



NSBA Advocacy Institute 2014 CALIFORNIA BACKGROUND IDEA

The reauthorized Individuals with Disabilities Education Act (IDEA) became effective July 1, 2004. Over the last nine years, California has enacted legislation that brought a number of provisions of state law into conformity with federal law and regulations in order to ensure continued eligibility for federal special education funding. The federal conformity legislation amended provisions of state law that conflicted with new federal requirements, but did not repeal provisions of state law that were different than, but not in conflict with, federal law. Key changes were made in areas such as discipline, teacher qualifications, modifications to Individualized Education Plans (IEPs), conflict resolution, transition, parental consent, Child Find, behavioral interventions and procedural safeguards.

In 2011-12, the latest year for which numbers are available, special education services were provided to 686,352 individuals in California, newborn through twenty-two years of age. Individuals are provided with specially designed instruction to meet their unique needs. This instruction is provided in a variety of settings that allow infants and their families, preschoolers, students, and young adults to be educated with their peers as much as possible. Special education services are available in a variety of settings, including day-care settings, preschool, regular classrooms, classrooms that emphasize specially designed instruction, the community, and the work environment.

The disability categories and enrollment breakdown in California for individuals (newborn through twenty-two years of age) who received special education services in 2011–12 are as follows:

- Intellectual disabilities: 43,303
- Speech or language impairment: 164,600
- Visual impairment: 4,327
- Emotional disturbance: 25,984
- Orthopedic impairment: 14,261
- Other health impairment: 61,309
- Specific learning disability: 278,697
- Deafness: 3,946
- Hard of hearing: 9,991
- Deaf-blindness: 160
- Multiple disabilities: 5,643
- Autism: 71,825
- Traumatic brain injury: 1,771

Funding

Over the last three years, federal funding for special education students and programs has been flat and Congress has yet to make any progress in meeting its financial commitment to pay up to 40 percent of the ongoing costs of meeting federal special education program mandates. This has placed a major burden on school districts that are required to pay for the excess costs. This has become of critical importance as the cost of federally mandated special education services continues to rise and the population of students with high-cost disabilities continues to increase.

Federal IDEA funding for FY 2014 is approximately \$11.5 billion. While this is an increase of nearly \$500 million over the FY 2013 funding level, it is still about \$82 million less than pre-sequestration 2013 levels. Further, it still only represents a fraction of what federal law states: that federal funding should cover up to 40 percent of the excess cost of educating students with disabilities. Full funding for special education should be approximately \$26 billion to pay for the federal share of costs for services to the more than 6.2 million students who receive IDEA services designed to meet their individual needs. Currently, the state receives approximately 17 percent of the federal funds that are available for special education. Unfortunately, the federal shortfall must be made up through state and local funding at a time when school districts are still trying to recover from state budget cuts.

CSBA appreciates recent Congressional actions to increase special education funding but we continue to strongly support further federal funding increases to, at a minimum, meet the needs for funding growth and COLA and eventually meet the 40 percent funding promise.

IDEA and the Elementary and Secondary Education Act

In addition to the urgent need to appropriately fund federally mandated special education programs, there are several IDEA/ESEA issues that also need attention as Congress and the Administration work to reauthorize ESEA.

California's education community has reviewed ESEA and its impact on students over the last twelve years and has come to agreement on a number of principles that have had an undesirable impact on special education programs and services. **To address these problems, CSBA recommends the following:**

- **When conflicts arise between IDEA and ESEA in any or all areas, IDEA must take precedence.**
- **The individualized education plan that is enacted for each special education student details his or her educational program. This IEP must take precedence for student testing, including parents' ability to opt-out students, the need for out-of-level assessments, and the variety of accommodations and modifications that a student may need.**
- **Since the US Department of Education determined that parents may unilaterally withdraw their students from special education services that are required for the provision of a free and appropriate public education, and since**

parents have the right in California to remove their children from testing, the federal government should not penalize districts under ESEA when their participation rate is less than 95 percent for this reason.

Autism

Autism Spectrum Disorder (ASD) is the fastest growing special education category in California and the nation. Between 1998 and 2002, the number of students receiving special education services to address issues associated with autism in California almost doubled, from 10,360 to 20,377. As of December 2011, that number has grown to approximately 72,000 students.

The educational and financial impact on school districts for students diagnosed with ASD is staggering. Research and best practices (National Research Council — “Educating Children with Autism,” 2001) show that a successful educational program for a student with autism requires a comprehensive assessment followed by intensive services by highly trained personnel. If this expertise is not available in a district, it must be contracted at a significant cost. Even when district staff is available, the cost of educating a child with autism is staggering in comparison to children with less severe disabilities.

Many school districts with rapidly increasing numbers of students with autism have established high quality internal programs to meet the needs of their students. Unfortunately, this is not the case statewide due to various barriers such as lack of knowledge of best practices in the area of treatment, staffing issues, and financial resources.

When crafting recommendations regarding support for children with ASD, policymakers need to recognize that the extent of the issues threatens to overwhelm local educational systems. This includes the lack of coherent, universally accepted effective educational practices; a lack of knowledge and training at all levels; and a shortage of personnel in key positions, coupled with inadequate local financial resources to meet immediate needs. This statement is a strong indicator of the intensive services needed to support children with ASD. Decisive, immediate action at the state level can significantly mitigate short-term needs and establish systems that will provide long-term sustainable support to students and their families, schools and communities.

CSBA recommends increased federal funding to address the specific and increasingly expensive service needs of students diagnosed with ASD.

TALKING POINTS FOR IDEA:

- **When conflicts arise between IDEA and ESEA in any or all areas, IDEA must take precedence.**
- **The individualized education plan that is enacted for each special education student details his or her educational program. This IEP must take precedence for student testing, including parents' ability to opt-out students, the need for out-of-level assessments, and the variety of accommodations and modifications that a student may need.**
- **Since the US Department of Education determined that parents may unilaterally withdraw their students from special education services that are required for the provision of a free and appropriate public education, and since parents have the right in California to remove their children from testing, the federal government should not penalize districts under ESEA when their participation rate is less than 95 percent for this reason.**
- **CSBA strongly supports increased federal funding, which, at a minimum, meets the needs for funding growth and COLA and eventually meets the 40 percent funding promise.**
- **CSBA recommends increased federal funding to address the specific and increasingly expensive service needs of students diagnosed with autism spectrum disorder.**