

California Association of Health and Education Linked Professions
Joint Powers Authority (CAHELP JPA)
DESERT/MOUNTAIN SELPA STEERING and FINANCE COMMITTEE MEETING
February 19, 2021 – 9:00 a.m. Virtual via Teleconference
Desert Mountain Educational Service Center, 17800 Highway 18, Apple Valley CA 92307

AGENDA

NOTICE: This meeting will be held virtually only. If members of the public wish to participate in the meeting and/or make public comment, please follow the instructions below to participate telephonically:

PARTICIPATE BY PHONE:

Dial Access Number: 1-415-655-0003

When prompted - enter Access Code: 177 528 7810

Follow directions as a Participant; an Attendee I.D. is not required to participate.

If you wish to make a public comment at this meeting, prior to the meeting please submit a request to address the Steering and Finance Committee to the recording secretary via fax at 1-760-242-5363 or email jamie.adkins@cahelp.org. Please include your name, contact information and which item you want to address.

Reasonable Accommodation: if you wish to request reasonable accommodation to participate in the meeting telephonically, please contact the recording secretary (via contact information noted above) at least 48 hours prior to the meeting.

1.0 CALL TO ORDER

2.0 ROLL CALL

3.0 PUBLIC PARTICIPATION

The public is encouraged to participate in the deliberation of the Desert/Mountain SELPA Steering and Finance Committee. Several opportunities are available during the meeting for the Council to receive oral communication regarding the presentations of any items listed on the agenda. Please ask for recognition either before a presentation or after the presentation has been completed. Please complete and submit a “Registration Card to Address the Desert/Mountain SELPA Steering Committee” to the Recording Secretary and adhere to the provisions described therein.

4.0 ADOPTION OF THE AGENDA

4.1 **BE IT RESOLVED** that the February 19, 2021 Desert/Mountain SELPA Steering and Finance Committee Meeting Agenda be approved as presented.

5.0 CONSENT ITEMS

It is recommended that the Steering and Finance Committee consider approving several Agenda items as a Consent list. Consent Items are routine in nature and can be enacted in one motion without further discussion. Consent items may be called up by any Committee Member at the meeting for clarification, discussion, or change.

5.1 **BE IT RESOLVED** that the following Consent Items be approved as presented:

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- 5.1.1 Approve the January 15, 2021 Desert/Mountain SELPA Steering and Finance Committee Meeting Minutes.

6.0 CHIEF EXECUTIVE OFFICER AND STAFF REPORTS

6.1 Legislative Updates

Jenae Holtz will present the latest in State and Federal law related to students with disabilities and school law including schools reopening.

6.2 Small District Expansion

Jenae Holtz will provide information pertaining to the Desert/Mountain SELPA small district protections being increased for districts with less than 2501 Average Daily Attendance (ADA). This will provide protection to the districts without increasing contributions from larger districts

6.3 CALPADS Reports for Special Education Directors

Jenae Holtz will provide information on a learning opportunity *CALPADS Reports for Special Education Directors*.

6.4 California State Testing Updates

Jenae Holtz will present the latest California state testing updates.

6.5 Inclusion Collaborative-Ways 2 Equity

Jenae Holtz will lead discussion regarding Inclusion Collaborative-Ways 2 Equity.

6.6 Desert Mountain Operations Updates

Rich Frederick will present Desert Mountain Operations Updates.

6.7 Desert/Mountain Children's Center Client Services Reports

Linda Llamas will present the D/M Children's Center Client Services monthly reports.

6.8 Critical Incident Skills Management (CISM) Virtual Protocol

Linda Llamas will present best practices on the virtual delivery of services for Critical Incident Skills Management/Crisis Response.

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6.9 Professional Learning Summary and Updates

Heidi Chavez will present the D/M SELPA's Professional Learning Summary and Updates.

6.10 Resolution Support Services Summary

Kathleen Peters will present the D/M SELPA's Resolution Support Services Summary and update.

6.11 Office of Administrative Hearings Decisions

Kathleen Peters will review Office of Administrative Hearings (OAH) decisions.

6.12 Mitigating Learning Loss Risk in COVID-19

Kathleen Peters will provide information on mitigating learning loss risk in COVID-19.

6.13 Addressing Assessment Requests During COVID-19

Kathleen Peters will provide direction on addressing assessment requests during COVID-19.

6.14 GenerationGo! Program

Adrienne Shepherd-Myles will provide information pertaining to the GenerationGo! program

6.15 Prevention and Intervention Mid-Year Reports and Updates

Kami Murphy will present Prevention and Intervention Mid-Year Reports and updates.

6.16 Compliance Update

Peggy Dunn will present an update on compliance items from the California Department of Education (CDE).

6.17 Nonpublic School/Nonpublic Agency Update

Peggy Dunn will provide a nonpublic school/nonpublic agency update.

7.0 FINANCE COMMITTEE REPORTS

8.0 INFORMATION ITEMS

8.1 Monthly Occupational & Physical Therapy Services Reports

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8.2 Monthly Nonpublic School/Agency Placement Report

8.3 Upcoming Professional Learning Opportunities

9.0 STEERING COMMITTEE MEMBERS COMMENTS / REPORTS

10.0 CEO COMMENTS

11.0 MATTERS BROUGHT BY THE PUBLIC

This is the time during the agenda when the Desert/Mountain SELPA Steering and Finance Committee is again prepared to receive the comments of the public regarding items on this agenda or any school related special education issue.

When coming to the podium, the speakers are requested to give their name and limit their remarks to three minutes.

Persons wishing to make complaints against Desert/Mountain SELPA Steering and Finance Committee personnel must have filed an appropriate complaint form prior to the meeting.

When the Desert/Mountain SELPA Steering and Finance Committee goes into Closed Session, there will be no further opportunity for citizens to address the Council on items under consideration.

12.0 ADJOURNMENT

The next regular meeting of the Desert/Mountain SELPA Steering and Finance Committee will be held on Friday, March 19, 2021, at 9:00 a.m., at the Desert Mountain Educational Service Center, Aster/Cactus Room, 17800 Highway 18, Apple Valley, CA 92307.

Individuals requiring special accommodations for disabilities are requested to contact Jamie Adkins at (760) 955-3555, at least seven days prior to the date of this meeting.

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D/M SELPA MEMBERS PRESENT:

Academy for Academic Excellence – Marcelo Congo, Samantha Gonzalez, Adelanto SD – Michael Baird, Apple Valley USD – Renee Castillo, David Wheeler, Baker Valley USD – Cecil Edwards, Christopher James, Barstow USD – Heather Reid, Bear Valley USD – Lucinda Newton, Desert/Mountain Operations (SBCSS) – Rich Frederick, Excelsior Charter Schools – Marie Silva, Health Sciences – Julie Kroener, Helendale SD – Michael Esposito, Hesperia USD – Matt Fedders, Teri McCollum, Elaine Nelson, Lucerne Valley SD – Vici Miller, Needles USD – Jamie Wiesner, Oro Grande SD – Nelda Colvin, Snowline JUSD – Lori Delgado, Victor Elementary SD – Tanya Benitez, and Victor Valley UHSD – Margaret Akinnusi, Rama Bassham.

CAHELP, SELPA, & DMCC STAFF PRESENT:

Jamie Adkins, Guille Burgos, Craig Cleveland, Danielle Cote, Lindsey Devor, Peggy Dunn, Adrien Faamausili, Thomas Flores, Bonnie Garcia, Renee Garcia, Colette Garland, Derek Hale, Maurica Manibusan, Robin McMullen, Angela Mgbeke, Kami Murphy, Sheila Parisian, Kathleen Peters, Karina Quezada, Daria Raines, Linda Rodriguez, Natalie Sedano, Jessica Soto, Pamela Strigglers, Jennifer Sutton, Stephanie Sweem, Athena Vernon, and Charis Washington.

1.0 CALL TO ORDER

The regular meeting of the California Association of Health and Education Linked Professions Joint Powers Authority (CAHELP JPA) Desert/Mountain SELPA Steering Committee Meeting was called to order by Program Manager Kathleen Peters, at 9:01 a.m., at the Desert/Mountain Educational Service Center, Apple Valley.

2.0 ROLL CALL

3.0 PUBLIC PARTICIPATION

None.

4.0 ADOPTION OF THE AGENDA

4.1 **BE IT RESOLVED** that a motion was made by Matt Fedders, seconded by Marie Silva, to approve the January 15, 2021 Desert/Mountain SELPA Steering and Finance Committee Meeting Agenda as presented. A vote was taken and the following carried: 17:0: Akinnusi, Baird, Benitez, Colvin, Congo, Delgado, Edwards, Esposito, Fedders, Frederick, Kroener, Miller, Newton, Reid, Silva, Wheeler, Wiesner. Nays: None, Abstentions: None.

5.0 CONSENT ITEMS

It is recommended that the Steering and Finance Committee consider approving several Agenda items as a Consent list. Consent Items are routine in nature and can be enacted in one motion without further discussion. Consent items may be called up by any Committee Member at the meeting for clarification, discussion, or change.

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- 5.1 **BE IT RESOLVED** that a motion was made by Matt Fedders, seconded by Lucinda Newton, to approve the following Consent Item as presented. A vote was taken and the following carried: 17:0: Akinnusi, Baird, Benitez, Colvin, Congo, Delgado, Edwards, Esposito, Fedders, Frederick, Kroener, Miller, Newton, Reid, Silva, Wheeler, Wiesner. Nays: None, Abstentions: None.

- 5.1.1 Approve the December 18, 2020 Desert/Mountain SELPA Steering and Finance Committee Meeting Minutes.

6.0 CHIEF EXECUTIVE OFFICER AND STAFF REPORTS

6.1 Legislative Updates

Kathleen Peters presented the latest in State and Federal law related to students with disabilities and school law. She said the last year of pandemic and civil unrest is reflected in the bills being introduced. The following newly introduced State Bills (SB) and Assembly Bills (AB) were summarized:

- SB 70 Elementary Education: Kindergarten would require all children to complete one year of kindergarten prior to being admitted to first grade beginning with the 2022-23 school year,
- AB 99 Statewide Longitudinal Data System: California Cradle-to-Career Data System has been part of San Bernardino county for some time and the state is promoting it. It is not clear if there will be funding to support the bill,
- AB 101 Pupil Instruction: High School Graduation Requirements: Ethnic Studies would add a one-semester course in Ethnic Studies to the list of requirements a student must meet to receive a high school diploma, beginning with the 2029-30 graduating class,
- AB 102 and 103 College and Career Access Pathways (CCAP) Partnerships would remove the January 1, 2027 sunset date of the CCAP program, making it a permanent program that would also apply to continuation schools, community schools, and juvenile court schools to engage in the partnerships with the community college retaining the focus on career pathways,
- AB 10 Pupil Instruction: In-Person Instruction: Distance Learning would change the current law that says public schools must provide in-person learning. The language would be modified to reflect that if the state, the governor, and/or the Department of Public Health says it is not safe to provide in-person learning, schools would continue to be paid when providing distance learning,

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- AB 76 Open California Schools Act would authorize local LEAs to offer a hybrid model including both in-person and distance learning which gives the LEAs options in the event of another crisis,
- AB 92 Preschool and Childcare and Development Services: Family Fees would declare the intent of the Legislature to enact legislation that would alleviate the burden on low-income families of fees for preschool and childcare and development services,
- SB 50 Early Learning and Care: California Early Learning and Care Program would additionally require State Department of Education to allow and arrange for inter-agency adjustments between those contracts for the same agency or different agencies and the same funding allocation and to establish timelines for those interagency contract transfers. Kathleen said this would open it up for more children to have early learning,
- AB 55 Employment: Telecommuting is looking at how to protect employees while telecommuting. Legislature is clarifying language to protect employees, employers, and schools for future crises,
- AB 95 Employees: Bereavement Leave would increase the number of bereavement days to ten and would be unpaid. Kathleen said it will not affect the LEAs financially but would affect staffing,
- SB 17 Public Health Crisis: Racism would state the intent of the Legislature to enact legislation to require the department, in collaboration with the Health in All Policies Program, the Office of Health Equity, and other relevant departments, agencies, stakeholders, to address racism as a public health crisis. This is motivated by the civil unrest this year,
- AB 126 Special Education Programs: Family Empowerment Centers on Disability has been talked about for a couple of years and is about working with families. If there is funding, CAHELP JPA will be writing for it. The more family empowerment centers would allow families to connect with LEAs and receive resources that might be hard to find otherwise,
- AB 32 Telehealth allows medical organizations that receive Medi-Cal and are working with the State Department of Health Care Services to provide telehealth,
- AB 58 Pupil Health: Suicide Prevention Policies and Training: School-Based Health Programs: Pilot Program would require an LEA to provide suicide awareness and prevention training at the beginning of each school year to teachers of pupils in all grades served by the LEA commencing with the 2022-23 school year. By imposing additional duties on LEAs, the bill would impose a state mandated local program. This bill will be watched to see if it is funded,

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- AB 104 Pupil Instruction: Learning Recovery Opportunities would express the intent of the Legislature to enact subsequent legislation that would provide learning recovery opportunities for pupils who face adverse learning circumstances as result of the COVID-19 crisis. It will be important to look at what requirements will be assigned to the LEAs, and how it is assessed and analyzed to decide who receives it,
- SB 14 Pupil Health: School Employee and Pupil Training: Excused Absences: Youth Mental and Behavioral Health pertains to how absences of children are counted. Currently, the law talks about notwithstanding the requirement that each person between 6 and 18 years of age who is not otherwise exempted is subject to compulsory fulltime education, requires a pupil to be excused from school for specified types of absences, including, among others, if the absence was due to the pupil's illness. This bill would include as another type of required excuse absence as absence that is for the benefit of the mental or behavioral health of the pupil. To the extent this bill would impose additional duties on local educational entities, this bill would impose a state mandated local program. Kathleen said the concern is if this would be an unfunded mandate.

6.2 Governor's Financial Incentive for Reopening Schools

Kathleen Peters provided information regarding the potential of schools reopening. Kathleen shared some of the governor's plan and requirements for schools to reopen including students and staff being tested for COVID-19 weekly or bi-weekly, depending on the regions COVID-19 tier. She continued that the governor's plan says individual's Medi-Cal or insurance will pay for the testing however it does not cover costs related to employees or implementation of testing. Kathleen reported a letter was sent to governor from larger districts in the state expressing concerns that the low-income communities where infection rates are higher will not qualify for the plan as it is written because the infection rates are higher than the level the governor has set with an average of 2008 positive cases per day. She continued there is also concern that the reopening plans would have to be negotiated with teacher unions and classified staff unions as well as the plan not providing a pathway for middle and high school students to return.

6.3 CAHELP JPA Referral Procedure Manual Revisions

Kathleen Peters called on Sheila Parisian to present the CAHELP JPA Referral Procedure Manual Revisions. Sheila reported students continue to need low incidence equipment (LIE) and because they are at home currently with agencies and vendors being short staffed due to COVID-19, it is taking longer for students to receive the LIE. Allowing the LEAs to purchase equipment, the students will receive it faster. Sheila reported this is not an action item because it is not a policy but a procedure and appears as a policy appendix.

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6.4 Desert Mountain Operations Updates

Rich Frederick presented Desert Mountain Operations (DMOPS) updates. He shared that DMOPS is in the process of expanding more classrooms in the region with the expected opening of mid-February. Rich continued there is an additional classroom being added at Victor Valley Union High School District to serve students with moderate to severe disabilities. The first DMOPS classroom will be added to Helendale School District and will be serve students with moderate to severe disabilities. There will also be two additional classrooms added to Snowline JUSD.

Rich reported San Bernardino County Superintendent of Schools has done a full roll out of the Student Annual Needs Determination Inventory (SANDI). It is a standardized assessment and instruction program designed for students with moderate to severe disabilities. Rich said the SANDI was developed by Riverside County Office of Education (RCOE) and is being marketed by Lakeshore Learning for kindergarten through 12th plus grades. Rich stated the special education directors should see the impact in what is being shared at IEP meetings and the quality of information. He continued that with the SANDI, DMOPS completed the Fall assessment window with a 99.99% completion rate. Rich said SANDI offers virtual assessments in reading, writing, math, and communication development however SANDI does not offer virtual assessments for fine/gross motor transition skills, activities for daily living, or social/emotional skills. Rich shared DMOPS is piloting the SANDI for preschool and has received good feedback and results. RCOE and Lakeshore Learning are developing a foundational SANDI which will be geared towards students with the most severe disabilities and it is expected to roll out next year. DMOPS was able to purchase the instructional kits developed by Lakeshore Learning to accompany the SANDI. Rich said he is very excited about the results he is seeing and is happy to provide more information with any LEA that operates moderate/severe programs and how it has been implemented.

6.5 Desert/Mountain Children's Center Client Services Reports

Guille Burgos presented the Desert/Mountain Children's Center Client Services monthly reports. She asked for her or Linda Llamas to be contacted regarding any discrepancies in the reports. Guille asked the directors to remind teachers be mindful of what is happening with students. If there are any changes to link students to mental health services. Guille said students are going through difficult times due to isolation and lack of connection with others.

6.6 Professional Learning Summary and Updates

Renee Garcia presented the D/M Charter SELPA Professional Learning Summary. She said there were 160 participants at December trainings and the year-to-date participants for D/M SELPA.

Renee shared Community Advisory Committee (CAC) meeting is scheduled for February 18, 2021 5:00pm-6:30pm. Renee said each LEA must has a representative in attendance at the business portion of the meeting 5:00pm-5:30pm. She asked the committee members to encourage parents

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to attend the training 5:30pm-6:30pm as the topic is *Occupational and Physical Therapy Tips and Tricks in the Home: Fine Motor, Visual Motor, Gross Motor, and Positioning*.

Renee reported Crisis Prevention Intervention Response (CPI) training Day 2 will be postponed to possibly May 2021. Because the region is currently in the deep purple tier of Covid-19 restrictions and Day 2 of training consists of in-person disengagement skills and physical interventions, it is not possible to hold the training at this time. CPI has been asked about a waiver in anticipation of a conditional certificate showing participants are attempting to be trained. There has not been a response as of this meeting.

Renee stated *Hola Language Services-Interpreting IEP Meetings Virtually & In Person* is scheduled for February 18-19, 2021 from 9:00am-3:00pm both days totaling 10 hours. The cost is \$100 per attendee. The training will consist of professional language for translating, Zoom etiquette, and other topics. Renee asked to be contacted for any questions regarding the training.

Renee stated the next Psychologist Committee meeting will be held on February 17, 2021 at 1:00pm-3:00pm. Rakeisha Lane with Best, Best & Krieger will be training *Defensible and Beyond: Conducting Defensible Assessments and Writing Effective Assessment Reports*.

6.7 Resolution Support Services Summary

Kathleen Peters presented the D/M SELPA's Resolution Support Services Summary and update. She reported the number of cases is increasing but not as quickly as last year. Kathleen said virtual hearings are taking twice as long as in-person hearings and are moving to mediation quicker. She commented that the parent attorney fees are higher and the request for compensatory provisions are higher so fewer cases are being settled at mediation than in the past. Resolution Support Services team is trying to protect the expenses the LEAs and the SELPA are incurring. She continued that though there are fewer cases, the cases are open longer. There are no cases scheduled for hearing at this time. The ongoing case for Apple Valley USD will probably be settled without going to hearing.

6.8 Office of Administrative Hearings Decisions

Kathleen Peters reviewed Office of Administrative Hearings (OAH) decisions. Kathleen reported some LEAs decided not to follow School Attendance Review Board (SARB) procedures during COVID-19 but to instead work with families more than in the past. She continued that though well intentioned, there are mandates to fulfil the guidelines of Individuals with Disabilities Education Act (IDEA). Kathleen said it is important to look more closely at students in special education that are not engaging, participating or making progress. She suggested contacting the families weekly or biweekly to make connections to ask if the circumstances have changed or if there is something else the LEA can do to assist. Kathleen said that there may be students that would not qualify for a 1:1 aide with in-person learning that may qualify temporarily during this time of virtual learning and provided an example of a single mother who has three children with

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special needs and the household needs assistance during instruction time. She shared that staffing issues have not been forgotten and nonpublic agencies have been placing aides in homes to assist with class participation.

Kathleen spoke on a case from Alameda Unified School District case 2020030548 in which the parent argued their assessor had more qualifications than the school district assessors and therefore the advice of the Independent Educational Evaluation (IEE) should be adhered to and paid for by the school district. Kathleen said it is important to know that though the parent argued the doctor of her choice exceeded the SELPA criteria, the judge found that because the IEE person did not have school qualifications or experience related to the classroom, the SELPA criteria could be held. Some parent attorneys want to use psychologists that are clinical and not educational oriented. However, the court found that the school related psychologist would not have bias for the schools and that IDEA and California Education Code both require the psychologists have school-based experience so that the assessment has the same guidelines as the school adheres to. Kathleen said this helps clarify which IEE assessors can be denied more assertively.

Sheila Parisian provided information regarding an OAH decision for case 2020060992 Bass Lake Joint Union Elementary School District with two main areas of concern being did the LEA deny FAPE by failing to make a clear offer of FAPE and not offering goals in all areas of student's unique needs. The administrative law judge (ALJ) found it difficult to discern whether there were continuations or amendments to the child's Individualized Education Program (IEP) and because of that, it was equated to a procedural violation. The IEP notes were scattered and difficult to follow and also lacked a description of what occurred during the meeting. Because the child was severely impacted to where he had home hospital and nursing services, there had been a multitude of independent assessors that had provided input but the notes did not capture the service recommendations, goals, or adaptive equipment. Sheila said the teacher had to contact the service provider to ask what was recommended then contacted the district service provider to inquire about what could be provided in home hospital as far as service, duration, and frequency without taking the IEE recommendations into consideration. The teacher then added the goals after an IEP team meeting so it was not developed within the meeting which prevented the parent from having meaningful participation and excluded the rest of the team from being able to participate in the discussion and development of the IEP. The teacher also added a service based on recommendations but failed to link it to a goal because it was not her area of expertise. The ALJ found the district denied the student FAPE by failing to make a clear offer of FAPE, by failing to correct errors in the IEP document, and materially altering the content of the IEP document outside of the IEP team meeting. Sheila said she and Colette Garland provide training on appropriately marking the reason for the IEP meeting and marking parts one and two with dates notated. Sheila recommended collaboration between case managers and independent assessors in drafting a goal before the IEP meeting to that it is ready to be put in place.

Kathleen then spoke on an Anaheim Elementary School District case 2020090678 in which the district filed on a parent. The parent had requested an assessment for their 6-year-old child that had been previously diagnosed with autism spectrum disorder, cleft lip, and cleft palate. The parent

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withdrew his permission to assess then again requested assessment but with some restrictions. The parent did not want the district to provide the full scope of assessments and wanted the child to be on home hospital but did not allow communication with the doctor that would allow the doctor to understand what the school had put in place to assist the child. When COVID-19 caused school closures, the parent did not want the child assessed in public then said the child had no medical issues. Social media reflected the family was at Disneyland, Downtown Disney, and San Diego Safari Zoo during the time the parent was saying the child could not be assessed. The Child Find timeline had been started and continued during this time because the father would not withdraw the second request. The ALJ found the father could not stipulate what pieces of the assessment would be administered and could not stipulate that only part of the medical records would be shared. The ALJ also gave permission for the child to be assessed in person unless he received direction from the doctor directly that it was not to be done in that manner. Kathleen said the case reiterates that LEAs do have a right for a release of information.

Kathleen announced the Resolution Support Services department will be developing new procedures to make alternative dispute resolution more successful in the region. She said there will be a meeting on January 20, 2021 at 1:00pm-3:00pm on Zoom for all who are interested. Kathleen would like there to be LEA representatives from both D/M Charter SELPA and D/M SELPA. Kathleen asked for anyone interested to email her so she can provide the Zoom meeting link.

6.9 Prevention and Intervention Update

Kami Murphy presented the Prevention and Intervention update. She shared the Prevention and Intervention team will be organizing a free survey resource that will be available to the LEAs that would like to gauge their school climate. Kami said there has been a school climate survey for students of LEAs that are working with the Prevention and Intervention team. She said the new resource looks at the needs of the families, personnel, and students. The electronic survey takes 10-15 minutes and is in Spanish and English. There are composed letters in the resource to invite families, school personnel, and students to utilize the tool. Kami stated the results that come back are very beneficial to put in place some of the prevention activities that have been shared in the last year including concerns of increased suicide and mental health needs. Kami asked to be emailed so her team can open the link for the LEA. She said the data can be used in the Local Control and Accountability Plans (LCAP) in June.

Kami shared the Outreach Team has organized parent to parent talk forums called Real Talk that allow time for families to interact with each other. Kami asked the events to be put on the LEA websites as another tool for parents to gather.

6.10 Postsecondary Transition Services Manual

Kathleen Peters presented the Postsecondary Transition Services Manual. She shared that there have been minor changes to the Sample Transition Plan in the appendix section of the manual.

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The Annual Goals and Progress of Goals in Appendix Section B were revised. Kathleen said the changes will be updated on the CAHELP website.

Kathleen shared that Adrienne Shepherd-Myles will be facilitating Transition Planning for All Students on February 4, 2021 from 9:00am-12 noon. It is a virtual training and registration is required.

6.11 Compliance Update

Colette Garland presented an update on compliance items from the California Department of Education (CDE). She said she emailed copies of the Annual Determination Letter to superintendents, special education directors, and program specialists. Colette shared that due dates have not been set yet for monitoring activities, so the letter is an alert of what is expected. The letter indicates whether the LEA is in intensive or targeted review as well as significant disproportionality.

Colette reported the CalPads amendment window is currently open with certification due on January 29, 2021. She said there will be some changes to programming and processes after final certification is complete. Colette shared that she is scheduling one on one meetings with MIS staff at each LEA to work on any issues or concerns they may have.

6.12 Nonpublic School/Nonpublic Agency Update

Peggy Dunn provided a nonpublic school/nonpublic agency update. She reported that Bright Futures Academy and Desert View School will operate in accordance with school districts regarding bringing students back to campus. Peggy shared there are five students currently placed in residential treatment centers across the country which is low based on previous year enrollments. Peggy concluded that most nonpublic agencies have completed certification though there are a few that are in the process of submitting documents to D/M SELPA for signature to fulfill CDE certification requirements.

7.0 FINANCE COMMITTEE REPORTS

Thomas Flores provided information pertaining to the governor's January budget. Thomas said when the preliminary budget was released January 8, 2021, there were not many changes to the special education funding exhibit. He shared that the governor has proposed a 1.5% cost of living adjustment (COLA) on the special education base rate which would take it to \$634.38 per average daily attendance (ADA). The governor did not propose the ADA Hold Harmless as he did for 2021 so it is even more important to keep good attendance records and getting students attending school virtually and/or in person. Thomas reported Marina Gallegos, Jenae Holtz, and the business managers will be attending a training next week with Capital Advisors and more information will be provided. He reminded the committee that the budget will likely change between now and the May revise.

California Association of Health and Education Linked Professions
Joint Powers Authority (CAHELP JPA)
DESERT/MOUNTAIN SELPA STEERING and FINANCE COMMITTEE MEETING
January 15, 2021 – 9:00 a.m. Virtual via Teleconference
Desert Mountain Educational Service Center, 17800 Highway 18, Apple Valley CA 92307

MINUTES

8.0 INFORMATION ITEMS

- 8.1 Monthly Audiological Services Reports
- 8.2 Monthly Occupational & Physical Therapy Services Reports
- 8.3 Monthly Nonpublic School/Agency Placement Report
- 8.4 Upcoming Professional Learning Opportunities

The following trainings were highlighted with flyers: *Orton-Gillingham Approach* and *Structured Literacy What, Why, Who, and How?*.

9.0 STEERING COMMITTEE MEMBERS COMMENTS / REPORTS

10.0 CEO COMMENTS

Kathleen Peters wished the committee well while rising above the challenges that COVID-19 has brought.

11.0 MATTERS BROUGHT BY THE PUBLIC

None.

12.0 ADJOURNMENT

Having no further business to discuss, a motion was made by Matt Fedders, seconded by Nelda Colvin to adjourn the meeting. A vote was taken and the following carried: 17:0: Akinnusi, Baird, Benitez, Colvin, Congo, Delgado, Edwards, Esposito, Fedders, Frederick, Kroener, Miller, Newton, Reid, Silva, Wheeler, Wiesner. Nays: None, Abstentions: None.

The next regular meeting of the Desert/Mountain SELPA Steering and Finance Committee will be held on Friday, February 19, 2021, at 9:00 a.m., at the Desert Mountain Educational Service Center, Aster/Cactus Room, 17800 Highway 18, Apple Valley, CA 92307.

Individuals requiring special accommodations for disabilities are requested to contact Jamie Adkins at (760) 955-3555, at least seven days prior to the date of this meeting.

2021-22 GOVERNOR'S BUDGET

EDUCATION OMNIBUS TRAILER BILL

AB 1200 Clean-up for County Offices of Education (Amends Education Code Sections 1240 and 1630)

SEC 1. 1240. The county superintendent of schools shall do all of the following:

(a) Superintend the schools of his or her county.

(b) Maintain responsibility for the fiscal oversight of each school district in his or her county pursuant to the authority granted by this code.

(c) (1) Visit and examine each school in his or her county at reasonable intervals to observe its operation and to learn of its problems. He or she annually may present a report of the state of the schools in his or her county, and of his or her office, including, but not limited to, his or her observations while visiting the schools, to the board of education and the board of supervisors of his or her county.

(2) (A) For fiscal years 2004–05 to 2006–07, inclusive, to the extent that funds are appropriated for purposes of this paragraph, the county superintendent, or his or her designee, annually shall submit a report, at a regularly scheduled November board meeting, to the governing board of each school district under his or her jurisdiction, the county board of education of his or her county, and the board of supervisors of his or her county describing the state of the schools in the county or of his or her office that are ranked in deciles 1 to 3, inclusive, of the 2003 base Academic Performance Index (API), as described in subdivision (b) of Section 17592.70, and shall include, among other things, his or her observations while visiting the schools and his or her determinations for each school regarding the status of all of the circumstances listed in subparagraph (l) and teacher misassignments and teacher vacancies. As a condition for receipt of funds, the county superintendent, or his or her designee, shall use a standardized template to report the circumstances listed in subparagraph (l) and teacher misassignments and teacher vacancies, unless the current annual report being used by the county superintendent, or his or her designee, already includes those details for each school.

(B) Commencing with the 2007–08 fiscal year, the county superintendent, or his or her designee, annually shall submit a report, at a regularly scheduled November board meeting, to the governing board of each school district under his or her jurisdiction, the county board of education of his or her county, and the board of supervisors of his or her county describing the state of the schools in the county or of his or her office that are ranked in deciles 1 to 3, inclusive, of the 2006 base API, pursuant to former Section 52056, as that section read on June 30, 2013. The annual report shall include the determinations for each school made by the county superintendent, or his or her designee, regarding the status of all of the circumstances listed in subparagraph (l) and teacher misassignments and teacher vacancies, and the county superintendent, or his or her designee, shall use a standardized template to report the circumstances listed in subparagraph (l) and teacher misassignments and teacher vacancies, unless the current annual report being used by the county superintendent, or his or her designee, already includes those details with the same level of specificity that is otherwise

required by this subdivision. For purposes of this section, schools ranked in deciles 1 to 3, inclusive, on the 2006 base API shall include schools determined by the department to meet either of the following:

(i) The school meets all of the following criteria:

(I) Does not have a valid base API score for 2006.

(II) Is operating in fiscal year 2007–08 and was operating in fiscal year 2006–07 during the Standardized Testing and Reporting (STAR) Program testing period.

(III) Has a valid base API score for 2005 that was ranked in deciles 1 to 3, inclusive, in that year.

(ii) The school has an estimated base API score for 2006 that would be in deciles 1 to 3, inclusive.

(C) The department shall estimate an API score for any school meeting the criteria of subclauses (I) and (II) of clause (i) of subparagraph (B) and not meeting the criteria of subclause (III) of clause (i) of subparagraph (B), using available test scores and weighting or corrective factors it deems appropriate. The department shall post the API scores on its Internet Web site on or before May 1.

(D) For purposes of this section, references to schools ranked in deciles 1 to 3, inclusive, on the 2006 base API shall exclude schools operated by county offices of education pursuant to Section 56140, as determined by the department.

(E) (i) Commencing with the 2010–11 fiscal year and every third year thereafter, the Superintendent shall identify a list of schools ranked in deciles 1 to 3, inclusive, of the API for which the county superintendent, or his or her designee, annually shall submit a report, at a regularly scheduled November board meeting, to the governing board of each school district under his or her jurisdiction, the county board of education of his or her county, and the board of supervisors of his or her county that describes the state of the schools in the county or of his or her office that are ranked in deciles 1 to 3, inclusive, of the base API as defined in clause (ii).

(ii) For the 2010–11 fiscal year, the list of schools ranked in deciles 1 to 3, inclusive, of the base API shall be updated using the criteria set forth in clauses (i) and (ii) of subparagraph (B), subparagraph (C), and subparagraph (D), as applied to the 2009 base API and thereafter shall be updated every third year using the criteria set forth in clauses (i) and (ii) of subparagraph (B), subparagraph (C), and subparagraph (D), as applied to the base API of the year preceding the third year consistent with clause (i).

(iii) The annual report shall include the determinations for each school made by the county superintendent, or his or her designee, regarding the status of all of the circumstances listed in subparagraph (I) and teacher misassignments and teacher vacancies, and the county superintendent, or his or her designee, shall use a standardized template to report the circumstances listed in subparagraph (I) and teacher misassignments and teacher vacancies, unless the current annual report being used by the county superintendent, or his or her designee, already includes those details with the same level of specificity that is otherwise required by this subdivision.

(F) The county superintendent of the Counties of Alpine, Amador, Del Norte, Mariposa, Plumas, and Sierra, and the City and County of San Francisco shall contract with another county office of education or an independent auditor to conduct the required visits and make all reports required by this paragraph.

(G) On a quarterly basis, the county superintendent, or his or her designee, shall report the results of the visits and reviews conducted that quarter to the governing board of the school district at a regularly scheduled meeting held in accordance with public

notification requirements. The results of the visits and reviews shall include the determinations of the county superintendent, or his or her designee, for each school regarding the status of all of the circumstances listed in subparagraph (I) and teacher misassignments and teacher vacancies. If the county superintendent, or his or her designee, conducts no visits or reviews in a quarter, the quarterly report shall report that fact.

(H) The visits made pursuant to this paragraph shall be conducted at least annually and shall meet the following criteria:

- (i) Minimize disruption to the operation of the school.
- (ii) Be performed by individuals who meet the requirements of Section 45125.1.
- (iii) Consist of not less than 25 percent unannounced visits in each county. During unannounced visits in each county, the county superintendent shall not demand access to documents or specific school personnel. Unannounced visits shall only be used to observe the condition of school repair and maintenance, and the sufficiency of instructional materials, as defined by Section 60119.

(I) The priority objective of the visits made pursuant to this paragraph shall be to determine the status of all of the following circumstances:

- (i) Sufficient textbooks as defined in Section 60119 and as specified in subdivision (i).
- (ii) The condition of a facility that poses an emergency or urgent threat to the health or safety of pupils or staff, as described in school district policy or paragraph (1) of subdivision (c) of Section 17592.72.

(iii) The accuracy of data reported on the school accountability report card with respect to the availability of sufficient textbooks and instructional materials, as defined by Section 60119, and the safety, cleanliness, and adequacy of school facilities, including good repair, as required by Sections 17014, 17032.5, 17070.75, and 17089.

(J) The county superintendent may make the status determinations described in subparagraph (I) during a single visit or multiple visits. In determining whether to make a single visit or multiple visits for this purpose, the county superintendent shall take into consideration factors such as cost-effectiveness, disruption to the school site, deadlines, and the availability of qualified reviewers.

(K) If the county superintendent determines that the condition of a facility poses an emergency or urgent threat to the health or safety of pupils or staff as described in school district policy or paragraph (1) of subdivision (c) of Section 17592.72, or is not in good repair, as specified in subdivision (d) of Section 17002 and required by Sections 17014, 17032.5, 17070.75, and 17089, the county superintendent, among other things, may do any of the following:

- (i) Return to the school to verify repairs.
- (ii) Prepare a report that specifically identifies and documents the areas or instances of noncompliance if the school district has not provided evidence of successful repairs within 30 days of the visit of the county superintendent or, for major projects, has not provided evidence that the repairs will be conducted in a timely manner. The report may be provided to the governing board of the school district. If the report is provided to the school district, it shall be presented at a regularly scheduled meeting held in accordance with public notification requirements. The county superintendent shall post the report on his or her Internet Web site. The report shall be removed from the Internet Web site when the county superintendent verifies the repairs have been completed.
- (d) Distribute all laws, reports, circulars, instructions, and blanks that he or she may receive for the use of the school officers.

(e) Annually, on or before September 15, present a report to the governing board of the school district and the Superintendent regarding the fiscal solvency of a school district with a disapproved budget, qualified interim certification, or a negative interim certification, or that is determined to be in a position of fiscal uncertainty pursuant to Section 42127.6.

(f) Keep in his or her office the reports of the Superintendent.

(g) Keep a record of his or her official acts, and of all the proceedings of the county board of education, including a record of the standing, in each study, of all applicants for certificates who have been examined, which shall be open to the inspection of an applicant or his or her authorized agent.

(h) Enforce the course of study.

(i) (1) Enforce the use of state textbooks and instructional materials and of high school textbooks and instructional materials regularly adopted by the proper authority in accordance with Section 51050.

(2) For purposes of this subdivision, sufficient textbooks or instructional materials has the same meaning as in subdivision (c) of Section 60119.

(3) (A) Commencing with the 2005–06 school year, if a school is ranked in any of deciles 1 to 3, inclusive, of the base API, as specified in paragraph (2) of subdivision (c), and not currently under review pursuant to a state or federal intervention program, the county superintendent specifically shall review that school at least annually as a priority school. A review conducted for purposes of this paragraph shall be completed by the fourth week of the school year. For the 2004–05 fiscal year only, the county superintendent shall make a diligent effort to conduct a visit to each school pursuant to this paragraph within 120 days of receipt of funds for this purpose.

