

Governance Brief

SELPA's and Special Education Funding in California

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Introduction

California's current funding system for public schools, the Local Control Funding Formula (LCFF), provides board members with more flexibility in decision-making at the local level. Recognizing that local communities know their students best, the formula allows local educational agencies (LEAs)—school districts, county offices of education (COEs), and charter schools—to spend funds in ways that can best meet the needs of their students.

"Students" refers to *all* students, including those with disabilities from birth through age 21—one of the most at-risk populations. Schools are responsible for providing all students with the opportunity to meet challenging objectives. This goal can be difficult to meet due to the complicated nature of special education legal requirements, service delivery mechanisms, and funding.

To help board members better understand those complexities, this brief will outline how SELPAs are organized and how they deliver special education services in California. Special education funding will be discussed in detail as well.

Service Delivery Structure: Special Education Local Plan Areas

Special Education Local Plan Areas (SELPAs) are the foundational structure for overseeing and delivering special education services within regions in California.¹ They are most often consortia of school districts and one or more COEs that band together to provide special education services in a region, although single districts can be their own SELPAs. SELPAs provide special education expertise, oversight, and resources. Their charge is to ensure that services are provided in every area of the state and that small districts

In this brief you will find:

- » Information about Special Education Local Plan Areas (SELPAs), including their responsibilities, structure, governance, and relationship to the county office of education
- » Information about special education funding, including state and federal sources of revenue and regulations
- » Questions for board members to consider

can deliver services by pooling efforts with surrounding districts. This ability to pool resources and efforts is particularly important for serving students in small districts.

SELPA Responsibilities

The job of the SELPA, through its relationships with the school districts and COEs in a region, is to coordinate and ensure that in every region:

1. A viable system for educating students with disabilities is functioning;
2. Students are provided with a free and appropriate public education (FAPE) in the least restrictive environment (LRE);

3. The education rights of students with disabilities and their families are fulfilled, and;
4. An annual compliance monitoring system is implemented, with follow up that rectifies any issues.²

SELPA's are also responsible for supporting local districts with the following:

- » Governance committees, including a Community Advisory Committee (CAC);
- » Assistance with understanding compliance requirements;
- » Transition planning;
- » Program coordination;
- » Fiscal management, including budget planning and review;
- » Staff professional development;
- » Curriculum development and support;
- » Data management;
- » Regionalized services and Program Specialists;
- » Interagency coordination and memorandums of understanding (MOUs);
- » Program evaluation; and
- » Community awareness.³

To fulfill its responsibilities, each SELPA ensures that there is a regional system that identifies, assesses, and connects students with disabilities with appropriate services as early as possible. The coordination of services also requires SELPA's to collaborate with other public agencies (e.g., Head Start, the Department of Rehabilitation, and California Children's Services) as well as with private agencies, such as out-of-home placements and nonpublic schools both inside and outside of the state.

Types of SELPA's

Among the 131 SELPA's in California, there are three basic types:

1. **Single-District.** Nearly one-third (42) of SELPA's consist of a single school district, most of which have more than 20,000 students each.
2. **Collaborative.** Nearly two-thirds (84) of SELPA's are collaborative and encompass most of the state's school

districts. These districts are not large enough to be part of a single-district SELPA. Moreover, some or all districts within a county can elect to join with their COE (which typically serves as the administrative unit) in a collaborative SELPA.

3. **Charter-Only.** These SELPA's consist of multiple charter schools. There were four charter-only SELPA's during the 2016-17 school year, serving approximately one quarter of students with disabilities in charter schools.

There is also one SELPA in California that serves only students attending Los Angeles County court schools.⁴

For special education purposes, charter schools have two options. One is to remain a "school of the district." These charter schools receive special education services from their authorizing district in the same way as other schools in the district (unless agreed to otherwise). The second option is for charters to be established as their own LEA's for special education purposes. A charter school wishing to pursue LEA status must apply and be accepted into a SELPA. All SELPA's are required to have a process in place for the admission of charter schools as LEA members. However, single district SELPA's cannot accept charter LEA's into their governance structure unless they undergo a change in SELPA designation from single-district to a multi-district SELPA.

