Funding**

### **Problem:**

The current amount of Low Incidence Funding for students with the low incidence disabilities of blindness, deafness or severe orthopedic impairments is significantly below amounts necessary to supplement the materials, equipment, technology or specialized services needed to support these students.

### **Rationale:**

It is estimated that less than 1 percent of California students have disabilities such as blindness, deafness or severe orthopedic impairments. Low incidence funds are meant to supplement special education funding to support students with those specific low incidence disabilities. These students often need significant support such as additional services to meet their medical needs while in school, interpreters, specialized equipment (walkers, standers, lifts, changing tables), assistive technology, assistive communication devices, brailists, FM equipment, real time captioning services, etc. The current low incidence funding amount is about \$460 per student. Almost all of the materials, equipment and services needed for these students far exceed that amount. Students with low incidence disabilities must have needed items as determined by the IEP team in order to have equal access to their educational program.

### **Recommendation:**

Given the additional needs of students with low incidence disabilities, low incidence funding should be increased from 13.5 million to approximately \$50 million annually. This would provide approximately \$1,600 per student with a low incidence disability.

## 6. **Infant Funding**

### **Problem:**

The funding to serve infants with special needs (birth to 3) is complex, inequitable and outdated. It is currently not adequately meeting the needs of the population it was designed to serve.

### **Background:**

The Infant program is currently funded from two sources: Federal – Part C and State Entitlement funds. Part C is the Federal program which was established in the early 1990's. That funding goes to the Department of Developmental Services (DDS) and DDS allocates a small amount to CDE/LEAs to serve "solely low incidence" infants (i.e., those infants with one of the low incidence disabilities noted above). This amount has been the same since it was established and is based on rates from the late 1980's. The State Entitlement funds were established in the early 1990's and mandated that LEAs that

operated infant programs in the 1980's must continue to operate those programs. When AB602 was written and subsequently passed in the late 1990's, the infant funding was not included by the authors due to its complexity and lack of time to develop a revised funding model. Therefore, the program is still essentially funded in the same manner as it was in the late 1980's/ early 1990's. The problems with this funding model are intensified by the fact that two separate agencies (Regional Centers and LEAs) have responsibility to serve this group of students, but have different eligibility criteria as established by law.

**Rationale:**

As a result of medical advancements, early medical screenings, increasing prevalence of children with autism and increased parent awareness, the number of infants with significant disabilities has grown and the cost of the necessary services has increased rapidly throughout the state. Providing services for infants with special needs at the earliest possible age has shown tremendous benefit. It is the key to future success for these children. Many students who receive interventions as infants make significant gains and are able to progress successfully through their educational careers as they enter school. Now is the time to take a serious look at the infant program and to develop a funding model which is equitable based upon current needs and designed to provide programs and services needed by the children (birth to three) with special needs.

**Recommendations:**

- Provide CDE with one time funding to conduct a cost study of the infant program as currently operated by both DDS and Education.
- CDE should convene a small workgroup of people with expertise in the programmatic and fiscal elements of the infant program. Using the cost data gathered by the study, this group should develop recommendations concerning:
  - Explore the feasibility of placing the program under one agency (e.g., Department of Developmental Services, Department of Health, Department of Health Care Services, or Education). The responsible agency could contract with other agencies to provide the services they do not provide.
  - Create a new funding model where calculations from decades ago would be “rebenched” using current figures and costs so that ensuring access to infant programs statewide would be addressed.
  - Detail a system where the roles and responsibilities of serving infants with special needs would be clearly delineated and monitored.

7. **Facilities**

**Problem #1 - Funding**

The fiscal subcommittee identified many barriers that detract and are detrimental to the delivery of services to the population of children who are eligible for Special Education services in California's public schools. One major barrier is the inadequacy of facilities for Special Education students.



**Background:**

Some facts about California's public school system:

- Total Public school enrollment exceeds 6 million and is growing.
- Total Special Education enrollment exceeds 700,000.
- California has approximately 1,000 districts ranging in size from 600,000 + to fewer than 20 pupils, over 1,100 charter schools, and 58 county offices of education.
- Public school expenditures exceed \$50 billion annually.
- \$40 billion is required to build new schools and to modernize old schools.

From 1982 through 2006 (with the exception of 1994 and 2000), California has passed K-12 General Obligation Bonds to assist in new construction and modernization for public schools. It now has been 8 years since the last bond was passed and all of those bond funds are committed. Local school districts can attempt to pass local General Obligation Bonds for facilities; however, even if a bond were to pass, many districts do not have enough of an appraised value to generate the revenue to meet the facility needs. Furthermore, County Offices of Education (COEs) do not have the authority to hold an election to attempt to pass a bond measure. Many of the Special Education programs are operated through COEs; thus there is a huge demand for new construction and modernization for these programs. Finally, pre-school facilities are not included in the current State Facilities Program and there is a population of students with disabilities in the Pre-K age range that continues to increase significantly. Further delay in not recognizing the needs for facility upgrades will only continue to foster a decline of adequate and appropriate ability to provide appropriate services to Students with Disabilities (SWDs).

**Rationale:**

California currently ranks as the 8<sup>th</sup> largest global economy. Given the economic power behind this fact, fiscal support for construction and modernization in California's public schools must become a priority of our state's leaders. All students deserve adequate and up-to-date facilities, including SWDs.

**Recommendations:**

- Both the Legislature and Governor should support placing a Pre-K thru 12 General Obligation Bond that is of sufficient scope to cover the facility needs for all students in California on the next election ballot.
- When seeking bond funding for new facilities or modernization funds, Local Education Agencies should be required to consider the needs of students with disabilities, including those with the most severe disabilities.
- State policy should require that districts, charters and county offices of education consult with SELPAs and special educators prior to building or modernizing schools to ensure the needs of SWDs will be met.

## **Problem #2 - Facilities**

There is a need to ensure that there are adequate facilities to provide inclusive education options for students with disabilities.

### **Background:**

California's Education Code 17047.5 mandates that when school districts are constructing classrooms for special education purposes, those classrooms shall be no more physically separated from classrooms constructed for non-disabled peers than are those classrooms from each other; preferably the classrooms are under the same roof and adjacent to the classrooms of non-disabled peers. A new facility is considered to be integrated if it meets the following criteria:

- A. Classrooms for special education are located in proximity to general education classrooms in such a way as to encourage age-appropriate interaction among all students.
- B. Whenever possible, if re-locatable classrooms are used for special education classes, the ratio of special education re-locatable classrooms to permanent special educational classrooms is the same as the classroom ratio between re-locatable classrooms and permanent classrooms for general education students.
- C. Side-by-side school sites are not considered to be integrated.

It is difficult to project needs for the long term because of the fluctuations within the populations of SWDs and the life expectancy of facilities. This is particularly true with respect to low incidence populations, as they do not tend to hold constant. As a result, not all general education sites have space available to meet the housing requirements for SWDs. Therefore, low incidence programs tend to be provided by a regional provider like COEs. These programs are essentially guests on a district's campus. There is no mechanism in place to ensure that all SWDs are housed in appropriate facilities and have total ease-of-access to the general education population. The "housing arrangement" is entirely dependent upon collaborative and collegial relationships between COEs, LEAs and SELPAs.

### **Recommendations:**

- Require that each SELPA's Local Plan mandate COEs and SELPAs to consult and/or collaborate at the time a district or COE is designing a new school or undergoing a modernization project. As a required step in the process of procurement of state funding, the district or the COE should be required to provide assurances, from the SELPA, including the SELPA governance body responsible for approving policies, that the SELPA has had the opportunity to review and provide input on the building plans. This would ensure that districts, COEs, and SELPAs are working together to support inclusion in regards to instruction, programs, and facilities.
- Require that all new schools and modernization projects address housing, within the facility, for programs assigned for students with severe disabilities, as well as provide incentive funding to ensure that this issue of concern is given due consideration. Include in the funding formula for new construction and modernization, an additional allocation to be used for the building of adequate programs to serve these students

with severe needs. Require assurances, in the application process, proof of collaboration between SELPAs, COEs, districts, and charters having clearly identified and addressed the need for new construction and/or modernization for programs designed for students with moderate to severe disabilities.

8. **Eliminate Funding Deficits by Allowing a Continuous Appropriation**

**Problem:**

There is a fixed amount allocated for Special Education each year in the State Budget. This amount is based upon the estimated statewide enrollment. If the enrollment is underestimated this creates a shortfall (or deficit) to SELPA funding unless the legislature takes action to augment the budget.

**Rationale:**

Currently, the state calculates the amount that each SELPA is to receive per student each year based upon ADA and includes that amount in the State Budget. If the actual enrollment ends up being higher than the original amount used to calculate the budget figure, a deficit is created, unless the Legislature takes action to augment the budget. This creates a significant problem, as local LEA budgets must fund the shortfall caused by the state underestimating the enrollment. The Local Control Funding Formula for general education provides a “continuous appropriation” which automatically increases funding for LEAs when the enrollment increases after the state budget has been finalized. Special Education funding should be subject to the same procedure.

**Recommendation:**

Special Education should be funded through a continuous appropriation in the same manner as is the LCFF.

9. **System Coherence Model to Support All Learners**

**Problem #1:**

The lack of interventions available for struggling students often leads to the first intervention being a referral to special education.

**Problem #2:**

In California, model programs of service delivery options that would promote student outcomes have not been identified for students with disabilities.

**Background:**

In California, struggling students often do not get instructional support as early and as effectively as they need it. The eligibility criteria for special education have produced the unintended consequences of a “wait to fail” model of support, since many students with learning disabilities are typically not eligible for special education until third or fourth grade. That is when the “severe discrepancy between ability and achievement” required

to meet federal and state eligibility as a student with a “specific learning disability” is evident. By then, a student’s achievement gap has widened with associated negative effects on learning habits and social-emotional health, often resulting in the emergence of a learning disability.

A System Coherence Model, also called a Multi-Tiered System of Supports/ Response to Instruction and Intervention (MTSS/RtI<sup>2</sup>) model, is an approach that eliminates a wait-to-fail model because all students are proactively screened in the early grades for potential learning problems and receive supplemental instruction as needed, an effective practice based on evidence-based research (Gresham, 2009). Because supplemental instruction is monitored and adjusted based on a student's progress, the MTSS /RtI<sup>2</sup> framework effectively distinguishes between those students whose achievement problems are due to a learning disability and those students whose achievement problems are due to lack of instruction, differentiated intervention, school exposure or language acquisition. Since RtI<sup>2</sup> presents an alternative method of acquiring data to determine a student's need for special education, it has the potential to reduce the number of students referred for special education services while increasing the number of students who are successful within general education. This approach reduces the likelihood that students from diverse racial, cultural, or linguistic backgrounds are incorrectly identified as having a learning disability, thus more effectively addressing the disproportionate classification of minority students.

An RtI<sup>2</sup> framework provides more instructionally relevant information as compared to traditional assessments. Such evidence-based approaches would identify students with learning needs at an early stage and implement strategies within the general education setting (in an MTSS model), while providing on-going assessment and evaluation.

Some areas which must be addressed include:

- A. Allocation of staff to complete time-consuming academic screening of all students. A sustainable RtI<sup>2</sup> model involves general education teachers in the three (or more) annual screenings of all students - a task that teachers report as challenging, given their continuous classroom responsibilities for upwards of thirty or more students. Alternatively, school districts may not have availability of appropriate support staff to administer the screening. Moreover, teachers are better prepared to instruct at an appropriate level when they themselves learn student competency by administering the assessments.
- B. Credentialing issues that challenge teacher assignment to provide supplemental instruction. In 2012, West Ed reported that most RtI instruction is provided in reading and that California school district administrators highly value the short term interventions provided by special education teachers for both students who are in general education and in special education. To qualify for their teaching credential, special education teachers are required to pass the Reading Instructional Competency Assessment (RICA), but within recent years, it has been interpreted that they are not authorized to provide short term reading interventions to general education students.
- C. Selecting the right MTSS/RtI/ RTI<sup>2</sup> service delivery model given the size, scope, and demographics of a particular school district, charter school, or county office of

education program from those implemented inside and outside California. It would be helpful to have a menu of models with demonstrated efficacy for sample student enrollments with demographics and other characteristics similar to other schools within California.

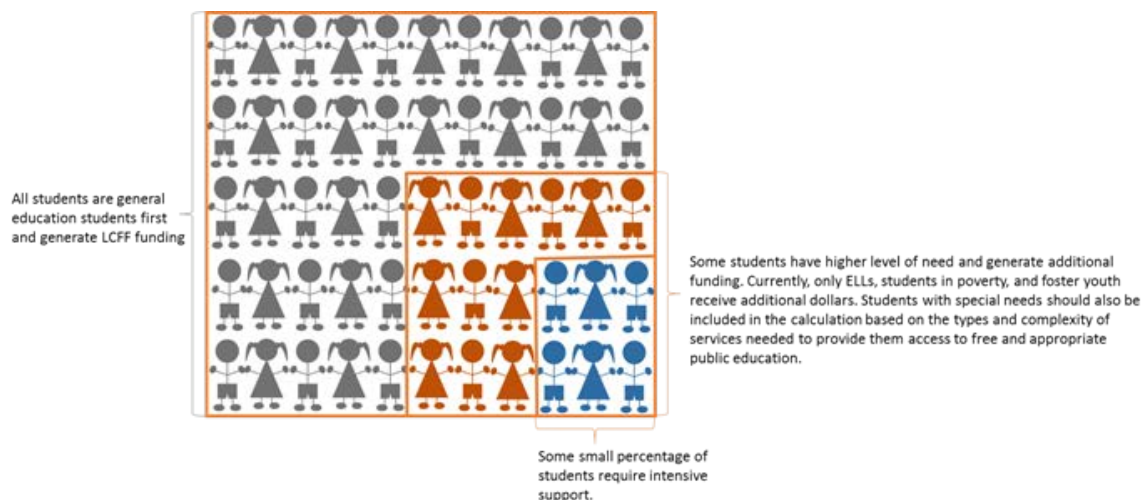
### **Rationale:**

As shown in the figure below there must be a constant reminder that all students are general education students first, and should be provided with the interventions available to all students.

The need for a strong Multi-Tiered System of Supports (MTSS) is imperative. Our goal should be to provide early intervention to students before there is a need for special education. It appears that once a student falls “behind” and is identified for special education, they often can never seem to catch up. Therefore, the number of students who exit from special education is extremely low.

Other states have determined that MTSS/RtI implementation is a high priority. Tennessee, Maryland, Florida, Idaho, Kansas, and Washington all have extensive support from their respective state departments of education. It is noteworthy that the first recommendation of the March 2013 New Jersey Special Education Task Force report was to provide a model of RtI implementation.

In addition, model programs of service delivery and effective practices for students with disabilities that promote positive student outcomes need to be identified and shared with the field. This is extremely important as we move into implementation of the Common Core State Standards.



### **Recommendations:**

- California should develop, implement and incentivize a System Coherence Model (SCM) of MTSS/RtI, the framework which would require effective first teaching in a Universal Design for Learning application, universal screening of all students, data driven decision making, targeted intervention, evidence based practices, and progress monitoring.