(B) In order to facilitate the review of instructional materials before the fourth week of the school year, the county superintendent in a county with 200 or more schools that are ranked in any of deciles 1 to 3, inclusive, of the base API, as specified in paragraph (2) of subdivision (c), may utilize a combination of visits and written surveys of teachers for the purpose of determining sufficiency of textbooks and instructional materials in accordance with subparagraph (A) of paragraph (1) of subdivision (a) of Section 60119 and as defined in subdivision (c) of Section 60119. If a county superintendent elects to conduct written surveys of teachers, the county superintendent shall visit the schools surveyed within the same academic year to verify the accuracy of the information reported on the surveys. If a county superintendent surveys teachers at a school in which the county superintendent has found sufficient textbooks and instructional materials for the previous two consecutive years and determines that the school does not have sufficient textbooks or instructional materials, the county superintendent shall within 10 business days provide a copy of the insufficiency report to the school district as set forth in paragraph (4).

(C) For purposes of this paragraph, “written surveys” may include paper and electronic or online surveys.

(4) If the county superintendent of schools determines that a school does not have sufficient textbooks or instructional materials in accordance with subparagraph (A) of paragraph (1) of subdivision (a) of Section 60119 and as defined by subdivision (c) of Section 60119, the county superintendent shall do all of the following:

(A) Prepare a report that specifically identifies and documents the areas or instances of noncompliance.

(B) Provide within five business days of the review, a copy of the report to the school

district, as provided in subdivision (c), or, if applicable, provide a copy of the report to the school district within 10 business days pursuant to subparagraph (B) of paragraph (3).

(C) Provide the school district with the opportunity to remedy the deficiency. The county superintendent shall ensure remediation of the deficiency no later than the second month of the school term.

(D) If the deficiency is not remedied as required pursuant to subparagraph (C), the county superintendent shall request the department to purchase the textbooks or instructional materials necessary to comply with the sufficiency requirement of this subdivision. If the department purchases textbooks or instructional materials for the school district, the department shall issue a public statement at the first regularly scheduled meeting of the state board occurring immediately after the department receives the request of the county superintendent and that meets the applicable public notice requirements, indicating that the district superintendent and the governing board of the school district failed to provide pupils with sufficient textbooks or instructional materials as required by this subdivision. Before purchasing the textbooks or instructional materials, the department shall consult with the school district to determine which textbooks or instructional materials to purchase. The amount of funds necessary for the purchase of the textbooks and materials is a loan to the school district receiving the textbooks or instructional materials. Unless the school district repays the amount owed based upon an agreed-upon repayment schedule with the Superintendent, the Superintendent shall notify the Controller and the Controller shall deduct an amount equal to the total amount used to purchase the textbooks and materials from the next principal apportionment of the school district or from another apportionment of state funds.

(j) Preserve carefully all reports of school officers and teachers.

(k) Deliver to his or her successor, at the close of his or her official term, all records, books, documents, and papers belonging to the office, taking a receipt for them, which shall be filed with the department.

(l) (1) Submit two reports during the fiscal year to the county board of education in accordance with the following:

(A) The first report shall cover the financial and budgetary status of the county office of education for the period ending October 31. The second report shall cover the period ending January 31. Both reports shall be reviewed by the county board of education and approved by the county superintendent no later than 45 days after the close of the period being reported.

(B) As part of each report, the county superintendent shall certify in writing whether or not the county office of education is able to meet its financial obligations for the remainder of the fiscal year and, based on current forecasts, for two subsequent fiscal years. The certifications shall be classified as positive, qualified, or negative, pursuant to standards prescribed by the Superintendent, for the purposes of determining subsequent state agency actions pursuant to Section 1240.1. For purposes of this subdivision, a negative certification shall be assigned to a county office of education that, based upon current projections, will not meet its financial obligations for the remainder of the fiscal year or for the subsequent fiscal year. A qualified certification shall be assigned to a county office of education that may not meet its financial obligations for the current fiscal year or two subsequent fiscal years. A positive certification shall be assigned to a county office of education that will meet its financial

obligations for the current fiscal year and subsequent two fiscal years. In accordance with those standards, the Superintendent may reclassify a certification. If a county office of education receives a negative certification, the Superintendent, or his or her designee, may exercise the authority set forth in subdivision (c) of Section 1630. Copies of each certification, and of the report containing that certification, shall be sent to the Superintendent at the time the certification is submitted to the county board of education. Copies of each qualified or negative certification and the report containing that certification shall be sent to the Controller at the time the certification is submitted to the county board of education.

(i) For the 2011–12 fiscal year, notwithstanding any of the standards and criteria adopted by the state board pursuant to Section 33127, each county office of education budget shall project the same level of revenue per unit of average daily attendance as it received in the 2010–11 fiscal year and shall maintain staffing and program levels commensurate with that level.

(ii) For the 2011–12 fiscal year, the county superintendent shall not be required to certify in writing whether or not the county office of education is able to meet its financial obligations for the two subsequent fiscal years.

(iii) For the 2011–12 fiscal year, notwithstanding any of the standards and criteria adopted by the state board pursuant to Section 33127, the Superintendent, as a condition on approval of a county office of education budget, shall not require a county office of education to project a lower level of revenue per unit of average daily attendance than it received in the 2010–11 fiscal year nor require the county superintendent to certify in writing whether or not the county office of education is able to meet its financial obligations for the two subsequent fiscal years.

(2) All reports and certifications required under this subdivision shall be in a format or on forms prescribed by the Superintendent, and shall be based on standards and criteria for fiscal stability adopted by the state board pursuant to Section 33127. The reports and supporting data shall be made available by the county superintendent to an interested party upon request.

(3) This subdivision does not preclude the submission of additional budgetary or financial reports by the county superintendent to the county board of education or to the Superintendent.

(4) The county superintendent is not responsible for the fiscal oversight of the community colleges in the county, however, he or she may perform financial services on behalf of those community colleges.

(m) If requested, act as agent for the purchase of supplies for the city and high school districts of his or her county.

(n) For purposes of Section 44421.5, report to the Commission on Teacher Credentialing the identity of a certificated person who knowingly and willingly reports false fiscal expenditure data relative to the conduct of an educational program. This requirement applies only if, in the course of his or her normal duties, the county superintendent discovers information that gives him or her reasonable cause to believe that false fiscal expenditure data relative to the conduct of an educational program has been reported.

(o) If any activities authorized pursuant to this section are found to be a state reimbursable mandate pursuant to Section 6 of Article XIII B of the California Constitution, funding provided for school districts and county offices of education pursuant to Sections 2574, 2575, 42238.02, and 42238.03 shall be used to directly offset

any mandated costs.

(5) Any county office of education having a negative or qualified certification, or classified as qualified or negative by the Superintendent, shall continue to be classified as qualified or negative until the next report required under this section is filed.

1630. (a) The Superintendent shall review and consider studies, reports, evaluations, or audits of the county office of education that contain evidence that the county office of education is demonstrating fiscal distress according to the standards and criteria developed pursuant to Section 33127, or that contain a finding by an external reviewer that more than 3 of the 15 most common predictors the county office of education is at moderate or high risk of intervention based on the most common indicators of school agencies needing intervention, as determined by the County Office Fiscal Crisis and Management Assistance Team., are present. If those findings are made, the Superintendent shall investigate the financial condition of the county office of education and determine if the county office of education may be unable to meet its financial obligations for the current or two subsequent fiscal years, or should receive a qualified or negative interim financial certification pursuant to Section 1240.

(b) If at any time during the fiscal year the Superintendent determines that the county office of education may be unable to meet its financial obligations for the current or two subsequent fiscal years, or if the county office has a qualified certification pursuant to Section 1240, he or she shall notify provide a written notice of going concern determination to the county board of education and the county superintendent ~~in writing of that determination~~ and the basis for the determination. The notification shall include the assumptions used in making the determination and shall be available to the public. The Superintendent shall do the following, as necessary, to ensure that the county office meets its financial obligations:

(1) Assign a fiscal expert, paid for by the Superintendent, to advise the county office on its financial problems.

(2) Conduct a study of the financial and budgetary conditions of the county office. If, in the course of this review, the Superintendent determines that his or her office requires analytical assistance or expertise that is not available through the county office, he or she may employ, at county office expense, on a short-term basis, staff, including certified public accountants, to provide the assistance and expertise.

(3) Direct the county office to submit a financial projection of all fund and cash balances of the county office as of June 30 of the current year and subsequent fiscal years as he or she requires.

(4) Require the county office to encumber all contracts and other obligations, to prepare appropriate cashflow analyses and monthly or quarterly budget revisions, and to appropriately record all receivables and payables.

(5) Direct the county office to submit a proposal for addressing the fiscal conditions that resulted in the determination that the county office may not be able to meet its financial obligations.

(6) Withhold compensation of the county board of education and the county superintendent for failure to provide requested financial information.

(c) If, after taking the actions identified in subdivision (a), the Superintendent determines that a county office will be unable to meet its financial obligations for the current or subsequent fiscal year, he or she shall notify the county board of education and the county superintendent in writing of that determination and the basis for that

determination. The notification shall include the assumptions used in making the determination and shall be available to the public.

(d) If the Superintendent of Public Instruction makes that determination, or if the county office has a negative certification pursuant to Section 1240, the Superintendent, shall, as necessary to enable the county office to meet its financial obligations, do one or more of the following:

(1) Develop and impose, in consultation with the county board of education and the county superintendent, a budget that will enable the county to meet its financial obligations.

(2) Stay or rescind an action that is determined to be inconsistent with the ability of the county office to meet its obligations for the current or subsequent fiscal year and may, as necessary, appoint a fiscal adviser to perform some or all of the duties prescribed by this paragraph on his or her behalf. This includes actions up to the point that the subsequent year's budget is approved by the Superintendent. The Superintendent shall inform the county board of education in writing of his or her justification for an exercise of authority under this paragraph.

(3) Assist in developing, in consultation with the county board of education and the county superintendent, a multiyear financial recovery plan that will enable the county office to meet its future obligations.

(4) Assist in developing, in consultation with the county board of education and the county superintendent, a budget for the subsequent fiscal year. If necessary, the Superintendent shall continue to work with the county board of education and the county superintendent until the budget for the subsequent year is adopted by the county board of education and approved by the Superintendent.

Early Education Professional Development Grants Program (Adds Article 13.2)

SEC 2. 8281. (a) The Superintendent shall administer the Early Education Professional Development Grant Program to increase the number of highly qualified teachers available to serve transitional kindergarten students, and to provide both transitional kindergarten and kindergarten teachers with training in providing instruction in inclusive classrooms, support for dual language learners, social-emotional learning, trauma-informed practices, restorative practices, and mitigating implicit biases, pursuant to this section.

(b) (1) There is hereby appropriated fifty million dollars (\$50,000,000) to the department from the General Fund for the competitive professional development grant program established pursuant to this section to be released in the 2021–22 fiscal year. These funds shall be available for encumbrance through the 2023-24 fiscal year.

(2) The Director of Finance may change the release of funds scheduled in paragraph (1), if deemed necessary. The director shall notify the Chairperson of the Joint Legislative Budget Committee, or the chairperson's designee, of the director's intent to notify the Controller of the necessity to change the release of funds scheduled in paragraph (1). The total amount released shall not be greater or lesser than the amount appropriated in paragraph (1). The Controller shall make the funds available to the department not sooner than five days after receipt of this notification.

(c) The Superintendent shall develop and administer a process to award the professional development grants, subject to approval of the executive director of the State Board of Education, on a competitive basis to local educational agencies. Local

educational agencies seeking to apply shall submit an application to the department that describes how they will allocate funds and increase either the number of credentialed teachers meeting the requirements of subdivision (g) of section 48000 or the competencies of transitional kindergarten and kindergarten teachers to enhance their ability to provide instruction in inclusive classrooms, support dual language learners, enhance social-emotional learning, implement trauma-informed and restorative practices, and mitigate implicit biases to eliminate exclusionary discipline.

(d) An applicant shall demonstrate the following to be considered for a grant award:

(1) A need for transitional kindergarten and/or kindergarten professional development in a region.

(2) A need for transitional kindergarten teachers in a region.

(3) The presence or plan to create inclusive classroom settings.

(4) The ability to connect the transitional kindergarten or kindergarten program to before-and-after school programs and extended-day services.

(e) Priority for funding shall be given to local educational agencies located in the attendance area of high-poverty elementary schools in school districts and charter schools that receive Local Control Funding Formula Concentration Grant funds. In allocating these funds, the Superintendent shall establish a methodology that takes into account the following:

(1) The proportion of dual language learners that the local educational agency is serving or is planning to serve in a transitional kindergarten program.

(2) The proportion of children with disabilities the local educational agency is serving or planning to serve in an inclusive transitional kindergarten program

(3) The proportion of full-day kindergarten programs offered by the local educational agency.

(4) The extent to which applicants operate in an attendance area where significant disproportionality of particular races or ethnicities, as defined in 20 U.S.C. 1418(d), has been identified in special education.

(e) Professional development grants may be used for costs associated with the educational expenses of current transitional kindergarten and kindergarten professionals that support their professional development in early childhood instruction or child development, including developing competencies in serving inclusive classrooms and dual language learners. Allowable uses of funds include:

(1) Tuition, supplies, and other related educational expenses.

(2) Transportation and childcare costs incurred as a result of attending classes.

(3) Substitute teacher pay for those that are currently working in a transitional kindergarten or kindergarten classroom.

(4) Stipends and professional development expenses, as determined by the Superintendent.

(5) Career, course, and professional development coaching, counseling, and navigation services.

(6) Other educational expenses as determined by the Superintendent.

(f) Local educational agencies awarded funding pursuant to this section may partner with local or online accredited higher education institutions, local agencies that provide high-quality, or credit-bearing trainings, or integrate and embed higher education coursework with on-the-job training of professionals.

(h) Professional learning provided pursuant to this section shall, as applicable, be aligned to the academic standards pursuant to Sections 51226, 60605, 6065.1, 60605.2,

60605.3, 60605.4, 60605.8, 60605.11 of the Education Code, as that section read on June 30, 2020.

(i) Local educational agencies receiving grants shall commit to providing program data to the department, as specified by the Superintendent, including, but not limited to, recipient information, including demographic information, type of course(s) taken, and participate in overall program evaluation.

(j) The Superintendent shall provide a report to The Department of Finance as well as the appropriate policy and fiscal committees of the Legislature by October 1, 2024, on the expenditure of funds as well as relevant outcome data in order to evaluate the impact of the program.

(k) The competitive professional development grant program established pursuant to this section shall be funded from funds appropriated in this section.

(k) Notwithstanding any other provision of this section, the Superintendent, with the concurrence of the executive director of the state board, shall recommend to the Department of Finance and the budget committees of the Legislature by January 1, 2022, any changes to the funding methodology in this section related to the recommendations and priorities provided pursuant to Section 8207.

(l) On June 30, 2027, the amounts appropriated for purposes of this section shall revert to the General Fund.

(m) For purposes of this section, a "local educational agency" means a school district, a county office of education, or a charter school.

The California Transitional Kindergarten Incentive Grant Program (Adds Article 25)

SEC 3. 8499. (a) The California Transitional Kindergarten Incentive Grant Program is hereby established as a state early learning initiative with the goal of expanding access to transitional kindergarten programs at local educational agencies. The State Department of Education shall award incentive grants to local educational agencies for the implementation or enrollment expansion of transitional kindergarten programs.

(b) The sum of two hundred fifty million dollars (\$250,000,000) from the General Fund to the department for allocation to the local educational agencies for the California Transitional Kindergarten Incentive Grant Program pursuant to this section. These funds shall be available for encumbrance until June 30, 2024.

(c) At a minimum, an applicant shall be a local educational agency and shall include all of the following information in its grant application:

(1) Enrollment data of four-year-olds in Transitional Kindergarten and kindergarten for the 2021-22 academic year.

(2) A proposal to implement or expand a transitional kindergarten program over a three-year period, beginning in 2022-23, with the intent to increase access for four-year-olds with fifth birthdays after December 2nd.

(3) A plan to fiscally sustain subsidized programs created by grant funds beyond the grant period.

(4) A description of the early education expertise, strategies, curriculum, and materials that will be used to ensure that funds are used for high-quality and inclusive early education programs.

(5) A commitment to report Transitional Kindergarten enrollment data to the Superintendent at the beginning of the grant period, at the end of the first year of the grant period, and at the end of the second year of the grant period.

(d) Grants shall be awarded on a competitive basis and shall reflect the geographic diversity of the state to the greatest extent possible. Priority shall be given to all of the following:

(1) Applicants with a demonstrated need for expanded access to transitional kindergarten programs in a region.

(2) Applicants with a high number of four-year-old children being served that are born after December 2nd.

(3) Applicants with a high proportion of dual language learners served or planning to serve in a transitional kindergarten program.

(4) Applicants with the existence of or a plan to create inclusive classroom settings.

(5) Applicants with the ability to connect the Transitional Kindergarten or Kindergarten program to before-and-after school programs or other extended-day services.

(6) Applicants in the attendance area of an elementary school district or charter school where at least 80 percent of the award recipient's pupil population, in both the 2020-21 and 2021-22 school years, were eligible for Free or Reduced Price Meals, as determined by Section 42238.01 of the Education Code.

(7) Applicants who plan to offer Transitional Kindergarten for a full school-day

(8) Applicants in an attendance area where significant disproportionality of particular races or ethnicities have been identified in special education.

(e) Grant amounts shall be awarded as follows:

(1) In 2022-23, a local educational agency with an existing Transitional Kindergarten program shall be awarded fifty-percent of the local control funding formula kindergarten through grade 3 base grant amount, pursuant to subdivision (d) of Section 42238.02 of the Education Code, multiplied by the local educational agency's percent add-ons pursuant to subdivisions (e) and (f) of Section 42238.02 of the Education Code as of the certified second principal apportionment for the 2021-22 fiscal year for each new four-year-old, born after December 2nd, enrolled in a Transitional Kindergarten program.

(2) In 2023-24, a local educational agency who met their enrollment growth goals in the prior year, and who demonstrates the ability to further increase enrollment over their prior year count shall be awarded a second award, prorated based on additional percentage of increased enrollment, based on the availability of funds.

(3) Nothing in this section shall be construed to allow a basic aid school district, as defined by subdivision (o) of section 42238.02, to receive a grant pursuant to this section if that school district were basic aid as of the second principal apportionment of the prior fiscal year.

(f) Incentive grants may be used for costs associated with creating or expanding transitional kindergarten programs.

(g) (1) Local education agencies receiving grants shall commit to providing program data to the department, as specified by the Superintendent, including, but not limited to, recipient information and educational progress, and participation in overall program evaluation.

(2) In addition, grant recipients shall report annually specific data to the State Department of Education by a date specified by the Superintendent. Data reported pursuant to this subparagraph shall include, but not be limited to, the following metrics:

(A) Number of four-year olds served prior to the start of the grant period.

(B) Demographic information of four-year olds served including race, ethnicity and language spoken at home.

(C) Additional number of students served in transitional kindergarten in 2022-23 and 2023-24.

Use of best practices and high quality instruction in transitional kindergarten classrooms, as defined by the Superintendent.

(D) The Superintendent shall provide a report to the Department of Finance as well as the appropriate policy and fiscal committees of the Legislature by October 1, 2024 on the expenditure of funds as well as relevant outcome data in order to evaluate the impact of the program.

(j) For purposes of this section, a "local educational agency" means a school district, a county office of education, or a charter school.

(k) For purposes of this section, an "inclusive classroom setting" is defined in accordance with the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), wherein all young children with exceptional needs are able to learn alongside children who do not have exceptional needs and are provided with individual and appropriate supports to enable them to meet high expectations.

(l) For purposes of this section, "four-year olds" mean children who will have their fourth birthday on or before December 1 of the fiscal year in which they are enrolled in a transitional kindergarten program.

New \$3.7 Billion Deferral (2021-22 to 2022-23) (Amends Education Code Section 14041.5)

SEC 4. 14041.5. (a) Notwithstanding subdivision (a) of Section 14041, for the 2002–03 fiscal year to the 2013–14 fiscal year, inclusive, and commencing with the 2019–20 fiscal year, warrants for the principal apportionments for the month of June instead shall be drawn in July of the same calendar year pursuant to the certification made pursuant to Section 41335.

(b) Except as otherwise provided in this section, for purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the warrants drawn pursuant to subdivision (a) shall be deemed to be "General Fund revenues appropriated to school districts," as defined in subdivision (c) of Section 41202 for the fiscal year in which the warrants are drawn and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B" as defined in subdivision (e) of Section 41202, for the fiscal year in which the warrants are drawn.

(c) For the 2003–04 school year, the amount of apportionments for revenue limits computed pursuant to Section 42238 from any of the apportionments made pursuant to Section 14041 that are deemed "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 for the following fiscal year and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B" as defined in subdivision (e) of Section 41202, for the 2004–05 fiscal year shall be seven hundred twenty-six million two hundred seventy thousand dollars (\$726,270,000). Any amount in excess of seven hundred twenty-six million two hundred seventy thousand dollars (\$726,270,000) that is apportioned in July of 2004 is deemed "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 for the 2003–04 fiscal year and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated

pursuant to Article XIII B" as defined in subdivision (e) of Section 41202, for the 2003–04 fiscal year.

(d) For the 2004–05 school year to the 2007–08 school year, inclusive, the amount of apportionments for revenue limits computed pursuant to Section 42238 from any of the apportionments made pursuant to Section 14041 that are deemed "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 for the following fiscal year and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B" as defined in subdivision (e) of Section 41202, for the following fiscal year shall be seven hundred fifteen million one hundred eighteen thousand dollars (\$715,118,000). Any amount in excess of seven hundred fifteen million one hundred eighteen thousand dollars (\$715,118,000) that is apportioned in July of any year is deemed "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 for the prior fiscal year and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B" as defined in subdivision (e) of Section 41202, for the prior fiscal year.

(e) For the 2008–09 school year to the 2013–14 school year, inclusive, the amount of apportionments for revenue limits computed pursuant to Section 42238 from any of the apportionments made pursuant to Section 14041 that are deemed "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 for the following fiscal year and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B" as defined in subdivision (e) of Section 41202, for the following fiscal year shall be one billion one hundred one million six hundred fifty-five thousand dollars (\$1,101,655,000). Any amount in excess of one billion one hundred one million six hundred fifty-five thousand dollars (\$1,101,655,000) that is apportioned in July of any year is deemed "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 for the prior fiscal year and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B" as defined in subdivision (e) of Section 41202, for the prior fiscal year.

(f) (1) (A) For the 2019–20 fiscal year, the amount of apportionments made pursuant to Section 14041 that are deemed "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 for the 2020–21 fiscal year and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B" as defined in subdivision (e) of Section 41202, for the 2020–21 fiscal year shall be one billion eight hundred fifty million three hundred seventy-seven thousand dollars (\$1,850,377,000). Any amount in excess of one billion eight hundred fifty million three hundred seventy-seven thousand dollars (\$1,850,377,000) that is apportioned in July 2020 is deemed "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 for the 2019–20 fiscal year and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B" as defined in subdivision (e) of Section 41202, for the 2019–20 fiscal year.

(B) ~~Commencing with For~~ the 2020–21 fiscal year, the amount of apportionments made pursuant to Section 14041 that are deemed "General Fund revenues appropriated for

school districts," as defined in subdivision (c) of Section 41202 for the following fiscal year and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B" as defined in subdivision (e) of Section 41202, for the following fiscal year shall be two billion three hundred seventy-five million three hundred eight thousand dollars (\$2,375,308,000). Any amount in excess of two billion three hundred seventy-five million three hundred eight thousand dollars (\$2,375,308,000) that is apportioned in July of any year is deemed "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 for the prior fiscal year and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B" as defined in subdivision (e) of Section 41202, for the prior fiscal year.

(C) Commencing with the 2021–22 fiscal year, the amount of apportionments made pursuant to Section 14041 that are deemed "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 for the following fiscal year and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B" as defined in subdivision (e) of Section 41202, for the following fiscal year shall be three billion seven hundred twenty three million two hundred twelve thousand (\$3,723,212,000). Any amount in excess of three billion seven hundred twenty three million two hundred twelve thousand (\$3,723,212,000) that is apportioned in July of any year is deemed "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 for the prior fiscal year and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B" as defined in subdivision (e) of Section 41202, for the prior fiscal year.

(2) For the 2019–20 fiscal year, the principal apportionment deferred from June to July pursuant to subdivision (a) shall be paid by the Controller no later than July 15, 2020.

(3) For the 2021–22 fiscal year, the principal apportionment deferred from June to July pursuant to subdivision (a) shall be paid by the Controller no later than July 15, 2021.

Paydown of Deferrals (Amends Education Code Section 14041.6)

SEC 5. 14041.6. (a) Notwithstanding subdivision (a) of Section 14041, or any other law, for the 2008–09 fiscal year, warrants for the principal apportionments for the month of February in the amount of two billion dollars (\$2,000,000,000) instead shall be drawn in July of the same calendar year pursuant to the certification made pursuant to Section 41339.

(b) Notwithstanding subdivision (a) of Section 14041, or any other law, for the 2009–10 fiscal year, warrants for the principal apportionments for the month of February in the amount of two billion dollars (\$2,000,000,000) instead shall be drawn in July of the same calendar year and warrants for the month of April in the amount of six hundred seventy-eight million six hundred eleven thousand dollars (\$678,611,000) and for the month of May in the amount of one billion dollars (\$1,000,000,000) instead shall be drawn in August pursuant to the certification made pursuant to Section 41339.

(c) Notwithstanding subdivision (a) of Section 14041, or any other law, for the 2010–11 fiscal year, warrants for the principal apportionments for the month of February in the amount of two billion dollars (\$2,000,000,000), for the month of April in the amount of

four hundred nineteen million twenty thousand dollars (\$419,020,000), for the month of May in the amount of eight hundred million dollars (\$800,000,000), and for the month of June in the amount of five hundred million dollars (\$500,000,000) instead shall be drawn in July of the same calendar year and warrants for the month of April in the amount of six hundred seventy-eight million six hundred eleven thousand dollars (\$678,611,000) and for the month of May in the amount of one billion dollars (\$1,000,000,000) instead shall be drawn in August pursuant to the certification made pursuant to Section 41339.

(d) Notwithstanding subdivision (a) of Section 14041, or any other law, for the 2011–12 fiscal year, warrants for the principal apportionments for the month of February in the amount of two billion dollars (\$2,000,000,000), for the month of April in the amount of four hundred nineteen million twenty thousand dollars (\$419,020,000), for the month of May in the amount of eight hundred million dollars (\$800,000,000), and for the month of June in the amount of five hundred million dollars (\$500,000,000) instead shall be drawn in July of the same calendar year and warrants for the month of March in the amount of one billion three hundred million dollars (\$1,300,000,000) and for the month of April in the amount of one billion four hundred forty-two million four hundred five thousand dollars (\$1,442,405,000) and for the month of May in the amount of one billion dollars (\$1,000,000,000) instead shall be drawn in August pursuant to the certification made pursuant to Section 41339.

(e) Notwithstanding subdivision (a) of Section 14041, or any other law, for the 2012–13 fiscal year, warrants for the principal apportionments for the month of February in the amount of five hundred thirty-one million seven hundred twenty thousand dollars (\$531,720,000), for the month of April in the amount of five hundred ninety-four million seven hundred forty-eight thousand dollars (\$594,748,000), for the month of May in the amount of one billion nine hundred seventy-six million seven hundred one thousand dollars (\$1,976,701,000), and for the month of June in the amount of five hundred million dollars (\$500,000,000) instead shall be drawn in July of the same calendar year and warrants for the month of March in the amount of one billion twenty-nine million four hundred ninety-three thousand dollars (\$1,029,493,000) and for the month of April in the amount of seven hundred sixty-three million seven hundred ninety-four thousand dollars (\$763,794,000) instead shall be drawn in August pursuant to the certification made pursuant to Section 41339.

(f) Notwithstanding subdivision (a) of Section 14041, or any other law, for the 2013–14 fiscal year, warrants for the principal apportionments for the month of April in the amount of nine hundred seventeen million five hundred forty-two thousand dollars (\$917,542,000), for the month of May in the amount of two billion one hundred fifty-two million four hundred thirty thousand dollars (\$2,152,430,000), and for the month of June in the amount of five hundred million dollars (\$500,000,000) instead shall be drawn in July of the same calendar year pursuant to the certification made pursuant to Section 41339.

(g) Notwithstanding subdivision (a) of Section 14041, or any other law, for the 2013–14 fiscal year, warrants for the principal apportionments for the month of May in the amount of two hundred million dollars (\$200,000,000) and for the month of June in the amount of six hundred ninety-nine million four hundred seventy-three thousand dollars (\$699,473,000) instead shall be drawn in July of the same calendar year pursuant to the certification made pursuant to Section 41339. The Superintendent shall allocate this deferred amount and repayment to local educational agencies based on their proportionate share of funding appropriated to local educational agencies pursuant to

Section 92 of Chapter 38 of the Statutes of 2012.

(h) Notwithstanding subdivision (a) of Section 14041, or any other law, for the 2014–15 fiscal year, warrants for the principal apportionments for the month of June in the amount of eight hundred ninety-seven million one hundred eighty-four thousand dollars (\$897,184,000) instead shall be drawn in July of the same calendar year pursuant to the certification made pursuant to Section 41339.

(i) (1) (A) Notwithstanding subdivision (a) of Section 14041, or any other law, commencing with the 2020–21 fiscal year, warrants for the principal apportionments for the month of February in the amount of one billion five hundred forty million three hundred three thousand dollars (\$1,540,303,000) shall instead be drawn in November of the same calendar year pursuant to the certification made pursuant to Section 41332.

(B) Notwithstanding subdivision (a) of Section 14041, or any other law, commencing with the 2020–21 fiscal year, warrants for the principal apportionments for the month of March in the amount of two billion three hundred seventy-five million three hundred eight thousand dollars (\$2,375,308,000) shall instead be drawn in October of the same calendar year pursuant to the certification made pursuant to Section 41332.

(C) Notwithstanding subdivision (a) of Section 14041, or any other law, commencing with the 2020–21 fiscal year, warrants for the principal apportionments for the month of April in the amount of two billion three hundred seventy-five million three hundred eight thousand dollars (\$2,375,308,000) shall instead be drawn in September of the same calendar year pursuant to the certification made pursuant to Section 41332.

(D) Notwithstanding subdivision (a) of Section 14041, or any other law, commencing with the 2020–21 fiscal year, warrants for the principal apportionments for the month of May in the amount of two billion three hundred seventy-five million three hundred eight thousand dollars (\$2,375,308,000) shall instead be drawn in August of the same calendar year pursuant to the certification made pursuant to Section 41335.

(2) Pursuant to Section 8.28 of the Budget Act of 2020, if the Director of Finance determines that there are sufficient federal funds provided to the state for the 2020–21 fiscal year that may be used to offset the deferral of payments in the amount specified in Section 8.28 of the Budget Act of 2020, the Director of Finance shall reduce the amounts described in paragraph (1). In reducing these amounts, the Director of Finance shall first reduce the amounts deferred from any months occurring earliest in the 2020–21 fiscal year.

(j) Except as provided in subdivisions (c) and (e) of Section 41202, for purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the warrants drawn pursuant to subdivisions (a) to (h) ~~(i)~~, inclusive, shall be deemed to be “General Fund revenues appropriated for school districts,” as defined in subdivision (c) of Section 41202, for the fiscal year in which the warrants are drawn and included within the “total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B,” as defined in subdivision (e) of Section 41202, for the fiscal year in which the warrants are drawn.

(1) Notwithstanding subdivision (j), for purposes of making the computations required by Section 8 of Article XVI of the California Constitution, four billion six hundred twenty three million seven hundred ninety two thousand (\$4,623,792,000) of the warrants drawn in 2021-22 pursuant to subdivision (i) shall be deemed to be “General Fund revenues appropriated for school districts,” as defined in subdivision (c) of Section 41202, for the 2020-21 fiscal year, and included within the “total allocations to school districts and

community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202, for the 2020-21 fiscal year.

(2) Notwithstanding subdivision (j) of Section 14041.6, for purposes of making the computations required by Section 8 of Article XVI of the California Constitution, four billion forty two million four hundred thirty five thousand (\$4,042,435,000) of the warrants drawn in 2021-22 pursuant to subdivision (i) shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202, for the 2021-22 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202, for the 2021-22 fiscal year.

(k) Notwithstanding subdivision (j), for purposes of making the computations required by Section 8 of Article XVI of the California Constitution, one billion five hundred ninety million four hundred forty-nine thousand dollars (\$1,590,449,000) of the warrants drawn in August of 2013 pursuant to subdivision (e) shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202, for the 2012–13 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202, for the 2012–13 fiscal year.

(l) Notwithstanding subdivision (j) of this section and subdivision (e) of Section 14041.5, for purposes of making the computations required by Section 8 of Article XVI of the California Constitution, one billion two hundred ninety-four million seven hundred twenty thousand dollars (\$1,294,720,000) of the warrants drawn in July 2014 pursuant to subdivisions (f) and (g) of this section and subdivision (e) of Section 14041.5 shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202, for the 2012–13 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202, for the 2012–13 fiscal year.

(m) Notwithstanding subdivision (j) of this section and subdivision (e) of Section 14041.5, for purposes of making the computations required by Section 8 of Article XVI of the California Constitution, two billion seven hundred eighty million five hundred twenty-six thousand dollars (\$2,780,526,000) of the warrants drawn in July 2014 pursuant to subdivisions (f) and (g) of this section and subdivision (e) of Section 14041.5 shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202, for the 2013–14 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202, for the 2013–14 fiscal year.

(n) (1) Notwithstanding subdivision (j) of this section and subdivision (f) of Section 14041.5, for purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriations made by subdivision (i) for the 2020–21 fiscal year shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202, for the 2020–21 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as

defined in subdivision (e) of Section 41202, for the 2020–21 fiscal year.

(2) Notwithstanding subdivision (j) of this section and subdivision (f) of Section 14041.5, for purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriations made by subdivision (i) for the 2021–22 fiscal year and each fiscal year thereafter shall be deemed to be “General Fund revenues appropriated for school districts,” as defined in subdivision (c) of Section 41202, for the fiscal year in which the warrants are drawn, and included within the “total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B,” as defined in subdivision (e) of Section 41202, for the fiscal year in which the warrants are drawn.

June 2022 (2021-22 FY) to July 2022 (2022-23 FY) Deferral (Amends Education Code Section 14041.8)

SEC 6. 14041.8. (a) (1) For the 2020–21 fiscal year only, up to one hundred million dollars (\$100,000,000) of the amount of the warrants for the principal apportionments for the month of February, that are instead to be drawn in November, pursuant to Section 14041.6, may be drawn in February, subject to the approval of the Director of Finance, for a charter school or school district as follows:

(A) In order for a charter school to receive a payment in February pursuant to this subdivision, the chartering authority, in consultation with the county superintendent of schools, shall certify to the Superintendent and the Director of Finance on or before December 15, 2020, that the deferral of warrants pursuant to Section 14041.6 will result in the charter school being unable to meet its financial obligations for February or any subsequent month until the deferral is repaid, and shall provide the Superintendent an estimate of the amount of additional funds necessary for the charter school to meet its financial obligations for February and any subsequent month until the deferral is repaid, as applicable.

(B) In order for a school district to receive a payment in February pursuant to this subdivision, the county superintendent of schools shall certify to the Superintendent and to the Director of Finance on or before December 15, 2020, that the deferral of warrants pursuant to Section 14041.6 will result in the school district being unable to meet its financial obligations for February or any subsequent month until the deferral is repaid, and shall provide the Superintendent an estimate of the amount of additional funds necessary for the school district to meet its financial obligations for February and any subsequent month until the deferral is repaid, as applicable.

(C) To make the certification specified in subparagraph (B), both of the following criteria shall be met:

(i) The school district must have exhausted all internal and external sources of borrowing including those pursuant to Sections 42603, 42620, 42621, and 42622 of this code, Article 7.6 (commencing with Section 53850) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, and Section 6 of Article XVI of the California Constitution.

(ii) If not exempt from the February deferral the school district will require a state emergency loan pursuant to Article 2 (commencing with Section 41320) of Chapter 3 of Part 24 of Division 3 of Title 2.

(D) A charter school or school district may receive, pursuant to this subdivision, no more than the lesser of the monthly payment for the charter school or school district calculated pursuant to Section 14041 or the amount of additional funds necessary for

the charter school or school district to meet its financial obligations, as reported to the Superintendent pursuant to subparagraph (A) or (B), as applicable.

(2) If the total amount requested by charter schools and school districts pursuant to subparagraph (D) of paragraph (1) exceeds one hundred million dollars (\$100,000,000), the Controller, the Treasurer, and the Director of Finance may authorize additional payments to meet these requests, but total payments to charter schools and school districts pursuant to this subdivision shall not exceed three hundred million dollars (\$300,000,000). On or before February 1, the Controller, the Treasurer, and the Director of Finance shall determine whether sufficient cash is available to make payments in excess of one hundred million dollars (\$100,000,000). In making the determination that cash is sufficient to make additional payments, in whole or in part, the Controller, the Treasurer, and the Director of Finance shall consider costs for state government, the amount of any identified cash shortage, timing, achievability, legislative direction, and the impact and hardship imposed on potentially affected programs, entities, and related public services. The Department of Finance shall notify the Joint Legislative Budget Committee within 10 days of this determination and identify the total amount of requests that will be paid.

(3) If the total amount of cash made available pursuant to paragraph (2) is less than the amount requested pursuant to subparagraph (D) of paragraph (1), payments to charter schools and school districts shall be prioritized according to the date on which the certification described in paragraph (1) was provided to the Superintendent and the Director of Finance.

(4) Payments pursuant to this subdivision shall be made by the Controller on or before February 26, 2021.

(b) (1) For the 2020–21 fiscal year only, up to one hundred million dollars (\$100,000,000) of the amount of the warrants for the principal apportionments for the month of March, that are instead to be drawn in October, pursuant to Section 14041.6, may be drawn in March, subject to the approval of the Director of Finance, for a charter school or school district as follows:

(A) In order for a charter school to receive a payment in March pursuant to this subdivision, the chartering authority, in consultation with the county superintendent of schools, shall certify to the Superintendent and the Director of Finance on or before December 15, 2020, that the deferral of warrants pursuant to Section 14041.6 will result in the charter school being unable to meet its financial obligations for March or any subsequent month until the deferral is repaid, and shall provide the Superintendent an estimate of the amount of additional funds necessary for the charter school to meet its financial obligations for March and any subsequent month until the deferral is repaid, as applicable.