SELPA Local Plan

Every SELPA must develop a Local Plan. The specific components of the Local Plan are delineated in California Education Code and indicate, among other things, how the SELPA will (1) meet the requirements of state and federal law, (2) be governed, (3) ensure that supports and services are provided by qualified personnel, and (4) provide the public with opportunities to participate in the development of policies and procedures. The Local Plan must also be written in a language that is understandable to the public.⁵

Additionally, the Local Plan must include information about the following elements:

- » How the SELPA will ensure that all related personnel providing related services are qualified, including special education teachers, paraprofessionals, and other personnel;
- » Performance goals and indicators, as well as assurances that all member LEA's participate in state and district-wide assessments;

- » How IDEA funds will *supplement and not supplant* state and local funds, and how it will ensure maintenance of financial effort;
- » Assurance that it has provided the public with opportunities to participate in the development of policies and procedures;
- » Suspension and expulsion rates;
- » How the participating SELPAs make instructional materials accessible to students who are blind or visually impaired; and
- » How participating LEAs are addressing issues of over-identification and disproportionate representation of different student groups.

SELPA Governance

Each SELPA has an Administrative Unit (AU)—also known as the Responsible Local Agency—which can be a member school district or COE. The AU serves as the legal entity to receive and manage federal, state, and local funds. SELPA management generally consists of a coordinated effort between the AU’s business office staff and the SELPA director, who is often an assistant superintendent in the district or COE.

Multi-district SELPAs must outline in their Local Plans the entities that are part of their governance structure, which commonly include:

- » A governance council or board, usually made up of the superintendents from member districts;
- » A directors’ council, made up of the special education directors from member districts;
- » A finance committee, made up of fiscal officers and experts from member districts;
- » A Community Advisory Committee (CAC), made up of parents, staff, and community members; and
- » A SELPA director and support staff.

Multi-district SELPAs also sometimes choose to govern themselves through a “joint powers agreement,” which is a formal, legal agreement between the member districts that outlines how the SELPA will be managed.

Single-district SELPAs are organized somewhat differently. In each, the district serves as its own AU and the governing board functions as its governing body.

Community Advisory Committees

Each SELPA must have a CAC composed of parents, staff, and community members, including students and adults with disabilities. Moreover, the majority of members must be parents of students with disabilities. The board of each participating district or COE appoints CAC members, with the selection procedure delineated in the SELPA Local Plan. Education Code 56194 states that the CAC has the following responsibilities:

- » **Advise** the AU of the SELPA in the development, amendment, and review of the Local Plan;
- » **Recommend** annual priorities to be addressed by the plan;
- » **Assist** in parent education and recruiting parents and other volunteers who may contribute to the implementation of the plan;
- » **Encourage** community involvement in the development and review of the Local Plan;
- » **Support** activities on behalf of individuals with exceptional needs; and
- » **Assist** in parent awareness of the importance of regular school attendance.

A SELPA should take CAC recommendations into consideration but is not obligated to make suggested changes.

County Offices of Education and SELPAs

When COEs are members of the SELPA, they are part of its governance structure and typically serve as the AU. They are also directly involved in decisions related to special education program operations, policies, and allocation of resources. The COE is responsible for the coordination of all Local Plans serving individuals with exceptional needs residing within the county and is required to approve or disapprove any proposed Local Plan (new or amended) for SELPAs within the county. In some counties with multiple SELPAs, the COE is a member of one SELPA but not others. This is most common when there is a large school district within the COE’s boundaries that is organized as a single-district SELPA. The COE can also be a member of multiple SELPAs in its geographical area and can act as the AU for more than one SELPA.

Even when COEs are not part of a SELPA, they sometimes offer special education programs and services to students with disabilities in their counties. In these situations, SELPAs and their district members can contract with the COE for services. Typical COE programs and services for students

with disabilities include special education classes for students with low-incidence disabilities and those with emotional disturbances, Early Start services for infants and toddlers, and transportation for students with significant mobility impairments.