- Consider allocating specific resources through the LCFF and LCAP process to support SCM implementation over time.
- The LCAP rubric should underscore that all students are “general” education students first. The LCAP rubric should also include elements addressing systemic intervention for struggling students, including SWDs.
- Highlight, share and train professionals on service delivery models/strategies/materials that promote progress for SWDs.
- Professional guidance and technical assistance and support should be available from CDE, or directly provided by SELPAs/COEs/LEAs that have the means to provide such support, or through a COE/SELPA network for districts that do not have the financial means to develop an SCM model.

10. **Access to Technology for SWD**

**Problem #1:**

Students with disabilities are less likely to have access to needed technology.

**Problem #2:**

Teaching staff must have professional learning opportunities regarding the use of technology and assistive technology and have knowledge of the numerous tools/applications/programs available which can assist students in accessing the rich curriculum needed to address the Common Core standards.

**Background:**

Transition to the Common Core State Standards (CCSS) and the Smarter Balance Assessment Consortium (SBAC) allows for the ability to improve instruction and professional development, as well as improve our ability to track and measure progress for individual students over time. Given these rigorous standards, it is apparent that SWDs will need the use of technology in order to access the curriculum. They will also need to be trained in the use and functions of available technology in order to be prepared for statewide assessments and to take full advantage of universal tools, designated supports and if applicable, accommodations. Inherent in this transition and in the provision of adequate technology are some significant challenges. While these challenges directly affect all students, it is those students with disabilities who need our urgent attention to ensure they are not left behind in this important transition.

Some of the technology challenges that have emerged during the transition to Common Core include:

- A. Not enough computers
- B. Insufficient bandwidth limiting access to the internet
- C. Not enough adequate, high quality staff development

- D. Teachers and Administrators: the front line staff that are charged with implementation are in need of professional learning opportunities on the new standards, the aligned assessment, as well how to efficiently use the technology. The benefit of the computer adaptive technology can only be realized to the extent that the users can access it.
- E. Additional training for Instructional Technology staff to provide new technical expertise required in this transition.

**Rationale:**

It is imperative that we ensure that students with special education needs are trained in technology tools which can support their learning and that they have the available technology and experience with the technology needed to access the Common Core curriculum and statewide assessments. California is opting to raise the bar for students as it moves to implement rigorous grade level curriculum and track progress. While the standards attempt to set forth the skills necessary for students to be successful in college and career, specific consideration must be given to students with disabilities in this transition to ensure they are given equal access.

**Recommendations:**

- There should be a requirement for Districts, County Offices of Education, and Charter Schools to include information in their LCAP outlining their process for ensuring that technology will be available for SWDs to ensure their equal access as districts/charters move into the implementation of CCSS, SBAC, and any additional alternative assessment system.
- Professional development must be available for teachers and specialized instructional support personnel to prepare them to deliver high-quality, evidence-based, individualized instruction and support services; this needs to be designed to include training in a myriad of assistive devices: screen reader technology; speech to text technology; use of the program accommodations, etc.
- Consider including these items on the LCAP rubric being developed by the State Board.
- Augment Low Incidence funding as indicated earlier in this report.

11. **Career Education – Employment**

**Problem:**

Statistics show that a large majority of students with disabilities are not involved in competitive employment within two years of their exit from school.

**Rationale:**

IDEA requires that students from 16 through 22 have transition services as part of their Individualized Education Program. These services can include but are not limited to: career exploration, counseling, and coaching to help them gain the skills they need to be successful in postsecondary education or employment. Currently some SELPAs and/or

LEAs receive funds to partially support these services through a state program called WorkAbility. Given the current statistics regarding students 16-22, the U.S. Department of Education does not believe that California is doing enough in this area.

**Recommendations:**

- Allocate WorkAbility grants to all SELPAs to ensure equitable access for all students with disabilities between the ages of 16-22 throughout California. Current funding is approximately \$470 per student and should be expanded to all SELPAs.
- The state should develop statewide policies that ensure that students with disabilities have equal access to Regional Occupational Programs, Career Technical Education Programs, Linked Learning, Career Pathways and other programs of these types.
- See Evidence-Based Practices Committee report for additional recommendations in this area.

12. **Due Process**

**Problem:**

The current due process system is in need of revision in order to assist in resolving disputes in a more timely, efficient and cost effective manner. Currently there are inadequate numbers of alternative dispute resolution options like facilitated IEP meetings which promote more positive working relationships for families and LEAs.

**Background:**

Existing law provides for procedural safeguards, including due process hearings, for the resolution of complaints regarding alleged violations of the Individuals with Disabilities Education Act (IDEA). Formal due process hearing decisions determine who prevails in a dispute, but the process often results in costly attorney fees for both families and school agencies, and may negatively impact educational benefit for the child during the long legal process. Some California school districts experience prolonged litigation, inflated legal fees from prevailing parties, non-meritorious and frivolous claims. These practices cause excessive stress and anxiety for all participants.

According to data from the California Department of Education (CDE), there were 3,194 due process hearings filed in 2012-2013. While the majority of these disputes were resolved prior to the hearing, costs to school agencies for attorneys, staff time to prepare, and stress is exorbitant. In 2013, 96 percent of cases were resolved without the need for a due process hearing. Unresolved disputes, when decided by a hearing officer, often extend over weeks and result in significant legal costs. Districts are required to reimburse legal fees incurred by families when the family has prevailed in any portion of the hearing officer's decision that was raised in a due process hearing. Appeals prolong the legal process, cause further stress, expense, and potential for further loss of education benefit for the student. There are no winners in the current due process system as it often results in an impairment of the trust between the parents and school agencies and often incurs many years of contentiousness while the student remains in the K-12 system.



In April 2013, the American Association of School Administrators published “Rethinking Special Education Due Process.” The report was based on national information as well as on a random survey conducted of 200 Superintendents from across the country. The report contains a great deal of information and some of the conclusions cited include:

- A. “District compliance with IDEA is radically different today than when IDEA was created over three decades ago. Major changes to federal accountability and compliance monitoring system for students with disabilities...have opened the door to potential alternatives to due process hearings that would benefit all parties.”
- B. “The cost and complexity of a due process hearing hinder low and middle income parents from exercising the procedural protection provisions to which they are entitled.”
- C. Numerous studies document the dissatisfaction felt by parents and schools with the due process system. A study on the fairness of special education hearing found that both parents and school officials had negative experiences with hearings, regardless of who prevailed.”

These reports as well as several other recent articles below address the due process issue. Most publications point to the need for alternative ways to deal with special education disputes that could assist in resolving disputes in a more timely, efficient and cost effective manner and that does not perpetuate adversarial relationships. It appears that this approach would be of great benefit to the students.

- Mueller, T. G. (2009). Alternative Dispute Resolution A New Agenda for Special Education Policy. *Journal of Disability Policy Studies*, 20(1), 4-13.

This article discusses the status of conflicts between families of children with disabilities and school districts. It examines the current dispute resolution procedures and offers alternative dispute resolution strategies. Some of these strategies are parent-to-parent assistance, case management, facilitated IEP meetings, an ombudsperson, and alternative mediation. The author suggests that all of these strategies will promote collaboration and avoid the emotional and financial strains that are associated with mediation and due process hearings, as both parents and school officials are able to resolve conflict through their own empowerment.

- Mueller, T. G. (2009). IEP facilitation: a promising approach to resolving conflicts between families and schools. *Teaching Exceptional Children*, 41(3), 60-67.

In this article, the author claims that the current IDEA resolution procedures are limited, expensive, and adversarial. He also believes that mediation as a substitute is equally limited because it is offered too late and can be seen as a procedural delay or argumentative strategy. The author supports the idea of IEP facilitation as a promising alternative dispute resolution strategy; in IEP facilitation, an outside facilitator assists with the overall organization of and conduct at the IEP meeting. This creates a flexible alternative for parents and school officials to address concerns immediately without having to go through formal procedures. The facilitated IEP has the following components: a neutral facilitator, an agenda,

goals created by the team, ground rules, a collaborative environment, communication strategies for a balance of power, and the use of a “parking lot” (i.e. a process to control off-subject issues).

- Mueller, T. G., & Carranza, F. (2011). An examination of special education due process hearings. *Journal of Disability Policy Studies*, 1044207310392762.

This article outlines a descriptive study of 575 due process hearings in 41 states between 2005 and 2006 that analyzes the petitioner, disability, dispute, and outcome. Specific learning disabilities and autism were the most common disabilities in the examined hearings (46.5%), followed by other health impairments and emotional disturbance (28.3%). The author finds that the most common sources of dispute were placement (25%), and IEP and program appropriateness (24%). Parents initiated 85% of the hearings, but school districts prevailed in 59%. The author further notes that there is a lack of uniformity and reliability within and across states in terms of IDEA hearing data, and suggests that a way to solve litigation may be to have facilitated IEPs.

- Zirkel, P. A., & Scala, G. (2010). Due process hearing systems under the IDEA: A state-by-state survey. *Journal of Disability Policy Studies*, 21(1), 3-8.

This article presents the results of a state-by-state survey of the hearing system for dispute resolution under IDEA. It identifies the key features of (a) whether the system is one-tier or two-tiered; (b) whether the hearing officers are part-time or full-time; (c) whether their legal background is in law or special education; (d) which agency assigns them; and (e) what is the updated volume of adjudicated hearings. In California – which is one of the 5 most active states in the country – jurisdictions are one-tier and hearing officers are full-time. The predominant proportion of hearing officers have legal backgrounds, as opposed to special education backgrounds, and are randomly assigned to cases. The author suggests that because California and a small number of other states account for an overwhelming proportion of the adjudicated hearings, this means that one part of the country is highly litigious in special education disputes, while a much larger part of the country resolves these issues in less formal ways. The author also points out a “judicialization” of special education hearings (i.e. they are more like formal court proceedings) and the general lack of special education expertise within the court system.

### **Rationale:**

It seems imperative that the due process system needs to be examined in light of the special education system currently. When a dispute arises, it is to the advantage of all parties, especially the students, to resolve the dispute in a timely and efficient manner utilizing alternative strategies, preventing the need for expensive, time-consuming due process hearings that inevitably take a toll on all of the participants and may not truly benefit the student in the end. Currently, only 20 SELPAs receive grants to help fund some of the costs (primarily training) related to the implementation of Alternative Dispute Resolution (ADR) strategies.

**Recommendations:**

- Institute a required alternative dispute process; and advocate for this requirement in the reauthorization of IDEA.
- Provide funding to all SELPAs to support training and implementation of alternative dispute resolution programs, facilitated IEPs and a collaborative IEP process in every LEA. Funding should be at least \$15,000 per SELPA consistent with the 20 ADR grants that are currently funded.
- Review data from the current ADR pilots in California and research dispute information from states that currently have an ADR process and/or have placed a cap on attorney fees in order to remove the incentive to prolong the dispute process. Where possible, consider replication of those processes in California.

**13. Federal Funding****Problem #1:**

The Federal government has never lived up to its promise to fund up to 40% of the special education excess cost.

**Background:**

The Education for All Handicapped Children Act of 1975 was enacted by Congress and signed into law by the President Ford as Public Law 94-142 to address the failure of states to meet the educational needs of children with disabilities. This Act, known as the Individuals with Disabilities Education Act (IDEA) since 1990 with the enactment of Public Law 101-476, remains as the cornerstone of federal statutory mandates governing special education.

The purpose of the 1975 federal law, as declared by Congress, was to assure that all children with disabilities have available to them, within specified time periods, “a free appropriate public education which emphasizes special education and related services designed to meet their unique needs, to assure that the rights of children with disabilities and their parents or guardians are protected, to assist States and localities to provide for the education of all children with disabilities, and to assess and assure the effectiveness of efforts to educate children with disabilities.”

The 1975 Act authorized a maximum State funding entitlement at 40 percent, for the fiscal year ending September 30, 1982, and for each fiscal year thereafter, of the average per pupil expenditure in public elementary and secondary schools in the United States.

Throughout the years since 1975, including the most recent amendments to the IDEA, Public Law 108-446, the Individuals with Disabilities Education Improvement Act of 2004, Congress has maintained the funding authorization at “40 percent of the average per-pupil expenditure in public elementary schools and secondary schools in the United States.”

The federal government has never paid its promised 40 percent share of the IDEA mandate. For many years, Congress paid less than 8 percent of the excess cost of educating children with disabilities, which forced the states and local educational agencies to cover the

remaining costs. The California student population requiring special education and related services continues to grow each year. As of December 1, 2012, California's special education pupil count was over 695,000. To put this number into perspective, the special education program in California was larger than the total general education program in each of 25 states. California school districts spent over \$10.58 billion to serve the students with disabilities.

Schools, disability rights and parent groups have been trying for years to bring IDEA appropriations up to the authorized 40 percent of average per-pupil expenditures, the maximum any state can receive per student with disability. This effort has come to be known as "full funding" – but the effort has never succeeded.

There have been a number of IDEA full-funding bills introduced over this time period, however the Congress has passed none. It is clear that the funding language in the IDEA has no impact on the level of funding appropriated for special education services. This is primarily due to the fact that funding levels for programs are determined by the appropriations committees in both the House of Representatives and the Senate. There is nothing that requires these committees to appropriate funding based on the recommended funding levels in the IDEA.

### Rationale:

Despite a continual increase in Federal mandates, requirements and reports over the past decade, the Federal allocations to IDEA continue to be well below promised amounts and the percentage of costs funded by the Federal IDEA funds has continued to drop. See spreadsheet below showing the exact percentages being spent by the Federal, State and Local Education Agencies.