(B) In order for a school district to receive a payment in March pursuant to this subdivision, the county superintendent of schools shall certify to the Superintendent and to the Director of Finance on or before December 15, 2020, that the deferral of warrants pursuant to Section 14041.6 will result in the school district being unable to meet its financial obligations for March or any subsequent month until the deferral is repaid, and shall provide the Superintendent an estimate of the amount of additional funds necessary for the school district to meet its financial obligations for March and any subsequent month until the deferral is repaid, as applicable.

(C) To make the certification specified in subparagraph (B), both of the following criteria shall be met:

(i) The school district must have exhausted all internal and external sources of borrowing including those pursuant to Sections 42603, 42620, 42621, and 42622 of this code, Article 7.6 (commencing with Section 53850) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, and Section 6 of Article XVI of the California Constitution.

(ii) If not exempt from the March deferral the school district will require a state emergency loan pursuant to Article 2 (commencing with Section 41320) of Chapter 3 of Part 24 of Division 3 of Title 2.

(D) A charter school or school district may receive, pursuant to this subdivision, no more than the lesser of the monthly payment for the charter school or school district calculated pursuant to Section 14041 or the amount of additional funds necessary for the charter school or school district to meet its financial obligations, as reported to the Superintendent pursuant to subparagraph (A) or (B), as applicable.

(2) If the total amount requested by charter schools and school districts pursuant to subparagraph (D) of paragraph (1) exceeds one hundred million dollars (\$100,000,000), the Controller, the Treasurer, and the Director of Finance may authorize additional payments to meet these requests, but total payments to charter schools and school districts pursuant to this subdivision shall not exceed three hundred million dollars (\$300,000,000). On or before February 1, the Controller, the Treasurer, and the Director of Finance shall determine whether sufficient cash is available to make payments in excess of one hundred million dollars (\$100,000,000). In making the determination that cash is sufficient to make additional payments, in whole or in part, the Controller, the Treasurer, and the Director of Finance shall consider costs for state government, the amount of any identified cash shortage, timing, achievability, legislative direction, and the impact and hardship imposed on potentially affected programs, entities, and related public services. The Department of Finance shall notify the Joint Legislative Budget Committee within 10 days of this determination and identify the total amount of requests that will be paid.

(3) If the total amount of cash made available pursuant to paragraph (2) is less than the amount requested pursuant to subparagraph (D) of paragraph (1), payments to charter schools and school districts shall be prioritized according to the date on which the certification described in paragraph (1) was provided to the Superintendent and the Director of Finance.

(4) Payments pursuant to this subdivision shall be made by the Controller on or before March 30, 2021.

(c) (1) For the 2020–21 fiscal year only, up to one hundred million dollars (\$100,000,000) of the amount of the warrants for the principal apportionments for the month of April, that are instead to be drawn in September, pursuant to Section 14041.6, may be drawn in April, subject to the approval of the Director of Finance, for a charter school or school district as follows:

(A) In order for a charter school to receive a payment in April pursuant to this subdivision, the chartering authority, in consultation with the county superintendent of schools, shall certify to the Superintendent and the Director of Finance on or before December 15, 2020, that the deferral of warrants pursuant to Section 14041.6 will result in the charter school being unable to meet its financial obligations for April or any subsequent month until the deferral is repaid, and shall provide the Superintendent an estimate of the amount of additional funds necessary for the charter school to meet its financial obligations for April and any subsequent month until the deferral is repaid, as applicable.

(B) In order for a school district to receive a payment in April pursuant to this subdivision, the county superintendent of schools shall certify to the Superintendent and to the Director of Finance on or before December 15, 2020, that the deferral of warrants pursuant to Section 14041.6 will result in the school district being unable to meet its financial obligations for April or any subsequent month until the deferral is repaid, and shall provide the Superintendent an estimate of the amount of additional funds necessary for the school district to meet its financial obligations for April and any subsequent month until the deferral is repaid, as applicable.

(C) To make the certification specified in subparagraph (B), both of the following criteria shall be met:

(i) The school district must have exhausted all internal and external sources of borrowing including those pursuant to Sections 42603, 42620, 42621, and 42622 of this code, Article 7.6 (commencing with Section 53850) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, and Section 6 of Article XVI of the California Constitution.

(ii) If not exempt from the April deferral the school district will require a state emergency loan pursuant to Article 2 (commencing with Section 41320) of Chapter 3 of Part 24 of Division 3 of Title 2.

(D) A charter school or school district may receive, pursuant to this subdivision, no more than the lesser of the monthly payment for the charter school or school district calculated pursuant to Section 14041 or the amount of additional funds necessary for the charter school or school district to meet its financial obligations, as reported to the Superintendent pursuant to subparagraph (A) or (B), as applicable.

(2) If the total amount requested by charter schools and school districts pursuant to subparagraph (D) of paragraph (1) exceeds one hundred million dollars (\$100,000,000), the Controller, the Treasurer, and the Director of Finance may authorize additional payments to meet these requests, but total payments to charter schools and school districts pursuant to this subdivision shall not exceed three hundred million dollars (\$300,000,000). On or before February 1, the Controller, the Treasurer, and the Director of Finance shall determine whether sufficient cash is available to make payments in excess of one hundred million dollars (\$100,000,000). In making the determination that cash is sufficient to make additional payments, in whole or in part, the Controller, the Treasurer, and the Director of Finance shall consider costs for state government, the amount of any identified cash shortage, timing, achievability, legislative direction, and the impact and hardship imposed on potentially affected programs, entities, and related public services. The Department of Finance shall notify the Joint Legislative Budget Committee within 10 days of this determination and identify the total amount of requests that will be paid.

(3) If the total amount of cash made available pursuant to paragraph (2) is less than the amount requested pursuant to subparagraph (D) of paragraph (1), payments to charter schools and school districts shall be prioritized according to the date on which the certification described in paragraph (1) was provided to the Superintendent and the Director of Finance.

(4) Payments pursuant to this subdivision shall be made by the Controller on or before April 30, 2021.

(d) (1) For the 2020–21 fiscal year only, up to one hundred million dollars (\$100,000,000) of the amount of the warrants for the principal apportionments for the month of May, that are instead to be drawn in August, pursuant to Section 14041.6, may be drawn in May, subject to the approval of the Director of Finance, for a charter school or school

district as follows:

(A) In order for a charter school to receive a payment in May pursuant to this subdivision, the chartering authority, in consultation with the county superintendent of schools, shall certify to the Superintendent and the Director of Finance on or before December 15, 2020, that the deferral of warrants pursuant to Section 14041.6 will result in the charter school being unable to meet its financial obligations for May or any subsequent month until the deferral is repaid, and shall provide the Superintendent an estimate of the amount of additional funds necessary for the charter school to meet its financial obligations for May and any subsequent month until the deferral is repaid, as applicable.

(B) In order for a school district to receive a payment in May pursuant to this subdivision, the county superintendent of schools shall certify to the Superintendent and to the Director of Finance on or before December 15, 2020, that the deferral of warrants pursuant to Section 14041.6 will result in the school district being unable to meet its financial obligations for May or any subsequent month until the deferral is repaid, and shall provide the Superintendent an estimate of the amount of additional funds necessary for the school district to meet its financial obligations for May and any subsequent month until the deferral is repaid, as applicable.

(C) To make the certification specified in subparagraph (B), both of the following criteria shall be met:

(i) The school district must have exhausted all internal and external sources of borrowing including those pursuant to Sections 42603, 42620, 42621, and 42622 of this code, Article 7.6 (commencing with Section 53850) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, and Section 6 of Article XVI of the California Constitution.

(ii) If not exempt from the May deferral the school district will require a state emergency loan pursuant to Article 2 (commencing with Section 41320) of Chapter 3 of Part 24 of Division 3 of Title 2.

(D) A charter school or school district may receive, pursuant to this subdivision, no more than the lesser of the monthly payment for the charter school or school district calculated pursuant to Section 14041 or the amount of additional funds necessary for the charter school or school district to meet its financial obligations, as reported to the Superintendent pursuant to subparagraph (A) or (B), as applicable.

(2) If the total amount requested by charter schools and school districts pursuant to subparagraph (D) of paragraph (1) exceeds one hundred million dollars (\$100,000,000), the Controller, the Treasurer, and the Director of Finance may authorize additional payments to meet these requests, but total payments to charter schools and school districts pursuant to this subdivision shall not exceed three hundred million dollars (\$300,000,000). On or before February 1, the Controller, the Treasurer, and the Director of Finance shall determine whether sufficient cash is available to make payments in excess of one hundred million dollars (\$100,000,000). In making the determination that cash is sufficient to make additional payments, in whole or in part, the Controller, the Treasurer, and the Director of Finance shall consider costs for state government, the amount of any identified cash shortage, timing, achievability, legislative direction, and the impact and hardship imposed on potentially affected programs, entities, and related public services. The Department of Finance shall notify the Joint Legislative Budget Committee within 10 days of this determination and identify the total amount of requests that will be paid.

(3) If the total amount of cash made available pursuant to paragraph (2) is less than

the amount requested pursuant to subparagraph (D) of paragraph (1), payments to charter schools and school districts shall be prioritized according to the date on which the certification described in paragraph (1) was provided to the Superintendent and the Director of Finance.

(4) Payments pursuant to this subdivision shall be made by the Controller on or before May 28, 2021.

(e) (1) For the 2020–21 fiscal year only, up to one hundred million dollars (\$100,000,000) of the amount of the warrants for the principal apportionments for the month of June, that are instead to be drawn in July pursuant to Section 14041.5, may be drawn in June, subject to the approval of the Director of Finance, for a charter school or school district as follows:

(A) In order for a charter school to receive a payment in June pursuant to this subdivision, the chartering authority, in consultation with the county superintendent of schools, shall certify to the Superintendent and the Director of Finance on or before April 1 that the deferral of warrants pursuant to Section 14041.5 will result in the charter school being unable to meet its financial obligations for June or any subsequent month until the deferral is repaid, and shall provide the Superintendent an estimate of the amount of additional funds necessary for the charter school to meet its financial obligations for June and any subsequent month until the deferral is repaid, as applicable.

(B) In order for a school district to receive a payment in June pursuant to this subdivision, the county superintendent of schools shall certify to the Superintendent and to the Director of Finance on or before April 1 that the deferral of warrants pursuant to Section 14041.5 will result in the school district being unable to meet its financial obligations for June or any subsequent month until the deferral is repaid, and shall provide the Superintendent an estimate of the amount of additional funds necessary for the school district to meet its financial obligations for June and any subsequent month until the deferral is repaid, as applicable.

(C) To make the certification specified in subparagraph (B), both of the following criteria shall be met:

(i) The school district must have exhausted all internal and external sources of borrowing including those pursuant to Sections 42603, 42620, 42621, and 42622 of this code, Article 7.6 (commencing with Section 53850) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, and Section 6 of Article XVI of the California Constitution.

(ii) If not exempt from the June deferral the school district will require a state emergency loan pursuant to Article 2 (commencing with Section 41320) of Chapter 3 of Part 24 of Division 3 of Title 2.

(D) A charter school or school district may receive, pursuant to this subdivision, no more than the lesser of the monthly payment for the charter school or school district calculated pursuant to Section 14041 or the amount of additional funds necessary for the charter school or school district to meet its financial obligations, as reported to the Superintendent pursuant to subparagraph (A) or (B), as applicable.

(2) If the total amount requested by charter schools and school districts pursuant to subparagraph (D) of paragraph (1) exceeds one hundred million dollars (\$100,000,000), the Controller, the Treasurer, and the Director of Finance may authorize additional payments to meet these requests, but total payments to charter schools and school districts pursuant to this subdivision shall not exceed three hundred million dollars (\$300,000,000). On or before May 1, the Controller, the Treasurer, and the Director of

Finance shall determine whether sufficient cash is available to make payments in excess of one hundred million dollars (\$100,000,000). In making the determination that cash is sufficient to make additional payments, in whole or in part, the Controller, the Treasurer, and the Director of Finance shall consider costs for state government, the amount of any identified cash shortage, timing, achievability, legislative direction, and the impact and hardship imposed on potentially affected programs, entities, and related public services. The Department of Finance shall notify the Joint Legislative Budget Committee within 10 days of this determination and identify the total amount of requests that will be paid.

(3) If the total amount of cash made available pursuant to paragraph (2) is less than the amount requested pursuant to subparagraph (D) of paragraph (1), payments to charter schools and school districts shall be prioritized according to the date on which the certification described in paragraph (1) was provided to the Superintendent and the Director of Finance.

(4) Payments pursuant to this subdivision shall be made by the Controller on or before June 30, 2021.

(f) (1) For the 2021–22 fiscal year only, up to one hundred million dollars (\$100,000,000) of the amount of the warrants for the principal apportionments for the month of June, that are instead to be drawn in July pursuant to Section 14041.5, may be drawn in June, subject to the approval of the Director of Finance, for a charter school or school district as follows:

(A) In order for a charter school to receive a payment in June pursuant to this subdivision, the chartering authority, in consultation with the county superintendent of schools, shall certify to the Superintendent and the Director of Finance on or before April 1 that the deferral of warrants pursuant to Section 14041.5 will result in the charter school being unable to meet its financial obligations for June or any subsequent month until the deferral is repaid, and shall provide the Superintendent an estimate of the amount of additional funds necessary for the charter school to meet its financial obligations for June and any subsequent month until the deferral is repaid, as applicable.

(B) In order for a school district to receive a payment in June pursuant to this subdivision, the county superintendent of schools shall certify to the Superintendent and to the Director of Finance on or before April 1 that the deferral of warrants pursuant to Section 14041.5 will result in the school district being unable to meet its financial obligations for June or any subsequent month until the deferral is repaid, and shall provide the Superintendent an estimate of the amount of additional funds necessary for the school district to meet its financial obligations for June and any subsequent month until the deferral is repaid, as applicable.

(C) To make the certification specified in subparagraph (B), both of the following criteria shall be met:

(i) The school district must have exhausted all internal and external sources of borrowing including those pursuant to Sections 42603, 42620, 42621, and 42622 of this code, Article 7.6 (commencing with Section 53850) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, and Section 6 of Article XVI of the California Constitution.

(ii) If not exempt from the June deferral the school district will require a state emergency loan pursuant to Article 2 (commencing with Section 41320) of Chapter 3 of Part 24 of Division 3 of Title 2.

(D) A charter school or school district may receive, pursuant to this subdivision, no more

than the lesser of the monthly payment for the charter school or school district calculated pursuant to Section 14041 or the amount of additional funds necessary for the charter school or school district to meet its financial obligations, as reported to the Superintendent pursuant to subparagraph (A) or (B), as applicable.

(2) If the total amount requested by charter schools and school districts pursuant to subparagraph (D) of paragraph (1) exceeds one hundred million dollars (\$100,000,000), the Controller, the Treasurer, and the Director of Finance may authorize additional payments to meet these requests, but total payments to charter schools and school districts pursuant to this subdivision shall not exceed three hundred million dollars (\$300,000,000). On or before May 1, the Controller, the Treasurer, and the Director of Finance shall determine whether sufficient cash is available to make payments in excess of one hundred million dollars (\$100,000,000). In making the determination that cash is sufficient to make additional payments, in whole or in part, the Controller, the Treasurer, and the Director of Finance shall consider costs for state government, the amount of any identified cash shortage, timing, achievability, legislative direction, and the impact and hardship imposed on potentially affected programs, entities, and related public services. The Department of Finance shall notify the Joint Legislative Budget Committee within 10 days of this determination and identify the total amount of requests that will be paid.

(3) If the total amount of cash made available pursuant to paragraph (2) is less than the amount requested pursuant to subparagraph (D) of paragraph (1), payments to charter schools and school districts shall be prioritized according to the date on which the certification described in paragraph (1) was provided to the Superintendent and the Director of Finance.

(4) Payments pursuant to this subdivision shall be made by the Controller on or before June 30, 2022.

~~(f)~~(g) Except as provided in subdivisions (c) and (e) of Section 41202, for purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the warrants drawn pursuant to paragraphs (1) and (2) of subdivisions (a) to (e), inclusive, shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202, for the fiscal year in which the warrants are drawn and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202, for the fiscal year in which the warrants are drawn.

Revising Repayment Terms for Funds Owed to the School Facilities Program (Amends Education Code Section 17076.10)

SEC 7. 17076.10. (a) A school district that has received any funds pursuant to this chapter shall submit a summary report of expenditure of state funds and of school district matching funds annually until all state funds and school district matching funds are expended, and shall then submit a final report to the board. The board may require an audit of these reports or other school district records to ensure that all funds received pursuant to this chapter are expended in accordance with program requirements.

(b) If the board finds that a participating school district has made no substantial progress towards increasing its pupil capacity or modernizing its facilities within 18 months of the receipt of any funding pursuant to this chapter, the board shall rescind

the apportionment in an amount equal to the unexpended funds.

(c) (1) If the board, after the review of expenditures or audit has been conducted pursuant to subdivision (a), determines that a school district failed to expend funds in accordance with this chapter, the department shall notify the school district of the amount that must be repaid to the 1998 State School Facilities Fund, the 2002 State School Facilities Fund, ~~or the 2004 State School Facilities Fund~~, 2006 State School Facilities Fund, or the 2016 State School Facilities Fund, as the case may be, within 60 days. If the school district fails to make the required payment within 60 days, the department shall notify the Controller and the school district in writing, and the Controller shall deduct an amount equal to the amount received by the school district under this subdivision, from the school district's next principal apportionment or apportionments of state funds to the school district, other than basic aid apportionments required by Section 6 of Article IX of the California Constitution. Any amounts obtained by the Controller shall be deposited into the 1998 State School Facilities Fund, the 2002 State School Facilities Fund, ~~or the 2004 State School Facilities Fund~~, 2006 State School Facilities Fund, or the 2016 State School Facilities Fund, as appropriate.

(2) Notwithstanding paragraph (1), if the board determines that repayment of the full liability within 60 days after the board action would constitute a severe financial hardship, as defined by the board, for the school district, the board shall approve a plan of equal annual payments over a period of up to ~~five~~ 20 years. The plan shall include interest on each year's outstanding balance at the rate earned on the state's Pooled Money Investment Account during that year. The Controller shall withhold amounts, other than basic aid apportionments required by Section 6 of Article IX of the California Constitution, pursuant to the plan.

(d) If a school district has received an apportionment, but has not met the criteria to have funds released pursuant to Section 17072.32 or 17074.15 within a period established by the board, but not to exceed 18 months, the board shall rescind the apportionment and deny the district's application.

2021-22 Facilities Funding for Transitional Kindergarten and Full-Day Kindergarten (Amends Education Code Section 17375)

SEC 8. 17375. (a) (1) The Transitional Kindergarten and Full-Day Kindergarten Facilities Grant Program is hereby established, under the administration of the State Allocation Board pursuant to the requirements of this section, to provide one-time grants to school districts to construct new school facilities or retrofit existing school facilities for the purpose of providing transitional kindergarten classrooms, and full-day kindergarten classrooms pursuant to Section 8973.

(2) Moneys appropriated pursuant to this section shall be deposited in the Transitional Kindergarten and Full-Day Kindergarten Facilities Account, hereby created in the State Treasury, administered by the State Allocation Board.

(3) For the 2018–19 fiscal year, the sum of one hundred million dollars (\$100,000,000) is hereby appropriated from the General Fund to the State Allocation Board to provide one-time grants as specified in this section as it read on December 31, 2020.

(4) (A) ~~Commencing with the 2019–20 fiscal year, this program is contingent upon appropriation by the Legislature.~~ For the 2021–22 fiscal year, the sum of two hundred

million dollars (\$200,000,000) is hereby appropriated from the General Fund to the State Allocation Board to provide one-time grants as specified in this section.

(B) (i) Of the moneys allocated to a school district from the appropriation made pursuant to this paragraph, savings and interest achieved upon full completion of an approved project, and as a result of a school district's efficient and prudent expenditure of the moneys allocated, may be used for professional development or instructional materials to build capacity for the implementation of a transitional kindergarten program, full-day kindergarten program, or high priority capital outlay purposes identified by the school district and in accordance with subdivision (f), associated regulations, and any accompanying grant agreement.

(ii) Notwithstanding any other law, for purposes of the funds appropriated by this paragraph only, a school district may retain and use savings and interest pursuant to clause (i) even if it receives financial hardship assistance pursuant to Section 17075.10.

(iii) Savings and interest retained by a school district must be expended within one year of project completion or returned to the state as defined by associated regulations and any accompanying grant agreement.

(C) (i) For the first fiscal year ~~two years~~ after any funds have been appropriated in support of this paragraph, funds shall be limited to schoolsites that did not offer a full-day kindergarten program as of July 1, 2019, and will use the funding to convert a part-day kindergarten program to a full-day kindergarten program, transitional kindergarten program as of July 1, 2021 or will expand enrollment in a transitional kindergarten program, and will use the funding to offer, or expand enrollment in, a transitional kindergarten program.

(ii) For the second fiscal year after any funds have been appropriated in support of this paragraph, funds shall be limited to schoolsites that did not offer a transitional kindergarten program or full-day kindergarten program as of July 1, 2022 or will expand enrollment in a transitional kindergarten program, and will use the funding to offer, or expand enrollment in, a transitional kindergarten program or to convert a part-day kindergarten program to a full-day kindergarten program.

(iii) For any funds remaining after the second fiscal year after any funds have been appropriated in support of this paragraph, this subparagraph shall not apply.

(5) New school facilities built pursuant to this section shall not be included in the eligibility determination used for purposes of the Leroy F. Greene School Facilities Act of 1998 (Chapter 12.5 (commencing with Section 17070.10) of Part 10 of Division 1 of Title 1 of the Education Code).

(b) (1) The State Allocation Board shall award grants to school districts that lack the facilities to provide transitional kindergarten or full-day kindergarten as required for eligibility pursuant to Sections 17071.25 and 17072.10 or that lack facilities that satisfy the design requirements required for new kindergarten classrooms as specified in paragraph (2) of subdivision (h) of Section 14030 of Title 5 of the California Code of Regulations.

(2) Priority for grants shall be given to school districts that meet either of the following criteria:

(A) The school district is financially unable to contribute a portion of, or all of, the local matching share required pursuant to paragraph (3) for the projects that will receive funding, and meets the requirements for financial hardship pursuant to Section Sections 17075.10, and 17075.15. For purposes of this section, paragraph (5) of subdivision (d) of Section 17075.15 shall not apply.

(B) The school district is located in an underserved community with a high population of pupils who are eligible for free or reduced-price meals pursuant to subdivision (a) of Section 42238.01.

(3) Except for school districts that meet the requirements for financial hardship pursuant to Section 17075.10 and as specified in paragraph (4), a school district that applies for a grant pursuant to this section for new construction shall provide 50 percent of the cost of the project, and a school district that applies for a grant pursuant to this section for a retrofit project shall provide 40 percent of the cost of the project.

(4) Except for school districts that meet the requirements for financial hardship pursuant to Section 17075.10, a school district ~~that will convert a part-day kindergarten program to a full-day kindergarten program shall provide 25 percent of the cost of the project whether the project is for new construction or retrofit. A school district that was awarded a grant from funds appropriated pursuant to paragraph (3) of subdivision (a) and met the requirements of this paragraph shall have its grant amount adjusted.~~ shall provide 25 percent of the cost of the project, whether the project is for new construction or retrofit, for the districts that do either of the following:

(A) Convert a part-day kindergarten program to a full-day kindergarten program. A school district that was awarded a grant from funds appropriated pursuant to paragraph (3) of subdivision (a) and met the requirements of this paragraph shall have its grant amount adjusted from funds appropriated pursuant to paragraph (4) of subdivision (a) to reflect this local match requirement.

(B) Commencing with 2021–22 fiscal year, offer or expand enrollment in a transitional kindergarten program.

(5) A school district seeking a grant from moneys in the Transitional Kindergarten and Full-Day Kindergarten Facilities Account shall provide the Office of Public School Construction with schoolsite enrollment data for the year in which its application is processed and the three immediately preceding years. The Office of Public School Construction shall use this data to verify the schoolsite's overall need for funding pursuant to this section based on the schoolsite's enrollment patterns. As part of this verification, the Office of Public School Construction, in consultation with the State Department of Education, shall determine if the schoolsite's need for funding shall be limited to retrofit projects.

(c) The State Allocation Board shall disburse grant funds to school districts with approved applications for new construction or retrofit projects, to the extent funds are available for the state's applicable matching share, if the school district has provided its applicable local matching share, unless the school district meets the requirements for financial hardship pursuant to Section 17075.10, and upon certification by the school district that the school district has entered into a binding contract for completion of the approved project.

(d) The State Allocation Board shall allocate funds to school districts using the same maximum grant eligibility amounts that are used for purposes of the Leroy F. Greene School Facilities Act of 1998 (Chapter 12.5 (commencing with Section 17070.10) of Part 10), as set forth in Sections 17072.10 and 17072.11 for new construction, and as set forth in Section 17074.10 for retrofit projects.

(e) As a condition of receiving grant funds pursuant to this section, and before the release of those funds, the school district shall do the following:

~~(1) execute~~ Execute and submit a grant agreement consistent with the applicable sections of the grant agreement specified in Section 1859.90.4 of Title 2 of the California Code of Regulations.

(2) For districts applying for grant funds for transitional kindergarten facilities projects, pass a resolution at a public meeting stating the district's intent to offer, or expand enrollment in, a transitional kindergarten program.

(f) (1) A school district may use grant funds awarded for new construction on costs necessary to adequately house kindergarten and transitional kindergarten pupils in an approved project, which may include only the following:

(A) The costs of design, engineering, testing, inspections, plan checking, construction management, site acquisition and development, evaluation and response action costs relating to hazardous substances at a new or existing schoolsite, demolition, construction, landscaping, necessary utility costs, utility connections and other related fees, equipment including telecommunication equipment to increase school security, furnishings, the upgrading of electrical systems, and the wiring or cabling of classrooms in order to accommodate educational technology.

(B) The costs of acquiring an existing government-owned or privately owned building, or a privately financed school building, and the necessary costs of converting the government-owned or privately owned building for public school use.

(2) (A) A school district may use grant funds awarded for a retrofit project to retrofit an existing school facility to adequately house kindergarten and transitional kindergarten pupils, which may only include the costs of design, engineering, testing, inspection, plan checking, construction management, demolition, construction, necessary utility costs, utility connection and other related fees, the purchase and installation of air-conditioning equipment and insulation materials and related costs, furniture and equipment, including telecommunication equipment to increase school security, fire safety improvements, playground safety improvements, the identification, assessment, or abatement of hazardous asbestos, seismic safety improvements, the upgrading of electrical systems, and the wiring or cabling of classrooms in order to accommodate educational technology.

(B) Grant funds awarded for a retrofit project shall not be used for costs associated with acquisition and development of real property or for routine maintenance and repair.

(g) The State Allocation Board may adopt regulations to implement this section. Any regulations adopted pursuant to this section may be adopted as emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Title 2 of the Government Code). The adoption of these regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

(h) Notwithstanding any other law, a school district shall be subject, with regard to this section, to audit conducted pursuant to Section 41024.

(i) The Office of Public School Construction shall report to the Director of Finance, and shall post on its internet website, information regarding the use of grant funds that have been made available to school districts during each fiscal year grant funds are disbursed pursuant to this section. A final report shall also be issued after projects have been audited pursuant to Section 41024 and any savings have been spent or returned to the state.

(j) The Department of General Services may charge its administrative costs against the Transitional Kindergarten and Full-Day Kindergarten Facilities Account, which shall be subject to the approval of the Department of Finance and which shall not exceed 2.5 percent of the account.

(k) Funds made available to school districts pursuant to this article shall supplement, not supplant, existing funds available for school facilities construction.

(l) For purposes of this section, kindergarten includes transitional kindergarten, as defined in Section 48000.

School District Lapsation Process (Amends Education Code Section 35780)

SEC 9. 35780. (a) Any school district which has been organized for more than three years shall be lapsed as provided in this article if the number of registered electors in the district is less than six or if the average daily attendance of pupils in the school or schools maintained by the district is less than six in ~~grades 1 kindergarten~~ through grade 8 or is less than 11 in grades 9 through 12., ~~except that for any unified district which has established and continues to operate at least one senior high school, the board of supervisors~~ The county board of education shall ~~may~~ defer the lapsation of the district for one year upon a ~~written request resolution approved by a majority of the members~~ of the governing board of the district and written concurrence of the county ~~committee superintendent~~. The board of supervisors county board of education shall make no more than three such deferments for any school district.

(b) For a newly organized school district that has been unable to provide the school facilities necessary for instructional services by employees of the district to all of the pupils who are residents of the district after five years from the date that the reorganization became effective, the county committee on school district organization, upon direction from the State Board of Education, shall initiate lapsation procedures pursuant to Section 35783 or revert the reorganized district to its original status.

(c) A school district may also be lapsed when there are no school facilities or sites on which to maintain any school in the district.

(d) A school district may also be lapsed upon resolution approved by a majority of the members of the governing board of the district and written concurrence of the county superintendent.

Removal of Outyear Proposition 98 Supplementary Payments and Test 1 Rebench (Amends Education Code Section 41204.2)

SEC 10. 41204.2. (a) Notwithstanding any other law, ~~commencing with for~~ the 2021–22 fiscal year, an appropriation shall be made from the General Fund in the annual Budget Act for the support of public schools maintaining kindergarten or any of grades 1 to 12, inclusive, and the California Community Colleges to supplement funding appropriated pursuant to Section 8 of Article XVI of the California Constitution. ~~In each fiscal year, the~~ The amount of the supplemental appropriation shall be equal to 1.5 percent of total General Fund revenues in the 2021-22 fiscal year, as calculated pursuant to Section 8 of Article XVI of the California Constitution. ~~The supplemental appropriation shall be made annually until the sum of all supplemental appropriations equals twelve billion three hundred sixty-six million one hundred seven thousand dollars (\$12,366,107,000).~~

(b) ~~Amounts~~ The amount appropriated pursuant to subdivision (a) shall be deemed ~~a~~ supplementary payments in excess of the minimum amount required for ~~a given the~~ the 2021-22 fiscal year pursuant to Section 8 of Article XVI of the California Constitution.

~~(c) (1) For the 2022-23 fiscal year, and each fiscal year thereafter, "the percentage of General Fund revenues appropriated for school districts and community colleges districts, respectively, in fiscal year 1986-87," for purposes of paragraph (1) of subdivision (b) of Section 8 of Article XVI of the California Constitution, shall be deemed to be the percentage of General Fund revenues that would have been appropriated for those entities if the share of the General Fund of the supplementary payment calculated pursuant to subdivision (a) in the prior fiscal year had been included in the percentage of General Fund revenues appropriated for school districts and community colleges districts, respectively, in fiscal year 1986-87.~~

~~(2) Paragraph (1) is operative until "the percentage of General Fund revenues appropriated for school districts and community colleges districts, respectively, in fiscal year 1986-87," for purposes of paragraph (1) of subdivision (b) of Section 8 of Article XVI of the California Constitution equals 40 percent.~~

Compounded Cost-of-Living Adjustment (Adds Education Code Section 42238.022)

SEC 11. 42238.022. Notwithstanding any other law, for the 2021-22 fiscal year, the adjustments required pursuant to paragraph (4) of subdivision (a) of Section 2574, subparagraph (B) of paragraph (1) of subdivision (c) of Section 2574, subdivision (b) of Section 2575.1, paragraph (2) of subdivision (d) of Section 42238.02, and subdivision (b) of Section 42287 shall be calculated by first assuming the adjustment referenced in Section 44238.021 is 2.31 instead of zero.

2021-22 Net Charter Shift Proposal (Amends Education Code Section 42238.051)

SEC 12. 42238.051. (a) For purposes of paragraph (1) of subdivision (a) of Section 42238.05, a sponsoring school district's average daily attendance shall be computed as follows:

(1) Compute the sponsoring school district's regular average daily attendance in the current year, excluding the attendance of pupils in charter schools.

(2) (A) Compute the regular average daily attendance used to calculate the second principal apportionment of the school district for the prior year, excluding the attendance of pupils in charter schools.

(B) Compute the attendance of pupils who attended one or more noncharter schools of the school district between July 1, and the last day of the second period, inclusive, in the prior year, and who attended a charter school sponsored by the school district between July 1, and the last day of the second period, inclusive, in the current year. For purposes of this subparagraph, a pupil enrolled in a grade at a charter school sponsored by the school district shall not be counted if the school district does not offer classes for pupils enrolled in that grade. The amount of the attendance counted for any pupil for the purpose of this subparagraph may not be greater than the attendance claimed for that pupil by the charter school in the current year.

(C) Compute the attendance of pupils who attended a charter school sponsored by the school district in the prior year and who attended one or more noncharter schools of the school district in the current year. The amount of the attendance counted for

any pupil for the purpose of this subparagraph may not be greater than the attendance claimed for that pupil by the school district in the current year.

(D) From the amount determined pursuant to subparagraph (B), subtract the amount determined pursuant to subparagraph (C). If the result is less than zero, the amount shall be deemed to be zero.

(E) The prior year average daily attendance determined pursuant to subparagraph (A) shall be reduced by the amount determined pursuant to subparagraph (D).

(3) To the greater of the amounts computed pursuant to paragraphs (1) and (2), add the regular average daily attendance in the current year of all pupils attending charter schools sponsored by the school district that are not funded through the charter schools local control funding formula allocation pursuant to Section 42238.02, as implemented by Section 42238.03.

(b) For purposes of this section, a "sponsoring school district" shall mean a "sponsoring local educational agency," as defined in Section 47632, as that section read on January 1, 2013.

(c) This section is suspended for the 2021-22 fiscal year only.

Supplemental and Concentration Grant Carryover Requirement (Amends Education Code Sections 42238.07, 52064, 52070, and 52070.5)

SEC 13. 42238.07. (a) On or before January 31, 2014, the state board shall adopt regulations that govern the expenditure of funds apportioned on the basis of the number and concentration of unduplicated pupils pursuant to Sections 2574, 2575, 42238.02, and 42238.03. The regulations shall include, but are not limited to, provisions that do all of the following:

(1) Require a school district, county office of education, or charter school to increase or improve services for unduplicated pupils in proportion to the increase in funds apportioned on the basis of the number and concentration of unduplicated pupils in the school district, county office of education, or charter school.

(2) Authorize a school district, county office of education, or charter school to use funds apportioned on the basis of the number of unduplicated pupils for schoolwide purposes, or, for school districts, districtwide purposes, for county offices of education, countywide purposes, or for charter schools, charterwide purposes, in a manner that is no more restrictive than the restrictions provided for in Title I of the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301, et seq.)

(b) The state board may adopt emergency regulations for purposes of this section.

(c)(1) Beginning with the first local control and accountability plan adopted after July 1, 2021, each school district, county office of education, or charter school shall annually calculate the total difference between the total budgeted expenditures on planned specific actions reported in the local control and accountability plan pursuant to paragraph (4) of subdivision (b) of section 52064 and the total estimated actual expenditures for those actions reported in the local control and accountability plan pursuant paragraph (7) of subdivision (b) of section 52064.

(2) Beginning with the first local control and accountability plan adopted after July 1, 2021, if the total budgeted expenditures are less than the total increase or improvement in services required by paragraph (a)(1), each school district, county office of education, or charter school shall also annually calculate the total difference between the total planned quality improvements and the actual actions reported in

the local control and accountability plan pursuant to paragraph (6)(B) of subdivision (b) of section 52064 and the total actual quality improvements for those actions reported in the local control and accountability plan pursuant paragraph (7) of subdivision (b) of section 52064.

(3) If the total actual expenditures and the total actual quality improvements described in paragraph (1) and (2) are less than the total budgeted expenditures and total planned quality improvement described in paragraphs (1) and (2) and together these efforts are less than the increase or improvement in services required by paragraph (a)(1), then all of the following requirements shall apply:

(A) The quality improvements not realized shall be expressed as an unutilized portion of the increase in funds apportioned on the basis of the number and concentration of unduplicated pupils in the school district, county office of education, or charter school set forth in paragraph (a)(1).

(B) The funds herein shall be expended only to implement specific actions that satisfy the requirements for specific actions to be considered as contributing toward meeting the increased or improved services requirement pursuant to the regulations adopted by the state board pursuant to subdivision (a).

(C) The local educational agency shall report the planned uses of the funds in its local control and accountability plan.

(d) (1) The requirement specified in subdivision (c) shall apply independent from and in addition to the requirement to increase or improve services for the ensuing fiscal year established in regulations adopted by the state board pursuant to subdivision (a).

52064. (a) On or before March 31, 2014, the state board shall adopt a template for a local control and accountability plan and an annual update to the local control and accountability plan for the following purposes:

(1) For use by school districts to meet the requirements of Sections 52060 to 52063, inclusive.

(2) For use by county superintendents of schools to meet the requirements of Sections 52066 to 52069, inclusive.

(3) For use by charter schools to meet the requirements of Section 47606.5.

(b) On or before January 31, 2022 the template adopted by the state board shall require the inclusion of all of the following information:

(1) A description of the annual goals, for all pupils and each subgroup of pupils identified pursuant to Section 52052, to be achieved for each of the state priorities identified in subparagraph (A) of paragraph (5) of subdivision (b) of Section 47605, subparagraph (A) of paragraph (5) of subdivision (b) of Section 47605.6, subdivision (d) of Section 52060, or subdivision (d) of Section 52066, as applicable, and for any additional local priorities identified by the governing board of the school district, the county board of education, or in the charter school petition. For purposes of this article, a subgroup of pupils identified pursuant to Section 52052 shall be a numerically significant pupil subgroup as specified in subdivision (a) of Section 52052.

(2) A description of the specific actions the school district, county office of education, or charter school will take during each year of the local control and accountability plan to achieve the goals identified in paragraph (1). The specific actions shall not supersede the provisions of existing local collective bargaining agreements, if any, within the jurisdiction of the school district, county office of education, or charter school.

(3) One or more summary tables listing and describing the budgeted expenditures for the ensuing fiscal year implementing each specific action included in the local control and accountability plan, including expenditures for the ensuing fiscal year that will serve unduplicated pupils, as defined in Section 42238.02, and pupils redesignated as fluent English proficient. The summary table or tables shall include both of the following:

(A) The total overall expenditures for all specific actions included in the local control and accountability plan, broken down by personnel and nonpersonnel expenditures.
(B) The subtotals of expenditures for each specific action included in the local control and accountability plan broken down into the following categories:

(i) Funds apportioned under the local control funding formula pursuant to Section 42238.02.