Funding Sources

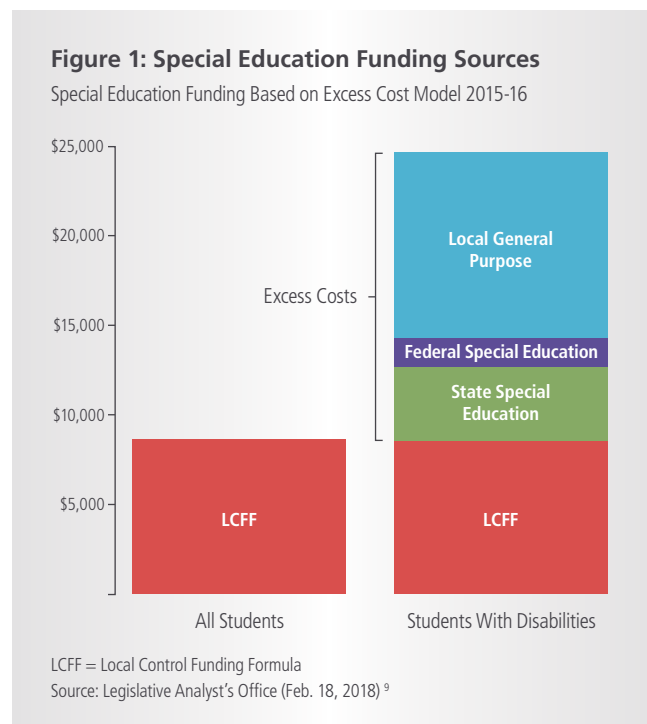
Because students with disabilities are considered general education students first, LEAs support their access to general education teachers and classrooms through their general funds—as they do for *all* students. The state’s LCFF provides a minimum funding guarantee for LEAs. The LCFF funding amount for LEAs is composed of a base grant determined by their average daily attendance (ADA), and supplemental grants based on the “unduplicated” count of high-need students (English learners, low-income students, foster youth, and homeless students). LEAs with an unduplicated count above 55 percent of their ADA also receive a concentration grant.

While special education status is not considered under the unduplicated student counts that generate supplemental and concentration funding, many special education students generate those funds by their other needs:

- » 27 percent of foster youth have disabilities;
- » 17 percent of students who are English learners have disabilities;
- » 13 percent of students who are socio-economically disadvantaged have disabilities; and
- » 13 percent of homeless students have disabilities.⁶

As part of the LCFF system, Local Control and Accountability Plans (LCAPs) require LEAs to describe the goals and specific actions to achieve those goals for all students and each student group identified by the LCFF for each of the state priorities, as well as any local priorities. Students with disabilities are included within this requirement at both the LEA and school level. Therefore, LEAs should consider how they can use their available funding sources to devise strategies that best meet the multiple needs of these students and should identify these strategies within their LCAPs. The current state accountability system also explicitly highlights the performance of students receiving special education services and holds LEAs more accountable for this performance. Of the 374 districts identified for assistance from their COEs based on their 2018 California School Dashboard reports, two-thirds were identified based on their performance related to students with disabilities.⁷

In addition to LCFF funding, a combination of local, state, and federal sources is meant to cover the extra (or “excess”) costs of special education services that LEAs are required to provide. “Excess costs” are the costs of providing the additional supports for students with disabilities to give them an opportunity to meet challenging objectives. SELPAs serve as the primary authority for this funding. In 2014-15, funding from these three sources amounted to more than \$12 billion of special education spending in California: \$7.6 billion from local contributions, \$3.2 billion in state special education funding, and \$1.2 billion from the federal government.⁸ In recent years, the portion of excess costs paid out of LEA budgets has increased, a point discussed in greater detail in the following sections.



State Funds for Special Education

California allocates state categorical monies to support the education of students with disabilities. SELPAs receive state funds for special education based on total student attendance (as opposed to the number of students with disabilities or the types of services their students receive). This funding system is commonly referred to as Assembly Bill (AB) 602 (after its enacting legislation in 1998). Approximately 85 percent of the funding that the state gives to SELPAs (and thus to LEAs that are served by them) for special education is determined by AB 602.¹⁰

There are reasons for using this census-based approach, although it means that funding does not necessarily align with the actual costs that LEAs pay for special education. The AB 602 funding system was designed to avoid providing a financial incentive to over-identify students for special education or to place students in expensive settings such as special day classes when a less-restrictive environment (a general education classroom, for example) would be in a student's best interest.