PERCENTAGE OF TOTAL SPECIAL EDUCATION EXPENDITURES SUPPORTED BY STATE, FEDERAL AND LOCAL FUNDS								
	2012 - 13	2011 - 12	2010 - 11	2009 - 10	2008 - 09	2007 - 08	2006 - 07	2005 - 06
<b>Total Expenditures</b>	<b>10,699,121,706</b>	<b>10,580,528,539</b>	<b>10,316,746,219</b>	<b>10,313,212,128</b>	<b>10,010,760,788</b>	<b>9,835,490,387</b>	<b>9,214,005,530</b>	<b>8,496,928,648</b>
Revenue Sources:								
Property Tax	401,609,172	367,519,876	361,910,521	370,242,530	385,257,737	365,324,634	335,031,694	314,609,662
Net State Entitlement	2,736,958,788	2,783,372,899	2,840,737,801	2,877,103,616	2,893,200,967	2,932,021,921	2,840,769,978	2,652,253,530
Excess ERAF	41,864,650	38,713,356	40,038,011	41,572,692	35,871,294	36,155,311	37,626,185	36,011,077
<b>Total State AB 602 Revenue</b>	<b>3,180,432,610</b>	<b>3,189,606,131</b>	<b>3,242,686,333</b>	<b>3,288,918,838</b>	<b>3,314,329,998</b>	<b>3,333,501,866</b>	<b>3,213,427,857</b>	<b>3,002,874,269</b>
Federal Local Assistance	1,047,814,000	1,039,425,770	1,038,996,269	1,037,411,971	991,845,900	981,486,214	967,310,407	964,021,866
American Reinvestment and Recovery Act				1,267,431,822				
<b>Total Other Federal Grants</b>	<b>186,528,131</b>	<b>184,466,026</b>	<b>191,421,240</b>	<b>160,748,849</b>	<b>158,815,065</b>	<b>147,951,065</b>	<b>116,142,553</b>	<b>118,143,827</b>
State Transportation	185,150,324	184,396,789	182,122,653	182,216,457	227,909,337	227,939,391	217,491,750	185,616,910
Total Other State support	468,344,480	464,528,495	223,486,965	99,286,297	100,127,248	99,825,063	96,363,546	136,672,823
State Revenue Limit	1,067,746,937	1,063,450,025	1,020,585,970	1,049,282,879	1,049,282,879	1,204,644,209	1,148,963,173	1,115,013,144
<b>Total State &amp; Federal Revenues</b>	<b>6,136,016,482</b>	<b>6,125,873,236</b>	<b>5,899,299,430</b>	<b>7,085,297,114</b>	<b>5,842,310,428</b>	<b>5,995,347,809</b>	<b>5,759,699,286</b>	<b>5,522,342,839</b>
<b>Total Local Contribution</b>	<b>4,689,106,224</b>	<b>4,464,665,303</b>	<b>4,417,446,789</b>	<b>3,227,915,014</b>	<b>4,168,460,361</b>	<b>3,840,142,678</b>	<b>3,464,308,244</b>	<b>2,874,686,809</b>
ADA	5,960,411	5,905,931	5,944,089	5,929,190	5,956,739	5,946,333	5,948,532	5,961,870
Local Contribution per ADA	765.57	754.27	743.17	544	700	645.80	580.70	498.94
<b>State Percentage of Total Expenditures</b>	<b>45.81%</b>	<b>46.33%</b>	<b>45.26%</b>	<b>44.79%</b>	<b>46.87%</b>	<b>49.47%</b>	<b>50.75%</b>	<b>52.26%</b>
<b>Federal Percentage of Total Expenditure</b>	<b>11.54%</b>	<b>11.57%</b>	<b>11.93%</b>	<b>23.91%</b>	<b>11.49%</b>	<b>11.48%</b>	<b>11.76%</b>	<b>12.74%</b>
<b>Local Percentage of Total Expenditure:</b>	<b>42.65%</b>	<b>42.10%</b>	<b>42.82%</b>	<b>31.30%</b>	<b>41.64%</b>	<b>39.04%</b>	<b>37.49%</b>	<b>35.01%</b>
December Pupil Count	695,307	685,320	678,929	679,453	676,033	678,491	680,775	673,946
Cost per Pupil	15,388	15,439	15,196	15,179	14,808	14,496	13,535	12,608

NOTE: THE INFORMATION IS BASED ON DATA FROM THE MAINTENANCE OF EFFORT TEST REQUIRED BY THE IDEA

For more information, please contact Nancy LaCasse, Coalition for Adequate Funding for Special Education, (916) 446-7317



**Recommendation:**

To assure students with disabilities and their parents of consistent federal support for essential programs and services, urge California's Legislature, Superintendent of Public Instruction, State Board of Education, local education agencies and professional education associations to coalesce with other states around the critical need to urge Congress to fulfill its promise of full 40 % funding of the Individuals with Disabilities Education Improvement Act with full implementation over five to seven years.

**Problem #2:**

The Federal Maintenance of Effort (MOE) requirements in IDEA need to be revised to ensure that they do not penalize LEAs and charters for innovation, for creating systems to successfully provide students with interventions or designed to catch them before they fail, or for decisions of the Federal or State governments as a result of fiscal crisis.

**Background:**

Currently, MOE requires districts and charter schools to spend the same amount of funds, or more, on special education than they did in the previous year. This requirement results in:

- A barrier to innovation. It seems this promotes an underlying perverse incentive to keep students in special education.
- A barrier to encourage more cost effective practices in educating special education students.
- The strict reporting requirements results in Districts and charters being forced to think about general education and special education students differently rather than addressing the needs of all students under one system.

In addition the MOE Exceptions which are listed in IDEA are not sufficient to prevent LEAs and charters from being penalized for fiscal decisions/situations of the State and Federal Governments as a result of fiscal crisis situations. Examples of this could be seen with California's recent recession where districts were forced to reduce salaries or enact furlough days (the state actually reduced the required number of school days for a period of years). However, these items could not be considered as Exceptions when calculating MOE. Another example was the Federal Sequestration in 2013-2014 where California's IDEA grants were reduced by approximately 74 million dollars. LEAs and charters were not able to reduce their MOE to reflect that decrease.

**Recommendations:**

- Strongly advocate for Federal changes to Maintenance of Effort requirements. Changes should include, for example:
  - Expanding the MOE Exceptions allowable in the law to include other items such as reduction in Federal support and/or systemic items resulting from a fiscal crisis at the State level.

- Provisions allowing or incentivizing districts and charter schools who implement successful innovative practices in serving struggling students, the ability to adjust their MOE requirement by a designated dollar amount.

#### 14. **Medi-Cal and Medi-Cal Administrative Activities Program (MAA)**

##### **Problem #1 – LEA Medi-Cal Billing**

According to a report published by the United State General Accounting Office (GAO) in April 2000, it was estimated that California ranks in the bottom quartile with respect to the average claim per Medicaid for eligible children among states with school-based Medicaid programs.

##### **Background:**

The LEA Billing program, which provides reimbursement for direct services to children who have an IEP, has been going through an overhaul and is expected to have some additional changes to integrate with new documentation requirements by the beginning of the 2015-2016 school year. The program has generated a range from \$130 million to \$147 million each year for about 531 LEAs. This number is expected to substantially decrease for 2014-2105 due to increased supporting documentation required by Department of Health Care Services (DHCS). This has forced districts to stop billing for certain services since the new requirements add administrative burdens that make the claiming process too difficult and does not provide an appropriate return on investment. Earlier this year the California Legislature approved a state audit of DHCS around the LEA billing option and School Based Medi-Cal Administrative Activities (SMAA).

##### **Rationale:**

The LEA Medi-Cal Billing Option which provides federal Medicaid reimbursements have been a crucial source of revenues for schools in providing necessary health services to students. While there have been some changes as a result of legislation, it appears that much more needs to be done to ensure that California receives its fair share of the federal funds and that schools are able to generate all of the dollars allowed through the federal program.

##### **Problem #2 – Medi-Cal Administrative Activities Program (MAA)**

The Medi-Cal Administrative Activities Program (MAA), has operated in California for nearly 17 years and was created to help Local Educational Agencies (LEAs) provide Medi-Cal outreach and referral to their students. It is administered by DHCS, with intermediaries known as Local Educational Consortiums (LEC) and Local Governmental Agencies (LGA) working as the direct supervisors over LEAs. The purpose of this structure was to provide regional support to DHCS, which did not have the capacity to deal with the nearly 1,000 individual agencies that are eligible to take advantage of the available services.

Over the years the emphasis has been on compliance, without a parallel focus on the effectiveness of operations and benefits for parents and students. In addition, there has been an avalanche of added administrative burdens, which has contributed to LEAs

becoming more and more frustrated with the MAA, to the point where between 30 and 40 percent of the LEAs have pulled out with a subsequent loss in funding resources.

**Background:**

In California 982 school districts have been participating in this program. The SMAA program helps to ensure that children are enrolled and retained in the Medi-Cal program and are able to access health services through their schools. Fifty percent of the cost of the program is reimbursed by the Federal Government and the remainder comes from the State's general fund. The Education Coalition has sent correspondence to Senator Feinstein to document their serious concerns/frustrations with the program. LEAs currently have a very limited role in how the program is operated, while the cost of maintaining the program continues to increase.

**Recommendations:**

- The state should convene a work group comprised of services providers, SELPA administrators, county superintendents, DHCS and LECs to explore ways to maximize reimbursements.
- California should include all of the practitioners who are allowed to bill under federal rules.
- California should include in the allowable costs to be claimed all procedures that are allowed under federal rules including care resulting from fragile medical conditions, behavior intervention, vision screening, hearing screening, scoliosis screening, etc.
- California payment rates need to be raised to mirror the approximate cost of the services being provided.
- The SMAA program needs to be reviewed for needed changes to ensure that California receives a fair share of Federal funds. LEAs should have a greater role in providing input and managing the program.

15. **Additional Fiscal Recommendations**

- California should utilize one student information data base for all students. Data needs to be "cleaner." Whenever separate data bases (i.e. CALPADS and CASEMIS) are compared, there is bound to be a discrepancy in information because the systems have different definitions for the information and the data can be collected at different times. The data used for CDE monitoring is often well over one year old.
- Funds should be allocated to CDE for the implementation of a fiscal system which allows for streamlining of the allocation of funds and the submission of required expenditure reports. Their current system is extremely outdated and requires a tremendous amount of paperwork and staff time from both CDE and LEAs/SELPA's resulting in delays that could be eliminated and could be completed efficiently and effectively with an electronic system.

- The fiscal language and accounting practices in California should be aligned with programmatic provisions. An example would be to eliminate “SH” and “non-SH” (Severely Handicapped, and Non-Severely Handicapped) in fiscal reporting since we no longer use this terminology in reporting special education services through CASEMIS.
- Revise/Amend Education Code to remove fiscal items in the area of special education that are not useful/necessary or already reported in a different manner. An example of this would be the requirement for SELPAs to complete an Annual Budget and Service Plan.



# PPIC: Special Education Finance in California



**PPIC**

PUBLIC POLICY  
INSTITUTE OF CALIFORNIA

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**Laura Hill,  
Paul Warren,  
Patrick Murphy,  
Iwunze Ugo,  
and Aditi Pathak**

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# Special Education Finance in California



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Technical appendices to this paper are available on the PPIC website.

California's system of special education served about 718,000 students in 2014–15, or about 11.5 percent of the K–12 population. It is expensive, consuming some \$12 billion in federal, state, and local dollars annually. And special education operates within a legal framework that sets it apart from the rest of the K–12 system.

The state's enactment of the Local Control Funding Formula (LCFF) in 2013 consolidated most state categorical programs into district base grants in order to move decision making to the local level. However, special education was preserved as California's largest remaining categorical grant operating mostly outside the LCFF governance framework.

This report examines California's special education finance system in light of the principles that underlie LCFF—local control and accountability, transparency, and equity. It also draws on the findings of the 2015 Statewide Special Education Task Force report, which makes several recommendations to improve California's system. The task force envisioned a unified system in which general and special education are part of a seamless program of student services.

California's main program for financing special education, AB 602, was developed nearly two decades ago. We find several positive elements in AB 602. Most importantly, because it distributes funds based on census counts of all students, not counts of students with special needs, it avoids creating financial incentives to identify students for special education services. In other respects though, AB 602 falls short:

- It funds local programs at widely different rates.
- The overall funding level has not kept pace with rising numbers of students with disabilities or the growing share of high-cost disabilities.
- Distributing AB 602 funds through Special Education Local Planning Areas (SELPAs) runs counter to LCFF principles of transparency, local control, and accountability.

In order to align California special education with the principles of LCFF and move towards a more seamless system of K–12 education, we recommend:

- Funding districts directly including special education funding as part of a district's LCFF allocation.
- Preserving AB 602's census count method of distributing special education dollars, but developing ways to make funding more equal on a per-student basis. A plan to equalize funding across districts would result in an additional \$670 million every year in special education spending. This would partly address rising special education caseloads and the increased incidence of severe disabilities that has occurred over the past decade.

- Developing new ways to protect small districts and charter schools from extraordinary special education costs by encouraging pooling arrangements or insurance programs.
- Better support for local infant and preschool special education programs, ensuring that the needs of young children with disabilities are served.

We believe these changes would help achieve the Task Force’s vision of providing special education services as part of a coordinated set of student supports. In addition, our recommendations will take fuller advantage of LCFF’s principles of accountability and local control.

# Introduction

Special education in California is designed to improve schooling for the nearly 12 percent of students in the state with special needs. Two major questions are raised by the way special education is organized and financed in the state: Could special education funding be better aligned with (1) the principles of local control and accountability laid out in the Local Control Funding Formula (LCFF), California’s system for financing schools, and (2) the ideal of seamless integration of special and general education called for by California’s 2015 Statewide Special Education Task Force?

California special education operates in a unique legal framework. Federal law requires districts to meet the needs of each student with disabilities, including physical, mental, emotional, and processing disorders. California’s schools and districts spent over \$12 billion on special education services in the 2014–15 school year, supported by the state’s largest remaining K–12 categorical funding program. In 2014–15, the state appropriated \$3.2 billion in General Fund support for special education. Federal funds supplied an additional \$1.2 billion, with the remaining \$7.6 billion coming from local contributions, according to the California Department of Education. State funding is categorical because it requires districts and county offices to spend the money only on the services identified in the Individualized Education Programs (IEPs) of students with special needs.

The state funds special education services through Special Education Local Planning Areas (SELPA). SELPAs coordinate local services and allocates funding to programs and districts. The state’s 133 SELPAs include some that operate in a single district and others that serve multiple districts. School districts are responsible for identifying students needing services, developing IEPs, and determining the settings in which students are educated.

LCFF’s enactment in 2013 inaugurated a different approach to K–12 governance in California, emphasizing local decision making. To foster greater local control, LCFF consolidated most state categorical programs into district base grants. The act also sought to promote greater accountability over spending and student performance. However, special education remained apart from the LCFF and largely outside its governance structure.

As LCFF was drafted, California’s State Board of Education formed a task force to make recommendations about how to help schools improve results for special education students. The Statewide Special Education Task Force report, published in 2015, called for additional funding, a stronger emphasis on early intervention, improved teacher training, and research-based approaches to education. The need to integrate special education with the rest of the K–12 program was a recurring theme. The report found “that significant barriers to school success for students with disabilities have grown out of [the] unfortunate evolution of two separate ‘educations.’”<sup>1</sup> The task force envisioned a “unified” system, where general and special education would be part of a “seamless” system of student support (Statewide Special Education Task Force 2015).

LCFF’s underlying objectives and the issues raised by the task force provide an important starting point for examining whether California’s system of special education financing provides adequate funding and distributes funds appropriately. To explore these questions, this report is divided into several sections: (1) how California’s special education funding system is structured; (2) how well California special education funding aligns with the distribution of students with disabilities; (3) how California’s system of funding special education through SELPAs affects program quality and accountability; (4) how other states organize and finance special education; (5) recommendations for how California can improve special education organization and funding.

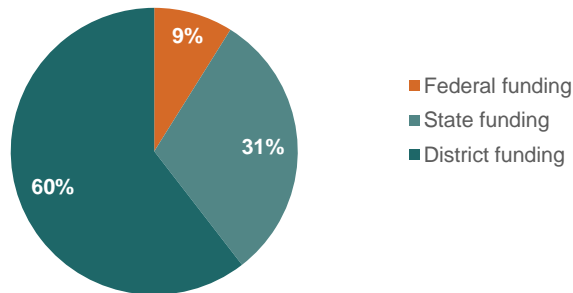
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<sup>1</sup> California’s Statewide Task Force on Special Education. 2015. *One System: Reforming Education to Serve All Students*, p 8.

# Special Education Funding in California

Special education funding is meant to pay the additional costs of serving students with disabilities. The California Legislative Analyst’s Office estimates that educating students with disabilities costs on average more than twice as much as educating general education students (LAO 2013). Three main sources finance California special education services: the federal government provides 9 percent, the state 29 percent,<sup>2</sup> and local school districts 62 percent of total funding.