(ii) All other state funds.

(iii) All local funds.

(iv) All federal funds.

(4) One or more summary tables listing and describing the specific actions and budgeted expenditures in paragraph (3) that contribute to the demonstration that the school district, county office of education, or charter school will increase or improve services for unduplicated pupils in proportion to the increase in funds apportioned on the basis of the number and concentration of unduplicated pupils, consistent with regulations adopted by the state board pursuant to Section 42238.07, grouped as follows:

(A) Specific actions and budgeted expenditures provided to all pupils on a districtwide, countywide, or charterwide basis.

(B) Specific actions and budgeted expenditures that are targeted only to one or more unduplicated pupil subgroups. For these specific actions, the description shall specify the unduplicated pupil subgroup or subgroups that are targeted by each specific action and, if not provided at all schools, the school or schools where the specific action is provided.

(C) Only for school districts and county offices of education that operate more than one schoolsite, specific actions and budgeted expenditures provided to all pupils on a schoolwide basis, but only at schools serving certain grade spans or only at one or more schools. For these specific actions, the description shall specify the school or schools at which the specific action is provided.

(5) An estimate of the funds to be apportioned in the ensuing fiscal year on the basis of the number and concentration of unduplicated pupils and calculation of the percent the school district, county office of education, or charter school will increase or improve services for unduplicated pupils in proportion to the increase in funds apportioned on the basis of the number and concentration of unduplicated pupils, consistent with regulations adopted by the state board pursuant to Section 42238.07.

(6) (A) A demonstration that the school district, county office of education, or charter school will increase or improve services for unduplicated pupils in the ensuing fiscal year in proportion to the increase in funds apportioned on the basis of the number and concentration of unduplicated pupils, consistent with regulations adopted by the state board pursuant to Section 42238.07.

(B) To the extent the total budgeted expenditures described in paragraph (4) is less than the estimate described in paragraph (5), an additional summary table listing and describing how one or more specific actions included in the local control and accountability plan serve to improve services for unduplicated pupils, consistent with

regulations adopted by the state board pursuant Section 42238.07 and any applicable instructions adopted by the state board of education pursuant to paragraph (1) of subdivision (d), and how the degree of improvement in services is of a magnitude sufficient to satisfy the requirement to increase or improve services for unduplicated pupils in proportion to the increase in funds apportioned on the basis of the number and concentration of unduplicated pupils beyond the demonstration of total budgeted expenditures described in paragraph (4).

(7) A review of the progress toward the goals included in the existing local control and accountability plan, a review of any changes in the applicability of the goals, an assessment of the effectiveness of the specific actions described in the existing local control and accountability plan toward achieving the goals, a description of changes to the specific actions and related expenditures or quality improvements the school district, county office of education, or charter school will make as a result of the review and assessment, and an update on progress implementing the specific actions in the current fiscal year, including estimated actual expenditures for the specific actions and actual quality improvement.

(8) (A) The calculations required pursuant to paragraphs (1) and (2) of subdivision (c) of section 42238.07.

(B) If applicable to the school district, county office of education, or charter school pursuant to paragraph (3) of subdivision (c) of section 42238.07, a description the specific actions, and related expenditures, to be implemented using the specified funds, including a demonstration that the planned uses of those funds satisfy the requirements for specific actions to be considered as contributing toward meeting the increased or improved services requirement pursuant to regulations adopted by the state board pursuant to Section 42238.07.

(9) A plan summary that includes general information about the school district, county office of education, or charter school and highlights of the local control and accountability plan and annual update to the local control and accountability plan, including reflections on annual performance on the California School Dashboard authorized in Section 52064.5 and other local data.

(10) A summary of the stakeholder engagement process and how stakeholder engagement influenced the development of the adopted local control and accountability plan and annual update to the local control and accountability plan.

(c) If possible, the templates identified in paragraph (2) of subdivision (a) for use by county superintendents of schools shall allow a county superintendent of schools to develop a single local control and accountability plan that would also satisfy the requirements of Section 48926.

(d) (1) The template for the local control and accountability plan and annual update to the local control and accountability plan shall, to the greatest extent practicable, use language that is understandable and accessible to parents. The state board shall include instructions for school districts, county offices of education, and charter schools to complete the local control and accountability plan and annual update to the local control and accountability plan consistent with the requirements of this section. The state board may include more technical language in the instructions.

(2) Except as provided in paragraph (3), the state board shall not require school districts, county offices of education, or charter schools to provide any information in addition to the information required pursuant to subdivision (b).

(3) The state board may require the inclusion of additional information in the template in order to meet requirements of federal law.

(e) (1) The process of developing and annually updating the local control and accountability plan should support school districts, county offices of education, and charter schools in comprehensive strategic planning, accountability, and improvement across the state priorities and any locally identified priorities through meaningful engagement with local stakeholders.

(2) In developing the template for the local control and accountability plan and annual update to the local control and accountability plan, the state board shall ensure that school districts, county offices of education, and charter schools track and report their progress annually on all state priorities, including the applicable metrics specified within each state priority and, for charter schools, in accordance with Section 47606.5.

(3) The instructions developed by the state board pursuant to paragraph (1) of subdivision (d) shall specify that school districts, county offices of education, and charter schools should prioritize the focus of the goals, specific actions, and related expenditures included within the local control and accountability plan and annual update to the local control and accountability plan within one or more state priorities. The instructions shall further specify that school districts, county offices of education, and charter schools should consider their performance on the state and local indicators, including their locally collected and reported data for the local indicators, that are included in the California School Dashboard authorized in Section 52064.5 in determining whether and how to prioritize the goals, specific actions, and related expenditures included within the local control and accountability plan and annual update to the local control and accountability plan.

(4) The instructions developed by the state board pursuant to paragraph (1) of subdivision (d) shall specify that school districts, county offices of education, and charter schools that have a numerically significant English learner pupil subgroup shall include specific actions in the local control and accountability plan related to, at a minimum, the language acquisition programs, as defined in Section 306, provided to pupils and professional development activities specific to English learners.

(5) On or before January 31, 2022, the instructions developed by the state board pursuant to paragraph (1) of subdivision (d) shall specify that school districts, county offices of education, and charter schools that meet the criteria to receive technical assistance pursuant to Section 47607, 47607.2, 52071, or 52071.5, as applicable, based on the performance of the same pupil subgroup or subgroups for three or more consecutive years shall include a goal in the local control and accountability plan focused on improving the performance of the pupil subgroup or subgroups.

(6) (A) On or before January 31, 2022, the instructions developed by the state board pursuant to paragraph (1) of subdivision (d) shall specify that, for any school district or county office of education with a school that meets the criteria described in subparagraph (B), the school district or county office of education shall include a goal in the local control and accountability plan focused on addressing the disparities in performance at the school or schools compared to the school district or county office of education as a whole.

(B) The requirement described in subparagraph (A) shall apply for any local educational agency with two or more schools if, for two consecutive years, a school receives the two lowest performance levels on all but one of the state indicators for

which the school receives performance levels on the California School Dashboard pursuant to subdivision (d) of Section 52064.5 and the performance of the local educational agency for all pupils is at least one performance level higher on all of those indicators.

(f) (1) Except as provided in subdivision (g), the state board shall adopt the template pursuant to the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The state board may adopt emergency regulations for purposes of implementing this section. The adoption of emergency regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare.

(2) Notwithstanding paragraph (1), the state board may adopt or revise the template in accordance with the requirements of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code). When adopting the template pursuant to the requirements of the Bagley-Keene Open Meeting Act, the state board shall present the template at a regular meeting and may only take action to adopt the template at a subsequent regular meeting. This paragraph shall become inoperative on January 31, 2019.

(g) Notwithstanding subdivision (f), revisions of the template for the local control and accountability plan and annual update to the local control and accountability plan necessary to implement Assembly Bill 1808 and Assembly Bill 1840 of the 2017–18 Regular Session or legislation passed during the 2019–20 Regular Session shall not be subject to the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The state board may make necessary revisions to the template in accordance with the requirements of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(h) Notwithstanding subdivision (f), revisions of the template for the local control and accountability plan and annual update to the local control and accountability plan necessary to implement [pending carryover requirement legislation] shall not be subject to the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The state board may make necessary revisions to the template in accordance with the requirements of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(i) Revisions to a template shall be approved by the state board by January 31 before the fiscal year during which the template is to be used by a school district, county superintendent of schools, or charter school.

(j) In developing the template, the state board shall take steps to minimize duplication of effort at the local level to the greatest extent possible. The adoption of a template or evaluation rubric by the state board shall not create a requirement for a governing board of a school district, a county board of education, or a governing body of a charter school to submit a local control and accountability plan to the state board, unless otherwise required by federal law. The Superintendent shall not require a local control and accountability plan to be submitted by a governing board of a school district or the governing body of a charter school to the state board. The state board may adopt a template or evaluation rubric that would authorize a school district or a

charter school to submit to the state board only the sections of the local control and accountability plan required by federal law.

(k) Notwithstanding any other law, the templates developed by the state board pursuant to this section, as it read on June 30, 2018, shall continue in effect until the state board adopts a new template pursuant to subdivision (b) on or before January 31, 2020, except that the state board may adopt revisions to those templates pursuant to subdivision (g) that are necessary to implement Assembly Bill 1808 of the 2017–18 Regular Session or meet federal requirements.

52070. (a) Not later than five days after adoption of a local control and accountability plan or annual update to a local control and accountability plan, the governing board of a school district shall file the local control and accountability plan or annual update to the local control and accountability plan with the county superintendent of schools.

(b) On or before August 15 of each year, the county superintendent of schools may seek clarification, in writing, from the governing board of a school district about the contents of the local control and accountability plan or annual update to the local control and accountability plan. Within 15 days the governing board of a school district shall respond, in writing, to requests for clarification.

(c) Within 15 days of receiving the response from the governing board of the school district, the county superintendent of schools may submit recommendations, in writing, for amendments to the local control and accountability plan or annual update to the local control and accountability plan. The governing board of a school district shall consider the recommendations submitted by the county superintendent of schools in a public meeting within 15 days of receiving the recommendations.

(d) The county superintendent of schools shall approve a local control and accountability plan or annual update to a local control and accountability plan on or before October 8, if he or she determines all of the following:

(1) The local control and accountability plan or annual update to the local control and accountability plan adheres to the template adopted by the state board pursuant to Section 52064 and follows any instructions or directions for completing the template that are adopted by the state board, including, but not limited to, all of the following requirements:

(A) The local control and accountability plan includes one or more specific actions consistent with the instructions adopted pursuant to paragraph (4) of subdivision (e) of section 52064, if applicable to the school district.

(B) If applicable to the school district, the local control and accountability plan includes a goal consistent with the instructions adopted pursuant to paragraph (5) of subdivision (e) of section 52064.

(C) If applicable to the school district, the local control and accountability plan includes a goal consistent with the instructions adopted pursuant to paragraph (6) of subdivision (e) of section 52064.

(D) Each specific action identified as contributing to the demonstration that the school district will increase or improve services for unduplicated pupils in proportion to the increase in funds apportioned on the basis of the number and concentration of unduplicated pupils, consistent with regulations adopted by the state board pursuant to Section 42238.07, with subdivision (c) and (d) of Section 42238.07 and any applicable instructions adopted by the state board of education pursuant to paragraph (1) of

subdivision (d) of section 52064, that is provided on a schoolwide or districtwide basis is supported by the required description.

(E) If applicable to the school district, the local control and accountability plan includes a description of the specific action or actions that improve services for unduplicated pupils, meets the requirements of paragraph (D) and demonstrates how the degree of improvement in services is sufficient to satisfy the requirement to increase or improve services for unduplicated pupils in proportion to the increase in funds apportioned on the basis of the number and concentration of unduplicated pupils, as required by subparagraph (B) of paragraph (6) of subdivision (b) of section 52064.

(2) The budget for the applicable fiscal year adopted by the governing board of the school district includes expenditures sufficient to implement the specific actions and strategies included in the local control and accountability plan adopted by the governing board of the school district, based on the projections of the costs included in the plan.

(3) The local control and accountability plan or annual update to the local control and accountability plan adheres to the expenditure requirements adopted pursuant to Section 42238.07 for funds apportioned on the basis of the number and concentration of unduplicated pupils pursuant to Sections 42238.02 and 42238.03, and any applicable instructions for the local control and accountability plan template adopted by the state board of education pursuant to paragraph (1) of subdivision (d) of section 52064 including, but not limited to, the requirement that any specific action that is provided on a schoolwide or districtwide basis is supported by the required description.

(4) The local control and accountability plan includes the calculations required by paragraphs (1) and (2) of subdivision (c) of Section 42238.07 and, if applicable to the school district pursuant to paragraph (3) of subdivision (c) of Section 42238.07, includes a description of the planned uses of the specified funds and a description of how the planned uses of those funds satisfy the requirements for specific actions to be considered as contributing toward meeting the increased or improved services requirement pursuant to regulations adopted by the state board pursuant to Section 42238.07.

(e) If a county superintendent of schools has jurisdiction over a single school district, the Superintendent shall perform the duties specified in this section.

52070.5. (a) Not later than five days after adoption of a local control and accountability plan or annual update to a local control and accountability plan, the county board of education shall file the local control and accountability plan or annual update to the local control and accountability plan with the Superintendent.

(b) On or before August 15 of each year, the Superintendent may seek clarification, in writing, from the county board of education about the contents of the local control and accountability plan or annual update to the local control and accountability plan. Within 15 days the county board of education shall respond, in writing, to requests for clarification.

(c) Within 15 days of receiving the response from the county board of education, the Superintendent may submit recommendations, in writing, for amendments to the local control and accountability plan or annual update to the local control and accountability plan. The county board of education shall consider the recommendations submitted by the Superintendent in a public meeting within 15 days of receiving the recommendations.

(d) The Superintendent shall approve a local control and accountability plan or annual update to a local control and accountability plan on or before October 8, if he or she determines all of the following:

(1) The local control and accountability plan or annual update to the local control and accountability plan adheres to the template adopted by the state board pursuant to Section 52064 and follows any instructions or directions for completing the template that are adopted by the state board, including, but not limited to, all of the following requirements:

(A) If applicable to the county office of education, the local control and accountability plan includes one or more specific action consistent with the instructions adopted pursuant to paragraph (4) of subdivision (e) of section 52064.

(B) If applicable to the county office of education, the local control and accountability plan includes a goal consistent with the instructions adopted pursuant to paragraph (5) of subdivision (e) of section 52064.

(C) If applicable to the county office of education, the local control and accountability plan includes a goal consistent with the instructions adopted pursuant to paragraph (6) of subdivision (e) of section 52064.

(D) Each specific action identified as contributing to the demonstration that the county office of education will increase or improve services for unduplicated pupils in proportion to the increase in funds apportioned on the basis of the number and concentration of unduplicated pupils, consistent with regulations adopted by the state board pursuant to Section 42238.07, with subdivision (c) and (d) of Section 42238.07 and any applicable instructions adopted by the state board of education pursuant to paragraph (1) of subdivision (d) of section 52064, that is provided on a schoolwide or countywide basis is supported by the required description.

(E) If applicable to the county office of education, the local control and accountability plan includes a description of the specific action or actions that improve services for unduplicated pupils, meets the requirements of paragraph (D) and demonstrates how the degree of improvement in services is sufficient to satisfy the requirement to increase or improve services for unduplicated pupils in proportion to the increase in funds apportioned on the basis of the number and concentration of unduplicated pupils, as required by subparagraph (B) of paragraph (6) of subdivision (b) of section 52064.

(2) The budget for the applicable fiscal year adopted by the county board of education includes expenditures sufficient to implement the specific actions and strategies included in the local control and accountability plan adopted by the county board of education, based on the projections of the costs included in the plan.

(3) The local control and accountability plan or annual update to the local control and accountability plan adheres to the expenditure requirements adopted pursuant to Section 42238.07 for funds apportioned on the basis of the number and concentration of unduplicated pupils pursuant to Sections 2574 and 2575, and any applicable instructions for the local control and accountability plan template adopted by the state board of education pursuant to paragraph (1) of subdivision (d) of section 52064 including, but not limited to, the requirement that any specific action that is provided on a schoolwide or countywide basis is supported by the required description.

(4) The local control and accountability plan includes the calculation required by paragraphs (1) and (2) of subdivision (c) of Section 42238.07 and, if applicable to the county office of education pursuant to paragraph (3) of subdivision (c) of Section 42238.07, includes a description of the planned uses of the specified funds and a

description of how the planned uses of those funds satisfy the requirements for specific actions to be considered as contributing toward meeting the increased or improved services requirement pursuant to regulations adopted by the state board pursuant to Section 42238.07.

Alignment of Distance Learning Attendance and Recordkeeping Audit Penalties to ADA Audit Penalties (Amends Education Code Section 43504)

SEC 14. 43504. (a) The compulsory education requirements described in Section 48200 continue to apply for the 2020–21 school year.

(b) A local educational agency shall offer in-person instruction to the greatest extent possible.

(c) For the 2020–21 school year, for purposes of the requirement on school districts to offer 180 instructional days per school year pursuant to Section 46208 and the requirement on charter schools to offer 175 instructional days per school year pursuant to Section 11960 of Title 5 of the California Code of Regulations, an instructional day is a day in which all pupils are scheduled for the length of the day established by the governing board or body of the local educational agency in a classroom under the immediate supervision of a certificated employee or in distance learning that meets the minimum requirements described in this part. For purposes of this section, for charter schools, distance learning shall be provided by a certificated employee pursuant to the requirements of Sections 47605, 47605.4, and 47605.6.

(d) (1) Each local educational agency shall document daily participation for each pupil on each schoolday, in whole or in part, for which distance learning is provided. A pupil who does not participate in distance learning on a schoolday shall be documented as absent for that schoolday.

(2) For purposes of this section, daily participation may include, but is not limited to, evidence of participation in online activities, completion of regular assignments, completion of assessments, and contacts between employees of the local educational agency and pupils or parents or guardians.

(e) Each local educational agency shall ensure that a weekly engagement record is completed for each pupil documenting synchronous or asynchronous instruction for each whole or partial day of distance learning, verifying daily participation, and tracking assignments.

(f) (1) A pupil who does not participate daily in either in-person instruction pursuant to subdivision (b) or distance learning pursuant to subdivision (d) shall be deemed absent by the local educational agency. A local educational agency shall use documentation of the absence for purposes of reporting its chronic absenteeism rates in its local control and accountability plan.

(2) Each local educational agency shall develop written procedures for tiered reengagement strategies for all pupils who are absent from distance learning for more than three schooldays or 60 percent of the instructional days in a school week. These procedures shall include, but are not limited to, verification of current contact information for each enrolled pupil, daily notification to parents or guardians of absences, a plan for outreach from the school to determine pupil needs including connection with health and social services as necessary and, when feasible, transitioning the pupil to full-time in-person instruction.

- (g) Each school shall regularly communicate with parents and guardians regarding a pupil's academic progress.
- (h) The Controller shall include instructions necessary to enforce the requirements of this section in the 2020–21 audit guide required by Section 14502.1.
- (i) (1) For a school district or charter school that offers fewer than the instructional days required in subdivision (c), the Superintendent shall withhold from the local educational agency's local control funding formula grant apportionment for the prior year average daily attendance of each affected grade level, the sum of .0056 multiplied by that apportionment for each day less than what was required pursuant to this section.
- (2) For a ~~local educational agency~~ charter school or school district that does not meet the requirements in subdivision (d), (e), or (f), the Superintendent shall withhold from the ~~local educational agency's~~ charter school's or school district's local control funding formula grant apportionment the percentage of total days out of compliance divided by the number of instructional days required to be offered multiplied by the derived value of average daily attendance, ~~all multiplied by the average daily attendance of each affected grade level.~~ For purposes of this paragraph, the ~~percentage of days out of compliance is equivalent to the number of days out of compliance divided by the total number of instructional days required to be offered.~~ For a county office of education that does not meet the requirements in subdivision (d), (e), or (f), the Superintendent shall withhold from the county office of education's local control funding formula grant apportionment the total days out of compliance divided by 175 multiplied by the derived value of average daily attendance.
- (3) A local educational agency that provides distance learning shall not be penalized for instruction provided before September 1, 2020, that fails to meet the requirements of this section.

Instructional Day Penalty Waiver (Adds Education Code Section 43504.5)

SEC 15. 43504.5. (a) The State Board of Education may waive the fiscal penalties set forth in section 43504(i)(1) for a school district or charter school that fails to maintain the prescribed, minimum number of instructional days for the school year.

(b) For fiscal penalties incurred as a result of a shortfall on instructional days in the 2020–21 fiscal year, a waiver may only be granted pursuant to subdivision (a) upon the condition that the school or schools in which the days were lost, maintain days of instruction equal in number to those lost and in addition to the amount otherwise prescribed in this part for twice the number of years that it failed to maintain the prescribed minimum number of instructional days for the school year following the year, or both, commencing not later than the school year following the year in which the waiver was granted and continuing for each succeeding school year until the condition is satisfied. Days of instruction added in the 2021-22 fiscal year or later for the purpose of making up lost instructional time in 2020-21 must be days on which all students are offered days of in-person instruction for the length of the school day under the immediate physical supervision and control of a certificated employee of the school district or charter school that failed to meet the prescribed minimum number of instructional days in the 2020-21 fiscal year. Compliance with the condition shall be specifically verified in the report of the annual audit of the school district or county office of education for each year in which the additional time is to be maintained. If an audit report for a year in which the additional time is to be maintained does not verify

that the time was provided, that finding shall be addressed as set forth in Section 41344.
(c) It is the intent of the Legislature that school districts and charter schools make every effort to make up any instructional days lost during the school year in which the loss occurred, rather than seeking a waiver pursuant to the provisions of this section.

Technical Correction for 2020-21 CSP and K-3 Grade Span Adjustment Citation (Amends Education Code Section 43507)

SEC 16. 43507. Notwithstanding Sections ~~15948.1~~ 15498.1 and 15103 of Title 5 of the California Code of Regulations, for purposes of calculating the local control funding formula grade span adjustment pursuant to Section 42238.02 or the class size penalty pursuant to Sections 41376 and 41378, "class" may include instruction offered through distance learning or in-person instruction pursuant to this part.

Demonstrations of Competence for Teacher Basic Skills and Subject Matter Knowledge (Amends Education Code Sections 44252, 44259, 44280, 44310, and 44830)

SEC 17. 44252. (a) (1) The commission shall establish standards and procedures for the initial issuance and renewal of credentials.

(2) (A) The commission shall require an initial or renewal applicant who submits an initial or renewal application for ~~his or her~~ the applicant's credential online, as part of the application process, to read and attest by electronic signature a statement that the applicant for the credential understands the duties imposed on a holder of a teaching credential or a services credential pursuant to the Child Abuse and Neglect Reporting Act (Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code), including, but not limited to, the duty of a holder of a teaching credential or a services credential to report to any police department, sheriff's department, county probation department authorized to receive reports, or county welfare department, whenever the credential holder, in the credential holder's ~~he or she, in his or her~~ professional capacity or within the scope of the credential holder's ~~his or her~~ employment, has knowledge of or observes a child whom the holder of a teaching credential or a services credential knows or reasonably suspects has been the victim of child abuse or neglect.

(B) The commission shall require an initial applicant who submits an application in paper form, as part of the application process, to read and attest by signature a statement that the applicant understands the duties imposed on a holder of a teaching credential or a services credential pursuant to the Child Abuse and Neglect Reporting Act (Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code), including, but not limited to, the duty of a holder of a teaching credential or a services credential to report to any police department, sheriff's department, county probation department authorized to receive reports, or county welfare department, whenever the credential holder, in the credential holder's ~~he or she, in his or her~~ professional capacity or within the scope of the credential holder's ~~his or her~~ employment, has knowledge of or observes a child whom the holder of a teaching credential or a services credential knows or reasonably suspects has been the victim of child abuse or neglect.

(C) The statement described in subparagraphs (A) and (B) shall be substantially in the following form:

"As a document holder authorized to work with children, it is part of my professional and ethical duty to report every instance of child abuse or neglect known or suspected to have occurred to a child with whom I have professional contact.

I understand that I must report immediately, or as soon as practicably possible, by telephone to a law enforcement agency or a child protective agency, and will send a written report and any evidence relating to the incident within 36 hours of becoming aware of the abuse or neglect of the child.

I understand that reporting the information regarding a case of possible child abuse or neglect to an employer, supervisor, school principal, school counselor, coworker, or other person is not a substitute for making a mandated report to a law enforcement agency or a child protective agency.

I understand that the reporting duties are individual and no supervisor or administrator may impede or inhibit my reporting duties.

I understand that once I submit a report, I am not required to disclose my identity to my employer.

I understand that my failure to report an instance of suspected child abuse or neglect as required by the Child Abuse and Neglect Reporting Act under Section 11166 of the Penal Code is a misdemeanor punishable by up to six months in jail or by a fine of one thousand dollars (\$1,000), or by both that imprisonment and fine.

I acknowledge and certify that as a ~~documentholder~~ document holder, I will fulfill all the duties required of a mandated reporter."

(b) The commission shall not issue initially a credential, permit, certificate, or renewal of an emergency credential to a person to serve in the public schools unless the person has demonstrated proficiency in basic reading, writing, and mathematics skills in the English language as provided in Section 44252.5 or 44252.7. The commission shall exempt the following persons from the basic skills proficiency test requirement:

(1) A person credentialed solely for the purpose of teaching adults in an apprenticeship program.

(2) An applicant for an adult education designated subject credential for other than an academic subject.

(3) A person credentialed in another state who is an applicant for employment in a school district in this state who has passed a basic skills proficiency examination administered by the state where the person is credentialed.

(4) A person credentialed in another state who is an applicant for employment in a school district in this state who has passed a basic skills proficiency examination that has been developed and administered by the school district offering that person employment, by cooperating school districts, or by the appropriate county office of education. School districts administering a basic skills proficiency examination under this paragraph shall comply with the requirements of subdivision (h) of Section 44830. The applicant shall be granted a nonrenewable credential, valid for not longer than one year, pending fulfillment of the basic skills proficiency requirement pursuant to Section 44252.5.

(5) An applicant for a ~~childcare~~ child-care center permit or a permit authorizing service in a development center for the handicapped if the holder of the permit is not required to have a baccalaureate degree.

- (6) The holder of a credential, permit, or certificate to teach, other than an emergency permit, who seeks an additional authorization to teach.
- (7) An applicant for a credential to provide service in the health profession.
- (8) An applicant who achieves scores on the writing, reading, and mathematics sections of the College Board SAT Reasoning Test, the enhanced ACT Test, or the California State University Early Assessment Program that are sufficient to waive the English placement test and the entry level mathematics examination administered by the California State University.
- (9) An applicant for an eminence credential to be issued pursuant to Section 44262.
- (10) An applicant who earns at least a letter grade of B in qualifying coursework determined by a credential preparation program, or determined by the commission for an applicant not enrolled in a California credential preparation program, to sufficiently serve as an indicator of proficiency in basic reading, writing, and mathematics skills in the English language. As used in this section, "qualifying coursework" means a course or courses taken at a regionally accredited institution of higher education for academic credit that applies toward the requirements for an associate's degree, baccalaureate degree, or higher degree. Qualifying coursework does not include professional development or continuing education units, inservice training or workshops, or courses where credits do not apply toward the requirements for an associate's degree, baccalaureate degree, or higher degree.
- (A) For the purpose of this paragraph, "reading" refers to a course that includes the study of critical thinking literature, philosophy, reading, rhetoric, or textual analysis; "writing" refers to the study of composition, English, rhetoric, written communications, or writing; and "mathematics" refers to a course in the subjects of algebra, geometry, mathematics, quantitative reasoning, or statistics. Courses that do not fall in the aforementioned subjects may serve as alternative indicators of proficiency if the applicant provides documentation in writing from the registrar or relevant department chair of the regionally accredited institution of higher education where the course was taken that the course includes the study of reading, writing, or mathematics as defined herein. A course that meets these standards may combine the study of reading and writing.
- (B) Qualifying coursework must be in a semester length course of at least three units or the equivalent number of quarter units.
- (11) A credential preparation program may determine that an applicant has demonstrated proficiency in basic reading, writing, and mathematics skills in the English language through a combination of qualifying coursework described in paragraph (10), passage of a component or components of the state basic skills proficiency test described in subdivision (d) of Section 44252.5, and scores described in paragraph (8).
- (c) (1) The Superintendent shall adopt an appropriate state test to measure proficiency in these basic skills. In adopting the test, the Superintendent shall seek assistance from the commission and an advisory board. A majority of the members of the advisory board shall be classroom teachers. The advisory board also shall include representatives of school boards, school administrators, parents, and postsecondary educational institutions.
- (2) The Superintendent shall adopt a normed test that the Superintendent determines will sufficiently test basic skills for purposes of this section.

(3) The Superintendent, in conjunction with the commission and approved teacher training institutions, shall take steps necessary to ensure the effective implementation of this section.

(d) This section does not require the holders of, or applicants for, a designated subjects special subjects credential to pass the state basic skills proficiency test unless the requirements for the specific credential required the possession of a baccalaureate degree. The governing board of a school district, or the governing board of a consortium of school districts, or ~~the a~~ governing board involved in a joint powers agreement, which employs a holder of a designated subjects special subjects credential, shall establish its own basic skills proficiency criteria for the holders of these credentials and shall arrange for those individuals to be assessed. The basic skills proficiency criteria established by the governing board shall be at least equivalent to the test required by the district, or in the case of a consortium or a joint powers agreement, by any of the participating districts, for graduation from high school. The governing board or boards may charge a fee to individuals being tested to cover the costs of the test, including the costs of developing, administering, and grading the test.

(e) The commission shall compile data regarding the rate of passing the state basic skills proficiency test by persons who have been trained in various institutions of higher education. The data shall be available to members of the public, including to persons who intend to enroll in teacher education programs.

(f) (1) Each applicant to an approved credential program, unless exempted by subdivision (b), shall take the state basic skills proficiency test in order to provide both the prospective applicant and the program with information regarding the proficiency level of the applicant. Test results shall be forwarded to each California postsecondary educational institution to which the applicant has applied. The program shall use test results to ensure that, upon admission, each applicant receives appropriate academic assistance necessary to pass the state basic skills proficiency test. Persons residing outside the state shall take the test no later than the second available administration following their enrollment in a credential program.

(2) It is the intent of the Legislature that applicants for admission to teacher preparation programs not be denied admission on the basis of state basic skills proficiency test results.

44259. (a) Except as provided in clauses (i) and (iii) of subparagraph (A) of paragraph (3) of subdivision (b), a program of professional preparation for multiple or single subject teaching credentials shall not include more than two years of full-time study of professional preparation.

(b) The minimum requirements for the preliminary multiple or single subject teaching credential are all of the following:

(1) A baccalaureate degree or higher degree from a regionally accredited institution of ~~postsecondary~~ higher education. Except as provided in subdivision (c) of Section 44227, for single subject teaching credentials, the baccalaureate degree shall not be in professional education. The commission shall encourage regionally accredited institutions of higher education to offer undergraduate minors in education and special education to students who intend to become single subject credentialed teachers.

(2) Demonstration of basic skills proficiency ~~Passage of the state basic skills proficiency test that is developed and administered by the commission pursuant to Section 44252.5.~~

(3) (A) Satisfactory completion of a program of professional preparation that has been accredited by the Committee on Accreditation on the basis of standards of program quality and effectiveness that have been adopted by the commission. In accordance with the commission's assessment and performance standards, ~~each~~ a program shall include a teaching performance assessment as set forth in Section 44320.2 that is aligned with the California Standards for the Teaching Profession. The commission shall ensure that ~~each~~ a candidate recommended for a credential or certificate has demonstrated satisfactory ability to assist pupils to meet or exceed academic content and performance standards for pupils adopted by the state board. Programs that meet this requirement for professional preparation shall include any of the following:

(i) Integrated programs of subject matter preparation and professional preparation pursuant to subdivision (a) of Section 44259.1.

(ii) Postbaccalaureate programs of professional preparation, pursuant to subdivision (d) of Section 44259.1.

(iii) Internship programs of professional preparation, pursuant to Section 44321, Article 7.5 (commencing with Section 44325), Article 11 (commencing with Section 44380), and Article 3 (commencing with Section 44450) of Chapter 3.

(iv) Degree programs offered pursuant to Article 5 (commencing with Section 78060) of Chapter 1 of Part 48 of Division 7 of Title 3.

(B) A program of professional preparation pursuant to subparagraph (A) shall provide experience that addresses all of the following:

(i) Health education, including study of nutrition, cardiopulmonary resuscitation, and the physiological and sociological effects of the abuse of alcohol, narcotics, and drugs and the use of tobacco. Training in cardiopulmonary resuscitation shall also meet the standards established by the American Heart Association or the American Red Cross.

(ii) Field experience in methods of delivering appropriate educational services to pupils with exceptional needs in regular education programs.

(iii) Advanced computer-based technology, including the uses of technology in educational settings.

(4) Study of alternative methods of developing English language skills, including the study of reading as described in subparagraphs (A) and (B), among all pupils, including those for whom English is a second language in accordance with the commission's standards of program quality and effectiveness.

(A) Commencing January 1, 1997, satisfactory completion of comprehensive reading instruction that is research based and includes all of the following:

(i) The study of organized, systematic, explicit skills including phonemic awareness, direct, systematic, explicit phonics, and decoding skills.

(ii) A strong literature, language, and comprehension component with a balance of oral and written language.

(iii) Ongoing diagnostic techniques that inform teaching and assessment.

(iv) Early intervention techniques.

(v) Guided practice in a clinical setting.

(B) For purposes of this section, "direct, systematic, explicit phonics" means phonemic awareness, spelling patterns, the direct instruction of sound/symbol codes and practice in connected text, and the relationship of direct, systematic, explicit phonics to the components set forth in clauses (i) to (v), inclusive, of subparagraph (A).

A program for the multiple subject teaching credential also shall include the study of integrated methods of teaching language arts.

(5) (A) Verification of subject matter competence, demonstrated through one of the following methods:

(i) Completion of a subject matter program approved by the commission on the basis of standards of program quality and effectiveness pursuant to Article 6 (commencing with Section 44310).

(ii) Passage of a subject matter examination pursuant to Article 5 (commencing with Section 44280).

(iii) Successful completion of coursework at one or more regionally accredited institutions of higher education that addresses each of the domains of the subject matter requirements adopted by the commission in the content area of the credential pursuant to Section 44282 as verified by a commission-approved program of professional preparation.

(iv) Demonstration to the satisfaction of the commission that the candidate, through a combination of the methods described in clauses (ii) and (iii), has addressed each of the domains of the subject matter requirements adopted by the commission in the content area of the credential pursuant to Section 44282.

~~(B) (5) Completion of a subject matter program that has been approved by the commission on the basis of standards of program quality and effectiveness pursuant to Article 6 (commencing with Section 44310) or passage of a subject matter examination pursuant to Article 5 (commencing with Section 44280). The commission shall ensure that subject matter standards and examinations are aligned with the academic content and performance standards for pupils adopted by the state board.~~

(6) Demonstration of a knowledge of the principles and provisions of the Constitution of the United States pursuant to Section 44335.

~~(7) Commencing January 1, 2000, demonstration,~~ Demonstration in accordance with the commission's standards of program quality and effectiveness, of basic competency in the use of computers in the classroom as determined by one of the following:

(A) Successful completion of a commission-approved program or course.

(B) Successful passage of an assessment that is developed, approved, and administered by the commission.

(c) The minimum requirements for the clear multiple or single subject teaching credential shall include all of the following requirements:

(1) Possession of a valid preliminary teaching credential, as prescribed in subdivision (b), possession of a valid equivalent credential or certificate, or completion of equivalent requirements as determined by the commission.

(2) Except as provided in paragraph (3), completion of a program of beginning teacher induction, including ~~one~~ either of the following:

~~(A) A program of beginning teacher support and assessment approved by the commission and the Superintendent pursuant to Section 44279.1.~~

~~(B) (A) An alternative A~~ A program of beginning teacher induction that is provided by one or more local educational agencies and has been approved by the commission ~~and the Superintendent~~ on the basis of initial review and periodic evaluations of the program in relation to appropriate standards of credential program quality and effectiveness that have been adopted by the ~~commission, the Superintendent, and the state board~~ commission pursuant to this subdivision. The ~~program standards for alternative programs~~ shall encourage innovation and experimentation in the continuous preparation and induction of beginning teachers. ~~An alternative program~~

~~of beginning teacher induction that has met state standards pursuant to this subdivision may apply for state funding pursuant to Sections 44279.1 and 44279.2.~~

~~(C)~~ (B) ~~An alternative~~ A program of beginning teacher induction that is sponsored by a regionally accredited college or university institution of higher education, in cooperation with one or more local school districts, that addresses the individual professional needs of beginning teachers and meets the commission's standards of induction. The commission shall ensure that preparation and induction programs that qualify candidates for professional credentials extend and refine each beginning teacher's professional skills in relation to the California Standards for the Teaching Profession and the academic content and performance standards for pupils adopted by the state board.

(3) (A) If a candidate satisfies the requirements of subdivision (b) through completion of an accredited internship program of professional preparation, and if that internship program fulfills induction standards and is approved as set forth in this subdivision, the commission shall determine that the candidate has fulfilled the requirements of paragraph (2).

(B) If an approved induction program is verified as unavailable to a beginning teacher, the commission shall accept completion of an approved clear credential program after completion of a baccalaureate degree at a regionally accredited institution of higher education as fulfilling the requirements of paragraph (2). The commission shall adopt regulations to implement this subparagraph.

(d) The commission shall develop and implement standards of program quality and effectiveness that provide for the areas of application listed in clauses (i) to (iii), inclusive, of subparagraph (B) of paragraph (3) of subdivision (b), starting in professional preparation and continuing through induction.

(e) A credential that was issued before January 1, 1993, shall remain in force as long as it is valid under the laws and regulations that were in effect on the date it was issued. The commission shall not, by regulation, invalidate an otherwise valid credential, unless it issues to the holder of the credential, in substitution, a new credential authorized by another provision in this chapter that is no more restrictive than the credential for which it was substituted with respect to the kind of service authorized and the grades, classes, or types of schools in which it authorizes service.