One challenge of the AB 602 funding system arises from the fact that state per-student funding varies widely from one SELPA to another, ranging from \$488 to \$936 in 2017-18. According to a Legislative Analyst's Office report, this variation is because the formula established for funding under AB 602 continued the differences in spending levels among the SELPAs that existed in 1997-98. While efforts have been made to equalize this variation in state funding across SELPAs, differences remain. The Legislative Analyst's Office estimates that equalizing SELPA per-student funding would require approximately \$300 million in additional funds.¹¹

This variation in funding means that SELPAs have different amounts of money to spend on meeting the needs of special education needs. Therefore, the SELPAs with the greatest number of students with disabilities and/or those with the highest-cost disabilities are not necessarily those that receive the greatest amount of special education funding through AB 602.¹² CSBA continues to work on legislation to equalize and increase funding for the AB 602 funding formula.

While AB 602 funds are the largest source of state money for special education, SELPAs also receive money from other state programs. For example:

- » SELPAs are responsible for funding any mental health services that are required by the IEP for a student with disabilities¹³ and receive funds to help them meet these needs. Mental health services represent \$360 million of additional monies to SELPAs.
- » SELPAs with licensed children's institutions (such as group homes) located within their boundaries receive approximately \$145 million in "Out of Home Care" funding.¹⁴
- » California appropriates more than \$70 million in state funds to programs for infants and toddlers.¹⁵ The U.S. Department of Education also provides a grant to the California Department of Developmental Services for infants and toddlers through Part C of the IDEA. The CDE receives a portion of approximately \$14 million annually, which appears in the Budget Act as a reimbursement.

California has also developed a "Necessary Small SELPAs Extraordinary Cost Pool." This program reimburses Necessary

Small SELPAs that have extraordinarily high-cost single placements for mental health-related services. Necessary Small SELPAs can apply for additional funds in excess of the annual threshold amount set by the state, provided funds are available. For the 2018-19 fiscal year, the threshold amount was the "lesser of \$79,050.68, or one percent of the SELPA's subtotal apportionment."¹⁶

Federal Funds for Special Education

Federal IDEA funds are provided through a categorical grant to states, meaning that each state can use the funds only for one category of students: those with disabilities. The state grant is determined using a federal funding formula, which considers a series of factors outlined in section 611(d) of IDEA. California passes this grant money on to SELPAs to be spent only on the excess costs of efforts to ensure and maintain services for students with disabilities. Each SELPA receives its allocation consistent with the federal formula but may determine how to distribute these dollars locally. The federal Office of Special Education Programs (OSEP) monitors how this money is used, and SELPAs are required to provide documentation to ensure the appropriateness of that use.

Federal requirements mandate that IDEA dollars be used to pay for only the *excess costs* of special education and related services for children with disabilities and to *supplement, and not supplant*, state and local efforts to pay for special education and related services.¹⁷ The federal government holds states to a "maintenance of financial support" (MFS), which means that they may not reduce the amount of state financial support for special education and related services. LEAs are required to demonstrate "maintenance of effort" (MOE), which means that they must spend the same or a greater average amount of state and/or local dollars on special education services each year to receive federal IDEA money.

If these spending levels are not maintained for special education, the difference must be returned to the federal government. There are exceptions, notably that if the enrollment of students with disabilities that a SELPA is serving declines, the SELPA does not have to spend the same amount; or if costly equipment represents a one-time purchase, that purchase amount does not have to be "maintained" each year.¹⁸ Despite these exceptions, MOE has created some inconsistencies across SELPAs.

LEAs Are Paying a Greater Share of Excess Costs

Supports and services necessary to provide students with disabilities with the opportunity to meet challenging objectives are generally more expensive than those for students

without disabilities. When resources designated specifically for special education through federal and state funds do not fully cover the excess costs of special education, districts use money from their general fund to make up the difference. As federal and state special education funding fails to keep up with overall special education costs, districts are increasingly filling in the gaps with their general funds.

When IDEA was first passed, the intent was for the federal government to provide the states with 40 percent of the excess costs of providing special education and related services to students with disabilities. However, IDEA monies never reached this 40 percent threshold. According to an analysis of 2014-15 data by the Public Policy Institute of California, only 9 percent of special education funding came from federal funding, while 31 percent came from state and 60 percent from district funding.¹⁹

As previously mentioned, per-student funding rates vary widely from one SELPA to another. In some SELPAs, per-student funding disparities have been exacerbated by the increase in the number of children with high-cost disabilities such as autism. In many LEAs, overall student enrollment is declining, thus reducing ADA and the money their schools receive to serve all students, including those with disabilities. Furthermore, while the costs of special education services have increased, state spending on special education has not grown as fast as spending on other aspects of the education budget.²⁰

Without additional state or federal special education funding, the impact on local budgets is likely to increase. Board members will need to work with their administrators to identify strategies for improving services and outcomes for students with disabilities in the context of such constraints.