**FIGURE 1**  
Most special education funding comes from local contributions



Sources: Authors’ calculations from CDE special education finance data, 2014–15  
Notes: Shares are based on total state funding by source. California state special schools, CHELPAs, and the Los Angeles Court Schools SELPA are excluded.

Virtually all state funding is delivered through four formulas, shown in Table 1. AB 602, California’s main program for financing special education, distributes 80 percent of state special education funds. Its funding formula is based on a count of all enrolled K–12 students in each SELPA, not on the number of students with disabilities.<sup>3</sup> This method is referred to as a census count, or average daily attendance (ADA) count.

**TABLE 1**  
AB 602 distributes most state special education funding

	2014–15 amount (in millions)	Formula	Restrictions
AB 602	\$2,587	Census	Special Education costs
Mental health	357	Census	Mental health costs of special education students
Out-of-home care	146	Local capacity of licensed community institutions	Special education costs
Infant programs	71	Units	Special education services for infants
Other	64		
<b>Total</b>	<b>\$3,225</b>		

SOURCES: Data from 2014–15, California Department of Education.  
NOTE: Census refers to a complete count of all student attendance in grades K–12.

<sup>2</sup> About 3% of state funding is offset by deductions from county office of education property tax revenues, an amount considered a state obligation in Figures 2 and 3.  
<sup>3</sup> AB 602 refers to the legislation that created the formula, enacted in 1996.

The census formula was designed to allow flexible service delivery and avoid giving districts a monetary incentive for identifying students as having disabilities. Concerns that the previous funding formula created incentives to identify students with special needs<sup>4</sup> and placed special education students in unnecessarily restrictive and expensive settings led to the enactment of AB 602. Federal law requires students with special needs to be educated in the least restrictive environment possible.<sup>5</sup>

The AB 602 formula was based on the conclusion that funding SELPAs using ADA, though imperfect, was the best option. This conclusion reflected the fact that educators have significant latitude in identifying students with special needs (Legislative Analyst's Office et al 1995). It might seem that AB 602 creates a disincentive to identify students with special needs since funding does not rise as the number of students with disabilities or the cost of serving them increases. However, districts are legally obligated to identify children with special needs, and spend AB 602 funds solely on the educational needs of students with disabilities. Since most districts spend much more on special education than the funds they get from the state and federal governments, it is not clear that the fixed funding levels plays a major role in local program decisions. The sizable local share of costs, however, give them incentives to serve students with special needs efficiently.

Three other California programs fund special education:

- **Mental health funds.** In 2011, California transferred responsibility for identifying and providing mental health services to students with disabilities from county mental health agencies to school districts. This funding, which must be used only for mental health needs of students with IEPs, is also based on census data.
- **Out-of-home care.** This program adjusts the AB 602 formula to account for facilities like group homes and foster family homes. In general, SELPA allocations are based on the number, type, and size of such facilities in their districts. Funds may be spent for any special education purpose.
- **Infant programs.** This program is based on the number of infants served and their educational settings. Infants are defined as children with identified disabilities under age 3.

## How well have state funding programs worked?

California's four major programs for funding special education have been in place for at least a decade, but each has issues that should be addressed.<sup>6</sup>

### AB 602 funding has not kept up with numbers of cases

Over the past 10 years, AB 602 funding has not kept pace with the growth and change in the population of students with disabilities:

- The number of students with IEPs and their share of the school population began to increase in 2010 after many years of being relatively flat. At the same time, overall K–12 student attendance, which drives funding, did not rise. As a consequence, total state funding for students with special needs has fallen in both nominal and constant dollars. Figure 1 shows that inflation-adjusted AB 602 funding dropped from a peak of \$3.8 billion in 2007 to \$3.2 billion in 2014. On a per-student basis, special education funding fell from \$4,900 in 2007–08 to \$4,478 in inflation-adjusted dollars (see [Technical Appendix Figure A.2](#)).

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<sup>4</sup> More recent research finds that this still is an issue in states that fund special education based on counts of students with disabilities rather than ADA. For example, Morrill (2016) finds states that pay districts based on the number of students with special needs have higher rates of attention deficit hyperactivity disorder (ADHD) than states that do not. The author argues that ADHD diagnoses are influenced by schools and relatively inexpensive to treat.

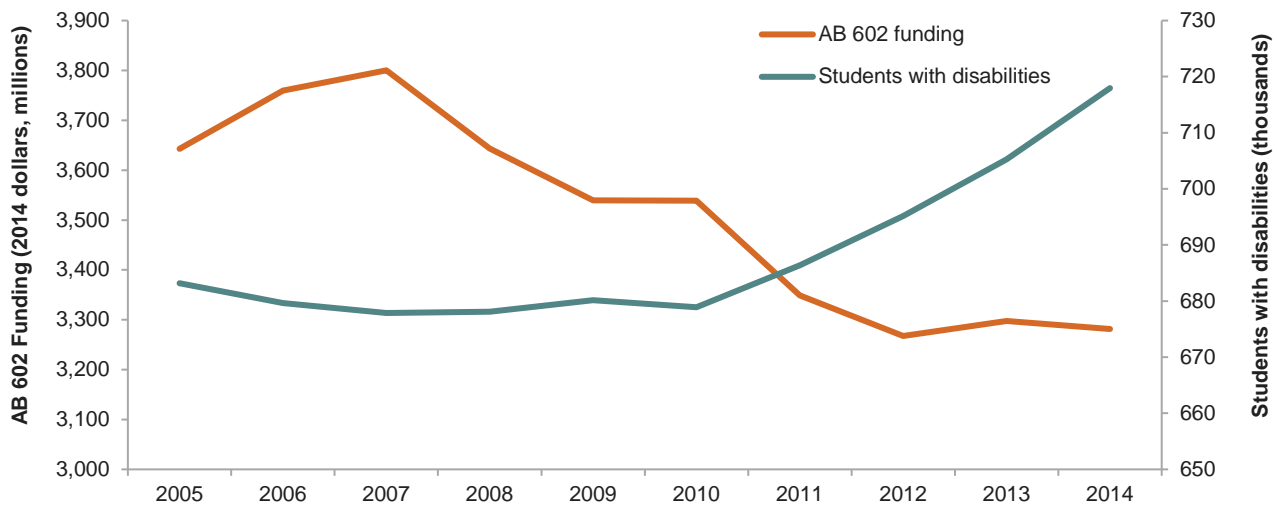
<sup>5</sup> Least restrictive environment means that student with special needs should receive as much of their education as appropriate with the general student population.

<sup>6</sup> See [Technical Appendix A](#) for additional analysis of these programs.



**FIGURE 2**

Inflation-adjusted state special education funding has decreased while number of students with disabilities has increased



SOURCE: CDE CASEMIS and AB 602 funding, including state property tax used in AB 602 funding distribution calculations and the Out-of-home care program.

NOTE: Includes ages 3–22.

- The mix of disabilities has changed substantially, increasing local special education costs. Over the past decade, the number of students with relatively low-cost disabilities has fallen while the number with more expensive disabilities has risen. Autism offers an example. California’s 1.3 percent autism rate among K–12 students in 2012–13 was higher than the 1 percent national rate. Autism is increasing faster in California than in the rest of the United States. From 2001–02 to 2013–14, California’s autism caseload increased 5.4 times, while cases in the rest of nation increased 4.2 times. (NCES 2016 and Kids Data 2015). At both the state and national level, rising autism has been accompanied by shifts away from intellectual disability and specific learning disability diagnoses (CASEMIS data and Zablotsky et al 2015).

We estimate special education costs increased \$1.1 billion between 2006–07 and 2015–16 based on national data on the average cost of educating students by type of disability.<sup>7</sup> Our estimate reflects both the overall increase in the number of students with disabilities and the trend towards more expensive disabilities. However, this estimate should be viewed with caution since disability costs are based on 1999–2000 spending (Augenblick, Palaich and Associates 2011). In addition, it is not clear how well the national data reflect the cost of serving California students. Despite these qualifications, AB 602 funding has clearly not kept up with the escalating demands on districts.

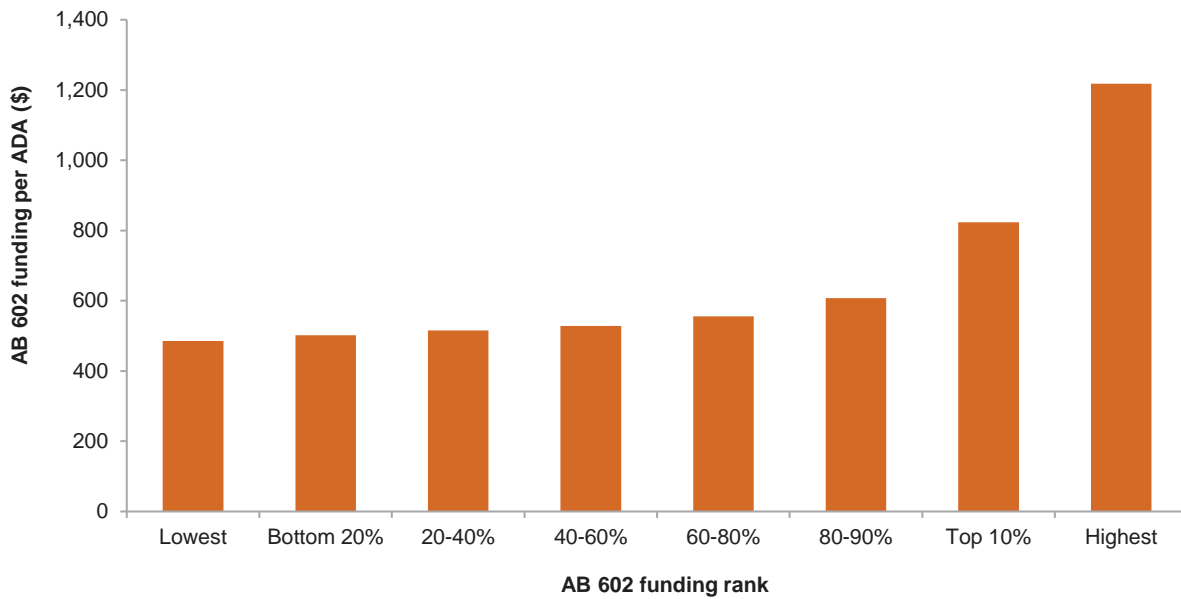
## Funding is not equal

The state never achieved its goal of equalizing special funding rates, and wide differences in SELPA rates exist. Originally, AB 602 grants combined California and federal special education funds in a single allocation. The state tried to narrow the differences in SELPA funding rates. However, the state never succeeded in funding SELPAs equally on an ADA basis. In the early 2000s, the federal government required California to separate state and federal funds, which led to the current situation. Figure 2 shows SELPA variation in per-pupil AB 602 funding in 2014–15.

<sup>7</sup> This calculation is explained in [Technical Appendix A](#).

**FIGURE 3**

The top fifth of SELPAs by per-pupil funding receive 40 percent more funding than the bottom fifth



SOURCE: CDE CASEMIS and AB 602 funding data, 2014–15.

NOTES: AB 602 funding including out-of-home care and state property tax. The Los Angeles Court School SELPA is excluded.

The highest-funded SELPA received more than twice as much AB 602 funding per pupil as the lowest-funded one, and the top tenth of SELPAs receives \$289 more per pupil than the bottom 90 percent, a difference of more than 50 percent.

## AB 602 funds are like base funding for special education

Many special education educators point out that school district contributions to special education have increased significantly while AB 602 funds have not grown at the same rate as LCFF funding. Full funding of LCFF has been the state’s priority since 2013. Since then, per-pupil allocations for LCFF’s base, supplemental, and concentration funds<sup>8</sup> have posted large increases. By contrast, AB 602 special education funding has stayed relatively constant primarily for two reasons: (1) cost-of-living adjustments have been small because the inflation rate is low, and (2) overall ADA has declined slightly.

Educators we interviewed felt the disparity between LCFF and AB 602 created problems at the local level. For instance, significant increases in per-pupil LCFF funding prompts both special education and other teachers to expect salary increases. But flat special education funding means districts pay for increases in special education compensation out of LCFF funds. This creates the impression that local special education costs are out of control—especially if other special education costs are rising.

State and federal laws impose largely nonnegotiable special education mandates on districts. For this reason, AB 602 was intended to treat special education costs like other LCFF base costs. By dedicating most of California’s new K–12 funds to LCFF, the state is failing to recognize the interaction between increases in LCFF and special education costs at the local level. Thus, the system needs to find a way to link special education financing with

<sup>8</sup> Base grants are the same by grade level of pupil. Supplemental grants are an additional 20% per unduplicated English Learner, economically disadvantaged, or foster youth student. Concentration grants are an additional 50% for each unduplicated student over 55% of a school district’s population.

other school funding. One way to do that is to tie special education funding to the LCFF so that when base, supplemental, and concentration dollars go up, special education funding rises as well.

### **Other state formulas raise issues**

While the three other principal state special education funding formulas appropriate far fewer dollars than AB 602, they play an important role in helping districts pay for services. These programs also need attention.

**Mental health funds are provided separately.** These funds may only be used to pay for mental health services for students with IEPs, a requirement that made sense when program responsibilities were transferred from county mental health services agencies to school districts. This restriction should now be reassessed. The categorical nature of mental health funds runs counter to the LCFF principle of local control. This is especially important as the funds are allocated using the same census formula as AB 602, but it is unclear whether that genuinely reflects local need for mental health services. Plus, this is the only category of special education services the state funds separately. Many special education administrators argue the program unnecessarily restricts their ability to use the funds most efficiently.

**The Out-of-Home Care formula is threatened by other program changes.** Changes in the licensing of residential foster care facilities by California's Department of Social Services may force the state to modify or eliminate the Out-of-Home Care formula. A new state law is attempting to phase out these institutions. In the meantime, the law has eliminated classifications the Out-of-Home Care formula uses to distribute funds. During our review, we found that the formula distributes more funding than can be justified by the number of students living in these licensed community institutions. In the long run, changes in the foster care system will determine whether the Out-of-Home Care formula remains necessary.

**Infant and preschool funding formulas have problems.** Federal law requires districts to provide special education services to children under age five. The Statewide Special Education Task Force called for more emphasis on early services to children and for better-funded infant and preschool programs because they provide long-term benefits to children with disabilities. However, infant funds are not available to all districts and allocations are based on an outdated formula. For preschool, districts receive no base funding for three-to-four year olds. As a result, when pre-Kindergarten caseloads rise faster than K–12 ADA, as they did over the past decade, special education costs grow quickly. The state needs to consider how to support these programs and ensure that all eligible students receive services.

The state special education funding formulas are designed to avoid over- or misidentification of students with special needs. However, the categorical nature of the funds makes it difficult for districts and SELPAs to spend the money flexibly and makes integrating special needs and general education students more challenging. Moreover, funding is not distributed equally to SELPAs, despite the intent of AB 602. These issues raise questions of whether California's system for funding special education is properly aligned with LCFF principles.