(f) A credential program that is approved by the commission shall not deny an individual access to that program solely on the grounds that the individual obtained a teaching credential through completion of an internship program when that internship program has been accredited by the commission.

(g) Notwithstanding this section, persons who were performing teaching services as of January 1, 1999, pursuant to the language of this section that was in effect before that date, may continue to perform those services without complying with any requirements that may be added by the amendments adding this subdivision.

(h) Subparagraphs (A) and (B) of paragraph (4) of subdivision (b) do not apply to any person who, as of January 1, 1997, holds a multiple or single subject teaching credential, or to any person enrolled in a program of professional preparation for a multiple or single subject teaching credential as of January 1, 1997, who subsequently completes that program. It is the intent of the Legislature that the requirements of subparagraphs (A) and (B) of paragraph (4) of subdivision (b) apply only to persons who enter a program of professional preparation on or after January 1, 1997.

44280. (a) The adequacy of subject matter preparation and the basis for assignment of certified personnel shall be determined by the successful passage of a subject matter examination as certified by the commission ~~or except~~ as specifically waived by the commission as set forth in Article 6 (commencing with Section 44310). ~~For the purpose of determining the adequacy of subject matter knowledge of languages for which there are no adequate examinations, the commission may establish guidelines for accepting alternative assessments performed by organizations that are expert in the language and culture assessed. The commission shall submit an expenditure plan for the development of a subject matter examination in the Filipino language to the Department of Finance no later than January 8, 2006. Upon approval of the expenditure plan by the Department of Finance and subject to an appropriation in the Budget Act of 2006 for this purpose, the commission shall contract with another entity for that entity to develop, for certification by the commission, a subject matter examination in the Filipino language, to be administered no later than September 1, 2008.~~

(b) For the purpose of determining the adequacy of subject matter knowledge of languages for which there are no adequate examinations, the commission may establish guidelines for accepting alternative assessments performed by organizations that are expert in the language and culture assessed.

44310. (a) The commission shall waive the subject matter examination requirement for graduates of a regionally accredited institution ~~public and private institutions~~ of higher education who successfully complete do any of the following: ~~subject matter programs specified by the commission.~~

(1) Complete a subject matter program approved by the commission on the basis of standards of program quality and effectiveness pursuant to this article.

(2) (A) Complete coursework at one or more regionally accredited institutions of higher education that addresses each of the domains of the subject matter requirements adopted by the commission in the content area of the credential pursuant to Section 44282.

(B) A program of professional preparation may review transcripts supplied by a candidate and confirm that each domain has been addressed.

(3) Address each of the domains of the subject matter requirements adopted by the commission in the content area of the credential being sought through a combination of examination subtests and coursework described in subdivision (2).

~~the subject matter program is one which is listed by the commission under Section 44282, and the program has been successfully completed in an approved institution of higher~~

(b) The commission may require that the approved examination be taken by candidates, who are otherwise eligible for an examination waiver, for informational purposes only.

44830. (a) The governing board of a school district shall employ for positions requiring certification qualifications, only persons who possess the qualifications for those positions prescribed by law. It is contrary to the public policy of this state for a person or persons charged, by the governing boards, with the responsibility of recommending persons for employment by the boards to refuse or to fail to do so for reasons of race, color, religious creed, sex, or national origin of the applicants for that employment.

(b) ~~(1)~~ The governing board of a school district shall not initially hire on a permanent, temporary, or substitute basis a certificated person seeking employment in the capacity designated in the certificated person's ~~his or her~~ credential unless that person has demonstrated basic skills proficiency as provided in Section 44252.5 or is ~~exempted~~ exempt from the requirement by subdivision (c), (d), (e), (f), (g), (h), (i), (j), ~~(k)~~, or ~~(l)~~. (A) ~~(1)~~ The governing board of a school district, with the authorization of the commission ~~Commission on Teacher Credentialing~~, may administer the state basic skills proficiency test required under Sections 44252 and 44252.5.

(B) ~~(2)~~ The Superintendent, in conjunction with the commission and local governing boards, shall take steps necessary to ensure the effective implementation of this subdivision.

(2) It is the intent of the Legislature that in effectively implementing this subdivision, the governing boards of school districts shall direct superintendents of schools to prepare for emergencies by developing a pool of qualified emergency substitute teachers. This preparation shall include public notice of the test requirements and of the dates and locations of administrations of the tests. The governing board of a school district shall make special efforts to encourage individuals who are known to be qualified in other respects as substitutes to take the state basic skills proficiency test at its earliest administration.

(3) Demonstration of proficiency in reading, writing, and mathematics by a person pursuant to Section 44252 satisfies the requirements of this subdivision.

(c) A certificated person is not required to take the state basic skills proficiency examination if the certificated person ~~he or she~~ has taken and passed it at least once, achieved a passing score on any of the tests specified in subdivision (b) of Section 44252, or possessed a credential before the enactment of the statute that made the test a requirement.

(d) This section does not require a person employed solely for purposes of teaching adults in an apprenticeship program, approved by the Division of ~~Division~~ Apprenticeship Standards of the Department of Industrial Relations, to pass the state proficiency assessment instrument as a condition of employment.

(e) This section does not require the holder of a childcare ~~child-care~~ permit or a permit authorizing service in a development center for the handicapped to take the state basic skills proficiency test, so long as the holder of the permit is not required to have a baccalaureate degree.

(f) This section does not require the holder of a credential issued by the commission who seeks an additional credential or authorization to teach, to take the state basic skills proficiency test.

(g) This section does not require the holder of a credential to provide service in the health profession to take the state basic skills proficiency test if that person does not teach in the public schools.

(h) This section does not require the holder of a designated subjects special subjects credential to pass the state basic skills proficiency test as a condition of employment unless the requirements for the specific credential require the possession of a baccalaureate degree. The governing board of a each ~~the each~~ school district, or the each ~~a each~~ governing board of a consortium of school districts, or a each ~~the each~~ governing board involved in a joint powers agreement, which employs the holder of a designated subjects special subjects credential, shall establish its own basic skills proficiency for these credentials and shall arrange for those individuals to be assessed. The basic skills

proficiency criteria established by the governing board shall be at least equivalent to the test required by the district, or in the case of a consortium or a joint powers agreement, by any of the participating districts, for graduation from high school. The governing board or boards may charge a fee to individuals being tested to cover the costs of the test, including the costs of developing, administering, and grading the test. (i) This section does not require the holder of a preliminary or clear designated subjects career technical education teaching credential to pass the state basic skills proficiency test.

(j) This section does not require certificated personnel employed under a foreign exchange program to take the state basic skills proficiency test. The maximum period of exemption under this subdivision shall be one year.

(k) This section does not require a credential applicant who qualifies for an exemption described in paragraph (10) or (11) of subdivision (b) of Section 44252 to take the state basic skills proficiency test.

~~(k)(l)~~ (l) Notwithstanding any other law, a school district or county office of education may hire certificated personnel who have not taken the state basic skills proficiency test if that person has not yet been afforded the opportunity to take the test. The person shall take the test at the earliest opportunity and may remain employed by the school district pending the receipt of ~~his or her~~ the person's test results.

Teacher Residency Grant Program (Adds Education Code Sections 44415.1 and 44417.1)

SEC 18. 44415.1. (a) For the 2021-22 fiscal year, the sum of one hundred million dollars (\$100,000,000) is hereby appropriated from the General Fund to the Commission on Teacher Credentialing for the Teacher Residency Grant Program to support teacher residency programs that recruit and support the preparation of teachers pursuant to this section. This funding shall be available for encumbrance until June 30, 2025.

(b) (1) The commission shall make one-time grants to grant applicants to establish new or expand existing teacher residency programs in designated shortage fields, including special education, bilingual education, science, computer science, technology, engineering, or mathematics, and any others identified by the commission based on analysis of hiring and vacancy data on an annual basis. Grant recipients shall work with one or more commission-accredited teacher preparation programs and may work with other community partners or nonprofit organizations to develop and implement programs of preparation and mentoring for resident teachers who will be supported through program funds and subsequently employed by the sponsoring grant recipient.

(2) A grant applicant may consist of one or more, or any combination, of the following:

(A) A school district.

(B) A county office of education.

(C) A charter school.

(D) A regional occupational center or program operated by a joint powers authority.

(E) A nonpublic, nonsectarian school, as defined in Section 56034.

(c) Grants allocated pursuant to subdivision (b) shall be up to twenty thousand dollars (\$20,000) per teacher candidate in the residency program of the jurisdiction of the grant recipient, matched by that grant recipient on a dollar-for-dollar basis. Residents are also eligible for other forms of federal, state and local educational agency financial

assistance to support the cost of their preparation. Grant program funding shall be used for, but is not limited to, any of the following: teacher preparation costs, stipends for mentor teachers, stipends for teacher candidates, recruitment costs, residency program staff, and mentoring and beginning teacher induction costs following initial preparation.

(d) A grant recipient shall not use more than 5 percent of a grant award for program administration costs.

(e) A grant recipient shall provide a 100-percent match of grant funding in the form of one or both of the following:

(1) One dollar (\$1) for every one dollar (\$1) of grant funding received that is to be used in a manner consistent with allowable grant activities pursuant to subdivision (c).

(2) An in-kind match of program director personnel costs, mentor teacher personnel costs or other personnel costs related to the Teacher Residency Grant Program, provided by the grant recipient.

(f) For purposes of this section, the following terms have the following meanings:

(1) "Teacher residency program" is a grant applicant-based program that partners with one or more commission-approved teacher preparation programs offered by a regionally-accredited institution of postsecondary education in which a prospective teacher teaches at least one-half time alongside a teacher of record, who is designated as the experienced mentor teacher, for at least one full school year while engaging in initial preparation coursework.

(2) An "experienced mentor teacher" for purposes of the Teacher Residency Grant Program is an educator who meets all of the following requirements:

(A) Has at least three years of teaching experience and holds a clear credential in the subject in which the mentor teacher will be mentoring.

(B) Has a record of successful teaching as demonstrated, at a minimum, by satisfactory annual performance evaluations for the preceding three years.

(C) Receives specific training for the mentor teacher role, and engages in ongoing professional learning and networking with other mentors.

(D) Receives compensation, appropriate release time, or both, to serve as a mentor in the initial preparation or beginning teacher induction component of the teacher residency program.

(g) Grant recipients shall do all of the following:

(1) Ensure that candidates are prepared to earn a preliminary teaching credential that will authorize the candidate to teach in a designated shortage field upon completion of the program.

(2) Ensure that candidates are provided instruction in all of the following:

(A) Teaching the content area or areas in which the teacher will become certified to teach.

(B) Planning, curriculum development, and assessment.

(C) Learning and child development.

(D) Management of the classroom environment.

(E) Use of culturally responsive practices, supports for language development, and supports for serving pupils with disabilities.

(F) Professional responsibilities, including interaction with families and colleagues.

(3) Provide each candidate mentoring and beginning teacher induction support following the completion of the initial credential program necessary to obtain a clear

credential and ongoing professional development and networking opportunities during the candidate's first years of teaching.

(4) Prepare candidates to teach at the same grant recipient in which they will work and learn the instructional initiatives and curriculum of the grant recipient.

(5) Group teacher candidates in cohorts to facilitate professional collaboration among residents, and ensure candidates are enrolled in a teaching school or professional development program that is organized to support a high-quality teacher learning experience in a supportive work environment.

(h) To receive a grant, an applicant shall submit an application to the commission at a time, in a manner, and containing information prescribed by the commission.

(i) When selecting grant recipients, the commission shall do both of the following:

(1) Require applicants to demonstrate a need for teachers in one or more designated shortage fields and to propose to establish a new, or expand an existing, teacher residency program that recruits, prepares, and supports teachers to teach in one or more such fields in a school within the jurisdiction of the sponsoring grant applicant.

(2) Give priority consideration to grant applicants who demonstrate a commitment to increasing diversity in the teaching workforce and with one or more schools that exhibit one or both of the following characteristics:

(A) A school where 50 percent or more of the enrolled pupils are eligible for free or reduced-price meals.

(B) A school that is located in either a rural location or a densely populated region.

(j) A candidate in a teacher residency program sponsored by a grant provided pursuant to subdivision (b) shall agree in writing to serve in a school within the grant recipient district that sponsored the candidate for a period of at least four school years beginning with the school year that begins after the candidate successfully completes the initial year of preparation and obtains a preliminary teaching credential. A candidate who fails to earn a preliminary credential or complete the period of the placement shall reimburse the sponsoring grant recipient the amount of grant funding invested in the candidate's residency training. The amount to be reimbursed shall be adjusted proportionately to reflect the service provided if the candidate taught at least one year, but less than four years, at the sponsoring grant recipient. A candidate shall have five school years to complete the four-school-year teaching commitment.

(k) If a candidate is unable to complete a school year of teaching, that school year may still be counted toward the required four complete school years if any of the following occur:

(1) The candidate has completed at least one-half of the school year.

(2) The employer deems the candidate to have fulfilled their contractual requirements for the school year for the purposes of salary increases, probationary or permanent status, and retirement.

(3) The candidate was not able to teach due to the financial circumstances of the sponsoring grant recipient, including a decision to not reelect the employee for the succeeding school year.

(4) The candidate has a condition covered under the federal Family and Medical Leave Act of 1993 (29 U.S.C. Sec. 2601 et seq.) or similar state law.

(5) The candidate was called or ordered to active duty status for more than 30 days as a member of a reserve component of the Armed Forces of the United States.

(l) For purposes of administering the grant program pursuant to subdivision (b), the commission shall do all of the following:

- (1) Determine the number of grants to be awarded and the total amount awarded to each grant applicant.
- (2) Require grant recipients to submit program and expenditure reports, as specified by the commission, as a condition of receiving grant funds.
- (3) Annually review each grant recipient's program and expenditure reports to determine if any candidate has failed to meet their commitment pursuant to subdivision (j).
- (m) If the commission determines or is informed that a sponsored candidate failed to earn a preliminary credential or meet their commitment to teach pursuant to subdivision (j), the commission shall confirm with the grant recipient the applicable grant amount to be recovered from the candidate and the grant recipient. The amount to be recovered shall be adjusted proportionately to reflect the service provided if the candidate taught at least one year, but less than four years, at the sponsoring grant recipient.
- (n) Upon confirming the amount to be recovered from the grant recipient pursuant to subdivision (m), the commission shall notify the grant recipient of the amount to be repaid within 60 days. The grant recipient shall have 60 days from the date of the notification to make the required repayment to the commission. If the grant recipient fails to make the required payment within 60 days, the commission shall notify the Controller and the grant recipient of the failure to repay the amount owed. The Controller shall deduct an amount equal to the amount owed to the commission from the grant recipient's next principal apportionment or apportionments of state funds, other than basic aid apportionments required by Section 6 of Article IX of the California Constitution. If the grant recipient is a regional occupational center or a program operated by a joint powers authority that does not receive principal apportionment or apportionments of state funds, or a consortia of local educational agencies, the commission shall notify the Controller of the local educational agency where the candidate taught and the Controller shall deduct the amount owed from the applicable local educational agency's next principal apportionment or apportionments of state funds, other than basic aid apportionments required by Section 6 of Article IX of the California Constitution.
- (o) An amount recovered by the commission or deducted by the Controller pursuant to subdivision (n) shall be deposited into the Proposition 98 Reversion Account.
- (p) Grant recipients may recover from a sponsored candidate who fails to earn a preliminary credential or complete the period of placement the amount of grant funding invested in the candidate's residency training. The amount to be recovered shall be adjusted proportionately to reflect the service provided if the candidate taught at least one year, but less than four years, at the sponsoring grant recipient.
- (q) Grant recipients shall not charge a teacher resident a fee to participate in the Teacher Residency Grant Program.
- (r) (1) Notwithstanding subdivision (b), the commission may allocate up to five million dollars (\$5,000,000) of the amount appropriated pursuant to subdivision (a) to capacity grants that shall be awarded on a competitive basis to local educational agencies or consortia, as designated pursuant to this section, partnering with regionally-accredited institutions of higher education to expand or create teacher residency programs that lead to more credentialed teachers to teach in shortage fields.
- (2) (A) The commission shall determine the number of capacity grants to be awarded and the amount of the applicable grants.

(B) Individual capacity grants shall not exceed two hundred thousand dollars (\$200,000) per grant recipient.

(s) For purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 2020-21 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 2020-21 fiscal year.

44417.1. The commission shall conduct an evaluation of the Teacher Residency Grant Program established in Section 44415.1 to determine the effectiveness of this program in recruiting, developing support systems for, and retaining teachers prepared to teach in commission-designated shortage areas and provide a report to the Department of Finance and the appropriate fiscal and policy committees of the Legislature by December 1, 2026.

Pioneer Union School District Hold Harmless (Amends Education Code Section 46392)

SEC 19. 46392. (a) If the average daily attendance of a school district, county office of education, or charter school during a fiscal year has been materially decreased during a fiscal year because of any of the following, the fact shall be established to the satisfaction of the Superintendent by affidavits of the members of the governing board or body of the school district, county office of education, or charter school and the county superintendent of schools:

- (1) Fire.
 - (2) Flood.
 - (3) Impassable roads.
 - (4) Epidemic.
 - (5) Earthquake.
 - (6) The imminence of a major safety hazard as determined by the local law enforcement agency.
 - (7) A strike involving transportation services to pupils provided by a nonschool entity.
 - (8) An order provided for in Section 41422.
- (b) (1) In the event a state of emergency is declared by the Governor in a county, a decrease in average daily attendance in the county below the approximate total average daily attendance that would have been credited to a school district, county office of education, or charter school had the state of emergency not occurred shall be deemed material. The Superintendent shall determine the length of the period during which average daily attendance has been reduced by the state of emergency.
- (2) The period determined by the Superintendent shall not extend into the next fiscal year following the declaration of the state of emergency by the Governor, except upon a showing by a school district, county office of education, or charter school, to the satisfaction of the Superintendent, that extending the period into the next fiscal year is essential to alleviate continued reductions in average daily attendance attributable to the state of emergency.
- (3) Notwithstanding any other law, the Superintendent shall extend through the 2018–19 fiscal year the period during which it is essential to alleviate continued reductions in

average daily attendance attributable to a state of emergency declared by the Governor in October 2017, for a school district where no less than 5 percent of the residences within the school district or school district facilities were destroyed by the qualifying emergency.

(c) The average daily attendance of the school district, county office of education, or charter school for the fiscal year shall be estimated by the Superintendent in a manner that credits to the school district, county office of education, or charter school for determining the apportionments to be made to the school district, county office of education, or charter school from the State School Fund approximately the total average daily attendance that would have been credited to the school district, county office of education, or charter school had the emergency not occurred or had the order not been issued.

(d) Notwithstanding any other law, for a school district or charter school physically located within a school district, where no less than 5 percent of the residences within the school district, or the school district's facilities, were destroyed as a result of a state of emergency that was declared by the Governor in November 2018, all of the following shall apply:

(1) In the 2020–21 fiscal year, for school districts, the Superintendent shall calculate the difference between the school district's certified second principal apportionment local control funding formula entitlement pursuant to Section 42238.02 in the 2020–21 fiscal year and the 2019–20 fiscal year and, if there is a difference, allocate the amount of that difference to the school district.

(2) In the 2021-22 fiscal year, for school districts, the Superintendent shall allocate 25 percent of the difference calculated in subparagraph (1).

(3)~~(2)~~ In the 2019–20 and 2020–21 fiscal years, for charter schools, the Superintendent shall calculate the difference between the charter school's certified second principal apportionment local control funding formula entitlement pursuant to 42238.02 in the current year and each respective prior year and, if there is a difference, allocate the amount of that difference to the charter school.

(4)~~(3)~~ For a county office of education funded pursuant to paragraph (1) of subdivision (g) of Section 2575 that has within the boundaries of the county school districts or charter schools affected pursuant to this subdivision and that has in the schools operated by the county office of education at least a 10-percent decrease in average daily attendance in the current fiscal year, in the 2019–20 and 2020–21 fiscal years, the Superintendent shall calculate the difference between the county office of education's alternative education grant entitlement certified at the annual principal apportionment pursuant to Section 2574 in the current fiscal year and each respective prior fiscal year and, if there is a difference, allocate the amount of that difference to the county office of education.

(5)~~(4)~~ A school district may transfer funds received pursuant to paragraph (1) to the county office of education for the portion of the funds that represents pupils served by the county office of education who are funded through the school district's local control funding formula apportionment pursuant to Section 2576.

(6)~~(5)~~ In each fiscal year, the allocations pursuant to this subdivision shall be made to school districts and charter schools by the Superintendent as soon as practicable after the second principal apportionment and to county offices of education as soon as practicable after the annual principal apportionment. The allocations made shall be final. The Superintendent may provide a preliminary allocation of up to 50 percent no

sooner than the first principal apportionment.

(7)~~(6)~~ (A) The amounts described in this subdivision shall be continuously appropriated from the General Fund to the Superintendent for these purposes.

(B) For purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by this subdivision shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202, for the fiscal year in which they are appropriated, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202.

(e) Notwithstanding any other law, for a school district or charter school physically located within a school district, where no less than 5 percent of the residences within the school district, or the school district's facilities, were destroyed as a result of a state of emergency that was declared by the Governor in September 2020, all of the following shall apply:

(1) For the 2021–22 fiscal year, for school districts, the Superintendent shall calculate the difference between the school district's certified annual principal apportionment local control funding formula entitlement pursuant to Section 42238.02 in the 2021-22 fiscal year and the 2019–20 fiscal year, including local revenue, pursuant to subdivision (j) of Section 42238.02, and any additional funds received pursuant to subdivision (e) of Section 42238.03 in excess of the entitlement calculated pursuant to Section 42238.02 and 42238.03.

(2) The allocations pursuant to paragraph (1) in this subdivision shall be made to school districts by the Superintendent through the principal apportionment beginning with the 2021-22 first principal apportionment certification and shall be final as of the annual principal apportionment.

(f) ~~(e)~~ This section applies to any average daily attendance that occurs during any part of a school year.

Paradise Unified School District Partial Hold Harmless Extension (Amends Education Code Section 46392)

SEC 20. 46392. (a) If the average daily attendance of a school district, county office of education, or charter school during a fiscal year has been materially decreased during a fiscal year because of any of the following, the fact shall be established to the satisfaction of the Superintendent by affidavits of the members of the governing board or body of the school district, county office of education, or charter school and the county superintendent of schools:

(1) Fire.

(2) Flood.

(3) Impassable roads.

(4) Epidemic.

(5) Earthquake.

(6) The imminence of a major safety hazard as determined by the local law enforcement agency.

(7) A strike involving transportation services to pupils provided by a nonschool entity.

(8) An order provided for in Section 41422.

(b) (1) In the event a state of emergency is declared by the Governor in a county, a decrease in average daily attendance in the county below the approximate total average daily attendance that would have been credited to a school district, county office of education, or charter school had the state of emergency not occurred shall be deemed material. The Superintendent shall determine the length of the period during which average daily attendance has been reduced by the state of emergency.

(2) The period determined by the Superintendent shall not extend into the next fiscal year following the declaration of the state of emergency by the Governor, except upon a showing by a school district, county office of education, or charter school, to the satisfaction of the Superintendent, that extending the period into the next fiscal year is essential to alleviate continued reductions in average daily attendance attributable to the state of emergency.

(3) Notwithstanding any other law, the Superintendent shall extend through the 2018–19 fiscal year the period during which it is essential to alleviate continued reductions in average daily attendance attributable to a state of emergency declared by the Governor in October 2017, for a school district where no less than 5 percent of the residences within the school district or school district facilities were destroyed by the qualifying emergency.

(c) The average daily attendance of the school district, county office of education, or charter school for the fiscal year shall be estimated by the Superintendent in a manner that credits to the school district, county office of education, or charter school for determining the apportionments to be made to the school district, county office of education, or charter school from the State School Fund approximately the total average daily attendance that would have been credited to the school district, county office of education, or charter school had the emergency not occurred or had the order not been issued.

(d) Notwithstanding any other law, for a school district or charter school physically located within a school district, where no less than 5 percent of the residences within the school district, or the school district's facilities, were destroyed as a result of a state of emergency that was declared by the Governor in November 2018, all of the following shall apply:

(1) In the 2020–21 fiscal year, for school districts, the Superintendent shall calculate the difference between the school district's certified second principal apportionment local control funding formula entitlement pursuant to Section 42238.02 in the 2020–21 fiscal year and the 2019–20 fiscal year and, if there is a difference, allocate the amount of that difference to the school district.

(2) In the 2021-22 fiscal year, for school districts, the Superintendent shall allocate 25 percent of the difference calculated in subparagraph (1).

(3)~~(2)~~ In the 2019–20 and 2020–21 fiscal years, for charter schools, the Superintendent shall calculate the difference between the charter school's certified second principal apportionment local control funding formula entitlement pursuant to 42238.02 in the current year and each respective prior year and, if there is a difference, allocate the amount of that difference to the charter school.

(4)~~(3)~~ For a county office of education funded pursuant to paragraph (1) of subdivision (g) of Section 2575 that has within the boundaries of the county school districts or charter schools affected pursuant to this subdivision and that has in the schools operated by the county office of education at least a 10-percent decrease in average daily attendance in the current fiscal year, in the 2019–20 and 2020–21 fiscal years, the

Superintendent shall calculate the difference between the county office of education's alternative education grant entitlement certified at the annual principal apportionment pursuant to Section 2574 in the current fiscal year and each respective prior fiscal year and, if there is a difference, allocate the amount of that difference to the county office of education.

(5){4} A school district may transfer funds received pursuant to paragraph (1) to the county office of education for the portion of the funds that represents pupils served by the county office of education who are funded through the school district's local control funding formula apportionment pursuant to Section 2576.

(6){5} In each fiscal year, the allocations shall be made to school districts and charter schools by the Superintendent as soon as practicable after the second principal apportionment and to county offices of education as soon as practicable after the annual principal apportionment. The allocations made shall be final. The Superintendent may provide a preliminary allocation of up to 50 percent no sooner than the first principal apportionment.

(7){6} (A) The amounts described in this subdivision shall be continuously appropriated from the General Fund to the Superintendent for these purposes.

(B) For purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by this subdivision shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202, for the fiscal year in which they are appropriated, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202.

(e) This section applies to any average daily attendance that occurs during any part of a school year.

Adult Students in Charter Schools Program (Amends Education Code Section 47612.1)

SEC 21. 47612.1. (a) Except for the requirement that a pupil be a California resident, subdivision (b) of Section 47612 shall not apply to a charter school program that provides instruction exclusively in partnership with any of the following:

(1) The federal Workforce Innovation and Opportunity Act programs for In-School Youth and Out-of-School Youth (29 U.S.C. Sec. 3101 ~~et seq.~~ Chapter 2, Section 129).

(2) Federally affiliated Youth Build programs.

(3) Federal job corps training or instruction provided pursuant to a memorandum of understanding with the federal provider.

(4) The California Conservation Corps or a local conservation corps certified by the California Conservation Corps pursuant to Section 14406 or 14507.5 of the Public Resources Code.

~~(b) This section shall become operative on July 1, 2015.~~

(b) For the purposes of this section, "exclusively in partnership" means the charter school or charter management organization has a written partnership agreement with an entity specified in Section 47612.1 (a). The agreement shall delineate the roles and responsibilities of each entity in the partnership and establish measurable outcomes and deliverables that align with the requirements of the specified programs.

(c) Charter schools operating programs pursuant to this section shall annually report and provide documentation to the department that provides evidence of their exclusive partnership with any of the entities specified in subdivision (a).

(d) For the purposes of calculating average daily attendance, beginning in the 2021-22 school year, only pupils enrolled in a program pursuant to Section 47612.1(a) and (b) may generate attendance.

(e) Notwithstanding subdivision (d) of this section, a charter school authorized to serve pupils prior to July 1, 2020 shall receive the amount computed based on 2019-20 average daily attendance certified at the second principal apportionment or funding as calculated pursuant to subsection (d), whichever is greater.

(f) The Controller shall include instructions appropriate to the enforcement of this section in the audit guide required by subdivision (a) and (b) of Section 14502.1.

Special Education Early Intervention Preschool Grant (Amends Education Code Section 56836.40)

SEC 22. 56836.40. (a) For any fiscal year in which moneys are appropriated for purposes of this section, the Superintendent shall make the following computations to determine the amount of funding for each school district for the special education early intervention preschool grant:

(1) For each school district, determine the total number of preschool children with exceptional needs residing in that school district using Fall 1 Census special education data.

(2) The sum of the totals determined pursuant to paragraph (1) is the total statewide number of preschool children with exceptional needs for the applicable fiscal year.

(3) Calculate a per pupil special education early intervention preschool grant by dividing the amount appropriated in the annual Budget Act for purposes of this section by the total statewide number of preschool children with exceptional needs calculated in paragraph (2).

(4) Calculate the special education early intervention preschool grant for each school district by multiplying the per pupil grant calculated in paragraph (3) by the total number of preschool children with exceptional needs in paragraph (1).

(5) The Superintendent shall allocate the amount of funds calculated for each school district in paragraph (4) to the applicable school district.

(b) It is the intent of the Legislature that funds allocated pursuant to this section ~~are unrestricted in nature~~ shall supplement existing special education resources currently required to be provided pursuant to federal and state law and promote a targeted focus on services and supports being offered in inclusive settings, to the extent practicable. This funding shall be used to provide services and supports in inclusive settings that have been determined to improve school readiness and long-term outcomes for infants, toddlers and preschool students ages birth to five including, but not limited to, all of the following:

(1) Early intervention services, including preschool and supportive services for children ages birth to five who are not meeting age-appropriate developmental milestones and are at risk for being identified as eligible for special education and related services. This may include children who received individualized family support plan services but did not qualify for an individualized education program, and children who have not

received an individualized family support plan nor an individualized education program.

(2) One-time programs, services, or resources for preschool children with exceptional needs that may not be medically or educationally necessary and/or required by an individualized education program or in an individualized family support plan, but which a local educational agency has determined will have a positive impact on a young child.

(3) Strategies to improve student outcomes as identified through the state system of support including inclusive educational programming that ensures a student's right to placement in the least restrictive educational environment.

(4) Wraparound services for preschool children with exceptional needs not required by federal or state law.

(5) Expansion of inclusive practices to ensure that preschool children with exceptional needs have access to learn in the least restrictive environment.

(6) Professional development for preschool teachers, administrators and paraprofessionals on evidence-based strategies to build capacity to serve preschool children with exceptional needs in more inclusive settings. This professional development may also include training for teachers, administrators, and paraprofessionals on the development of physical, social, emotional, and academic skills and on developing appropriate individualized education programs for preschool children with exceptional needs that ensure access to a free, appropriate public education in the least restrictive environment.

(c) For purposes of this section, the following definitions shall apply:

(1) "Preschool child with exceptional needs" means a child between three and five years of age, inclusive, who has been identified as an individual with exceptional needs, as defined in Section 56026, and is receiving individualized education program services, except those enrolled in kindergarten or a transitional kindergarten program.

(2) "Transitional kindergarten" means the first year of a two-year kindergarten program that uses a modified kindergarten curriculum that is age and developmentally appropriate.

(3) "Wraparound services" means integrated services and supports that address a child's holistic needs, including, but not limited to, academic, health, and social services.

Classified School Employees Teacher Credentialing Program (Adds Uncodified Section)

SEC 23. (a) For the 2021-22 fiscal year, the sum of twenty-five million dollars (\$25,000,000) is hereby appropriated from the General Fund to the Commission on Teacher Credentialing for the California Classified School Employee Teacher Credentialing Program, pursuant to Section 44393 of the Education Code. This funding shall be available for encumbrance until June 30, 2026.

(b) A grant to a local educational agency shall not exceed twenty-four thousand dollars (\$24,000) over five years per participant teacher candidate.

(c) The Commission on Teacher Credentialing shall:

(1) Allocate grants for at least 1,041 new participants.

(2) Give priority to local educational agencies that have not previously received funding pursuant to Section 44393 of the Education Code.

(d) For purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 2020-21 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 2020-21 fiscal year.

The California Early Math Initiative (Adds Uncodified Section)

SEC 24. (a) The sum of seven hundred eight thousand dollars (\$708,000) is hereby appropriated in the 2021-22 fiscal year from the General Fund by the Controller to the State Department of Education for allocation to the Fresno County of Education for purposes of reducing the outstanding balance of the minimum funding obligation to school districts and community college districts pursuant to Section 8 of Article XVI of the California Constitution for the 2013–14 fiscal year.

(b) These funds shall:

(1) Be available through June 30, 2024, for the Fresno County Office of Education to continue to administer the California Early Math Initiative as established by Provision (3) of Item 6100-195-0890 of the Budget Act of 2018 (Ch.840, Stats.2018) consistent with the statewide system of support pursuant to Article 4.5 (commencing with Section 52059.5) of Chapter 6.1 of Part 28 of Division 4 of Title 2 of the Education Code.

(2) Supplement the funds allocated pursuant to Provision (1) of Item 6100-488 of the Budget Act of 2021.

(c) The State Department of Education shall complete the transfer of funds to the Fresno County Office of Education no later than December 1, 2021.

(d) For purposes of Section 8 of Article XVI of the California Constitution, the amount appropriated pursuant to subdivision (a), shall be applied to the outstanding balance of the minimum funding obligation to school districts and community college districts, pursuant to Section 8 of Article XVI of the California Constitution, for the 2013–14 fiscal year, and shall be deemed to be appropriations made and allocated in that fiscal year in which the deficiencies resulting in the outstanding balance were incurred.

Educator Effectiveness Block Grant (Adds Uncodified Section)

SEC 25. (a) (1) The sum of two hundred fifty million dollars (\$250,000,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for apportionment to school districts, county offices of education, charter schools, and the state special schools in an equal amount per full-time equivalent certificated staff, which shall not exceed the total certificated staff count for each eligible local educational agency, in the 2020-21 fiscal year. The Superintendent of Public Instruction shall make the calculations pursuant to this section using the data submitted through the California Longitudinal Pupil Achievement Data System.

(2) A school district, county office of education, charter school, or state special school may expend the funds received pursuant to this subdivision over the 2021-22 fiscal year, 2022-23 fiscal year, and the 2024-25 fiscal year. It is the intent of the Legislature that school districts, county offices of education, charter schools, and state special schools coordinate the use of any federal funds received under Title II of the federal Every

Student Succeeds Act of 2015 (Public Law 114-95) to support teachers and administrators with the provisions of this subdivision.

(b) A school district, county office of education, charter school, or state special school shall expend funds allocated pursuant to this section to provide professional learning for teachers and paraprofessionals who work with students, with a focus on any of the following areas:

(1) Programs that lead to effective, standards-aligned instruction and improve instruction in literacy across all subject areas, including English language arts, history-social science, science, technology, engineering, and mathematics fields, and computer science.

(2) Practices and strategies that re-engage students and lead to accelerated learning.

(3) Strategies to implement social-emotional learning, trauma-informed practices, suicide prevention, access to mental health services, and other approaches that improve student well-being.

(4) Practices to create a positive school climate including, but not limited to, restorative justice, training around implicit bias, providing positive behavioral supports, multi-tiered systems of support, and preventing discrimination, harassment, bullying and intimidation based on actual or perceived characteristics including disability, gender, gender identity, gender expression, language, nationality, race or ethnicity, religion, or sexual orientation.

(5) Strategies to improve inclusive practices including, but not limited to, universal design for learning, best practices for early identification, and development of individualized education programs for individuals with exceptional needs.

(6) Instruction and education to support implementing effective language acquisition programs for English learners, which may include integrated language development within and across content areas, and building and strengthening capacity to increase bilingual and biliterate proficiency.

(c) Professional learning provided pursuant to this section shall:

(1) Be content focused, incorporate active learning, support collaboration, use models of effective practice, provide coaching and expert support, offer feedback and reflection, and be of sustained duration.

(2) As applicable, be aligned to the academic content standards adopted pursuant to Sections 51226, 60605, 60605.1, 60605.2, 60605.3, 60605.4, 60605.8, 60605.11 of the Education Code, as that section read on June 30, 2020.

(d) As a condition of receiving funds allocated pursuant to this subdivision, a school district, county office of education, charter school, or state special school shall do both of the following:

(1) Develop and adopt a plan delineating how funds allocated pursuant to this section shall be spent. The plan shall be explained in a public meeting of the governing board of the school district, county board of education, or governing body of the charter school, before its adoption in a subsequent public meeting.

(2) On or before September 30, 2025, report detailed expenditure information to the State Department of Education, including, but not limited to, specific purchases made and the number of teachers, administrators, or paraprofessional educators that received professional development. The State Department of Education shall determine the format for this report.

(e) The State Department of Education shall summarize the information reported pursuant to subdivision (d) and shall submit the summary to the appropriate budget

subcommittees and policy committees of the Legislature and to the Department of Finance on or before November 30, 2025.

(f) Funding apportioned pursuant to this section is subject to the annual audits required by Section 41020 of the Education Code.

(f) For purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the funds appropriated pursuant to this section shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 2020-21 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 2020-21 fiscal year.

Ethnic Studies Professional Development (Adds Uncodified Section)

SEC 26. (a) For the 2021-22 fiscal year, the sum of five million dollars (\$5,000,000) is hereby appropriated from the General Fund to the State Department of Education to provide professional development and resources to support local educational agencies offer new and expanded ethnic studies courses.

(b) (1) For the purposes specified in subdivision (a), the State Department of Education, in collaboration with, and subject to the approval of, the executive director of the State Board of Education, shall enter into a contract with a county office of education or consortium of county offices of education.

(2) When performing the activities specified in subdivision (c), the county office or consortium may enter into appropriate contracts with postsecondary educational institutions and/or a nonprofit organization, as necessary.

(c) Funds shall be used to:

(1) Provide professional development and regional training for teachers, administrators, and paraprofessionals to support creation or expansion of ethnic studies course offerings, including, but not limited to, courses that use the Ethnic Studies Model Curriculum adopted pursuant to Section 51226.7 as a guide.

(2) Provide access to an online repository of resources to support ethnic studies courses. This includes the collection and review of materials to be made available for educators to use in implementing the Ethnic Studies Model Curriculum adopted pursuant to Section 51226.7.

(d) Professional learning provided pursuant to this section shall be content focused, incorporate active learning, support collaboration, use models of effective practice, provide coaching and expert support, offer feedback and reflection, and be of sustained duration.