Conclusion

This brief provides a general overview of special education structures and finance so that all board members have the foundational background knowledge to discuss and make budgetary and curricular decisions that effectively serve students with disabilities.

At a time when LEAs are paying a larger portion of special education expenses, the state has been focused on developing a system of “continuous improvement.” Since the California School Dashboard has identified 243 California districts as needing differentiated support based on their outcomes for students with disabilities, many board members will be working with their COE to strengthen their services for students with disabilities.²¹ Those LEAs not currently identified for COE support should also work with their SELPAs

and staff to improve opportunities for rich and engaging opportunities to learn.

Through informed governance, LEAs can invest in programs and services designed to foster better academic achievement, improved well-being, and positive career outcomes for students with disabilities.

Questions for Board Members

Board members can help their schools better serve students identified for special education services by answering the following questions:

Special Education Structures

1. To which SELPA do we belong, and what resources does it provide to our LEA?
2. What are we doing in our SELPA to keep high-quality teachers and specialists and to recruit and train new staff members, including paraprofessionals?
3. What data and processes are we using to monitor program efficacy once programs or services are implemented?
4. What supports do we have in place to encourage the engagement of parents of students with disabilities and to incorporate what we learn from them into our programs and policies?

Special Education Funding

1. How is special education funding structured in our LEA?
2. What special education services do we provide in-house, and what services do we contract with other providers?
3. How are we investing in services for students with disabilities, and what do we know about the effectiveness of these investments?
4. How is our district (or COE) targeting services for students with disabilities who are also included in our LCFF priority student groups (e.g., homeless students, foster youth, English learners, and low-income students)?
5. What information about special education funding and structures should we share with stakeholders including students, staff, families, and community members?

Resources

- » **Disability Rights California.** <http://www.disabilityrightsca.org/pubs/PublicationsIndex.htm>
- » **Overview of Special Education in California.** Legislative Analyst's Office. <http://www.lao.ca.gov/Publications/Detail/2678>.
- » **Special Education Division Website.** California Department of Education. <http://www.cde.ca.gov/sp/se/>

Endnotes

- 1 Education Code 56195 through 56195.5.
- 2 California Department of Education. *California Special Education Local Plan Areas*. Retrieved from <https://bit.ly/2NVI5vp>
- 3 SELPA Administrators of California. *What is a SELPA?* Retrieved from <https://bit.ly/2vJmX3s>
- 4 Legislative Analyst's Office. (2017). *The 2017-18 budget: Proposition 98 education analysis*. Retrieved from <http://bit.ly/2FXEmcO>
- 5 Education Code 56205.
- 6 California Department of Education, Dataquest. *2017-18 enrollment by ethnicity*. Retrieved from <https://bit.ly/2runvWt>
- 7 Fensterwald, J. (2018). *Ratings in updated California School Dashboard target more districts for assistance*. EdSource. Retrieved from <https://bit.ly/2SwSuw9>
- 8 Hill, L., Warren, P., Murphy, P., Ugo, I., & Pathak, A. (2016). *Special education finance in California*. Public Policy Institute of California. Retrieved from <http://bit.ly/2pk13O9>
- 9 Legislative Analyst's Office. (2018). *Overview of special education funding in California*. Retrieved from <http://bit.ly/2Gmxeoe>
- 10 See Endnote 9.
- 11 See Endnote 9.
- 12 See Endnote 9.
- 13 In 1984, Assembly Bill 3632 was passed and mandated school districts to create partnerships with county mental health agencies, which would then serve the mental health care needs of students with disabilities. In 2011, Assembly Bill 114 legally ended this mandate.
- 14 See Endnote 4.
- 15 See Endnote 8.
- 16 California Department of Education. *Necessary Small SELPAs ECP for mental health services*. Retrieved from <https://bit.ly/2tVh8fC>
- 17 Title 34 Code of Federal Regulations Section 300.203–300.205.
- 18 Title 34 Code of Federal Regulations Section 300.204.

- 19 See Endnote 8.
- 20 California Statewide Task Force on Special Education. (2015). *One system: Reforming education to serve all students*. Retrieved from <https://bit.ly/2InqcQm>
- 21 See Endnote 7.

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