## **Special Education Funding and the Distribution of Students with Disabilities**

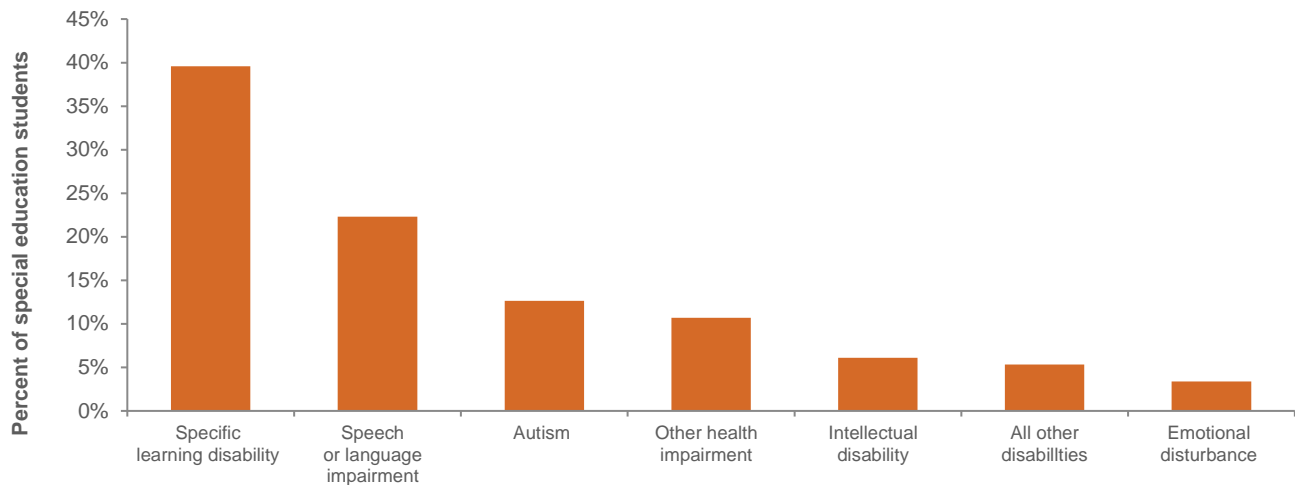
Federal law grants students with disabilities a right to educational services. Districts identify students with disabilities, evaluate whether those disabilities interfere with each student's education, and create an Individualized Education Program that spells out services to be provided. Students and parents can appeal district

decisions through a state hearing process or, ultimately, in court. This entitlement to services strongly shapes the size, scope, and cost of special education.

In 2014–15, special education served some 718,000 California students, including 54,000 infant and preschool-age students with special needs and 14,500 students over 18 but under 22.<sup>9</sup> About 11.5 percent of K–12 students received special education services. Disabilities are classified in 13 categories. Figure 4 shows the share of students with special needs in the largest categories. The most common is specific learning disability,<sup>10</sup> followed by speech and language impairment. These account for more than 60 percent of special education students. Other disabilities affect relatively few students. For instance, emotional disturbance accounts for about 3.4 percent of special education students, or 24,000 students statewide.<sup>11</sup>

**FIGURE 4**

Two disability categories represent more than half of California students with special needs



SOURCE: California Department of Education, special education enrollment, 2014–15.

NOTES: Other disabilities include orthopedic impairment, hard of hearing, multiple disability, visual impairment, deafness, traumatic brain injury, established medical disability, and deaf-blindness.

The AB 602 formula, based on the total number of K–12 students, assumes that all SELPAs face roughly the same challenges. The actual distribution of students with special needs shows that is not the case. Here we look at the distribution in three ways: overall incidence; the share of students with disabilities who are also high-needs, including English Learner (EL), free and reduced price meals eligible,<sup>12</sup> and students with disabilities that are typically expensive to serve (with “severe” disabilities).<sup>13</sup>

<sup>9</sup> Under federal law, students with special needs may attend school until they reach age 22.

<sup>10</sup> Specific learning disability means a disorder in one or more of the basic psychological processes involved in understanding or using spoken or written language that may manifest in an imperfect ability to listen, think, speak, read, write, spell or do mathematical calculations. It can include perceptual disabilities, dyslexia, and other conditions. (California Education Code, Sec. 56337)

<sup>11</sup> Seven other categories account for only 5.6% of special education students. These are orthopedic impairment, hard of hearing, multiple disability, visual impairment, deafness, traumatic brain injury, established medical disability, and deaf-blindness.

<sup>12</sup> The Local Control Funding Formula calls high-needs students “unduplicated” because students are not double or triple counted if they are in more than one category. When we refer to high-need students, we use the term interchangeably with unduplicated.

<sup>13</sup> The California Department of Education defines “severe” disabilities as including autism, blindness (including visually impaired), deafness (including hard of hearing), orthopedic impairment, serious emotional disturbance, intellectual disability, traumatic brain injury, and multiple disabilities.

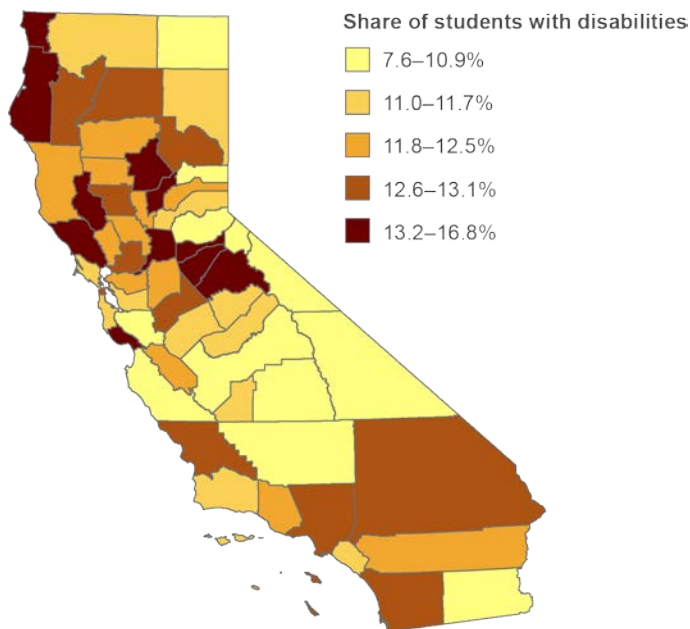
## Overall incidence of students with special needs

Figure 5 shows the share of the K–12 population identified as students with disabilities varies widely across the state. Among SELPAs, the share ranges from 7 to 17 percent, with an average of 12.<sup>14</sup> At the county level, the range is 7.6 to 16.8 percent. In approximately one-fifth of counties, more than 13 percent of students are identified as having a disability.

This distribution suggests the census formula may overfund some SELPAs and underfund others. However, this mismatch between funding and need was understood to be a potential consequence of the census enrollment model when it was enacted in 1996. It was expected that school districts would end up filling the gap between state funding and the cost of educating students with disabilities. Local contributions to funding special education were also seen as giving districts an incentive to provide services efficiently. In interviews, district and SELPA administrators expressed broad support for the existing AB 602 formula and reluctance to alter it in ways that might reestablish incentives to over- or misidentify students with disabilities.

Incidence rates are also influenced by the extent to which districts meet student needs with regular education services. For example, Sanger Unified School District in Fresno County has a relatively small proportion of students in special education because it integrates regular and special education services (Huberman, Navo, and Parrish, 2012).<sup>15</sup> Three other districts with better-than-average performance for students with disabilities have been highlighted as integrating special and general education services. One district reported it saved money by doing so.<sup>16</sup>

**FIGURE 5**  
Disability incidence rates vary widely across California counties



SOURCE: Authors' calculations from CASEMIS and LCFF snapshot, 2014–15.

NOTE: Students with disabilities include pre-school and 5<sup>th</sup> year seniors (numerator). Denominator is K–12 student population.

<sup>14</sup> The SELPA average is slightly higher than the state 11.5% average.

<sup>15</sup> Sanger students with IEPs also performed well on state tests, which is surprising given that the district served a more concentrated group of special education students. Because of its low identification rate, district student disabilities were on average more severe than in other districts (Huberman, Navo, and Parrish 2012).

<sup>16</sup> Upland Unified reported transportation savings when fewer students with IEPs needed to be bused (Huberman, Navo, and Parrish, 2012).

## Distribution of English Learner and economically disadvantaged students with disabilities

Many students with disabilities are also English Learners or economically disadvantaged, or in foster care. Such students are classified as high-need, as distinct from special needs which refers specifically to students with disabilities. The LCFF recognizes the additional costs of educating such high-need students by giving extra per-pupil weight for these categories.

High-need students with disabilities may be more expensive to educate than students who need special education services, but are not economically disadvantaged or English Learners, a point noted by the special education task force. This point is implicit in the federal funding formula for special education.<sup>17</sup> The state distribution of high-need students with disabilities is not uniform,<sup>18</sup> reflecting underlying differences in the share of high-needs students and variation in the identification of students with disabilities in the high-need population.

High-need students make up 70 percent of students with disabilities compared with 62 percent in the overall K–12 population. Some 31 percent of students with special needs are EL, substantially higher than the 22 percent in the K–12 population. In addition, 64 percent of special-needs students are economically disadvantaged, compared with 59 percent in the K–12 population.<sup>19</sup>

We also examined the relationship between high-need students in the overall K–12 student population and SELPA identification of students with special needs. Shares of EL and economically disadvantaged students are not related to shares of students with special needs. However, there is a slight relationship between shares of students with IEPs and shares of economically disadvantaged students.<sup>20</sup>

## The distribution of students with severe disabilities

We also examined the distribution of students with disabilities with conditions considered severe, which likely requires costly services. The California Department of Education (CDE) defines severe disability as including autism; blindness including visually impairment; deafness and other hearing impairments; orthopedic impairment; serious emotional disturbance; intellectual disability; traumatic brain injury; and multiple disabilities.

A number of studies have attempted to estimate special education costs by disability category. One study found that emotional disturbance, autism, hearing impairments/deafness, and multiple disabilities accounted for 77 percent of high cost disabilities (Chambers, Kidron, & Spain 2004). Another found that autism, multiple disabilities, traumatic brain injury, and visual impairment/blindness have high average costs (Chambers, Shkolnik, and Perez 2003). Augenblick, Palaich and Associates (2011) found autism, emotional disturbance, cognitive impairment, multiple disabilities, and visual disabilities to have high average per-pupil costs in New Jersey. Another way to estimate cost is to calculate the percentage of time students with disabilities spend outside regular classrooms or in specialized schools. This method shows no clear pattern based on disability type.<sup>21</sup>

To examine the distribution of severe disabilities in California, we calculated the number of students with autism, cognitive impairment, deafness-blindness, emotionally disturbance, multiple disabilities, and traumatic brain injury. Figure 6 shows students in these categories as a percentage of all K–12 students are not evenly distributed across the state.

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<sup>17</sup> The federal ADA rate for funding special-needs students assumes a 15% extra weight for low-income students, an explicit assumption in LCFF funding as well.

<sup>18</sup> See [Technical Appendix B](#).

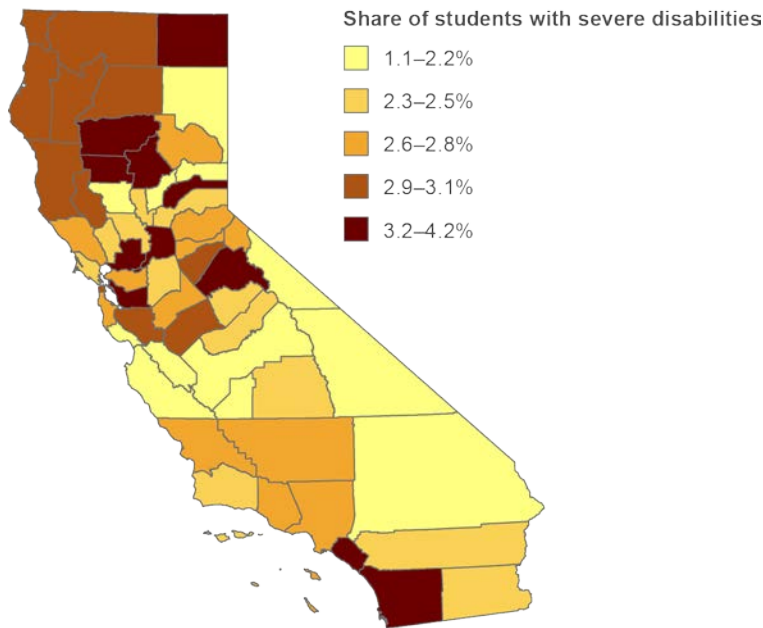
<sup>19</sup> Shares of high-needs students by county are displayed in [Technical Appendix Figure B.1](#). [Technical Appendix Figure B.2](#) shows the extent to which county shares of high-needs students with special needs vary from the share of high-need students.

<sup>20</sup> The relationship is statistically significant, but the  $R^2$  is just 0.03.

<sup>21</sup> See [Technical Appendix Table B.1](#).

**FIGURE 6**

Students in severe disability categories are not evenly distributed across the state



SOURCE: Authors' calculations from 2014–2015 CASEMIS.

NOTE: Students with disabilities include pre-school and 5<sup>th</sup> year seniors (numerator). Denominator is K–12 student population.

At the SELPA level, students with severe disabilities range from one to four percent of the total student population. However, even these small variations could produce large SELPA cost differences. At the county level, the range is identical.

## SELPA Funding and Spending

Our analyses of the variation in the proportion of students identified as needing special education services, the share of high-needs students with disabilities and the proportion of high-cost disabilities raise the question of whether AB 602's census approach represents the best way to distribute state funds. If unequal funding and unequal need are balanced, the distribution may be fair. To investigate that possibility, we examine the extent to which SELPA spending exceeds state and federal special education funding and look at the relationship between SELPA spending and the population of students with disabilities.

### SELPA spending exceeds state and federal funding

In 2014–15, the federal government provided nine percent, the state 29 percent, and districts 62 percent of California's special education budget. Federal funding largely comes in three grants. The largest, the Local Assistance Entitlement, accounted for 91 percent in 2014–15. In the Individuals with Disabilities Education Act (IDEA), the federal government set a goal of funding up to 40 percent of the per-pupil cost of special education, but the federal contribution historically has not reached that level.

Special education funding is sometimes called “encroachment,” a term that could be taken to imply that money spent on services for students with disabilities unfairly reduces support for general education. The one-system approach favored by the Statewide Special Education Task Force takes another view. Students with disabilities

are seen as general education students with needs that require additional spending. We estimate students with disabilities generate about \$4.4 billion in LCFF funding.<sup>22</sup>

**TABLE 2**

Local contributions exceed 40 percent of special education spending at most SELPAs

% local contribution	Number of SELPAs	Expenditure per pupil (ADA)	Average local contribution (ADA)
0–20%	1	1,348	189
20–40%	6	1,594	503
40–60%	65	1,872	997
60–80%	53	2,365	1,546

SOURCES: Authors’ calculations from CDE special education finance data, 2014–15

NOTES: Local contributions are the difference between total special education spending and combined federal and state contributions. California state special schools, CHELPAs, and the Los Angeles Court Schools SELPA are excluded. SELPAs report spending data to the California Department of Education.

Local special education spending above federal and state contributions is substantial (Table 2). Nine in ten SELPAs generate more than 46 percent of special education expenditures locally. Over half of SELPAs contribute more than 40 percent.