(e) For purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriations made by subdivision (a) shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 2020-21 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 2020-21 fiscal year.

School Climate Survey Resources (Adds Uncodified Section)

SEC 27. (a) The sum of ten million dollars (\$10,000,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction on a one-time basis to apportion to a designated local educational agency, or two designated local educational agencies, selected by the State Department of Education and the executive director of the State Board of Education, to perform the following activities:
(1) Gather information on valid, reliable, and appropriate school climate surveys for purposes of assessing student experiences and school supports, including helping local educational agencies better assess community needs stemming from COVID-19 and distance learning through the use of surveys for students, families, and educators.
(2) Provide grants to local educational agencies to implement enhanced survey instruments and support costs associated with conducting school climate surveys on an annual basis. The sum of the grants awarded shall be no greater than five million dollars (\$5,000,000).
(3) Provide training for local educational agencies on interpreting data and using responses collected to inform continuous improvement efforts.
(b) For the purposes specified in subdivision (a), the State Department of Education, in collaboration with, and subject to the approval of, the executive director of the State Board of Education, shall enter into a contract with the designated local educational agency, or two designated local educational agencies, which may include authorization to enter into subcontracts for the provision of support and services, as necessary and with prior approval. The designated local educational agency, or local educational agencies, shall encumber or expend the funds provided through this section by June 30, 2024.
(c) To support the continuous improvement of the state's accountability system, including further enhancement of the state and local indicators developed for the California School Dashboard pursuant to Section 52064.5, and the statewide system of support, every effort shall be made to ensure coherence with the local climate survey indicator as outlined in Section 52060 (d)(6) and maximize the consistency of school-level data gathered through school climate surveys when performing this work.
(d) For purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriations made by subdivision (a) shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 2020-21 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 2020-21 fiscal year.

Standardized Account Code Structure System (Adds Uncodified Section)

SEC 28. (a) For the 2021–22 fiscal year, the sum of three million one hundred thousand dollars (\$3,100,000) is hereby appropriated from the Federal Trust Fund to the State Department of Education for the purposes set forth in subdivision (b).
(b) The State Department of Education shall allocate the funds appropriated pursuant to subdivision (a) to the Kern County superintendent of schools for the County Office Fiscal Crisis and Management Assistance Team for the Standardized Account Code Structure system replacement project.

**Professional Development on Social Emotional Learning and Trauma-Informed Practices
(Adds Uncodified Section)**

SEC 29. (a) For the 2021-22 fiscal year, the sum of fifty million dollars (\$50,000,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction to apportion to the Orange County Department of Education in the manner, and for the purposes, set forth in this section.

(b) The Orange County Department of Education, in consultation with the Superintendent of Public Instruction and the executive director of the State Board of Education, shall allocate no less than thirty million dollars (\$30,000,000) of the amount appropriated in subdivision (a) as grants to local educational agencies for the purpose of funding schoolwide and districtwide implementation of services or practices aligned to the Multi-Tiered System of Support framework developed under the "Scale Up MTSS Statewide" (SUMS) project. The funds shall be granted to local educational agencies no later than December 15, 2021.

(1) Funds granted to local educational agencies shall be used to support the implementation of high quality integrated academic, behavioral and social emotional learning practices in an integrated multi-tiered system of support at the schoolwide level, including but not limited to, all of the following:

(A) Educator and leader training on the foundations of California Multi-Tiered System of Support framework and practices, as developed by the SUMS project.

(B) Ongoing training and coaching support to school site educators and leaders in deepening the implementation of high leverage practices for integrated academic, behavioral and social emotional learning across tiers throughout the school community.

(C) Ongoing training and support to school and district leaders in aligning practices, policies and structures to create and sustain a schoolwide and districtwide integrated multi-tiered system of support.

(D) Establishing school and district level multi-tiered system of support teams to support implementation efforts.

(2) Funds shall be granted with priority to local educational agencies serving a high number of unduplicated pupils, as defined in Section 42238.02 that have participated in district level training to implement an integrated multi-tiered system of support.

(3) Local educational agencies receiving funds shall regularly measure and report on implementation fidelity using the tools and resources developed by the SUMS project. Data shall be reported to the Orange County Department of Education and the State Department of Education in a form available to the public.

(c) The Orange County Department of Education, jointly with Butte County Office of Education, shall contract with a local educational agency, institute of higher education, or nonprofit educational service provider, or a consortia, selected in consultation with and subject to the approval of the executive director of the State Board of Education, to expand the state's capacity to support local educational agencies implementation of social emotional learning; trauma-informed practices; and culturally relevant, affirming and sustaining practices. The partner entity shall be selected by February 15, 2022. No more than twenty million dollars (\$20,000,000) of the amount appropriated in subdivision (a) is available to support the efforts described in this subsection.

(1) The partner entity shall have demonstrated expertise in developing and delivering high quality professional learning to educators in social emotional learning; trauma-informed practices; and culturally relevant, affirming and sustaining practices in a manner that aligns with local multi-tiered systems of support. The partner shall support the Orange County Department of Education and the Butte County Office of Education in offering high quality professional learning by performing the following functions:

(A) Creating, collecting and curating resources for educators on social emotional learning; trauma-informed practices; and culturally relevant, affirming and sustaining practices.

(B) Convening professional learning communities of educators and leaders.

(C) Providing ongoing training and coaching to educators and school leaders.

(2) "High quality professional learning" shall include, but not be limited to, professional learning that is content-focused, incorporates active learning utilizing adult learning theory, supports collaboration in job-embedded contexts, uses models and modeling of effective practice, provides coaching and expert support, offers opportunities for feedback

(d) A local educational agency that receives a grant from the designated county offices of education, as described in subdivision (b) or (c), shall, as a condition of receiving the grant, provide to the designated county offices of education and the State Department of Education any available outcome data resulting from the practices implemented, and participate in overall program evaluation.

(e) The designated county offices of education may use up to one million dollars (\$1,000,000) in total to administer the grants and provide support to the grantees pursuant to Department of Finance approval of an expenditure plan and no sooner than 30 days after notification in writing is provided to the Joint Legislative Budget Committee.

(f) For purposes of this section, the following terms shall have the following meanings:

(1) "Designated county offices of education" means the Orange County Department of Education and the Butte County Office of Education.

(2) "Local educational agency" means a school district, county office of education or charter school.

(g) For purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriations made by subdivision (a) shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 2020-21 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 2020-21 fiscal year.

Special Olympics (Adds Uncodified Section)

SEC 30. For the 2021–22 fiscal year, the sum of four million dollars (\$4,000,000) is hereby appropriated from the General Fund to the State Department of Education. The Superintendent of Public Instruction shall allocate these funds to the Special Olympics of Northern and Southern California for the purposes of supporting the Unified Champion Schools Program, the Healthy Athletes Program, and the Community Sports Program. This funding shall be available for the 2021–22, 2022–23, and 2023–24 fiscal years.

Medi-Cal Professional Learning Networks (Adds Uncodified Section)

SEC 31. (a) The sum of five million dollars (\$5,000,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction on a one-time basis to apportion to two or more designated local educational agencies, selected by the State Department of Education, in consultation with and subject to the approval of the executive director of the State Board of Education, to establish and convene professional learning networks to do all of the following:

(1) Support local educational agencies in establishing the infrastructure and partnerships needed to enable successful participation in the Local Educational Agency Medi-Cal Billing Option Program.

(2) Define common characteristics and best practices of local educational agencies that are successful in submitting claims through the Local Educational Agency Medi-Cal Billing Option Program and drawing down federal reimbursement for Medi-Cal services.

(3) Provide peer-to-peer learning opportunities and create capacity for local educational agencies to become self-sustaining and secure federal reimbursement for services provided to Medi-Cal eligible students.

(b) Designated agencies selected pursuant to subdivision (a) shall be enrolled as providers in the Local Educational Agency Medi-Cal Billing Option Program, demonstrate a history of receiving federal reimbursement for health related assessments and services through the Local Educational Agency Medi-Cal Billing Option Program, and commit to regularly participating and sharing the perspectives of local educational agencies in the LEA Program Advisory Workgroup convened by the Department of Health Care Services.

(c) By February 1, 2022, the local educational agencies selected pursuant to subdivision (a) shall solicit local educational agencies to participate in the professional learning networks and convene their first meeting. For subsequent meetings, every attempt shall be made to schedule the meetings in months that the LEA Advisory Workgroup convened by the Department of Health Care Services does not meet.

(d) Each professional learning network shall represent a different region of the state and, to the extent possible, shall include schoolsite staff and leadership, school district staff and leadership, county office of education staff and leadership. Participants of the professional learning networks shall be willing to do all of the following:

(1) Participate in the professional learning network for no less than two years.

(2) Engage in open dialogue on issues related to participation in the Local Educational Agency Medi-Cal Billing Option Program.

(3) Partner with others as needed to enhance Medi-Cal services on school sites, increase access of care for students, and increase Medi-Cal reimbursement for LEAs.

(c) For purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriations made by subdivision (a) shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 2020-21 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 2020-21 fiscal year.

Medi-Cal Billing Guidance and Support (Adds Uncodified Section)

SEC 32. (a) (1) By November 1, 2021, the State Department of Education, with approval from the executive director of the State Board of Education, shall select a local educational agency to provide guidance around Medi-Cal billing and increase local educational agencies capacity to successfully submit claims through the Local Educational Agency Medi-Cal Billing Option Program. The local educational agency selected for this work shall demonstrate success in submitting claims through the Local Educational Agency Medi-Cal Billing Option Program and drawing down federal reimbursement for Medi-Cal services and a willingness and capacity to do all of the following:

(A) Provide effective assistance and support to local educational agencies in securing federal reimbursement for services provided to Medi-Cal eligible students.

(B) Work in coordination and collaboration with expert lead agencies identified pursuant to Section 52073.1, special education resource leads identified pursuant to Section 52073.2, the Department of Education, and the Department of Health Care Services, and the Medi-Cal professional learning networks established pursuant to Section 31 of this bill.

(C) Identify and disseminate information around existing resources, professional development activities, and other efforts currently available to assist local educational agencies in successfully submitting claims through the Local Educational Agency Medi-Cal Billing Option Program and drawing down federal reimbursement for Medi-Cal services.

(D) Upon request by the Department of Education and the Department of Health Care Services, develop new resources and activities designed to build capacity for local educational agencies to secure federal reimbursement for services provided to Medi-Cal eligible students.

(E) Serve as a point of contact for local educational agencies, and regularly participate and share the perspectives of local educational agencies in the LEA Program Advisory Workgroup convened by the Department of Health Care Services.

(F) Other duties as prescribed by the State Department of Education, to enhance Medi-Cal services on school sites, increase access of care for students, and increase Medi-Cal reimbursement for local educational agencies.

(2) The local educational agency shall be selected for a term not to exceed five years.

(3) A local educational agency may partner as a consortium with other local educational agencies, institutions of higher education, nonprofit educational services providers or county mental health providers to submit a proposal to serve in this capacity.

(b) (1) At the conclusion of the term for the selected local educational agency, the State Department of Education, with approval from the executive director of the State Board of Education, may renew the selection of the existing local educational agency or reopen the selection in a manner consistent with subdivision (a).

(2) Before renewing the selection of an existing local educational agency, the State Department of Education shall evaluate the local educational agency's success in fulfilling the responsibilities described in subdivision (a).

(3) As part of the request for renewal, the existing local educational agency shall provide a description of efforts they have made to carry out the duties described in subdivision (a).

(c) Commencing with the 2021-22 fiscal year, the sum of two hundred and fifty thousand dollars (\$250,000) shall be appropriated annually to the department from the Proposition 98 General Fund to be awarded to the local educational agency selected pursuant to this section.

(d) For purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the amount appropriated in subdivision (c) shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202.

California Community Schools Partnership Program (Adds Uncodified Section)

SEC 33. (a) The Legislature finds and declares all of the following:

(1) The COVID-19 emergency has continued to exacerbate conditions associated with poverty, including food insecurity, housing and employment instability, and inadequate health care.

(2) Community schools offer unique models to more efficiently and effectively provide integrated educational, health, and mental health services to pupils with a wide range of needs that have been affected by the COVID-19 crisis.

(3) Additional investment in community schools that provide integrated pupil supports, community partnerships, and expanded learning opportunities will help address the trauma and loss of learning that have resulted from the COVID-19 crisis.

(b) The sum of one hundred million dollars (\$100,000,000) is hereby appropriated from the Proposition 98 General Fund in the 2021–22 fiscal year to the Superintendent of Public Instruction to administer the California Community Schools Partnership Program in the manner and for the purposes set forth in this section. These funds, along with the amount appropriated for purposes of this section in Provision 1 of Item 6100-485 of Section 2.00 of the Budget Act of 2021, shall be made available for encumbrance or expenditure until June 30, 2026.

(c) On or before November 1, 2021, the Superintendent, with the approval of the executive director of the State Board of Education, shall update as necessary, the application process and administration plan for the selection of grant recipients under the program. Administration of the California Community Schools Partnership Program shall include offering technical assistance to potential applicants before awarding a grant under the program and providing program oversight and technical assistance to grantees selected pursuant to this section. The Superintendent may retain up to 1 percent of the appropriation pursuant to this section for technical assistance purposes.

(d) The Superintendent shall award, subject to the approval of the executive director of the state board, grants on a competitive basis to local educational agencies, including county offices of education, to support the establishment of new and the expansion of existing community schools and shall give priority to grant funding based on the following:

(1) Applicants serving pupils in high-poverty schools in which at least 80 percent of the pupil population are eligible for free and reduced-price meals.

(2) Applicants with a demonstrated need for expanded access to integrated services.

(3) Applicants who commit to coordinate and partner in a consortium with other schools or county agencies.

(4) Applicants with committed matching funds for pupil services.

(5) Applicants with a plan for sustaining community school services after grant expiration.

(6) Applications with cosignatories from partner government agencies, including, but not limited to, county public health, county health, and county mental health agencies.

(e) Grant funding may be used for any of the following purposes:

(1) Establishing new community schools, which may include direct grants to local educational agencies.

(2) Expanding and sustaining existing community schools, which may include direct grants to local educational agencies.

(3) Coordinating and providing health, mental health, social services, and pupil support services to pupils and families at community schools.

(4) Providing training and support to local educational agency personnel to help develop best practices for integrating pupil supports.

(f) For purposes of this section, both of the following definitions apply:

(1) "Community school" means a public school serving preschool, kindergarten, or any of grades 1 to 12, inclusive, and includes the following:

(A) Integrated supports services, including the coordination of health, mental health, and social services that ensure coordination and support with county and local educational agency resources, and early screening and intervention for learning and other needs.

(B) Family and community engagement, which may include home visits, home-school collaboration, community partnerships, and school climate surveys.

(C) Collaborative leadership and practices for educators and administrators, including professional development to support mental and behavioral health, trauma-informed care, social-emotional learning, restorative justice, and other key areas.

(D) Extended learning time and opportunities, including before and after school care.

(2) "Local educational agency" means a school district, county office of education, or charter school, excluding nonclassroom-based charter schools operating pursuant to Section 47612.5 of the Education Code.

(g) Grant recipients shall commit to providing program data to the State Department of Education, as specified by the Superintendent, and participate in overall program evaluation.

(h) The impact of the grant program in achieving the goals described in this section, including an evaluation of the effectiveness of the opportunities provided, shall be included in the comprehensive report that is required to be submitted on December 31, 2025, to the Governor and the appropriate policy and fiscal committees of the Legislature, pursuant to Chapter 110 of the Statutes of 2020 (SB 820).

(i) For purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriations made by subdivision (b) shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 2020-21 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 2020-21 fiscal year.

Proposition 98 Matching Funds for Children's Mental Health Services (Adds Uncodified Section)

SEC 34. (a) For the 2021-22 fiscal year and each year thereafter, the sum of twenty-five million dollars (\$25,000,000) is hereby appropriated from the General Fund to the State Department of Education, for the purpose of expanding the scope of services available in school settings and strengthening the partnership between schools and counties to meet the mental health needs of students.

(b) Funding under this program shall be used to award competitive incentive grants to local educational agencies to match proposed county expenditures for children's mental health services, as specified in a county's three-year program and expenditure plan or annual update prepared pursuant to Section 5847 of the Welfare and Institutions Code.

(c) The match shall be in the form of one dollar (\$1) for every one dollar (\$1) of funding identified for expenditure towards a children's mental health services project in a county's three-year program and expenditure plan or annual update pursuant to paragraphs (1), (2), and (4) of subdivision (b) of Section 5847 of the Welfare and Institutions Code.

(d) The Superintendent, with the approval of the executive director of the State Board of Education, shall develop and administer a competitive application process for the selection of local educational agency grant recipients under this program.

(e) The Superintendent shall require that applicants comply with, at minimum, all of the following requirements:

(1) That the plan includes a description of the following:

(A) The need for mental health services at the local educational agency as well as potential gaps in local service connections.

(B) That plans address the mental health needs of enrolled students in kindergarten through grade 12 in a manner consistent with a whole child approach, including but not limited to the following:

(i) Professional development for educators to identify early warning signs and risk factors for students in need of mental health supports.

(ii) Establishment or expansion of mental health and counseling staff available in schools.

(iii) Development of peer support networks, and other activities that promote students' sense of connectedness and belonging to a school community.

(iv) Development of partnerships with community organizations, including health and mental health service providers, with an emphasis on those that serve at risk student groups.

(v) Development of resources and supports for family engagement.

(vi) Resources that address the acute and chronic mental health support needs in communities experiencing ongoing natural disasters and systemic violence.

(C) A proposal for how the funds will be used to expand a county's children's mental health services project and meet data collection and reporting requirements required of Mental Health Services Act three-year program plans.

(f) (1) Incentive funding awarded pursuant to this section shall be awarded for a term not to exceed three years.

(2) At the conclusion of each grant term, the department may renew the selection of the grantees or reopen the selection process in a manner consistent with subdivisions (d) and (e).

(g) The Superintendent shall determine the amount of grants and shall take into consideration the level of need when determining grant amounts.

(h) For purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriations made by subdivision (a) shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 2021-22 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 2021-22 fiscal year.

Charter Mid-Year Closure Penalty (Adds Uncodified Section)

SEC 35. (a) Notwithstanding paragraph (1) of subdivision (i) of Education Code section 43504, the State Superintendent of Public Instruction shall proportionately reduce the amount of funding pursuant to subdivision (b) of Section 11960 of Title 5 of the California Code of Regulations for a charter school that has ceased operation during the 2020–21 school year if school was actually taught in the charter school on fewer than 175 calendar days during that school year.

Transitional Kindergarten Teacher Credentials (Adds Uncodified Section and Amends Education Code Section 48000)

SEC 36. (a) The Commission on Teacher Credentialing may convene a group of stakeholders to assess how current transitional kindergarten credentialing requirements are being implemented and align with the recently released Master Plan for Early Learning and Care.

48000. (a) A child shall be admitted to a kindergarten maintained by the school district at the beginning of a school year, or at a later time in the same year, if the child will have their fifth birthday on or before one of the following dates:

- (1) December 2 of the 2011–12 school year.
- (2) November 1 of the 2012–13 school year.
- (3) October 1 of the 2013–14 school year.
- (4) September 1 of the 2014–15 school year and each school year thereafter.

(b) The governing board of the school district of a school district maintaining one or more kindergartens may, on a case-by-case basis, admit to a kindergarten a child having attained the age of five years at any time during the school year with the approval of the parent or guardian, subject to the following conditions:

(1) The governing board of the school district determines that the admittance is in the best interests of the child.

(2) The parent or guardian is given information regarding the advantages and disadvantages and any other explanatory information about the effect of this early admittance.

(c) As a condition of receipt of apportionment for pupils in a transitional kindergarten

program pursuant to Section 46300, and Chapter 3 (commencing with Section 47610) of Part 26.8, as applicable, a school district or charter school shall ensure the following:

(1) In the 2012–13 school year, children who will have their fifth birthday between November 2 and December 2 shall be admitted to a transitional kindergarten program maintained by the school district or charter school.

(2) In the 2013–14 school year, children who will have their fifth birthday between October 2 and December 2 shall be admitted to a transitional kindergarten program maintained by the school district or charter school.

(3) (A) In the 2014–15 school year and each school year thereafter, children who will have their fifth birthday between September 2 and December 2 shall be admitted to a transitional kindergarten program maintained by the school district or charter school.

(B) (i) For the 2015–16 school year and each school year thereafter, a school district or charter school may, at any time during a school year, admit children to a transitional kindergarten program who will have their fifth birthday after December 2 but during that same school year, with the approval of the parent or guardian, subject to the following conditions:

(I) The governing board of the school district or the governing body of the charter school determines that the admittance is in the best interests of the child.

(II) The parent or guardian is given information regarding the advantages and disadvantages and any other explanatory information about the effect of this early admittance.

(ii) Notwithstanding any other law, a pupil admitted to a transitional kindergarten program pursuant to clause (i) shall not generate average daily attendance for purposes of Section 46300, or be included in the enrollment or unduplicated pupil count pursuant to Section 42238.02, until the pupil has attained the pupil's fifth birthday, regardless of when the pupil was admitted during the school year.

(d) For purposes of this section, "transitional kindergarten" means the first year of a two-year kindergarten program that uses a modified kindergarten curriculum that is age and developmentally appropriate.

(e) A transitional kindergarten shall not be construed as a new program or higher level of service.

(f) It is the intent of the Legislature that transitional kindergarten curriculum be aligned to the California Preschool Learning Foundations developed by the department.

(g) As a condition of receipt of apportionment for pupils in a transitional kindergarten program pursuant to Section 46300, a school district or charter school shall ensure that credentialed teachers who are first assigned to a transitional kindergarten classroom after July 1, 2015, have, by August 1, ~~2021~~ 2023, one of the following:

(1) At least 24 units in early childhood education, or childhood development, or both.

(2) As determined by the local educational agency employing the teacher, professional experience in a classroom setting with preschool age children that is comparable to the 24 units of education described in paragraph (1).

(3) A child development teacher permit issued by the Commission on Teacher Credentialing.

(h) A school district or charter school may place four-year-old children, as defined in subdivision (aj) of Section 8208, enrolled in a California state preschool program into a transitional kindergarten program classroom. A school district or charter school that commingles children from both programs in the same classroom shall meet all of the requirements of the respective programs in which the children are enrolled, and the

school district or charter school shall adhere to all of the following requirements, irrespective of the program in which the child is enrolled:

(1) An early childhood environment rating scale, as specified in Section 18281 of Title 5 of the California Code of Regulations, shall be completed for the classroom.

(2) All children enrolled for 10 or more hours per week shall be evaluated using the Desired Results Developmental Profile, as specified in Section 18272 of Title 5 of the California Code of Regulations.

(3) The classroom shall be taught by a teacher that holds a credential issued by the Commission on Teacher Credentialing in accordance with Section 44065 and subdivision (b) of Section 44256 and who meets the requirements set forth in subdivision (g).

(4) The classroom shall be in compliance with the adult-child ratio specified in subdivision (c) of Section 8264.8.

(5) Contractors of a school district or charter school commingling children enrolled in the California state preschool program with children enrolled in a transitional kindergarten program classroom shall report the services, revenues, and expenditures for the California state preschool program children in accordance with Section 18068 of Title 5 of the California Code of Regulations. Those contractors are not required to report services, revenues, and expenditures for the children in the transitional kindergarten program.

(i) Until July 1, 2019, a transitional kindergarten classroom that has in attendance children enrolled in a California state preschool program shall be licensed pursuant to Chapter 3.4 (commencing with Section 1596.70) of, and Chapter 3.5 (commencing with Section 1596.90) of, Division 2 of the Health and Safety Code.

(j) A school district or charter school that chooses to place California state preschool program children into a transitional kindergarten program classroom shall not also include children enrolled in transitional kindergarten for a second year or children enrolled in kindergarten in that classroom.

The 2021-22 Budget: Special Education Proposals

FEBRUARY 2021

SPECIAL EDUCATION PRESCHOOL

Background

State Provides Most Special Education Funding Based on Overall K-12 Student Attendance. The state allocates most special education funding through a base rate formula commonly called AB 602 (after its enacting legislation). The formula distributes funding based on overall K-12 student attendance to Special Education Local Plan Areas (SELPAs)—typically a regional consortium of education entities that coordinate special education services. Large districts often serve as their own SELPA.

Schools Serve Preschoolers With Disabilities Using Local General Purpose or K-12 Special Education Funding. Federal law requires school districts to begin providing special education services to all children with disabilities upon their third birthday. Despite this requirement, the state historically has not provided special education funding for three- and four-year olds. As a result, districts commonly fund services for preschool-aged children with unrestricted local general purpose funding (primarily from the Local Control Funding Formula) or state funding for K-12 special education. Preschool-aged children with disabilities can be served alongside other children with special needs or in more inclusive settings alongside children without disabilities, such as the federal Head Start Program or the California State Preschool Program.

2019-20 Budget Package Provided \$493 Million One-Time Funding for Special Education Preschool. The 2019-20 budget was the first time the state provided funding for special education services for preschool-aged children. Specifically, the budget provided \$493 million in one-time funding to districts based on the number of preschool-aged children with disabilities they

serve—\$9,010 per child. Districts were not required to use these funds for additional services. Thus, funds were likely used to cover the cost of existing preschool services.

Governor's Proposal

Provides \$300 Million Ongoing Proposition 98 for Special Education Preschool. The Governor's budget includes \$300 million ongoing to be allocated to districts based on the number of preschool-aged children with disabilities residing in the district. Similar to the preschool funds provided in 2019-20, there are no restrictions on this funding. Rather, the Governor intends this funding to (1) supplement existing services, (2) promote inclusive practices, and (3) cover early intervention services provided both within and outside of special education.

Assessment

Different Approach for Preschool Further Complicates Special Education Funding. Given the requirements for districts to serve preschool-aged children with disabilities under federal law, we think providing ongoing state funding for this group of children is reasonable. The Governor's approach to funding preschool special education, however, is inconsistent with how the state provides most special education funding. Allocating the funding to a different set of entities (districts instead of SELPAs) and using a different allocation formula (number of children with disabilities instead of overall attendance) would add unnecessary complexity to the state's special education funding system. Furthermore, the program would complicate regional coordination of services through SELPAs. Many smaller districts coordinate special education services—including preschool-aged programs—with other districts in their SELPA. Allocating preschool funding directly to

districts would create additional barriers for pooling funding to coordinate these regional services.

Proposal Could Increase Special Education Identification Rates. Although the proposal could help encourage schools to provide services to students at an earlier age, providing funding based on the number of children identified with a disability could introduce a new financial incentive to over-identify children for special education. This is a key distinction from the state's base special education formula, which was developed with the intent to eliminate any fiscal benefits to over-identification. California law requires districts to re-evaluate a child's need for special education prior to entering kindergarten. Nonetheless, the Legislature will want to consider the long-term effects of creating such a financial incentive. This incentive may be most likely to affect how districts address borderline cases, such as a three-year old with slow speech development, where it may be difficult to determine whether the child needs special intervention to catch up to peers.

Impact of Funding Would Be Unclear Due to Lack of Restrictions and Accountability. Even though the Governor's proposal includes intent language that funding be used for certain activities beyond special education, there are no statutory restrictions on this funding to ensure that this is in fact achieved. Districts would have broad discretion over how closely to follow the intent language, and spending decisions would likely vary across the state. Some districts could use the funding to cover existing special education preschool services, whereas other districts could provide new early intervention services to a broader group of preschoolers, as specified in the intent language. Without any spending restrictions or accountability measures, the Legislature would be unable to determine the impact of the funding, and the extent to which additional state efforts to promote inclusion and early intervention may be warranted.

Proposal Does Not Address Current Challenges With Inclusion or Early Intervention. Although the Governor's proposal allows the additional funding to be used for inclusion and early intervention, it does not address the underlying barriers that exist for schools. California has a relatively low rate of inclusion for its preschool-aged students with disabilities. In 2018-19, only

27 percent of California's preschool-aged children with disabilities attended an inclusive program for at least ten hours a week, compared to 60 percent nationally. Special education preschool administrators we spoke to cited challenges finding inclusive settings for their preschoolers with disabilities. The existing options for inclusion, such as the State Preschool program, often have program regulations and requirements that can make it difficult to accommodate children with disabilities. For instance, a State Preschool program may not be licensed to serve children with behavior or cognitive challenges. Administrators also reported that preschool staff often lack the expertise to address the specific needs of students with disabilities. For early intervention, districts may face challenges finding and identifying preschool-aged children with disabilities, especially if the child does not attend a preschool program where they could be referred for special education services.

Recommendations

Provide Funding for Preschoolers Through Existing Special Education Base Formula. To align with how the state primarily funds special education, we recommend the Legislature expand the existing special education base formula to include ongoing funding for preschool-aged children. Expanding the base formula would allow the state to recognize local costs associated with serving this age group, while avoiding the additional challenges introduced by the Governor's proposal. Specifically, we recommend modifying the special education base formula to double-count kindergarten attendance for school districts. This approach effectively uses kindergarten attendance as a proxy for preschool attendance, since most preschool-aged students do not attend programs in public schools. We estimate this approach would cost around \$255 million for 2021-22, freeing up about \$45 million relative to the Governor's proposal.

Explore Opportunities to Promote Inclusive Practices and Early Intervention. With the remaining \$45 million, the Legislature could consider other ways to promote inclusive practices and early intervention. For instance, the Legislature could expand existing initiatives that provide districts technical assistance to implement inclusive

practices or support coordinated efforts for early identification and intervention.

MEDI-CAL BILLING

Background

California Has Low Participation in the School-Based Medi-Cal Billing Program. Schools have the option to seek partial reimbursement for some health-related services from Medi-Cal—the state’s health care program for low-income residents—through the school-based Medi-Cal billing program. Because Medi-Cal is jointly funded by the state and federal government, greater participation from schools allows the state to bring in additional federal funds. Eligible services through the Medi-Cal billing program include counseling, occupational therapy, speech therapy, and transportation related to these services. Previously, schools were primarily eligible to be reimbursed for services provided to students receiving special education who also were enrolled in Medi-Cal. A recent program change approved April 2020, however, expands coverage to include all Medi-Cal enrolled students. Low participation has been a longstanding issue, as only about half of California’s school districts participate in the Medi-Cal billing program. A recent analysis by WestEd showed that California received a low rate of federal reimbursement per Medi-Cal enrolled student in 2014-15 compared to other states—suggesting substantial opportunities to draw down additional federal funds.

2019-20 Budget Package Established the Medi-Cal Billing Work Group. In response to low participation in the school-based Medi-Cal billing program, the 2019-20 budget package provided \$500,000 one-time General Fund for the California Department of Education (CDE) to convene two interagency work groups—one of which was to focus on Medi-Cal billing and include the Department of Health Care Services (DHCS). The work group is tasked with providing recommendations to the Legislature, by October 1, 2021, to improve access to the Medi-Cal billing program. The work group’s interim report released in October 2020 identified several barriers to program participation, including the lack of interagency

collaboration between CDE and DHCS, challenging documentation and billing system requirements, a high share of claims being disallowed, and limited state-led training and support.

Governor’s Proposal

Provides \$5.3 Million Proposition 98 for Medi-Cal Billing Professional Learning. The Governor’s budget provides \$5 million one-time for CDE to select two or more school districts or county offices of education to convene professional learning networks and share best practices on the Medi-Cal billing program. The Governor’s budget also provides \$250,000 ongoing to designate a district or county office of education to provide technical assistance on Medi-Cal billing as part of the statewide system of support.

Assessment

Given Upcoming Work Group Recommendations, Medi-Cal Billing Proposals Are Premature. The final work group recommendations expected in October will likely include a set of policy changes aimed at increasing access and participation in the Medi-Cal billing program. It is unclear whether the Governor’s proposals would be an effective complement to these recommendations. For instance, the interim report highlights that DHCS has limited staff designated to the Medi-Cal billing program, and CDE has no formal role in providing technical assistance. Given the complexity of program requirements and the recent expansion to include all Medi-Cal enrolled students, having a state-level agency providing technical assistance may better address the needs of schools.

Recommendation

Reassess Medi-Cal Billing Proposals Next Year in Coordination With Work Group Recommendations. Given the considerations discussed above, we recommend the Legislature reassess the Medi-Cal billing proposals as part of the 2022-23 budget process, after it has an opportunity to review the final work group recommendations. This approach would ensure additional state funding is provided in a manner most likely to improve program participation.

LAO Publications

This report was prepared by Amy Li, and reviewed by Edgar Cabral and Anthony Simbol. The Legislative Analyst's Office (LAO) is a nonpartisan office that provides fiscal and policy information and advice to the Legislature.



Legal Panel
February 9, 2021

Attorney Panel:



- Adam Newman- Atkinson, Anderson, Loya, Ruud & Romo
- Elizabeth Estes-Atkinson, Anderson, Loya, Ruud & Romo
- Jan Tomsy- Fagen, Friedman, and Fulfrost LLP
- Sarah L. Garcia- Lozano Smith
- Carl Corbin- School and College Legal Services of California

Panel Format



- The attorneys will each present for 20 minutes with a Q/A at the end of all presentations.
- To ask questions, please type it in the Chat.

FAPE v. “COVID FAPE” and DLPs

PRESENTED BY:
Adam J. Newman, Esq.
Elizabeth A. Estes, Esq.



Student v. Norris School District (2020)

Case Nos. 2020010423 & 2020060184

- The Complaint alleged in part that the District failed to implement Student's individualized education program by failing to provide appropriately tailored special education or related services to Student from March 18, 2020 (when the closure began), until May 7, 2020 (when the amended complaint was filed).
- The District argued that “it complied with state and federal mandates and provided Student's education using appropriate alternative supports and services given the school closure.”

Student v. Norris School District (cont'd)

- The Office of Administrative Hearings held that District “was obligated to ensure that it provided Student with the special education and related services identified in Student’s IEP developed under IDEA to the extent possible, even if direct delivery of those services and supports was delayed or required modification by government directives. Because it did not do so, [the District] denied Student a FAPE from March 23, 2020 until May 7, 2020. (*Van Duyn, supra*, 502 F.3d at p. 822.)”

Student v. Norris School District (cont'd)

- “Student also proved that, during the relevant time, [the District] committed procedural violations that significantly impeded Parent’s opportunity to participate in the decision-making process in Student’s alternate educational program. (*Rowley*, supra, 458 U.S. at p. 205; 20 U.S.C. § 1415(f)(3)(E)(ii); see Ed. Code, § 56505, subd. (f)(2); *Target Range*, supra, 960 F.2d at p. 1484.)”

Student v. Norris School District (cont'd)

- District “was obligated to provide Parents with prior written notice if it proposed to change Student’s placement or provision of FAPE. (20 U.S.C. § 1415(b)(3). [The District] should have sent Parents prior written notice explaining how [the District] proposed to change or modify Student’s IEP as an alternate mode of delivery of instruction during the school closure. Although [the general education teacher] reached out to [the District] members of Student’s IEP team for additional guidance and materials, [the District] did not send a prior written notice to Parents, **specifically relating to Student**, before May 7, 2020.”

Student v. Norris School District (cont'd)

- The District “also should have held an IEP meeting, virtually if not in person. The CDE noted in its April 9, 2020 New Guidance, at Point 1, ‘there may be instances when amending the IEP to reflect the change to distance learning might be necessary and or appropriate.’ (CDE Special Education Guidance, Point 1 (April 9, 2020); 20 USC § 1414 (d)(4)(A); 20 USC § 1414 (d)(3)(D); 34 C.F.R. § 300.324.) Here, scheduling an IEP team meeting was appropriate to allow the entire IEP team to consider with Parents alternate methods of delivery of Student’s services, particularly because Parents were struggling to deliver all of the instructional materials provided by [the District] to Student.”

Student v. Norris School District (cont'd)

- The District's "failure to hold an IEP team meeting, in combination with its failure to send specific prior written notice to Parents, significantly impeded Parents' opportunity to participate in the decision-making process regarding Student's alternate educational program during the school closures. (20 U.S.C. § 1415(f)(3)(E)(ii); Ed. Code, § 56505, subd. (f)(2); *Target Range, supra*, 960 F.2d at p. 1484.)"

Student v. Norris School District (cont'd)

- “In total, for November 27, 2018 until May 7, 2020, Student’s operative IEP provided for 2,360 minutes of specialized academic instruction by a resource teacher based upon 59 weeks at 40 minutes a week. Student did not establish through credible evidence how much of the approximately 2,360 minutes of specialized academic instruction Student missed before May 7, 2020. However, the evidence established that Student accessed the academic materials provided by [the general and special education teachers] during the COVID-19 closure, with Parent’s help. Student also made some academic progress during the 2018-2019 and 2019-2020 school years, which justifies reducing compensatory academic hours by a small amount. ”

Student v. Norris School District (cont'd)

- “In addition, for Issue 6, Norris shall convene an IEP meeting, virtually or in person, whichever is safe and feasible. The IEP team shall develop an appropriate alternative temporary distance learning plan for Student consistent with the intent of Student’s January 22, 2020 IEP, and updated present levels of performance, until Student can return to the school campus for in-person instruction. Any agreements shall be documented as an amendment to Student’s January 22, 2020 IEP.”

Student v. Long Beach Unif. Sch. Dist.

(2020) OAH Case No. 2019100147

- The due process complaint alleged a number of issues, including:
 - “11. Did Long Beach deny Student a FAPE by failing to implement the consented to IEP services after March 13, 2020?”
 - “12. Did Long Beach deny Student a FAPE by failing to convene an IEP team meeting to discuss implementation of services during school closures in March 2020?”

Student v. Long Beach Unif. Sch. Dist.

Failure to timely convene IEP meeting

- Parent's advocate requested an IEP team meeting in writing on February 18, 2020 to review independent educational evaluation results.
- On February 20, 2020, the District proposed three IEP team meeting dates. When Parent did not respond to Long Beach regarding the three proposed dates, the District proposed nine alternative dates for Parent's selection on February 26, 2020.
- Student did not respond until March 13, 2020, the date Long Beach announced the COVID-19 related school closure.

Student v. Long Beach Unif. Sch. Dist.

Failure to timely convene IEP meeting

- The CDE's March 20, 2020 guidance tolled the time requirement for holding IEP team meetings, and "the proverbial clock stopped on March 16, 2020, the date of Long Beach's COVID-19 related school closure. By March 16, 2020, Long Beach still had three days to timely hold the IEP team meeting Parent requested on February 18, 2020, and comply with Education Code sections 56343.5, and 56043 (f)(1)."