### Spending and disability at SELPAs

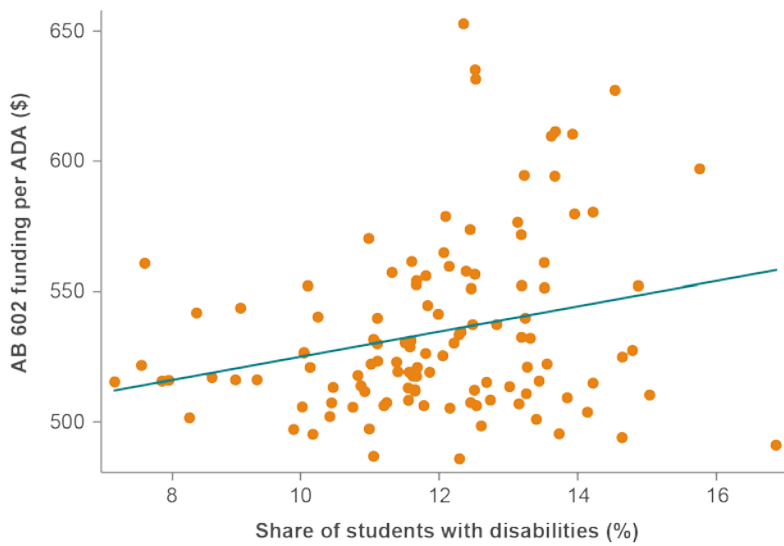
An important question is whether SELPA spending patterns are related to the relative size and characteristics of their populations of students with disabilities. As Figure 7 shows, AB 602 funding is not closely aligned with the share of students with disabilities at SELPAs. Some higher-funded SELPAs serve relatively small shares of students and some low-funded SELPAs provide services to a much higher proportion. Specially, our analysis found a one percent increase in the share of students with disabilities is associated with a \$5 increase in per-pupil funding. We conclude that unequal SELPA funding is not offset by unequal identification of students with disabilities.

<sup>22</sup> To estimate LCFF funds generated by students with special needs, we assume each special education student generates LCFF funding through the base grant pegged to grade level. We also assume that each high-need special education student generates funding through the supplemental grant at a rate of 20% of the student’s base grant. Concentration grants are available when a school district’s high-need student population is greater than 55%, with each student over that percentage generating 50% of the base grant. We apply that rule to SELPAs, which underestimates concentration district-level grant funding. See [Technical Appendix C](#) for a discussion of how LCFF supplemental and concentration funds can be used for high-need students with special needs.



**FIGURE 7**

SELPA funding and share of students with disabilities



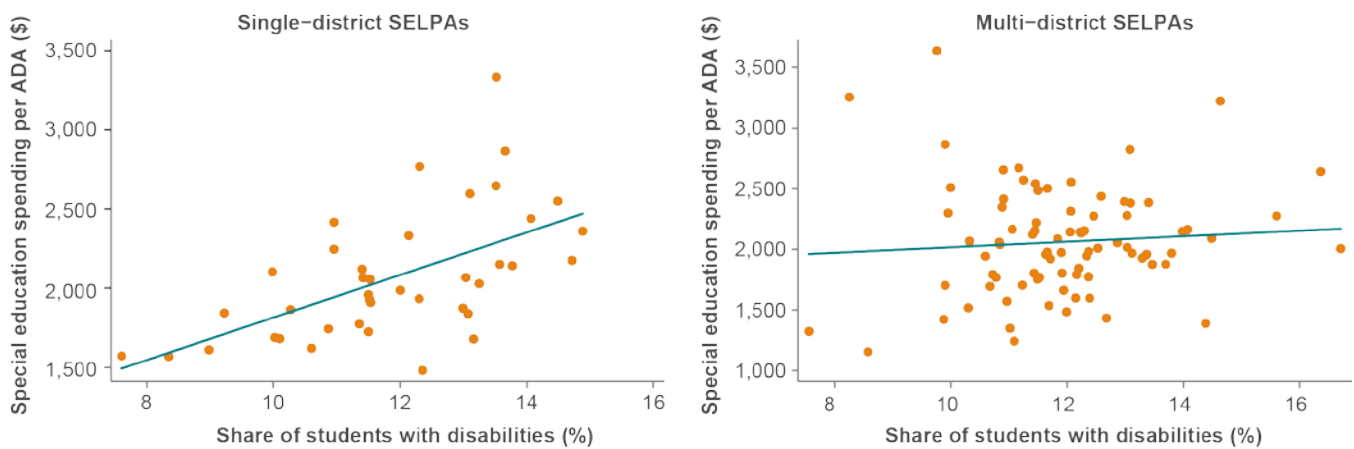
SOURCE: Authors' calculations from CDE special education finance data and CASEMIS data, 2014–15. AB 602 funding includes out-of-home care and state property tax.

NOTES: A one percent increase in the share of students with disabilities is associated with a \$5 increase in per-pupil funding. The coefficient is significant, but the model fit is low ( $p = 0.01$ ,  $R^2 = 0.06$ ). The 12 SELPAs with the highest per ADA funding level are excluded. Funding is the sum of AB 602 funding and local property tax revenues earmarked specifically for special education services.

While funding isn't related to SELPA disability rates, we might expect that spending would be. Figure 8 shows this is true for single-district SELPAs. As SELPA share of students with disabilities increases, spending per ADA rises. However, as Figure 8 shows, there is no relationship in multidistrict SELPAs between the share of students with disabilities and special education spending.

**FIGURE 8**

Spending and share of students with disability



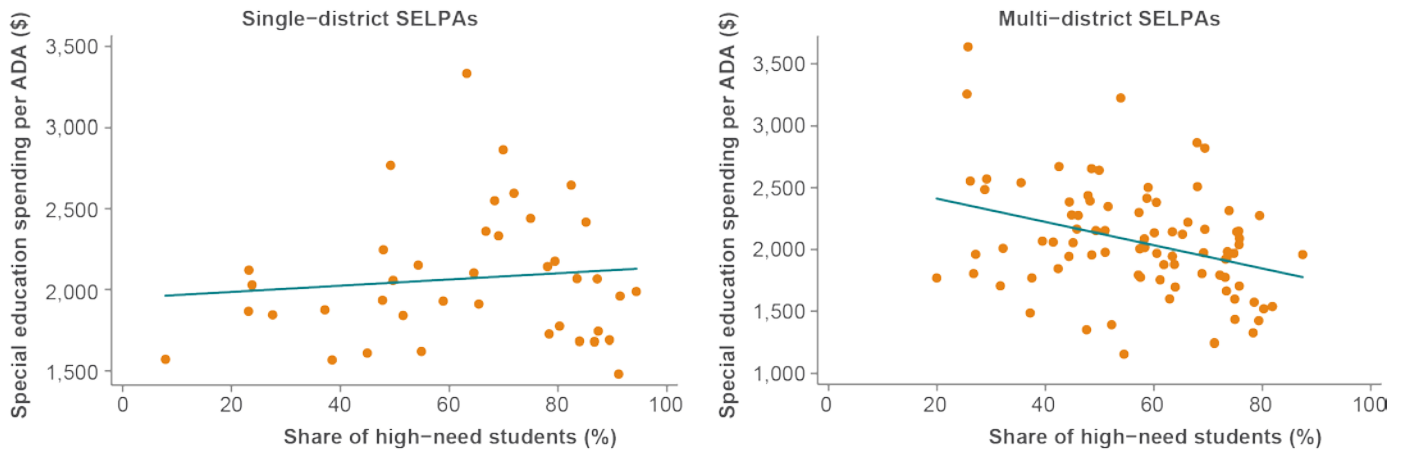
SOURCE: Authors' calculations from CDE special education finance data and CASEMIS data, 2014–15.

NOTES: A one percent increase in the share of students with disabilities is associated with a \$134 increase in special education spending for single-district SELPAs and a \$23 increase for multi-district SELPAs. However, only the coefficient for single-district SELPAs is significant ( $p = 0.00$ ,  $R^2 = 0.34$ ) while the coefficient for multi-district SELPAs is not ( $p = 0.47$ ,  $R^2 = 0.01$ ).

Spending at single-district SELPAs is not related to the share of students with IEPs who are English Learners, economically disadvantaged, or foster youth. Figure 9 shows spending is relatively flat as the share of these high-need students increases. However, spending at multi-district SELPAs decreases with increasing shares of high-need students, an unexpected result given that high-need students are overrepresented among students with IEPs and that such students tend to cost more to educate. Further research is necessary.

**FIGURE 9**

Multi-district SELPAs with more high-need students spend less on special education. There is no relationship for single-district SELPAs



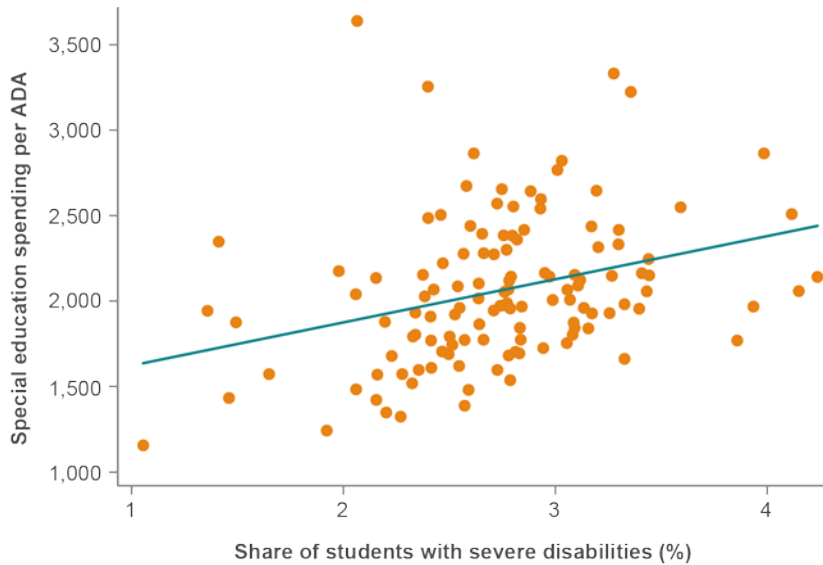
SOURCE: Author’s calculations for CDE special education finance data and CASEMIS data, 2014–15.

NOTES: A one percent increase in the share of high-need students is associated with a \$2 increase in special education spending for single-district SELPAs and a \$9 decrease in funding for multi-district SELPAs. However, the coefficient for single-district SELPAs is not significant ( $p = 0.51$ ,  $R^2 = 0.01$ ) while the coefficient for multi-district SELPAs is significant ( $p = 0.00$ ,  $R^2 = 0.12$ ).

Figure 10 shows that SELPA spending increases as the share of students with severe disabilities rises. However, spending increases relatively more in single-district SELPAs than in multidistrict SELPAs. In separate analyses, we found higher rates of autism, emotional disturbance, other health impairments, and deafness-blindness are individually associated with higher SELPA spending. However, the variation in costs among districts with the same proportion of students with severe disabilities is wide. Overall, such students play a relatively small role in SELPA special education costs.

**FIGURE 10**

Spending increases as the share of severe students with special needs increases



SOURCE: Authors' calculations from CDE special education finance data and CASEMIS data, 2014–15.

NOTES: A one percent increase in the share of students with high-cost disabilities is associated with a \$252 increase in special education spending. The coefficient is significant ( $p = 0.00$ ,  $R^2 = 0.10$ ).

### No clear rationale for changes

In summary, we found that (1) SELPAs uniformly spend more on students with disabilities than they get from state and federal sources; (2) single-district SELPAs spend more when they have a higher proportion of students with disabilities; and (3) both single- and multidistrict SELPAs spend more when they have a higher proportion of students with severe disabilities, although this relationship is stronger for single-district SELPAs.

In the end, we did not find reasons why California should change its practice of distributing funds based on ADA. The AB 602 formula was supported by all the special education administrators we interviewed. The proportion of students with severe disabilities has only a small influence on local costs and is dwarfed by other factors.

## How SELPAs Affect Funding and Service Delivery

The state requires school districts to join a SELPA. Today, 40 single-district and 85 multidistrict SELPAs operate in California. Single-district SELPAs are mostly in large, urban areas, while multidistrict SELPAs cover the rest of the state. Most counties have at least one multidistrict SELPA. Four SELPAs, known as CHELPAs, serve charter schools. In 2014–15, 303 charters were CHELPA members. Three SELPAs serve other special populations.<sup>23</sup>

California created SELPAs to ensure that all students with disabilities are educated in compliance with federal law. State law gives SELPAs a range of policy and procedural responsibilities to make sure local special education programs meet the needs of students, teachers, and administrators.

<sup>23</sup> They include SELPAs operated by the California Department of Development Services, the California Department of Corrections, and the California State Special Schools.

While state and federal funding are channeled through SELPAs, they do not administer classes, which are run by districts and county offices of education. The role of SELPAs is to help coordinate the system of special education services. SELPAs are required to develop annual budget and service plans. In multidistrict SELPAs, the budget plan identifies how state and federal special education funds will be allocated among districts and county offices. The service plan outlines how educational agencies will provide services that ensure all students receive appropriate instruction.

### Statutory SELPA Responsibilities

- A coordinated system of identification, referral, and placement
- An annual budget that includes a description of how funds are distributed to member districts in multidistrict SELPAs
- An annual service plan outlining the services each district and county office of education will provide
- Plans for providing services to students in medical, correctional, or other facilities
- A process for protecting student and parental rights
- Regional staff to train and consult with district teachers and administrators
- Submission of special education program data required by state and federal law
- Coordination with other public agencies that serve people with special needs

SOURCE: California Education Code, Sec. 56195–56208

SELPAs also monitor the operation of safeguards mandated by state and federal law, such as complaint and dispute resolution procedures; hire professional development staff to train teachers and administrators; and collect and forward to the CDE legally required data on district special education programs.

Each district retains responsibility for designing its own special education program, including establishing a process for identifying students who need special education services; putting in place early services that could make special education unnecessary; developing IEPs for each student identified as special needs; and choosing the settings in which students with disabilities are schooled. How SELPA policies and funding formulas influence these choices is poorly understood.

## Multidistrict SELPA fiscal practices

Multidistrict SELPAs are special education consortiums guided by local boards composed of district superintendents and others. They allocate state and federal funds based on local priorities. State law provides them great flexibility so long as they spend funds on services for students with special needs.

We analyzed funding allocation patterns in 39 of the 80 multidistrict SELPAs using SELPA and county websites that posted plans from 2014 or later. This selection is not necessarily representative. SELPAs in several counties, including Los Angeles, are not included. However, we found no significant differences between our sample and the multidistrict SELPA average on a number of indicators, including the proportions of EL, low-income, and special education students.

Our review found no template for reporting SELPA budget plans. The level of information and detail on allocation plans varies widely. SELPAs may report their allocation models in one of several documents, including

the local plan, procedure manuals, and budgets. We are not confident that we obtained a full picture of each SELPA's budget plan.<sup>24</sup> Nevertheless, it became clear that there are a variety of approaches to allocating state and federal special education funds. Most SELPAs do not simply pass funds through to districts. Instead, SELPA plans are often quite complex, earmarking funds for specific programs or costs. However, we found plans all had three basic elements: allocations based on district size; off-the-top allocations, and regional programs.