Student v. Long Beach Unif. Sch. Dist.

Failure to timely convene IEP meeting

- “Under government guidelines, Long Beach resumed school when it resumed direct teaching to all students by videoconference on April 23, 2020, despite not having returned to on-site learning.
- “As of April 23, 2020, the CDE’s tolling under its March 20, 2020 guidance stopped, and Education Code’s 30-day timeline started again.”

Student v. Long Beach Unif. Sch. Dist.

Failure to timely convene IEP meeting

- “Although failing to hold a timely IEP meeting was a procedural violation, Student did not prove the three-day delay in holding an IEP meeting deprived Student’s educational benefits, impeded her access to a FAPE, or significantly impeded Parent’s opportunity to participate in the decision-making process.”

Student v. Long Beach Unif. Sch. Dist.

Failure to convene meeting to discuss IEP during closure

- “Student also did not prove that Long Beach was required to convene an IEP team meeting to discuss implementing Student’s IEP after March 16, 2020. CDE suggested that an IEP team meeting may be needed during the COVID-19 related closures if an IEP needed changing. (See, CDE Guidance, (April 9, 2020), *supra*, at Point 1.) Long Beach did not need to convene an IEP team meeting because Student did not show at hearing that Student’s IEP needed changing because of the COVID-19 related closures.”

Student v. Long Beach Unif. Sch. Dist.

Failure to implement

- “When a local educational agency offers distance learning for instructional delivery in lieu of regular classroom instruction during a school site closure for students, it must also provide equitable access to those services for students with disabilities. A local educational agency must create access to the instruction, including ‘planning for appropriate modifications or accommodations based on the individualized needs of each student and the differences created by the change in modality such as a virtual classroom.’ (CDE Guidance, (April 9, 2020), *supra*, at Point 2). Educational and support services provided should be commensurate with those identified in the IEP for each student to ensure educational benefit. (*Ibid.*)”

Student v. Long Beach Unif. Sch. Dist.

Failure to implement

- “Minor failures by a school district in implementing an IEP should not automatically be treated as violations of the IDEA. (*Van Duyn v. Baker School Dist.* (9th Cir. 2007) 502 F. 3d 811, 821 (*Van Duyn*).) Rather, a material failure to implement an IEP violates the IDEA. (*Id.* at p. 822.) ‘A material failure occurs when there is more than a minor discrepancy between the services a school provides to a disabled child and the services required by the child’s IEP.’ (*Id.* at p. 822.)”

Student v. Long Beach Unif. Sch. Dist.

Failure to implement

- “ ‘[T]he materiality standard does not require that the child suffer demonstrable educational harm in order to prevail.’ (*Id.* at p. 822.) ‘We also emphasize that nothing in this opinion weakens schools’ obligation to provide services “in conformity with” children’s IEPs.’ ’ (*Id.* at p. 822.) In *N.D. v. Hawaii Dept. of Education* (9th Cir. 2010) 600 F.3d 1104 (N.D.), the Ninth Circuit Court of Appeals explicitly found that school closures related to a fiscal crisis did not constitute a change of placement.”
- “Long Beach did not implement any portion of Student’s October 2019 IEP from March 16, 2020 through April 9, 2020, or from April 20, 2020 through April 22, 2020.”

Student v. Long Beach Unif. Sch. Dist.

Failure to implement

- “As of April 23, 2020, Long Beach’s moderate to severe special day program teacher provided a three to four-hour blend of self-learning and direct teaching online by videoconference. Direct teaching was approximately one and a half hours and based on the moderate to severe special day class curriculum. Self-learning included completing activities and work assigned. The delivery model blend of self-learning and direct teaching of the moderate to severe special day class curriculum was similar to the specialized academic instruction on Student’s October 2019 IEP. Student did not show that this delivery model was inappropriate or materially different from her October 2019 IEP offer.”

Student v. Long Beach Unif. Sch. Dist.

Failure to implement

- “The next inquiry is whether four hours of blended instruction including one and a half hours of direct teacher instruction constituted material implementation of Student’s October 2019 IEP. (*Van Duyn, supra*, 502 F. 3d at 821.) Student’s October 2019 IEP specified five hours of specialized academic instruction. Long Beach’s implementation of four hours of blended instruction was 80 percent of Student’s five hours of specialized academic instruction offered in her October 2019 IEP. **Long Beach denied Student a FAPE because it did not implement 20 percent of Student’s specialized academic instruction for three school days from April 23, 2020 to April 28, 2020.**”

Student v. Long Beach Unif. Sch. Dist.

Remedies

- “Long Beach shall fund 45 hours of after-school speech therapy services.... .
- “Long Beach shall contract with the non-public agency selected by Parent... to provide the speech therapy services.
- “... Long Beach shall fund Lindamood-Bell’s intensive visualizing and verbalizing program of four hours per day for up to a total of ten weeks. Long Beach shall also fund assessments required by Lindamood-Bell...

Student v. Long Beach Unif. Sch. Dist.

Remedies

- “Within 10 school days of Student’s return to on-site instruction, Long Beach shall initiate a functional behavior, an occupational therapy, and an assistive technology assessment of Student by providing Parent with an assessment plan.
- “Any compensatory service time awarded by this Decision must be used by June 30, 2022. All unused hours remaining on July 1, 2022 shall be forfeited.
- “All other requests for relief are denied.”

What are the takeaways from *Norris* and *Long Beach*?

- In *Norris*, the importance of providing notice of the distance learning program.
- In *Long Beach*, the importance of implementing IEP minutes.

“Defensibility of ECP/DLP”

- What is the standard of legal sufficiency of a ECP/DLP that is developed during an IEP meeting?
 - Must it provide a student a free appropriate public education? Must the ECP/DLP meet procedural and substantive appropriateness standards?
 - If the ECP/DLP identifies service levels, does it thereby invite substantive scrutiny?
 - If the ECP/DLP identifies service levels less than the nonemergency (“real FAPE”) service levels, is it inappropriate on its face?
- Does *Norris School District* stand for the proposition that a local educational agency may unilaterally change a student’s program during the pandemic as long as written notice is provided?

2020-21 FAPE offer

SPECIAL EDUCATION and RELATED SERVICES

Service: <u>Specialized Academic Instruction</u>	Start Date: <u>8/4/2020</u>	End Date: <u>8/4/2021</u>
Provider: <u>District of Service</u>	<input type="checkbox"/> Ind <input checked="" type="checkbox"/> Grp <input type="checkbox"/> Sec Transition	
Duration/Freq: <u>1210</u> min x <u>1</u> Totaling: <u>1210</u> min served <u>Weekly</u>	Location: <u>Separate classroom in public integrated facility</u>	
Comments: <u>SDC; Kyrstalan will be with general education peers for recess, lunch, Physical Education, library, and Social Studies/Science.</u>		
Service: <u>Occupational therapy</u>	Start Date: <u>8/4/2020</u>	End Date: <u>8/4/2021</u>
Provider: <u>District of Service</u>	<input checked="" type="checkbox"/> Ind <input type="checkbox"/> Grp <input type="checkbox"/> Sec Transition	
Duration/Freq: <u>30</u> min x <u>1</u> Totaling: <u>30</u> min served <u>Weekly</u>	Location: <u>Separate classroom in public integrated facility</u>	
Comments:		
Service: <u>Language and speech</u>	Start Date: <u>8/4/2020</u>	End Date: <u>8/4/2021</u>
Provider: <u>District of Service</u>	<input type="checkbox"/> Ind <input checked="" type="checkbox"/> Grp <input type="checkbox"/> Sec Transition	
Duration/Freq: <u>30</u> min x <u>55</u> Totaling: <u>1650</u> min served <u>Yearly</u>	Location: <u>Separate classroom in public integrated facility</u>	
Comments:		

Emergency Conditions Plan/DLP

At this time the district is offering the following services in the mandated virtual instructional model:

During the current emergency conditions resulting from the COVID-19 pandemic, the District will implement [REDACTED] Specialized Academic Instruction, related services, accommodations, and supplementary aids and services as listed in the last agreed upon and implemented IEP to the extent appropriate and feasible under the circumstances. These supports and services will be provided in the following ways if [REDACTED] is receiving solely virtual learning:

- 1080 SAI minutes weekly – through live, virtual interactive classroom instruction with the teacher, goal-focused instruction with staff, and guided work time with staff*
- LSH services - 30 minutes x 2 sessions weekly as outlined on the IEP through live, virtual interactive therapy sessions with service providers*
- OT services - 30 minutes x 30 sessions yearly as outlined on the IEP through live, virtual interactive therapy sessions with service providers.*

If [REDACTED] receives instruction through a hybrid attendance model once the Governor's virtual learning mandate is lifted, she will receive her IEP supports and services exactly as written on her IEP on physical school attendance days (Tuesday – Friday, regular full day school attendance) and on Mondays during school sessions in the home through live, virtual support from school staff.

FAPE vs. ECP/DLP

- Difference between the service levels of the “real FAPE offer” and the ECP/DLP is 130 min/week of SAI.
- Speech and OT service minutes are the same, but delivered remotely.
- Unclear what general education mainstreaming will look like.

Defensibility of Distance-Learning Program via Prior Written Notice

- If a district provides parents a PWN that describes a distance-learning program which reduced the service minutes during distance learning, and further assume that the district materially implemented that program — is this legally defensible?
 - Is there an issue of denial of parent participation via a unilaterally determined program?
 - Does SB 98 help?

Preparing the Case

- What documents do you need to defend the district?
 - IEP
 - PWN
 - Implementation logs
 - Progress reports
- Who are your witnesses?
 - Case carrier
 - Service providers
 - Parents
 - Student

Identifying an Efficient Settlement Point

- It's unclear whether judges are ordering minute-for-minute compensatory education.
- So, how to calculate what relief might be ordered? (Shouldn't the relief calculation in fact be the services necessary to make the student whole? Isn't this what IEP teams are being asked to calculate?)
- Can “learning loss” program options be used to help with the “compensatory” determination?

Thank You

For questions or comments, please contact:

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LEARNING LOSS AND LEARNING RECOVERY (COMPENSATORY EDUCATION)

Jan E. Tomskey



Overview . . .

- Federal and State Guidance on Compensatory Education Determinations Due to COVID-19 School Closures
- Learning Loss or Compensatory Education
- Prepare IEP teams
- Proactive Steps



I.

Federal and State Guidance on Compensatory Education Determinations Due to COVID-19 School Closures



U.S. Dept. of Ed.- Q and A's -3/12/20

- Following school closure or the exclusion of a student with a disability as a result of COVID-19 and after a return to in-person instruction, IEP teams should:
 - make an individualized decision
 - **whether** compensatory services are needed under applicable requirements
 - including to make up for any skills that may have been lost

(Questions and Answers on Providing Services to Children With Disabilities During the Coronavirus Disease 2019 Outbreak, A-1 & A-3 ([US Dept. Ed.](#) March 12, 2020) 76 IDELR 77.)



CDE – Special Ed Guidance - 3/20/20

...Given the unprecedented situation created by the threat of COVID-19, exceptional circumstances may affect how a particular service is provided under a student's IEP. In such a situation, the IEP team will need to make individualized decisions regarding **whether** compensatory services are required when the regular provision of services resumes."

(<https://www.cde.ca.gov/ls/he/hn/specialedcovid19guidance.asp>.)



CDE – Special Ed Guidance - 3/20/20

- Once the regular school session resumes, LEAs should plan to make
 - **individualized determinations,**
 - **in collaboration with the IEP team,**
 - regarding **whether or not compensatory education and services may be needed** for a student.
- Educational need can be measured by;
 - assessing whether the student continued **making progress in the general education curriculum or alternative course of study** specified in their IEP; or
 - **Making progress toward meeting their IEP goals;** and/or
 - **if any regression occurred** during the period of school site closure.

(<https://www.cde.ca.gov/ls/he/hn/specialedcovid19guidance.asp>.)



II.

Learning Loss or Compensatory Education



Compensatory Education Defined

- Compensatory Education is a term generally used to describe the equitable remedy for the denial of a student's right to a FAPE.
- Compensatory Education is ordered as a result of either non-compliance or the demonstration of fault at a due process hearing.



Comp. Ed. –*Van Duyn* Material Failure

- Comp ed is awarded if there is a material failure to implement an IEP; more than a minor discrepancy between the services a school provides ... and the services required by the child's IEP
 - E.g., failing to provide 5 of the 10 hours per week of math tutoring on an IEP
 - Does not require proof that “the child suffer demonstrable educational harm to prevail”
 - However, educational progress, or lack there of, may demonstrate whether failure to implement was material



Learning Loss or Compensatory Education

- Reframing “compensatory education” as learning loss—esp for IEP team discussions--allows school districts to acknowledge the impact of the pandemic (on all students) without admitting an intentional denial of FAPE
- Being proactive about learning loss can help build trust with parents.



Train your IEP Teams



- Because the USDOE, OCR, and CDE have determined that decisions related to whether compensatory or make up services are warranted should be made by IEP teams, it is going to be critical that we train our teams how to address the issue



Considerations



- Move up triennial re-assessments to take place as soon as possible following a return to in-person instruction
- Propose assessment regarding new concerns that may have emerged
- Even if full re-assessment is not possible, carefully prepare for first meeting following return to in-person instruction
- Case manager/team should have clarity regarding what occurred during distance learning for the student, and why (next slide)



Be Prepared!



- What services were provided to the student during remote learning?
 - Was the entire IEP implemented?
- Was the student able to access the services and instruction provided?
- Was the student made available?
- What accommodations/adjustments were made to facilitate engagement?
- What parent input was received?



Be Prepared!



- Be clear about progress or regression on goals, and the student's present levels of academic achievement and functional performance
- Services may need to be increased, or additional services may need to be added, to address the student's current needs
- If the team concludes that additional services may need to be provided for a discrete period of time "to support learning recovery," CLEARLY state temporary nature of services on the IEP, including the service page



Being Proactive Now



- Consider tutoring and online supplemental services currently in place
- Determine if supplemental services can be put in place before or after school or during the summer
- Address concerns thoughtfully during IEP meetings and adjust the IEP/DLP as needed
 - Partner with Parents during the closures
- Keep track of services provided and missed and report progress—document, document, document





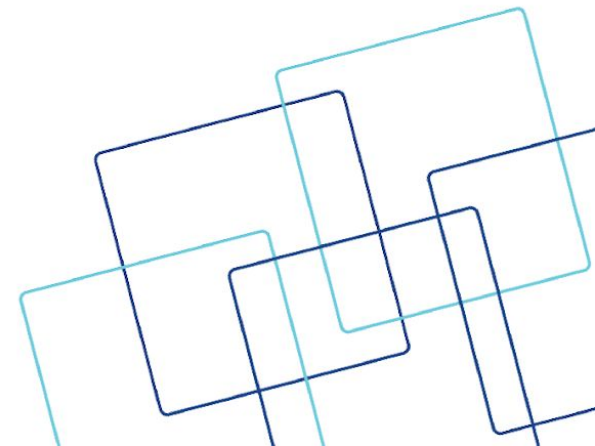
The Physical Reopening Landscape: What is on the Horizon (Today ...)

Presented by: Sarah L. Garcia

Partner

SELPA Association Legal Panel

February 9, 2021



Physical Reopening Issues

Instructional Models

Cohorting

Health and Safety



Sampling of Significant Changes in January 14, 2021 CDPH Guidance

- New definition for when a school is considered “reopened.”
- New criteria for when a closed school can reopen.
- COVID-19 School Safety Plan (“CSP”) Required?
- State Testing Cadence Recommended or Required?
- Guidance on outbreaks and re-closing schools

Changes to rules regarding:

- Face coverings
- Distancing of students in classroom
- Ventilation
- Restrictions on Band/Choir
- Health Screening Exclusion of SPED students
- Handling Confirmed/Suspected Cases

Safe Schools for All (*Proposed* Budget Legislation)

- Additional funding incentives to provide in-person instruction
- Any District not yet required to provide in-person instruction must provide small cohort services for specific student populations and students in elementary grades the District is not yet providing hybrid in-person instruction.



President Biden's *Proposed* "American Rescue Plan"

Proposed plan to open the majority of TK-8 schools within the first 100 days of his Administration (by April 30, 2021).

- \$130 billion broad financial package to help with reducing class sizes, improving ventilation, more PPE, a nurse at every school, hiring more janitors and counselors, and address student needs.
 - School access to FEMA Disaster Relief Fund resources.
- \$5 billion specifically for new learning programs and students hit hardest by the pandemic.
- Return of and expanded COVID-19 leave.
- Additional funding to protect educators from lay-offs, provide more frequent testing at schools, and support local governments.

First Priority: The Physical, Mental, and Educational Safety and Wellbeing of Students and Staff



Instructional Models

January 14, 2021 Definition for “Open” or “Reopen”

The school must have given all students in at least one grade the option to return for in-person instruction for at least part of the school-week to be considered to “open” or “reopen.”

If a school district has a phased reopening of their schools, the schools in that district that did not open for in-person instruction may not re-open until the county meets the reopening criteria.

If the school previously received a waiver and did not yet reopen, it must delay reopening until the county meets the reopening criteria.



Equitable Decision-making

- ☐ When to return and how?
- ☐ Student Equity Issues
- ☐ Guidance and Orders from State and Local Public Health Departments
- ☐ Address Learning Loss
- ☐ Closures, Quarantines, Self-Isolation
- ☐ Liability Issues
- ☐ Medical Vulnerabilities
- ☐ Transportation
- ☐ Role of Classified Staff
- ☐ Student Schedules and Phases
- ☐ Small Cohorts/Bubbles/Pods
- ☐ Concurrent with DL
- ☐ Virtual Academy Programs
- ☐ Voluntary return for students? What about Staff?
- ☐ Dictated by Science, the State, County Departments of Public Health, School District
- ☐ Facilities
- ☐ Equipment

Full In-Person Return

- What did we learn from the Small Group/Cohort/Hybrid Model?





Cohorting



January 14, 2021 Reopening Framework Guidance

Consolidated, updated, and superseded

- July 17, 2020 Reopening Framework
- August 3, 2020 COVID-19 Industry Guidance for Schools
- Elementary Education Waiver Process
- CDPH Schools FAQ's (last updated October 20, 2020)

Not modified or superseded:

- Cohort Guidance

Equitable Cohorting Considerations

- ☐ Implementation of Service Minutes
- ☐ Equitable Access
- ☐ Staff Availability
- ☐ Facility Space
- ☐ Equipment Access
- ☐ Inclusion
- ☐ Least Restrictive Environment
- ☐ Health and Safety
- ☐ Physical Distancing





Health and Safety



Health and Safety of Students and Staff

- ☐ Face Covering (Masks, Shields, Drapes, and Accommodations for those who can wear a mask for medical reasons)
- ☐ Physical Distancing
- ☐ Hand Sanitizer and Hand Washing
- ☐ Isolation Rooms
- ☐ Classroom and Facilities Cleaning and Sanitization
- ☐ Classroom Layout for Physical Distancing
- ☐ Air Ventilation Systems
- ☐ Restrooms
- ☐ Lunch/Recess/Passing Periods
- ☐ Push in/Pull out Services
- ☐ Ingress and Egress-Signage
- ☐ Visitors
- ☐ Testing, Contact Tracing and Communication
 - ☐ Surveillance
 - ☐ Symptomatic
 - ☐ Self-Reporting
 - ☐ Regional and Free Tests
 - ☐ Temperature Checks
- ☐ Opening and Closing Protocols

Face Coverings at Schools

- Required for all children in TK-12.
- Limited, rare exceptions (medical/mental health condition; interacting with hearing-impaired individual)
- School district health team and therapists must confirm condition before alternative such as a face shield, is allowed to be worn.
- District must provide face covering to students who inadvertently fail to bring one to school or when they enter a school bus.
- District must exclude students if they are not exempt from wearing a face covering and refuse to wear one provided by the school.
- Alternates such as face shield with a drape can be used for pedagogical or developmental reasons.

Testing

Table 1. Testing Cadences with Committed Support from the State of California for K-12 schools

	Yellow CR <1.0* TP <2%	Orange CR 1-3.9* TP 2-4.9%	Red CR 4-7* TP 5-8%	Purple CR >7-13.9* TP >8%	CR >14*
Staff	Symptomatic and response testing.	Symptomatic and response testing.	Symptomatic and response testing + Every 2 weeks asymptomatic testing.	Symptomatic and response testing + Every 2 weeks asymptomatic testing.	Symptomatic and response testing + Weekly asymptomatic (PCR or twice weekly antigen testing)**.
Students K-12	Symptomatic and response testing.	Symptomatic and response testing.	Symptomatic and response testing + Every 2 weeks asymptomatic testing.	Symptomatic and response testing + Every 2 weeks asymptomatic testing.	Symptomatic and response testing + Weekly asymptomatic (PCR or twice weekly antigen testing)**.

TP = test positivity

* The case rates above are adjusted case rates.

** Weekly asymptomatic testing assumes the use of a PCR test. If antigen testing is used, testing should be at a twice weekly cadence.

Screening

Implement (not just recommended) daily visual symptom and exposure screening before leaving home.

Encourage sick students and staff to stay at home.

If excluding a student, ensure access to instruction and FAPE.



Staff Vaccines

Consider whether mandatory vaccine policy is appropriate.

Investigate Public Health partnerships for administration.

Prepare to address negotiable effects through MOU.

Evaluate requests for accommodation.



Takeaways

FAPE

Equal and Equitable Access

Safety for All





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Disclaimer: These materials and all discussions of these materials are for instructional purposes only and do not constitute legal advice. If you need legal advice, you should contact your local counsel or an attorney at Lozano Smith. If you are interested in having other in-service programs presented, please contact clientservices@lozanosmith.com or call (559) 431-5600.

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Duty to Assess under the IDEA in the COVID-19 Environment

- The Individuals with Disabilities Education Act (“IDEA”) is federal law, so waivers/exceptions will ultimately need to come from Washington D.C. – Not from Sacramento.
- And there has been little latitude granted to LEAs from D.C.:
 - March 12, 2020, Dept. Ed. “Q&A Providing Services...”
 - “...generally more than 10 consecutive days...”
 - April 27, 2020, U.S. Secretary of Ed., Betsy DeVos’ Report to Congress.
 - “...[crickets]...”
 - July 6, 2020, OSERS/OSEP Q&A Part C Eval. Timelines.
 - Case-by-Case? Extra time? Maybe?
 - September 28, 2020, OSEP, 7 page, 7 Q&A Part B.
 - Nothing new – the IDEA is in full effect!
 - September 28, 2020, OCR, 9 page, 13 Q&A.
 - Did we mention the IDEA is in full effect and do not discriminate?
 - But explicitly addresses waivers – see Q&A 9.
 - October 21, 2020, OSEP Q&A Part C provision of services.
- <https://www.ed.gov/coronavirus/program-information#speced>

Duty to Assess under the IDEA in the COVID-19 Environment

- Sacramento provided some limited relief during the 2019-2020 school year regarding timelines.
 - SB 117 and CDE – when school is “closed”* the closure days did not count (like on summer/winter break).
 - See ECs 56321 and 56344.
 - But SB 98 did not continue this (very limited...) relief with the expectation that schools will be “open” either in-person (preferred) or through partial or complete distance learning...
- <https://www.cde.ca.gov/ls/he/hn/specialedcovid19guidance.asp>

Duty to Assess under the IDEA in the COVID-19 Environment

The meaning of “closed:”

- For purposes of determining compliance with special education timelines, the CDE will consider the days of school site closure as days between the pupil’s regular school session, similar to school breaks in excess of five days planned in the instructional calendar. (Ibid.) The local educational agency could also consider alternative service delivery options such as in-home service delivery, meeting with individual students at school sites, or other appropriate locations to deliver services. The CDE also encouraged local educational agencies to work collaboratively with nonpublic schools and agencies to ensure continuity of services, including moving to virtual platforms for service delivery to the extent feasible and appropriate. (Ibid.)
- *Long Beach USD* (OAH 10-12-20) No. 2019100147, pg. 45.

Duty to Assess under the IDEA in the COVID-19 Environment

The meaning of “closed:”

Long Beach closed its schools on March 16, 2020 because of the COVID-19 pandemic. Long Beach also had a scheduled April 10, 2020 holiday and spring recess from April 13, to 17, 2020; both scheduled school closures were on Long Beach’s 2019-2020 school year calendar. Long Beach sent a notice to all parents and a prior written notice to all special education parents on April 16, 2020, informing parents that Long Beach would resume direct teaching and offered a total of three to four-hour blend of teacher directed remote learning, and self-learning beginning April 23, 2020. Because of COVID-19, Long Beach **extended the school closure of on-site teaching from March 16, 2020 through June 11, 2020**, the end of the 2019-2020 school year.

- *Long Beach USD* (OAH 10-12-20) No. 2019100147, pg. 46.

Duty to Assess under the IDEA in the COVID-19 Environment

The meaning of “closed:”

- Under government guidelines, Long Beach resumed school when it resumed direct teaching to all students by videoconference on April 23, 2020, despite not having returned to on-site learning. As of April 23, 2020, the CDE’s tolling under its March 20, 2020 guidance stopped, and Education Code’s 30-day timeline started again. Long Beach had until April 25, 2020, to timely hold the Parent requested IEP team meeting. Long Beach did not hold the Parent requested IEP team meeting before Student filed her amended complaint on April 28, 2020. Therefore, Long Beach was three days late in holding the IEP meeting as of April 28, 2020.
- *Long Beach USD* (OAH 10-12-20) No. 2019100147, pg. 47.

Duty to Assess under the IDEA in the COVID-19 Environment

The meaning of “closed:”

- I am aware of at least one (but rumor around town is there have been more issued...) recent (January 15, 2021) compliance complaint decision from CDE addressing the issue of conducting an initial assessment and convening an IEP meeting that only counted the days the LEA was “closed” and not providing any distance learning, which resulted in the LEA being found out of compliance.
 - This reasoning penalizes LEAs that quickly made the pivot from in-person to distance learning...

Child Find in the COVID-19 Environment

- LEAs continue to have “child find” responsibilities.
- General education students that had been struggling pre-COVID-19, but making some educational progress in school, may now be falling significantly behind with distance learning.
 - And students with an IEP/Section 504 plan may have new areas of educational need to be addressed.
- Student Study Team – Zoom, telephone, in-person...
 - Include the parent!!!
 - Multi-Tiered System of Supports (“MTSS”) – interventions prior to referring for IDEA evaluation.
 - Contemporaneous **documentation** will be the best defense.
 - Initial assessment referrals that are delayed, but then result in eligibility, consider compensatory education discussion at initial IEP meeting.

Triennial Evaluation – COVID-19

- Is additional standardized assessment data needed to develop the student's IEP to allow the student to receive a FAPE?
 - Record review, work samples, behavioral/adaptive rating scales, etc.
 - Consider “triennial reevaluation determination” SEIS worksheet and not conduct the in-person standardized assessment.
 - See EC 56381(d) – requires parent agreement and consent.
- Consider completing all non-in-person assessments, reviewing at an IEP meeting, then agreeing to conduct a follow-up assessment (in the specific area of need that requires more information) when “things are normal.” * **Observation**
 - This may merit a compensatory education discussion depending on the results of any delayed assessments.
 - Parents can agree (in writing please) to delay an assessment.

California Association of School Psychologists (“CASP”)

- To put it simply, CASP rocks! <https://casponline.org/>
- CASP has provided extensive guidance to its members that is available to the general public. The guidance has general applicability for all assessors.
 - April 9, 2020, CASP Today – publication for CASP members.
 - April 27, 2020, FAQ – 7 Questions and Answers.
 - Reliability v. Validity - “Testing of limits”
 - Read the test manual/instructions!
 - “Virtual assessment” (AKA telehealth testing)
 - Telehealth testing that has been validated requires a trained on-site proctor to be in the room with the student to:
 1. Verify the positioning and functioning of the technological requirements;
 2. Verify the ambient environmental conditions;
 3. Verify confidentiality/privacy condition; and
 4. Properly proctor the exam.

California Association of School Psychologists (“CASP”)

- August 6, 2020, One-page summary with embedded links.
 - Example of “clean room” assessment setting.
 - Cautionary statements for reports.
 - Four-page “Recommended Resources for Psychoeducational Assessment During COVID-19.”
- August 15, 2020, comprehensive 14 page document with lots of suggestions and guidance including safe in-person assessment practices. **Series # 1.**
- CASP Series #2 – Updated Assessment Guidance & Four Specific Eligibility Areas Guidance – dated 10-8-20 (but posted on CASP website on 10-20-20).
- And not from CASP, but LEAs may want to consider something like:
 - COVID-19 Parent/Guardian Notice and Acknowledgement Special Education Assessments During the COVID-19 Pandemic

In-Person Assessment Considerations

- Make sure the guidance from your respective County Local Health Officer allows for in-person assessment.
- Work with your assessors (and their union...) to address safety concerns.
- Consider parent completing (and signing) an acknowledgement and COVID-19 screening form - check with your SELPA (wait, that is you!) or your attorney for a model document.
- The CASP example of “clean room” assessment setting provides a good blueprint and comes with pictures!
- Try and minimize in-person assessments that require sharing of materials with students.
 - Q-Interactive
 - Approximately 20 assessments (WISC-V, WIAT-III, CELF-5, etc.) - on two iPads – one for the assessor and the other for the student.
 - <https://www.pearsonassessments.com/professional-assessments/digital-solution/s/q-interactive/about.html>
- The assessor will need to address in the report any deviations in the assessment process, observation, etc., through cautionary statements in the report (see CASP models as an example).



Questions?





Chapter 24: Fiscal Allocation Plan

SECTION A: BACKGROUND

SECTION B: MEETING THE CHALLENGE

SECTION C: REVENUES INCLUDED IN THE STATE AB 602 MODEL

SECTION D: REVENUES EXCLUDED FROM THE STATE AB 602 MODEL

SECTION E: COMPONENTS OF THE STATE AB602 EXHIBITS

SECTION F: ADA DEFINED FOR AB 602 PURPOSES

SECTION G: BASE ALLOCATION PRINCIPLES

SECTION H: REGIONAL PROGRAMS

SECTION I: FEE FOR SERVICE

SECTION J: CHARTER SCHOOLS

SECTION K: SMALL DISTRICT PROTECTION

SECTION L: X-POT INSURANCE FUND CONTRIBUTION

SECTION M: X-POT REVENUE TRANSFER

SECTION N: APPORTIONMENT DISTRIBUTION

SECTION O: ACCOUNT CODES

SECTION P: REGIONAL FACILITIES ACQUISITION TRANSFER

SECTION Q: REGIONAL FACILITY ACQUISITION PROCESS

Section A – AB 602 Background: A Change in the Way We Fund Special Education

In 1997, in response to the statewide need for a less complex and more equitable funding model for special education, AB 602 legislation was passed in the State of California. The “base year” for the new funding model was 1997/98. Essentially, the State moved from a unit-based funding model which relied upon the number of identified special education students, to a per ADA model, which created placement neutral funding for special education. Special Education Local Plan Areas (SELPA) were no longer funded based on the number of special education students within their member districts, but rather funded in line with the K-12 population of their districts. In addition to the per ADA rate, this legislation initially provided funding for COLA, growth, equalization (enabling low-funded SELPAs to be leveled up to the statewide average), and “high need” students (special disabilities adjustment).

For Desert/Mountain SELPA, like any other multi-agency SELPA, this model represented a major change in doing business. Previously, special education funding was allocated directly to each district and county office based on the Instructional Personnel Service (IPS) units that agency was allocated and operated. Per AB 602, funding is now calculated for the SELPA as a whole, and it is the SELPA’s responsibility to allocate funding among its member agencies based upon an allocation procedure approved by the SELPA Board of Directors.

The model developed at that time also included federal local assistance funds as part of the AB 602 funding formula. A statewide target rate (STR) for per ADA funding was established. For FY 2012/13 that amount was \$465.4404354505. This combined with federal local assistance funds brought most SELPAs to a per ADA average of about \$650. However, with federal local assistance funds disbursed one year in arrears, and with growth ADA being paid at the STR, an ever-widening gap was created for SELPAs that experience ADA growth each year.

In 2013, the Governor’s budget addressed this anomaly by separating federal funding from the AB 602 formula. State special education funding continues to be based on ADA. However, federal local assistance funds are allocated outside of the AB 602 formula.

Section B – Meeting the Challenge

The Desert/Mountain SELPA Board of Directors chose to be proactive in meeting the challenge of AB 602. A SELPA Funding Allocation Plan was developed using the following guidelines.

- Provide an incentive for developing and implementing cost-effective programs for special education students in public school programs;
- Provide no incentive for districts to over-identify students for special education services;
- Have a phase-in plan to hold districts at the 1997-98 level of funding for unit rates and support service ratios (at least) for the first year of implementation;

- Equalize per ADA funding among districts over time by leveling up;
- Acknowledge that the AB 602 Funding Allocation Model will not cover the total costs of special education services;
- Recognize that districts have been, and will need to continue, contributing revenue limit dollars earned by special education pupils and general fund contributions to cover special education costs, and;
- Keep program requirements in mind.

Section C – Revenues Included in the State AB 602 Model

1997/98 revenues that were included in a SELPA's base include:

- Deficit State Aid for special education for both the ages 5-21 programs and the preschool programs (ages 3-5). These include revenue for IPSUs (units), support services (SSR), extended year, and non-LCH/FFH nonpublic school/agency placements;
- Federal Aid for the age 5-21 programs (PL 94-142 Local Assistance Entitlements);
- Property Tax for special education (excluding property tax for infant programs);
- 97/98 Equalization revenue at the funded level;
- Revenue for units transferred to another SELPA for regular year only;
- County Schools longer day/year funding; and
- County Schools supplemental funding for continuous year juvenile court school programs (effective 2004/05 fiscal year for D/M SELPA due to the opening of a new Juvenile Hall in the high desert region)

In FY 2013/14, Federal Aid (PL 94-142 Local Assistance Entitlement) is funded separately. The base also now includes funds that previously were excluded (i.e., State Aid for Regionalized Services/Program Specialists and funds previously provided for K-12 Staff Development). Additionally, funds for Low Incidence Equipment and Materials and Low Incidence Services have been consolidated into one award.

Section D – Revenues Excluded from the State AB 602 Model

1997/98 revenues that are excluded from a SELPA's base include:

- Revenue Limits for special education ADA (SDC and NPS);
- J-50 Infant Units;

- Part C Federal Aid for Infants;
- State aid for Low Incidence materials and equipment;
- State aid for Regionalized Services/Program Specialists;
- NPS/NPA funding for pupils in Licensed Children's' Institutions/Foster Family Homes (LCI/FFH);
- Revenue for units transferred into a SELPA;
- Federal aid for preschool programs (both the PL 99-457 Federal Preschool entitlement and PL 94-142 Preschool Local Assistance entitlement);
- Federal aid for Low Incidence services; and
- Project Workability and other federally funded programs, including LCI emergency funds.

Although these programs are excluded from the base calculation, SELPAs/LEAs continue to be funded separately for them.

Section E – Components of the State AB 602 Exhibits

The 2013/14 State Exhibits include the following sections:

1. Section A - ADA and rates
2. Section B - Base (E.C. 56836.10)
3. Section C - COLA (E.C. 56836.08(d))
4. Section D - Growth (E.C. 56836.15)
5. Section E - Low Incidence Materials and Equipment and/or Services (E.C. 56836.22)
6. Section F - Out of Home Care (E.C. 56836.165)
7. Section G - Nonpublic Schools (NPS) Extraordinary Cost
8. Section H - Adjustment for Necessary Small SELPA (NSS) with Declining Enrollment
9. Section I - Apportionment Summary

The State Budget Act provides separate budget appropriations for each of these components. As a result of having separate appropriations, if funding of a component is insufficient, a separate deficit factor is calculated for that component.

ADA revenue for school district operations is calculated based upon the Local Control Funding Formula (LCFF) and accrues directly to the district of residence for students served in County programs. In order to properly attribute ADA revenue to the service provider, funds generated by students served in county-operated programs will be transferred from the district of residence to the County Office of Education based on the LCFF formula of the district of residence to include a proportionate share of the district concentration grants.

Revenue for the provision of mandated Regionalized Services/Program Specialists (RS/PS) services will be allocated to the Desert/Mountain SELPA from state revenues (resource 6500) based on a five-year historical percentage of 3.52663% (See Exhibit C).

The various Funding Exhibits for each individual SELPA are available at the following website:
<http://www.cde.ca.gov/fg/aa/se/ab602apptdat.asp>

Section F – ADA Defined for AB 602 Purposes

As contained in E.C. 56836.06 and E.C. 41601, the ADA used in the special education funding formula is the SELPA's **TOTAL** K-12 ADA for all students within the SELPA districts and charter schools (not just special education ADA) from the sources listed below. P-1 ADA will be used at the First Principal Apportionment; P-2 ADA will be used at the Second Principal Apportionment. P-2 ADA, including corrections, and replacements of Annual ADA where indicated in **boldface** below, is used for the Annual Apportionment and any subsequent Annual Apportionment recertifications.

Definition of AB602 K-12 ADA

Fiscal Year 2012-13

AB602 ADA – Education Code (E.C.) Sections 41601 and 56836.05

The Special Education Funding Formula for 2012-13. Annual certifications use each SELPA's total K-12 ADA from the sources below. ADA associated with ROC/P and Adult Education is not included.