**Allocations based on district size.** Virtually all SELPAs distributed a portion of state and federal funds to help pay for district special education classes and services. Some SELPAs distribute almost all state and federal special education funds to districts. Others distribute a relatively small share. For instance, one SELPA we visited distributes less than 25 percent of state and federal funds to districts based on district size. Most commonly, distribution mirrored the state AB 602 formula, providing a uniform per-ADA amount to districts. A few SELPAs based allocations on the number of students with special needs identified by each district.

**Off-the-top allocations for programs.** Off-the-top allocations are made from the combined pot of state and federal funds. Most SELPAs allocated a portion of these funds to specific programs or costs before making distributions based on district size. A significant proportion of SELPAs allocated funds for each student identified as having severe disabilities. Many paid the costs of students who attended private special education schools.<sup>25</sup> In both cases, the average cost was often much higher than for other special education students. SELPAs also take funds off the top to pay extraordinary district costs, such as legal expenses.

“Off-the-top” allocations are made from the collective pot of state and federal funds. Because both state and federal programs use district size to allocate funds, large districts account for a greater share of multi-district SELPA funding than smaller districts. As a result, large districts “pay” for a greater proportion of the off-the-top allocations.

**Regional programs.** The administrative arms of multi-district SELPAs (a school district or county office of education) typically offer regional special education classes for students with severe or unusual disabilities. These programs are justified because they can offer higher quality instruction at lower average cost. SELPAs pay for regional programs in two ways. Some pay off-the-top funds to the district that operates regional program. Others charge districts when their students attend regional classes. Some SELPAs do both, directing off-the-top funds to pay a portion of the cost and charging districts for the remainder.

## SELPAs redistribute funds in significant ways

A Fiscal Crisis Management Assistance Team (FCMAT) audit of one multidistrict SELPA illustrates ways these agencies can shift resources among districts (Fiscal Crisis Management Assistance Team 2013). The review, spurred by concerns that the SELPA's budget plan favored certain districts at the expense of others, found that district allocations of AB 602 funds ranged from about \$100 to \$199 per ADA. Federal funds were distributed based on the number of students with disabilities in each district, ranging from zero to \$180 per ADA. The combined state and federal allocations to districts were between \$180 and \$285 per ADA.

Most of the remaining funds—\$345 per ADA—were allocated off-the-top to regional programs for services to students with disabilities administered by county offices of education at an average cost of approximately \$30,000 per student. The audit noted local concerns that small districts sent students with less severe disabilities to these regional classes, while large districts might serve these students in district programs. The high cost of these

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<sup>24</sup> Several studies by the Fiscal Crisis Management Assistance Team find that district superintendents do not understand SELPA funding models. See, for example, San Joaquin County Office of Education: SELPA Review, December 2013.

<sup>25</sup> These schools are also known as nonpublic schools to distinguish them from private schools that serve a general student population.

classes combined with the fact that the SELPA paid for them with off-the-top funds gave districts a powerful incentive to refer students to them. The audit did not specifically find that small districts sent a disproportionate number of students to regional classes. The report did not address whether smaller schools sent students with less severe disabilities to such programs.

The issue of special education costs in small districts and charter schools is a particular concern. A single high-cost student can create significant budget stress for a small district or charter school. The FCMAT audit showed that smaller districts and independent charter schools with less than 3,000 ADA received an average of about \$20 per ADA less than larger districts in direct AB 602 and federal funds. Of course, this does not account for students served in the very expensive regional programs.

At the state level, special education spending in districts with less than 1,000 ADA is about 49 percent higher than in larger districts, according to the state’s K–12 accounting database. On average, smaller districts spent slightly more than \$2,664 per ADA in 2014–15 versus \$1,784 in larger districts.<sup>26</sup> However, the variation is large. About 16 percent of small districts reported spending more than \$3,000 per ADA, while 36 percent spent less than \$1,000. Among larger districts, spending at these high and low ranges was four percent and 13 percent respectively. These figures may understate actual spending because county office program costs cannot be attributed to the districts that benefited from the expenditures.<sup>27</sup>

In general, the larger size of most multi-district SELPAs allows them to help small districts cope with very high cost students. The state also provides higher funding to 19 “necessarily small SELPAs” covering rural counties with fewer than 15,000 students. The AB 602 formula multiplies the per-ADA rate by 15,000 to maintain a minimum level of funding.

## SELPA allocation models raise issues

The role multidistrict SELPAs play in distributing state and federal special education funds to districts and regional programs raises two major issues: (1) SELPA budget plans can inadvertently create incentives for districts to identify students in certain ways or use regional programs to serve students in lieu of district programs and (2) SELPA governance and accountability are not nearly as strong as those under LCFF.

### SELPA allocations can create negative incentives

AB 602 was designed to support local programs in ways that minimize incentives to overidentify students for special services or place students in certain educational settings. Similarly, the state Out-of-Home Care formula is based on the number of students residing in residential facilities and not the school setting those students are placed in. By divorcing funding from disability labels and educational settings, the state sought to encourage districts to educate more students with disabilities in regular classrooms. However, multidistrict SELPAs frequently tie funding to program settings. As a result, SELPA budget plans sometimes create precisely the problems the state sought to avoid.

**Severe student allocations.** SELPAs commonly allocate a large grant for each student identified with a severe disability. SELPAs that do this provided about \$15,000 for each student with severe disabilities, much more than the amount distributed for most other special education students. This can create incentives to identify students as severe. One SELPA administrator we interviewed said such grants encourage districts to adjust diagnostic

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<sup>26</sup> Standardized Account Code data base, provided by California Department of Education.

<sup>27</sup> No rules govern how districts and county offices account for regional program costs, according to California Department of Education Administrator Christine Davis. As a consequence, county offices often report regional program expenditures, not the district where the student resides.

practices in order to obtain higher funding.<sup>28</sup> Allocating large amounts based on disability labels also can skew distribution of state and federal funds among districts.

**Special education pupil count.** A few SELPAs distribute funds at least partially based on the total special education pupil count in each district, another way SELPA plans connect funding and special education identification. Of the five SELPAs we found that distribute funds to districts based on the number of students with IEPs, four use a formula that combines special education counts and ADA. By linking identification with funding, these SELPAs may risk encouraging districts to identify more students as special needs. However, the proportion of students identified in the five SELPAs was not statistically higher than in the other SELPAs we studied, although the small sample size makes finding significant relationships difficult.

**Regional programs.** Regional programs that serve students with complex or rare disabilities may be funded with off-the-top dollars, which makes these classes “free” to member districts. These programs are administered by county offices of education or one or more districts. Because these programs are paid for and make district-level programs unnecessary, they give districts an incentive to refer students to them. Subsidies for these programs are questionable from a financial standpoint and the incentive districts have to place students in them potentially conflicts with the federal requirement to educate students in the least restrictive environment.

**Nonpublic school costs.** Many SELPAs reimburse districts for nonpublic school costs, a practice that undercuts the state’s goal of supporting public programs for students with disabilities. Nonpublic schools typically serve students with complex or severe disabilities, and often are quite expensive. To ensure that districts are protected from the most expensive nonpublic school placements, the state has a \$3 million extraordinary-cost program that reimburses districts for costs over \$75,000 for any individual nonpublic school placement.

## Multidistrict SELPAs are less locally controlled and accountable

Special education was not part of the LCFF reform. While SELPA budgets reflect the collective decisions of member districts, they are not subject to district control as understood in LCFF and they lack LCFF’s strong parental input and accountability processes.

**Districts influence but do not control multidistrict SELPAs.** The SELPA structure deprives districts of independent authority to use state and federal special education funds in ways that best meet student needs. Table 3 compares LCFF and SELPA policies for governance and accountability. Districts are governed by elected school boards, while multidistrict SELPAs are governed by boards composed primarily of district superintendents. Districts have at best one vote on the board and at worst no direct voice in SELPA decisions. A SELPA director we interviewed who had worked in both single and multidistrict SELPAs said that single-district SELPAs control spending and program decisions, while districts in multidistrict SELPAs influence, but do not control, such decisions. A district budget officer described the annual SELPA budget process as a negotiation in which districts vie for shares of special education resources.

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<sup>28</sup> The administrator reported that if a student has two diagnoses, the district will designate the more severe one as primary in order to secure “severe” funding.

**TABLE 3**

LCFF requires more local input and accountability than special education plans

	Local Control Funding Formula	Special Education Local Planning Area
<b>Governance</b>		
Entity	District	District or regional
Accountable officials	Elected school board members	Appointed district or county office superintendents
Public outreach	Public, parents, district advisory councils	Community advisory committee
<b>Accountability</b>		
Performance goals	23 indicators of school and student success	None
Performance subgroups	Low-income, English Learners, foster care, students with special needs	None

SOURCES: California Education Code Sections 52060–52076 (LCFF accountability) and 56195–56500 (special education).

NOTE: The state board added students with disabilities as a subgroup under LCFF accountability. This is also included in federal accountability requirements.

The lack of direct control creates potential problems for districts, ranging from financial to the quality of regional services. For instance, funding regional programs off the top might make it too expensive for districts to create their own program for students with severe disabilities. Unhappy districts can make their case to their SELPA boards, but otherwise have no recourse. In one case, a Southern California SELPA expelled a district amid a dispute over the quality of regional services.<sup>29</sup>

The state faced similar issues when it created charter school SELPAs.<sup>30</sup> These statewide SELPAs allow independent charter schools to choose the level and type of special education support they receive. This greater flexibility generally gives charters more leverage than districts and may help ensure that funds are not diverted to off-the-top services.

**Transparency and accountability.** LCFF requires districts to go beyond existing advisory councils to engage parents and other community members. SELPAs do not have the same mandate. A community advisory committee is the SELPA’s main conduit for parent input. In addition, districts are governed by elected school boards, which generally makes them more responsive to parents and communities than appointed SELPA superintendents.

Multidistrict SELPAs may be insulated in other ways as well. For most parents, they are likely to be located further away than district headquarters. Moreover, information on the SELPA operations and budget may be difficult to obtain. We were unable to find budget and administrative plans on the internet for more than half of the state’s multidistrict SELPAs, including all 12 multidistrict Los Angeles County SELPAs. Without these resources, parents and community members may find it hard to get the information they need to take part in SELPA policy discussions.

Accountability also is a problem both at the district and SELPA level. Districts are accountable for the education of all students, including those in special education. LCFF directs districts to set performance goals for 23

<sup>29</sup> Since state law requires districts to be part of a SELPA, the Ontario-Montclair School District has applied to the State Board of Education to become its own SELPA even though it does not meet the state’s 30,000-student threshold.

<sup>30</sup> In a memo to the State Board of Education, Deputy Superintendent William J. Ellerby wrote that some “charter schools express a preference for exercising more influence over special education programs than they have under their existing SELPA membership, including instructional models, funding allocations, and program specific support personnel.” Special Education Local Plan Area and Charter Schools Pilot Project Report, California Department of Education, William Ellerby, December 8, 2009.



indicators of school and student success each year, and monitor performance by major subgroups. The State Board of Education recently added disabled students as a major student group for LCFF accountability. This will provide useful new information to parents. Special education will still be excluded from the budget and planning requirements of LCFF, which is hard to understand given the size of the special education population. California does not hold SELPAs accountable for student success in any formal way. SELPAs are not required to set goals or assess the progress of students with disabilities—even those who attend regional classes. SELPAs are responsible for ensuring that districts meet federal least-restrictive-environment requirements, but there is no local reporting of district and SELPA success in meeting performance goals. SELPAs cannot be held accountable for student performance if data are not available at the local level. Lack of accountability may affect the quality of special education services. According to one study, California has made slower progress in moving away from separate classrooms for students with disabilities than most other states (Parrish 2012).

### Can separate governance result in a seamless system?

In multidistrict SELPAs, special education has a dual governance process, one at the district and the other at the SELPA level. SELPAs allocate state and federal funds, and develop regional educational settings for students with severe disabilities. In many cases, multidistrict SELPAs also protect small districts from high special education costs.

The Statewide Special Education Task Force called California’s system “siloe” because of its separate instructional systems, accountability requirements, and reporting mandates (California’s Statewide Task Force on Special Education 2015). We suggest that the requirement that districts belong to SELPAs is another reason special education is siloe in California. No federal rules or regulations *require* districts to operate special education programs apart from general education. Instead, a separate system represents the easiest way for districts to cope with the multiple mandates of state and federal law.

Helping districts develop more integrated special education systems means simplifying the current system. Whatever is not required by federal law should be reevaluated. That point raises a series of questions. Does the state need to require SELPAs or should districts be given more flexibility? Should funding for students with disabilities be added to LCFF as a way of unifying local governance and accountability processes? By giving districts more options and focusing more on outcomes, the state can encourage districts to see special education services as one end of the student-needs spectrum rather than as a separate system.

## Special Education in Other States

For perspective on California special education, we looked at how other states finance and operate programs for students with disabilities. We found no single best model. Each state has developed its system in the context of its overall K–12 program. Here we look at three aspects of state support for special education: (1) Are state funds categorical, meaning they must be spent on special education, or general? (2) What formula drives how funds are distributed to districts? (3) Are there regional special education institutions?<sup>31</sup>

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<sup>31</sup> Technical Appendix D has a detailed discussion of special education financing in other states.

**Categorical or general funds.** In general, states use one of three models:

- Thirty-three states finance special education as part of the main K–12 funding formula. This gives districts more flexibility in using funds.
- California and 11 other states provide resources as a separate categorical grant, requiring that funds be spent only on special education.
- Five states reimburse local school districts for a portion of special education expenses.

As in California, districts in other states spend more on special education than the funds the state provides. With one exception, every state we contacted noted that their districts felt state funding was insufficient. The exception was Wyoming, which reimburses districts for 100 percent of special education costs.

**Formula driver.** Within these three categories, states vary considerably in how special education funds are distributed. Like California, several states base allocations on a district’s overall student census. Others use the number of students with disabilities. Some states go a step further and weight their allocations on risk factors, such as the number of low-income students or the severity of student disabilities.

**Regional services.** Most states take steps to find economies of scale through regional services. Like California, many have state schools for blind and deaf students. Some have regional centers that provide services for students with low-incidence disabilities impractical to serve at the district level. Districts typically pay the regional center for these services. We did not find any state that uses an intermediary to distribute funds to districts as SELPAs do in California.<sup>32</sup>

In some ways, California’s special education financing system is similar to those of other states: California also uses a formula to determine allocations, seeks economies of scale, and places significant responsibility for special education funding on local districts. In other respects, California is unique. It is one of a minority of states that use categorical grants to fund special education and may be the only one to distribute special education dollars through intermediary institutions.

## Alternative Approaches to Special Education Finance and Structure

Our analysis focuses on two interrelated features of California special education: funding and program structure. On the funding side, the AB 602 formula has successfully funded services without creating incentives to overidentify students for special education. While we observed increased spending in SELPAs with higher shares of severe disabilities, there are no compelling reasons to alter the current census-based formula. Similarly, based on current research, the slight relationship between economically disadvantaged students and shares of students with disabilities does not merit putting additional weight on funding special education for economically disadvantaged students.

Still, the current funding system has significant problems. Most importantly, total state special education spending has not kept pace with growth of caseloads and costs, and large disparities exist in AB 602 ADA rates among SELPAs.

On the program side, our concern is the role SELPAs play in determining how funds are spent and services delivered. Most districts in California receive only a fraction of special education funds directly. SELPA authority

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<sup>32</sup> Oregon’s Education Service Districts structure is perhaps most similar to the SELPA model. However, these regional consortiums provide a range of services beyond special education. See [Technical Appendix E](#) for a detailed discussion of state intermediaries.

over the allocation of funds reduces district control and flexibility. SELPA fiscal practices also can create negative incentives for districts, such as offering no-cost regional classes that make it too expensive for districts to set up their own programs. SELPA practices may also encourage districts to send students to private special education schools that may be more restrictive and expensive than district-level special education.

SELPA funding and governance clash with the principles of local control, transparency, and equity underlying LCFF and the goals of the Statewide Special Education Task Force. Overall, California's special education finance system seems inconsistent with LCFF in these areas.

In our view, the state should be looking to create greater coherence between LCFF and special education. The web of state and federal special education rules, including categorical funding and maintenance of effort, shapes local educational practices and reinforce the special education silo. Building financial walls around programs encourages districts to keep special education separate from other programs. LCFF broke down similar walls in other K–12 areas. If the state hopes to integrate special and regular education, it needs to start by deregulating special education finance.

Another important step towards integration of regular and special education would be to include special-needs students in LCFF accountability and governance processes. Adding special education to district Local Control and Accountability Plans (LCAP) would highlight what districts are doing to improve services for students with disabilities and create benchmarks for determining whether outcomes are improving. It would also give parents of students with disabilities the same access as other parents to district program and budget plans.

## Fund districts, not SELPAs

The first step in improving special education financing should be to allocate state special education funds directly to districts. This represents a significant change and it makes sense to do this in a multiyear transition. In addition, it is important to address the special problems of small districts and charter schools, which could be overwhelmed by a few students with expensive disabilities.

### Categorical versus general funds

The state has several options on how to distribute special education funds to districts:

- Maintain the existing categorical program for special education, but direct state funds to districts instead of SELPAs.
- Add special education funding to the LCFF formula while keeping the requirement that the funds be spent only on special education. Merging special education funding into LCFF would mean that districts receive the same increases for special education as LCFF base, supplemental, and concentration grants, ensuring that special education funding would increase in step with the rest of the budget. Plus, special education would formally become part of LCAP outreach and planning.
- Add special education funds to the LCFF formula with no firm restrictions on use. Instead, the state could require the money be earmarked for general special education purposes and for students at risk of needing an IEP. This would give districts maximum flexibility in using funds to meet student needs and promote more seamless provision of services. This option has the benefit of channeling virtually all Proposition 98 K–12 funding, through LCFF. Federal law would continue to require maintenance of effort on district special education spending as well as individual guarantees of services through IEPs.

In our view, the third option makes most sense and aligns most closely with the principles of LCFF and the Statewide Special Education Task Force report. Many other states provide unrestricted funds for special education instead of categorical dollars without undercutting guarantees of services to students with disabilities. The General Fund dollars California designates for special education are modest compared with the amounts districts contribute. It is unlikely that making state funds general instead of categorical would cut special education spending.

We recognize some may find this option threatening. Nevertheless, we view it as a critical step towards a more-integrated system of special and general education. By funding districts, the state can eliminate the dual governance special education system, which could help districts implement the classroom-based instructional model advocated by the special education task force.

Directly funding districts will not solve all special education issues—and undoubtedly would create new ones. Small districts and charter schools would need to be protected from extraordinary costs. The state may want to continue regional oversight to ensure students are receiving needed services. But funding districts would bring special education in line with the principles underlying LCFF and give the state the opportunity to fully integrate special education into the LCAP, thereby making district plans more responsive to parents and the community.

### **Continuing other SELPA functions**

While multidistrict SELPAs are problematic, these consortiums provide a range of benefits. They train teachers, help districts with curriculum development and legal compliance, work with districts and county offices to develop classes for students too difficult and expensive for districts to educate, and shield small districts from extraordinary special education costs.

Even if districts were directly funded, we expect some regional organizations similar to SELPAs to remain part of California’s special education system. In particular, smaller districts may want to join SELPA-like consortiums to achieve economies of scale. Under such a set-up, districts would be better able to choose services and negotiate prices.

Alternatively, county offices could assume SELPA duties and provide regionalized services to districts on a contractual basis. These offices could take over SELPA responsibilities for ensuring that students receive services in the least restrictive environment. Special education would become part of district LCAPs, generating more data and increasing attention to special education student performance. County offices already help districts develop improvement plans under LCFF, and they would be well-positioned to work with districts to improve the quality of services for students with disabilities.

One possible problem concerns the role of county offices in overseeing the LCFF improvement process. There is a potential conflict if they were to play a larger role in delivering special education services to students. Such an arrangement might undercut accountability because a county office heavily involved in educating students with disabilities might be less likely to press districts to improve special education programs. For this reason, the state should require county office LCAPs to include special education classes operated by the county office. That would give parents and districts better information on the quality of county office classes and provide them an avenue to work for improvement.

### **Options for protecting small districts**

In our view, the thorniest issue created by directly funding districts for special education is how to protect small districts and charter schools. As a group, small districts already spend more than larger districts on special education and the variation among them is wider. One option for shielding small districts from excessive costs is

to offer them a modest increase in the per-ADA funding rate. The state already provides higher funding to 19 small SELPAs.

Special education poses two problems for small districts and charter schools: (1) ensuring that costs do not exceed reasonable levels without creating incentives that encourage higher district spending; (2) addressing the fact that some small districts and charters may have very low or no special education costs in a given year. Under the current system, SELPAs smooth the ups and downs of small-SELPA special education costs and ensure that all state and federal funds are spent. Under direct district funding, small districts could lose state and federal funds if their costs remain low for several years.

Addressing variability requires that districts be able to pool their funds with other districts. Pooling options include:

- Continue the current SELPA system, but make the subsidies to small districts explicit. This could be done by requiring SELPAs to direct special education funds to districts on an ADA basis but creating an exception for small districts. SELPAs would continue to help small districts deal with the stresses of special education costs. This option would make small-district costs and subsidies more transparent, and would ensure an annual SELPA review of their special education costs.
- Create statewide small-district SELPAs similar to charter SELPAs. These SELPAs could pool costs to protect small districts from extraordinary expenses.
- The state could create small-district cost pools. These could operate like insurance (where charges are based on experience) or they could be like existing state cost pools that limit district liability for high-cost students.

The state needs better small-district cost data to evaluate these options. California could start by requiring SELPAs to report small district costs and subsidies in past and current years. This would give the state a more accurate picture of the internal subsidies in SELPA budgets.

## Update AB 602

The second critical step in reforming California special education is to make the AB 602 formula more consistent with the LCFF principle of equity by achieving greater equality in the local funding rates. This would require assigning each district its current SELPA rate and then increasing the rate of low-funded districts. Currently, the highest per-ADA rate is twice as large as the average, and equaling to the highest rates may be prohibitively expensive and provide too much special education funding to some districts. We suggest three ways of thinking how to move towards equalization while controlling costs:

- Equalize to the highest ADA rate after funding outliers have been eliminated and equalize district rates at this level. We propose the 90<sup>th</sup> percentile, which eliminates the 12 highest-funded SELPAs.<sup>33</sup> The ADA funding rate at the 90<sup>th</sup> percentile is currently \$653. This reform would cost an additional \$670 million per year. For comparison, the 80<sup>th</sup> percentile is \$578 and the 70<sup>th</sup> percentile \$556 per ADA. Equalizing to either would cost considerably less, but also do less to close the gap between the top-funded and the average SELPA.
- Equalize to the 2007 per-ADA rate, the peak year in which the average was \$651 per ADA in 2014 dollars. This would cost approximately the same as equalizing to the 90<sup>th</sup> percentile.

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<sup>33</sup> Those SELPAs are Modoc, Sierra, Trinity, Mendocino, Lassen, Calaveras, Pasadena Unified, Marin, Siskiyou, Santa Clara III, Mono, and San Francisco.

- Increase funding to recognize the higher costs generated by rising caseloads relative to ADA and the shift towards more severe disabilities. We estimate this could add \$1.1 billion a year (although this estimate is highly uncertain). Under this approach, increased funding could be withheld from districts at the top of the distribution.

## Simplify other funding programs

Opportunities exist to simplify special education funding and create stronger incentives to establish programs that provide early services to children with disabilities.<sup>34</sup> Specifically, we recommend:

**Include Mental Health funding in AB 602.** The LCFF principle of local control is inconsistent with funding mental health services as a separate special education program. The state lacks the information to determine the amount each district needs for these services. Moreover, language adopted as part of mental health services reform in 2011 specified that a separate appropriation was temporary.

More attention should be paid to the relationships between school districts and county mental health agencies. During district interviews, we heard that relationships between district special education and county mental health programs ranged from close and collaborative to nonexistent. Collaboration benefits both agencies, so it is important to understand the barriers to cooperation.

**Base Out-of-Home Care funding on placements.** This program distributes funding based on an area's group home capacity, in contrast with other residential institutions, which are funded only for actual placements. Our research shows group homes are about half full at any one time. Changing the formula so funding for all facilities is based on actual residency would save about \$50 million. Because of recent social services changes, group home placements and the cost of funding based on residency are expected to fall further. The state should monitor these changes to determine whether it makes sense to eliminate this allocation entirely.

**Increase state support for infants and preschoolers with disabilities.** Funding for children from birth to age 4 receiving special education services seems unnecessarily complicated and gives districts a disincentive to serve the youngest population with disabilities. Infant programs are split between K–12 education and the Department of Developmental Services. The state's K–12 formula is outdated and inequitable. Additional study is needed to better understand how to better support effective services for these children.

Special education funds pay the entire cost of preschool programs for children with disabilities because they are not considered students for LCFF purposes. Districts do not get base grants for these children and the AB 602 formula does not adjust when districts enroll more prekindergarten students. CDE data suggest that one in five special education kindergarten students, about 6,400 children, were not previously identified and did not receive preschool special education services. The Statewide Special Education Task Force called on the state to address this issue. We agree.

One option is to count preschool attendance towards school and district ADA, at an annual cost of over \$500 million. By providing the same funding level as for other students with disabilities, this would remove the disincentive to serve younger children. Another option to boost incentives to serve these children is to increase the supplemental funding preschool programs receive for special education students. One problem though is that districts in more affluent areas do not operate state preschool programs. Still, this option might reduce the emphasis on separate classes for special education preschool students.

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<sup>34</sup> See [Technical Appendix A](#).

## Conclusion

Special education illustrates that the mechanisms California uses to fund school districts profoundly affect how students are educated. A variety of state and federal laws wall off special education funding from other areas of schooling. Moreover, in most cases, districts do not receive funding directly, but through regional SELPAs. The result is that special education often becomes a separate province in the K–12 system.

The current separate system achieves few of the principles underlying the LCFF or the 2015 Statewide Special Education Task Force report. Special education finance compromises local control and accountability, transparency, and equity. California’s system also contributes to the silo effect identified by the task force. Categorical funding rules and separate governance make it harder for districts to pursue the task force’s vision of a seamless system of services for both regular and special education. Infant and preschool programs represent a special problem. Funding for these programs operates differently than for other special education activities, and the relative lack of state support runs counter to the task force’s call for greater emphasis on early intervention.

Yet, special education finance works well in other respects. The AB 602 formula is widely considered a reasonable way to distribute funds, in part because it does not create negative incentives. Of course, some districts face greater challenges than others, but our review did not uncover a strong case for major adjustment. SELPAs value the flexibility AB 602 funds afford and most want even greater flexibility. The AB 602 formula’s biggest problems are that funding to SELPAs is not equal and that the state had not updated it in response to increased special education caseloads and the rising incidence of high-cost disabilities. We suggest equalizing funding rates. And we estimate that caseload changes may have increased special education costs by \$1.1 billion, a burden that falls largely on the shoulders of school districts.

To encourage greater integration of special and general education, we recommend ending California’s parallel system of special education governance and distributing LCFF funds directly to districts instead of through SELPAs. Special education would become part of district LCAPs, which would raise the visibility of both the performance of students with IEPs and of district plans for improving those outcomes. The state would need to determine the future role of SELPAs—whether district membership in SELPAs or SELPA-like organizations is needed to protect small districts and charter schools from exceptional special education costs. In addition, there must be oversight to ensure students are receiving appropriate services in the least restrictive environment.

It has been more than 40 years since the federal government enacted the Education for All Handicapped Children Act requiring schools to provide students with disabilities equal access to education. Since that time, the share of students identified with disabilities, the legal protections for those students and their families, and the range of services that schools must provide have all expanded. At the same time, the cost of special education has grown. Today districts spend much more to serve children with disabilities than state and federal categorical programs provide.

In its fifth decade, perhaps we can say that special education has matured and that California school districts should be encouraged to develop new ways of funding and delivering special education services. The task force envisions a system that focuses on student outcomes, that flexibly delivers services to special and regular education students as needed, and that puts a priority on early intervention. By recasting special education’s finance and governance issues as a part of LCFF, our recommendations take the first step towards these important objectives.

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## ABOUT THE AUTHORS

**Laura Hill** is a senior fellow at the Public Policy Institute of California. Her areas of expertise are K–12 education and immigration. She is currently researching English Learners in California schools, the implementation of the Local Control Funding Formula, and undocumented immigrants and health insurance. Prior to joining PPIC, she was a research associate at the SPHERE Institute and a National Institute of Aging postdoctoral fellow. She holds a PhD in demography and an MA in economics from the University of California, Berkeley.

**Paul Warren** is a research associate at the Public Policy Institute of California, where he focuses on K–12 education finance and accountability. Before he joined PPIC, he worked in the California Legislative Analyst’s Office for more than 20 years as a policy analyst and director. He primarily analyzed education policy, but he also addressed welfare and tax issues. Prior to that, he was chief consultant to the state Assembly’s committee on education. He also served as deputy director for the California Department of Education, helping to implement testing and accountability programs. He holds a master’s degree in public policy from Harvard’s Kennedy School of Government.

**Patrick Murphy** is director of research and a senior fellow at the Public Policy Institute of California, where he holds the Thomas C. Sutton Chair in Policy Research. He is also a member of the **PPIC Higher Education Center** team. He is an adjunct professor of politics at the University of San Francisco, where he served as the director of the McCarthy Center for Public Service. Previously, he worked for RAND and at the Office of Management and Budget in Washington, DC. He holds a PhD from the University of Wisconsin–Madison and a master’s of public affairs from the University of Texas–Austin.

**Iwunze Ugo** is a research associate at the Public Policy Institute of California. His work focuses on K–12 education. Previously, he studied adolescent health and changes in education spending following the passage of Proposition 13. He holds a BA in economics and mathematics, with a minor in statistical science, from the University of California, Santa Barbara.

**Aditi Pathak** was a research intern at the Public Policy Institute of California. She is a Ph.D. candidate in economics at North Carolina State University. Her work has focused on a variety of public finance issues, including pensions, health care, and labor economics. She holds a B. Com. and M.A. in economics from the University of Pune and a M.A. in economics from North Carolina State University.

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Senator Office Building  
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Sacramento, CA 95814  
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