Attendance COE

COUNTY OFFICES OF EDUCATION	ENTRY FIELDS	PERIOD
County School Tuition Fund	A-1	Annual
Juvenile Hall, Homes and Camps	A-2	Annual
County Group Home and Institution Pupils	A-3	Annual
Community Schools Pupils – Probation referred or on probation or parole, expelled, homeless	A-4 + A-5 + A-6	Annual
Opportunity Schools and Full-day Opportunity Classes	A-7	Annual
Specialized Secondary Schools	A-8	Annual
Technical, Agricultural, and Natural Resource Conservation Schools	A-9	Annual
ADA for students in CalSafe	A-10	Annual
Community Day School Program	A-11 + A-12	Annual

Attendance County Operated Programs COE (credited to County of Attendance)

COUNTY OFFICES OF EDUCATION	ENTRY FIELDS	PERIOD
County Community Schools	A-1	P-2
Special Day Class	A-2	P-2
Special Education Students Extended Year	A-3	Annual
Special Ed – Nonpublic, Nonsectarian Schools	A-4	Annual
Special Ed – Nonpublic, Nonsectarian Schools Extended Year	A-5	Annual
Special Ed – Nonpublic School/Licensed Children’s Institution	A-6	Annual
Special Ed – Nonpublic School/Licensed Children’s Institution Extended Year	A-7	Annual

School Districts

SCHOOL DISTRICT	ENTRY FIELDS
School District of Attendance School District Attendance Supplement (credited to District of Attendance) Basic Aid “Choice”/Court Ordered Voluntary Pupil Transfer (credited to District of Attendance) Basic Aid Open Enrollment (credited to District of Attendance)	A-1 + A-2 + A-3 + A-4

School Districts

SCHOOL DISTRICT	ENTRY FIELDS	PERIOD
Kindergarten through Grade 12	A-5	P-2
Continuation Education	A-6	P-2
Opportunity Schools and Full-Day Opportunity Classes	A-7	P-2
Home and Hospital	A-8	P-2
Special Education – Special Day Class	A-9	P-2
Special Education – Nonpublic, Nonsectarian Schools	A-10	Annual
Special Education – Nonpublic, Nonsectarian Schools/Licensed Children’s Institution	A-11	Annual
Community Day School	A-12 + A-13	Annual

SCHOOL DISTRICT	ENTRY FIELDS	PERIOD
Extended Year ADA	A-14 + A-15 + A-16	Annual

***Charter Schools**

Attendance Charter School Block Grant EHS

CHARTER SCHOOLS	ENTRY FIELDS	PERIOD
Regular Elementary and High School	A-1, A-3, A-5, A-7, A-9, A-11, A-13, A-15, A-17, A-19	P-2
Extended Year Special Education Students	A-19	Annual
Extended Year Special Education, Nonpublic, Nonsectarian Schools [E.C. 563669a)(7)]	A-21, A-23, A-25, A-27, A-29	Annual
Extended Year Special Education, Nonpublic, Nonsectarian Schools/Licensed Children's Institutions	A-31, A-33, A-35, A-37, A-39	Annual
Special Education – Nonpublic, Nonsectarian Schools/Licensed Children's Institutions	A-41, A-43, A-45, A-47, A-49	Annual
Special Education – Nonpublic, Nonsectarian Schools ADA [E.C. 56366(a)(7)]	A-51, A-53, A-55, A-57, A-59	Annual

Attendance Charter School Block Grant Unified Resident

CHARTER SCHOOLS	ENTRY FIELDS	PERIOD
Regular Elementary and High School	A-1 + A-3 + A-5 + A-7 + A-9	P-2
Extended Year Special Education Special Day Class	A-11 + A-13 + A-15 + A-17 + A-19	Annual
Extended Year Special Education, Nonpublic, Nonsectarian Schools [E.C. 56366(a)(7)]	A-21 + A-23 + A-25 + A-27 + A-29	Annual
Extended Year Special Education, Nonpublic, Nonsectarian Schools/Licensed Children's Institutions	A-31 + A-33 + A-35 + A-37 + A-39	Annual
Special Education – Nonpublic, Nonsectarian Schools/Licensed Children's Institutions	A-41, A-43, A-45, A-47, A-49	Annual
Special Education – Nonpublic, Nonsectarian Schools ADA [E.C. 56366(a)(7)]	A-51, A-53, A-55, A-57, A-59	Annual

Attendance Charter School Block Grant Unified Non-Resident

CHARTER SCHOOLS	ENTRY FIELDS	PERIOD
Regular Elementary and High School	A-63, A-65, A-67, A-69, A-71	P-2
Extended Year Special Education Students	A-73, A-75, A-77, A-79, A-81	Annual
Extended Year Special Education, Nonpublic, Nonsectarian Schools [E.C. 56366(a)(7)]	A-83, A-85, A-87, A-89, A-91	Annual
Extended Year Special Education, Nonpublic, Nonsectarian Schools/Licensed Children's Institution	A-93, A-95, A-97, A-99, A-101	Annual
Special Education – Nonpublic, Nonsectarian Schools ADA [E.C. 56366(a)(7)]	A-113, A-115, A-117, A-119, A-121	Annual

Attendance Charter School Block Grant – SBC

CHARTER SCHOOLS	ENTRY FIELDS	PERIOD
Regular Elementary and High School	A-1, A-3, A-5, A-7, A-9, A-11, A-13, A-15, A-17, A-19	P-2
Extended Year Special Education Students	A-19	Annual
Extended Year Special Education, Nonpublic, Nonsectarian Schools [E.C. 56366(a)(7)]	A-21, A-23, A-25, A-27, A-29	Annual
Extended Year Special Education, Nonpublic, Nonsectarian Schools/Licensed Children's Institutions	A-31, A-33, A-35, A-37, A-39	Annual
Special Education – Nonpublic, Nonsectarian Schools/Licensed Children's Institutions	A-41, A-43, A-45, A-47, A-49	Annual
Special Education – Nonpublic, Nonsectarian Schools ADA [E.C. 56366(a)(7)]	A-51, A-53, A-55, A-57, A-59	Annual

Attendance Charter School Block Grant COE

CHARTER SCHOOLS	ENTRY FIELDS	PERIOD
Regular Elementary and High School	A-1 + A-3 + A-5 + A-7 + A-9	P-2
Extended Year Special Education Special Day Class	A-11 + A-13 + A-15 + A-17 + A-19	Annual
Extended Year Special Education, Nonpublic, Nonsectarian Schools [E.C. 56366(a)(7)]	A-21 + A-23 + A-25 + A-27 + A-29	Annual

CHARTER SCHOOLS	ENTRY FIELDS	PERIOD
Extended Year Special Education, Nonpublic Nonsectarian Schools/Licensed Children's Institutions	A-31 + A-33 + A-35 + A-37 + A-39	Annual
Special Education – Nonpublic, Nonsectarian Schools ADA [E.C. 56366(a)(7)]	A-51 + A-53 + A-55 + A-57 + A-59	Annual

Attendance Charter School – Revenue Limit

CHARTER SCHOOLS	ENTRY FIELDS	PERIOD
Kindergarten through Grade 12 – Resident	A-1 + A-3 + A-5 + A-7 + A-9	P-2
Kindergarten through Grade 12 – Non-Resident	A-25 + A-27 + A-29 + A-31 + A-33	P-2
Special Education – Special Day Class	A-11 + A-35	P-2
Special Education – Nonpublic, Nonsectarian Schools	A-13 + A-15 + A-37 + A-39	Annual
Extended Year ADA	A-17 + A-19 + A-21 + A-41 + A-43 + A-45	Annual

Attendance COE Charter School – Revenue Limit

CHARTER SCHOOLS	ENTRY FIELDS	PERIOD
County School Tuition Fund	A-1	Annual
Juvenile Hall, Homes and Camps	A-3	Annual
County Group Home and Institution Pupils	A-5	Annual
Community Schools Pupils – Probation referred or on probation or parole	A-7	Annual
Community Schools Pupils – Expelled	A-9	Annual
Community Schools Pupils – Homeless	A-11	Annual
Opportunity Schools and Full-Day Opportunity Classes	A-13	Annual
Specialized Schools	A-15	Annual
Technical, Agricultural, and Natural Resource Conservation Schools	A-17	Annual
ADA for students in CalSafe	A-19	Annual
Community Day School Program	A-21 + A-23	Annual

Attendance County Operated Charter Schools Program COE

CHARTER SCHOOLS	ENTRY FIELDS	PERIOD
County Community Schools	A-1	P-2
Special Day Class	A-3	P-2
Special Day Class Extended Year	A-5	Annual
Special Education – Nonpublic, Nonsectarian Schools [E.C. 56366(a)(7)]	A-7	Annual
Special Education – Extended Year – Nonpublic, Nonsectarian Schools [E.C. 56366(a)(7)]	A-9	Annual
Special Education – Nonpublic School/Licensed Children’s Institution	A-11	Annual
Special Education – Nonpublic School/Licensed Children’s Institution Extended Year	A-13	Annual

****NOTE: Charter School ADA may be adjusted for a State Board of Education approved funding determination pursuant to Senate Bill 740 (Chapter 892, Statutes of 2001)***

Legend:

AB602: Assembly Bill 602; SELPA: Special Education Local Plan Area; ADA: Average Daily Attendance; ROC/P: Regional Occupational Center/Programs

Prepared by:
California Department of Education
School Fiscal Services Division
June 2013

The following is a summary of the primary features of the Desert/Mountain funding allocation model:

FEATURE	DESCRIPTION/INFORMATION
ADA Based	SELPA-wide ADA will be aggregated and used to calculate the SELPA AB602 apportionment. District ADA will include (1) district generated ADA (see ADA Defined for AB602 Purposes) and, (2) the county ADA generated by students from their district of residence. District ADA will be used to allocate the AB602 apportionment to each district.
Entitlements	All districts will be entitled to a “Base Allocation” that includes growth and/or decline.

FEATURE	DESCRIPTION/INFORMATION
	The first source of funding for special education will be those received by the district/charter in support of education as generated by students with special needs (received directly by each district or charter school as part of the K-12 funds for education). The second source of revenue will be the AB602 apportionment. Each SELPA Member District must spend an equal amount of general fund dollars for students with special needs equivalent to average general fund expenditures for nondisabled students prior to spending any federal IDEA funds (as determined via the "Excess Cost" reporting tool.
Equalization	This model equalizes each SELPA Member's/District's per-ADA rate.
Small School District Protection	Funding for Small School Districts, defined as districting having ADA of 1500 or less (currently Baker Valley, Helendale, Needles, and Trona) will be protected at the 1997-98 level subject to adjustments for program transfers and/or at the amount of revenue generated by their current actual ADA calculation (whichever is less).
NPS/NPA Costs	By approval of the SELPA Local Plan, the governing board of each participating member/district authorizes the SELPA to process NPS/NPA contracts and invoices on their behalf. Contract invoices will be paid by the SELPA and billed back to the districts per the Board approved X-Pot procedure.
Due Process/Dispute Resolution Pool	To protect member/districts from the potentially high cost of due process litigation and other expenses approved by the SELPA Board, SELPA member/districts agree to maintain a self-insurance pool (X-Pot) with an annual targeted reserve level of \$500,000.
State Special School Costs	All districts and County Operations will be 100% responsible for State Special School service costs provided for their students. These costs will be reimbursed via the X-Pot per the Board approved X-Pot procedure.
Due Process and NPS Processing Costs	Each district and County Operations will make an X-Pot contribution on a per-pupil basis, based on current year's December P-1 Pupil Count. The per-pupil contribution rate is recalculated and Board approved each year.

FEATURE	DESCRIPTION/INFORMATION
Regional Services – Students Served Outside District of Residence	<p>“Regional Service Rates” (aka Fee-for-Service) will be established for each placement or type of service provided outside of a student’s district of residence. Based upon the established Regional Service Rates, each district of residence will be charted for the regional services that are provided. For students received duplicate services, the district will be charged for each service separately. The SELPA will calculate these charges for each district based upon duplicated Pupil Counts.</p> <p>Regional Service Rates will be presented to the Board at the time of budget adoption for approval for use in the upcoming fiscal year. Rates may also be added or adjusted during the year with Board approval.</p>
Deficit “Excess” Costs Bill Back Procedure	<p>The need for an Excess Cost Bill Back Procedure to bill districts for excess costs in the County Operated programs, should be eliminated with the establishment of the “Regional Service” fee procedure. In the event, however, that an unexpected deficit is incurred by County Operated programs, an Excess Cost Report will be presented to the SELPA Board for approval.</p>
Dependent Charter School	<p>A Charter School is considered “Dependent” if they have not applied and been accepted into a SELPA as a Local Education Agency (LEA) member. As such, the charter is considered a school of the sponsoring district. Revenue generated/earned by a “dependent” charter is passed to the sponsoring district for distribution per their district policies or MOU between the district and the charter school. A calculation to determine recommended funding levels for each is prepared as delineated in Section J.</p> <p>NOTE: Not all “Directly Funded” charter schools are considered “Independent LEAs” for special education purposes.</p>
Independent Charter School	<p>A Charter School is considered “Independent” if their charter identifies them as a Local Education Agency (LEA); and they have applied for SELPA membership to the SELPA Board of Directors and been accepted as an Independent LEA Charter School. Revenue is paid directly to an Independent Charter School and not passed through to the sponsoring district.</p>

Section G – Base Allocation Principles

- Equitable distribution of special education revenues to all districts is the primary fiscal goal of AB602. To accomplish this purpose, all districts share equally in the allocation and apportionment of AB602 revenues. The SELPA-wide per ADA rates (base, COLA, equalization, growth (if applicable) and other) as reflected on the State AB602 Exhibit (subject to the deficit), along with the federal IDEA funds for age 5-21 programs (PL 94-142 Local Assistance Entitlements), will be used to calculate revenue distributions for all districts. It should be noted that Federal IDEA Local Assistance funds are included in the calculation to establish the “blended” per ADA rate. However, they are distributed to SELPA members/districts based on current year December Pupil Count.
- It is the intent that no district entitlement will be lower than the revenues received for their 1997-98 units from State Aid under the J-50 process. However, this entitlement is subject to adjustment as a result of declining enrollment and/or if special education programs are no longer operated within the district.
- Regionalized Services/Program Specialist (RS/PS) funds will be deducted from the State portion of AB602 funds at an historical average five-year rate of 3.52663% (See Exhibit C) prior to the calculation of district total special education per-ADA rates.
- District total special education per-ADA rates will be recalculated annually. Additional recalculations will follow each CDE certified AB602 Funding Exhibit (P-1, P-2, Annual, Annual R-1, Annual R-2, and Annual R-3).
- The primary source of funding for district special education services is the equitable share of general fund revenues generated by the proportionate amount of time that students with disabilities spend in special education classes.
- AB602 revenue is intended to supplement general fund revenues to cover the excess costs of providing special education services to students with disabilities.

AB 602 Fiscal Allocation Plan

The Desert/Mountain SELPA AB602 Fiscal Allocation plan consists of the following elements:

ADA used for the SELPA Fiscal Allocation Plan is described in the previous section entitled “ADA Defined for AB 602 Purposes” and is based on actual current year SELPA-wide ADA, ADA for students in Regional placements, other than Juvenile Hall, accrues to the student’s district of residence for the SELPA revenue calculations. For students enrolled in Charter Schools, the ‘district of residence’ is regarded as being either the independent LEA charter or the district that authorized the dependent charter. This will be referred to as “***district of residence ADA.***” ADA will be the **Funded** ADA in any given fiscal year. Funded ADA for school districts and independent LEA charter schools is P-2 ADA, with the exception of Nonpublic School and Community Day School, which is Annual (ADA source documents J-18/19, J-18/19B, J-18/19S, and J-18/19CH). Funded ADA for County-operated programs is Annual, with the exception of County Community School and Master Plan Special Day Class, which is P-2 (ADA source documents J-27/28 and J-18/19C Supplement).

1. AB 602 Revenue for district operated programs and LEA Charter Schools will be distributed as follows, to establish the overall rate per ADA, per the model contained in **Exhibit A**:
 - A. BASE REVENUE: Total amount per K-12 ADA is distributed equally to LEAs based initially on prior year **district of residence** ADA and subsequently revised at P-1 and P-2 for current year actual;
 - B. PROPERTY TAX: Total amount per K-12 ADA is distributed equally to LEAs based initially on prior year **district of residence** ADA. Revised at P-2 and P-2 for current year actual.
 - C. LOCAL ASSISTANCE (K-12 Part B, Federal IDEA, PL 94-142): Total amount per K-12 ADA is distributed equally to LEAs based initially on prior year **district of residence** ADA. Revised at P-1 and P-2 for current year actual. These funds are included to arrive at the per ADA amount of funding for all SELPA member/districts. The amount each entity receives for each grant award period is ultimately distributed based on current year December pupil count and is also subject to federal and state spending requirements.
 - D. COLA: Per K-12 ADA distributed equally to LEAs based initially on prior year **district of residence** ADA. Revised at -1 and P-2 for current year actual.
 - E. EQUALIZATION (if applicable): Per K-12 ADA distributed equally based initially on prior year **district of residence** ADA. Revised at P-1 and P-2.
 - F. GROWTH: Per K-12 ADA distributed equally to districts based initially on current year district of residence ADA. Revised at P-1 and P-2 for current year actual.
 - G. REGIONAL PROGRAMS: Funded as a revenue deduct expense, based upon the Regional Services fee-for-service schedule, from the **district of residence** per K-12 Apportionment revenue.
 - H. INDEPENDENT CHARTER SCHOOLS: Funded based upon the Fee for Service Schedule from those revenues generated by the Charter's K-12 ADA. With the exception of seat-time Independent Charter Schools which are fully funded.
2. For regional program operators (e.g., County programs) the revenue distribution is based on Fee for Service methodology.

(See Exhibit A for AB 602 Revenue Distribution)

Section H – Regional Programs

The “Regional Program” concept has been developed by the Desert/Mountain SELPA to address very specialized student program needs. Regional program funding is determined using the Fee for Service schedule and distributed to Regional Program operators from the AB 602 K-12 revenue after the per ADA distribution to LEAs (i.e., as a revenue deduct to the district of residence).

These programs are designed by the program operator based on requested services, reviewed by the Steering Committee and approved by the Board of Directors. Any LEA may be a Regional Program operator, but must adhere to the approved budget, program design, including staff: student ratio, daily/annual length of operation, curriculum, support systems/support staff, and staff development as prescribed under the Desert/Mountain SELPA Local Plan.

Any Regional Program proposed modification by the program operator must be reported to the Steering Committee and presented to the Board of Directors for approval.

Regional Programs must be reviewed annually by December 15 by the Steering Committee. Any recommended changes in Regional Programs for the next fiscal year (e.g., addition or deletion of classes), shall be presented to the Board of Directors for approval.

Regional Program revenue projections are based on one of two methodologies, with revenue being distributed to Regional Program operators from the SELPA-wide AB 602 K-12 revenue PRIOR TO any per ADA distribution to LEAs (i.e., “off the top”) (NOTE: Regional Programs are funded from Fee for Service revenue for specialized programs based on fees established to fund these programs at 100% of the cost of operation):

- 1) **Existing Regional Programs** approved for the next fiscal year, prior year actuals adjusted by current year COLA and any program design changes (expansion, reduction, etc.);
- 2) **New Regional Programs** will be initially funded based on cost projections, then adjusted to actuals as the year progresses.

All revenue and expenditures for Regional Programs MUST be tracked in a program (management code) separate from any other special education programs.

Regional Program operators must provide Revenue and Expenditure Reports for each program operated to the SELPA Finance Committee, Steering Committee, and Board of Directors identifying the following:

- Prior Year Actuals, including ending balance and FTE;
- Current Year Budget, including beginning balance and FTE;
- Current Year Expenditures, including FTE;
- Current Year Ending Balance

The Revenue and Expenditure Report schedule is as follows:

1st INTERIM, no later than DECEMBER 15 - current year from July 1 – October 31, including revised annual projections

2nd INTERIM, no later than MARCH 15 – current year from July 1 – January 31, including revised annual projections

No later than MARCH 15 – budget for following fiscal year

FINAL, no later than SEPTEMBER 15 – prior year actual from July 1- June 30

Regional Program operators **MUST** report deficits or surpluses to the Finance Committee, Steering Committee, and Board of Directors **as soon as evident**. This report shall include justification for the deficit or surplus. Any modifications to the approved budget shall be reviewed by the Finance and Steering Committees, and presented to the Board of Directors for final approval.

After the close of each fiscal year, Regional Program surpluses or deficits **may be** adjusted to zero (\$0) by the SELPA through the following fiscal year's Annual AB 602 Apportionment cycle. Adjustments shall be made via the same ADA methodology in which the original revenue was generated through the "off the top" model; **or may be** used to reduce the need for increases in the fee for services rates in the following fiscal year.

If an LEA is no longer the program operator, revenue shall be transferred to the new program operator. If the program is discontinued, existing revenue may be used to fund other existing, or new, Regional Programs as recommended by the Finance and Steering Committees, and presented to the Board of Directors for approval. Excess revenue shall be returned to the SELPA member districts via the same ADA methodology under which the Regional Program revenue was generated.

Section I – Fee for Service (FFS)

The Fee for Service mechanism has been developed to provide revenue for students in Regional Program placements (e.g., a Snowline student in an SDC class operated by Hesperia or San Bernardino County). The **Fee for Service Rates** range from the less intense placements/cost to the more intense placements/cost (i.e., from DIS to SH/SDC). The Fee Schedule shall be reviewed annually by the Finance and Steering Committees to determine future year's cost factors. Annually, by March 15, statewide fiscal changes that may impact the current year's Fee Schedule Cost Factors shall be identified and addressed by the Finance and Steering Committees. Recommendations to alter the annual Fee Schedule cost factors shall be submitted to the Board of Directors for approval. *(Refer to the Desert/Mountain SELPA Fee for Service Procedure for the detailed procedure.)*

Section J – Charter Schools

Special Education Funding

Special Education funding is calculated at the SELPA level per AB 602 via the state prepared Special Education Funding Exhibit. The Special Education Exhibit calculates the revenue, generated on a per ADA basis by multiplying the SELPA-wide ADA by the current Statewide Target Rate(s). The funding calculation includes separate rates for Base, COLA, Growth, NPS/NPA and Equalization (if applicable). These rates are combined by the SELPA to form a blended rate and is distributed equally to the member Districts on a per ADA basis.

A. LEA Charter Schools

Special Education funding for LEA Charter School(s) operating “seat time” special education programs shall be the special education revenue generated by the current period Charter ADA according to the base allocation principles of Section G.

Special Education funding for LEA Charter School(s) operating “non-seat-time” special education programs is limited to the lesser of (1) the special education revenue generated by the current period Charter ADA, or (2) the SELPA’s ‘Charter Base plus Fee’ revenue calculation. This revenue calculation is a combination of two components (1) the Base, calculated for the current fiscal year at 18% of the special education revenue generated by the Charter’s total ADA at P-2, plus (2) the SELPA Fee-for-service calculated for all special education services provided by the Charter to students at P-1 and P-2.

This revenue is estimated at P-1 and finalized at P-2. Prior to 2004/05 payments were made at P-1, and P-2 with an annual adjustment. Effective in 2004/05, payments of revenue are made monthly via the purchase order process. Apportionments are distributed on the same apportionment cycle as all other member districts. (*See Apportionment Distribution*). Initial payments for July through January are made based on actual service levels from the prior fiscal year adjusted for the estimated services levels or new programs. Payments for March through June are based on the official P-1 and P-2 ADA reported on the School J18/19 CH report. A revenue adjustment may be made in May and June and again following year-end closing due to any corrections or adjustments in subsequent state certifications of ADA or special education revenues.

B. Dependent Charter Schools (for special education purposes)

The District (who sponsored the dependent charter) is allocated special education revenue based on the total District ADA, including the ADA generated by the dependent Charter School(s). The District shall transfer to the Charter School, for those services provided by the Charter School at the School’s expense, an amount of funding equal to the lesser of either (1) special education revenue generated by the current period Charter ADA, or (2) the SELPA’s ‘Charter Base plus Fee’ revenue calculation. This revenue calculation is a combination of two components; (1) the Base, calculated for the current fiscal year at 18% of the special education revenue generated by the Charter School’s total ADA at P-2, plus; (2) the SELPA Fee-for-service calculated for all special education services provided to students at P-1 and P-2.

- C. This revenue is estimated at P-1 and finalized at P-2. The District receives revenue apportionments throughout the year per the state apportionment schedule. This monthly apportionment includes the portion earned/generated by the dependent Charter School. The revenue may be passed-through from the District to the School. This may be on a monthly, P-1/P-2, annual or any other basis deemed appropriate by both parties and in conformance with SELPA policy. A revenue adjustment may be made following year-end closing for corrections or adjustments to the P-2 ADA.

The School and District agree that the School’s assumption of responsibility for all students with exceptional needs who are enrolled in the charter school constitutes a contribution of an equitable share of the school’s block grant funding as defined in Education Code Section 47646(c). The

School and District further agree that the provision of funding specified within this Article constitutes an equitable share of special education funding and services as defined in Education Code Section 47646(b).

Section K – Small LEA Protection

Funding levels for LEAs with 1500 ADA or less will be supported at the 1997-98 revenue level subject to adjustments for program transfers.

As a result of the equalized funding allocation described in the sections above, and the small amount of ADA generated by a small LEA, it is possible that a small LEA's net revenue may be less than the 1997/98 funding level. To protect the small district from this funding shortfall and provide sufficient revenues to operate their special education programs, the following calculations will be employed as part of the allocation model.

LEAs with 1501 to 2500 ADA will be excluded from the calculation used to determine small LEA protection and will not contribute to the small LEA protection fund. These LEAs will not be supported at the 1997-98 revenue level.

Calculation:

1. Subtract the small LEAs current year revenue, after the deduct for regional service costs, from the 1997/98 revenue to determine the shortfall;
2. Add all of the small LEA shortfalls together to determine the total need to be covered by the large LEAs (or other funding source available for such use);
3. Divide each large LEAs total current revenue, after deducting the regional service costs, into the sum of all large LEAs revenues. This will result in the ratio of each large LEA to the total.
4. Multiply the ratio for each large LEA by the total shortfall from step 2.
5. Deduct the resulting prorated share from each participating large LEA's revenue.

The result is the final revenue amount for each large LEA.

Section L – X-Pot Insurance Fund Contribution

The Desert/Mountain SELPA X-Pot Insurance Fund has been developed by the member districts to provide revenue for costs in designated areas. Those areas are:

1. **Legal/Due Process/Fair Hearing** expenditures for both SELPA and district legal counsel related to compliance findings and due process hearings when approved procedures have been followed (**See Exhibit B**);

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2. **NPS/NPA Indemnification** for each LEA voting member of the SELPA Board as protection against the first \$30,000 in NPS/NPA costs;
3. **NPS/NPA expenditures** are brokered through the SELPA office to ensure consistent service, support, usage and rates. These costs are not charged against the X-pot contribution but are billed back to the district of residence at 100% of the expenditure incurred;
4. **State School Placements** and related expense;
5. **Independent educational evaluations**;
6. **Out of district/out of SELPA** expenses;
7. Education Code mandated support for **California Children Services (CCS)**, annually including limited office materials and supplies, and, after construction is completed, furnishing a new facility.
8. Other expenditure priorities as determined by the Board.

It is the intent of the member districts that the X-Pot Insurance Fund has sufficient revenue to cover the annual costs (i.e., no fund deficit). This fund will include a 5% (or more, up to \$500,000) contingency reserve for unforeseen expenses. The X-Pot Insurance Fund revenue will be generated from SELPA member districts' contribution. Each year's contribution will be calculated per the Board of Directors approved rate. This contribution will be determined for each fiscal period per the X-pot Insurance Fund Contribution Procedures.

The Desert/Mountain SELPA shall report X-Pot revenue and expenditures to the Finance and Steering Committees and the Board of Directors per the annual budget process.

Section M – X-Pot Revenue Transfer

Insurance Fund X-Pot Transfer

Revenue for the Insurance Fund shall be transferred from the SELPA member districts based on the Contribution calculation. The SELPA shall provide a worksheet for each district detailing the transfer calculation. The worksheet will be forwarded to SBCSS Internal Business to facilitate the transfer.

(See X-pot Insurance Fund Contribution Procedures)

Section N – Apportionment Distribution

With the implementation of the AB 602 model, funding has been established on a SELPA-wide ADA formula basis. The Desert/Mountain SELPA Local Plan has been amended to allow the SELPA to define the distribution model.

Revenue will be distributed from the State directly to the San Bernardino County Treasurer on a monthly basis with the Special Education apportionment cycle. The State provides documentation to SBCSS identifying the amount of the monthly special education apportionment to be deposited to the Desert/Mountain SELPA — it does not identify amounts for the member districts. Schedules detailing these SELPA level amounts are received at each certification period from the CDE identified as the Advance Apportionment (July-January), First Principal Apportionment (February-May), Second Principal Apportionment (June), and the Annual Apportionment (following February with adjustments applied to prior year June). The manner of distribution of the funds conforms to EC 14041(a) (2), which provides for the following schedule:

MONTH	DISTRIBUTION PERCENTAGE
July	6%
August	12%
September	8%
October	8%
November	8%
December	8%
January	8%
February	Reconciled with P-1 certification; revenue adjusted accordingly at 2/6 th
March	1/6 th of balance due per P-1 certification
April	1/6 th of balance due per P-1 certification
May	1/6 th of balance due per P-1 certification
June	Reconciled with P-2 certification; revenue adjusted accordingly to actual

For each apportionment period, the Desert/Mountain SELPA must submit a worksheet to SBCSS, which calculates each district's share of the State special education apportionment. The data shall include the SELPA total AB 602 revenue, each district's total, and each district's percentage of the SELPA total. At each apportionment certification, the totals must reconcile to the total posted on the SELPA's AB 602 State Exhibit. This worksheet will be used by SBCSS as the distribution model, with funds being distributed on a percentage share basis as provided on the worksheet up through May, and adjusted to actual totals based on the P-2 certification in June. If the distribution calculation is to be modified, the SELPA has until the 15th of the following month to provide the modifications to SBCSS. Any modifications will be used to calculate future revenue distribution percentages. All distributions will be reported by SBCSS to the SELPA, and by the SELPA to each member district.

Revenues affected by the SELPA Apportionment Distribution are any revenues generated under the State's AB 602 model. All revenues detailed in this procedure are apportioned to the member districts per the above schedule, with the exception of the X-Pot revenue, which is transferred to the SELPA (*see X-Pot Revenue Transfer section*).

Section O – Account Codes

County Schools shall use the following account codes to record receipt of the AB 602 State Apportionment revenue:

DESCRIPTION	FUND	RSRC	YR	GOAL	FUNC	OBJ	SCHL	MGMT
AB 602 Current Year	01	6500	0	5001	0000	8311	xxx	xxxx
AB 602 Prior Year	01	6500	0	59xx	0000	8319	xxx	xxxx

County Schools shall use the following account codes to record pass-thru of the AB 602 State Apportionment revenue from SELPA to Districts:

DESCRIPTION	FUND	RSRC	YR	GOAL	FUNC	OBJ	SCHL	MGMT
AB 602 Current Year	01	6500	0	5001	0000	8792	xxx	xxxx
AB 602 Current Year	01	6500	0	5001	0000	7221	xxx	xxxx
AB 602 Prior Year	01	6500	0	59xx	0000	8792	xxx	xxxx
AB 602 Prior Year	01	6500	0	59xx	0000	7221	Xxx	xxxx

Goal 59xx – the xx in goal denotes the appropriate prior fiscal year (i.e., 02/03 is coded as 5903)

Districts shall use the following account codes to record receipt of the AB 602 State Apportionment revenue:

DESCRIPTION	FUND	RSRC	YR	GOAL	FUNC	OBJ	SCHL	MGMT
AB 602 Current Year	01	6500	0	5001	0000	8792	xxx	xxxx
AB 602 Prior Year	01	6500	0	59xx	0000	8792	xxx	xxxx

Goal 59xx – the xx in goal denotes the appropriate prior fiscal year (i.e., 02/03 is coded as 5903)

Section P – Regional Facilities Acquisition Transfer

In response to the growth in pupils served in regional programs and the corresponding need for additional regional facilities the Desert/Mountain SELPA has developed the Regional Facilities Acquisition Process. Each district or county regional provider may request regional facilities to support the operation of a new or existing regionally operated class or program. This request is to be approved by the SELPA Board of Directors.

Upon approval of the SELPA Board of Directors, authorized costs of the portable facilities, including the costs of installation, site preparation, and necessary furniture and equipment, will be approved by the SELPA Administrator and funded from the Regional Facilities account. All authorized expenditures from the Regional Facilities account will be billed back to the districts on a per pupil basis. Site preparation and furniture & equipment spent in year one will be billed to districts in year one. Lease/Purchase costs will be amortized over a five-year period.

Regional Facilities transfer schedule is:

- 50% of the amount due, based on the prior year December unduplicated count, shall be transferred in October;

The balance shall be adjusted based on the current year P-1 pupil count and transferred at year-end.

Section Q – Regional Facility Acquisition Process

1. Requests for the acquisition of facilities to house regionally operated programs will be presented to the SELPA Issues Committee/Steering Committee for recommendation to the SELPA Board of Directors.
2. Upon approval of the SELPA Board of Directors, authorization will be given to the Administrative Services Division of SBCSS to negotiate the purchase of appropriate portable classroom facilities. The purchase of additional facilities will be authorized only after all attempts have been made to locate existing facilities available within the geographic area of need.
3. Authorized costs of portable regional facilities, including the cost of installation and site preparation, will be funded from current year SELPA X-POT reserves.
4. Authorized expenditures from the SELPA X-POT reserves will be amortized for reimbursement through an augmentation to the RLA Services Account based upon the process specified in Section III of the Agreement for Participation in the Desert/Mountain Special Education Local Plan Area. The specific amortization schedule shall be determined by the SELPA Board of Directors.
5. Title to the Desert/Mountain SELPA regional facility shall be held by the office of the San Bernardino County Superintendent of Schools. SBCSS shall maintain the responsibility for the

ongoing maintenance and operation of the facility according to the policies specified in the SELPA Local Plan.

6. The Desert/Mountain SELPA will maintain an inventory of regionally acquired facilities including their location and year of purchase. The inventory shall be verified by the SELPA Issues Committee and SELPA Steering Committee on an annual basis.
7. The location, use and disposition of regional facilities purchased through this process shall be the decision of the SELPA Board of Directors. The use of the facilities for other educational purposes during non-school hours shall be coordinated between the school site principal and the principal of SBCSS Desert/Mountain Operations.

EXHIBIT A: AB 602 Revenue Distribution

Exhibit A contains the following schedules which comprise the revenue distribution process:

- **AB 602 At-A-Glance: *NEW*** Single-Page Summary by District. Includes all AB 602 special education related revenues, deducts/expenses on one page;
- **Schedule A - SELPA State Exhibit Summary:** this form summarizes the State AB 602 Exhibit and identifies the SELPA level apportionment and rate per ADA. The amount that is passed directly through to the districts is highlighted and carries forward to Schedule C;
- **Schedule B - ADA Summary:** reflects the ADA allocated to each district. It includes the district earned ADA and the county ADA redistributed to the district of residence;
- **Schedule C - Distribution of COLA, Growth, and Equalization:** distributes each component of AB 602 to districts based on district ADA;
- **Schedule D - Allocation of Regional Service Fees, Cost to Purchase Outside Services:** calculates the total cost of special education services provided by an agency outside the district of residence (e.g. County Operations, SELPA, itinerant services, by & for other districts;
- **Schedule E - Small District Protection:** calculates the cost of protecting the revenue level of small/sparse districts. Also reflects charter school service payments and adjustments. Deducts the cost from the large district revenues to result in net revenue to all districts;
- **Schedule F-1 - AB 602 Revenue Apportionment and LEA Percentages (Revenue Sources):** breaks out the apportionment by revenue source. Column G reconciles to the AB 602 Certification Exhibit, Column H reflects the district percentage of the total AB 602 Exhibit apportionment. This schedule also includes the resource and object codes for each revenue category;
- **Schedule F-2 - Special Education Revenue Summary (AB 602 + Other Special Education related Revenue Sources):** summarizes all revenue sources that pass through the SELPA to

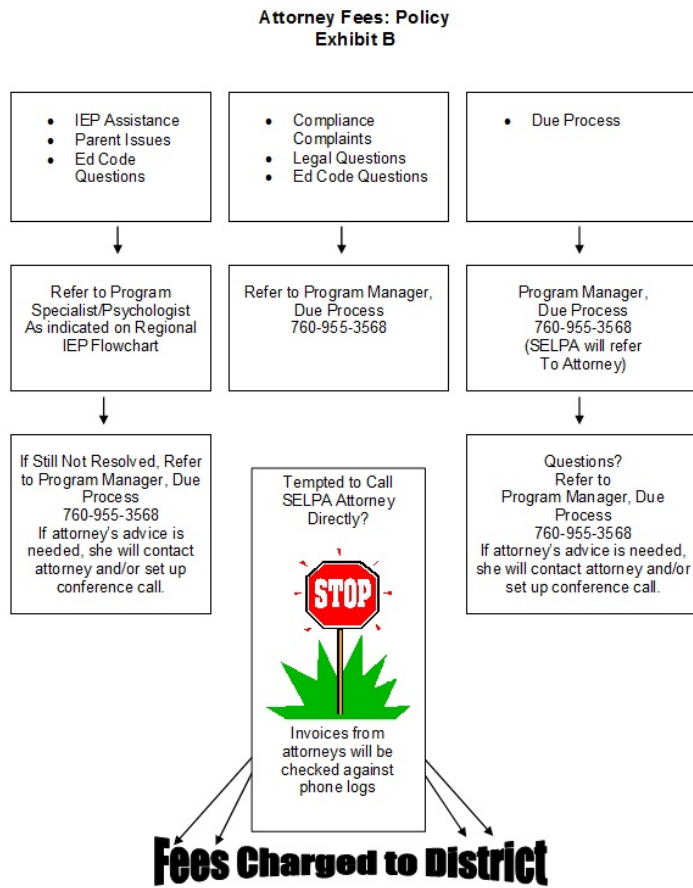
the districts and County. This schedule also includes the resource and object codes for each revenue category;

- **Schedule F-3 - CSSF Apportionment Distribution:** distributes funds, deposited in the County School Service Fund, between the County Operations programs and the SELPA programs;
- **Schedule G - SELPA Related LEA Expenditures Summary (Due to SELPA):** estimates the district costs for special education related services;
- **Schedule H - Base Revenue Limit Transfer Calculations:** estimates the BRL transfer for (1) the intra-district transfer from regular education to special education based on district SDC ADA; (2) the BRL pass through for County served students, via the K-12 Form;
- **Schedule I - Federal Funds Allocation (Local Asst., K12 Personnel Development & Preschool Staff Development):** estimates the distribution of Local Assistance, K-12 Staff Development, and Preschool Staff Development grants based on prior year P-1 pupil count;
- **Schedule J - X-Pot Contribution:** calculates each district's X-Pot contribution based on current year P-1 pupil count.
- **Schedule K - Charter Revenue Schedule:** calculates the maximum earned revenue for Independent Charter Schools based on the Fee-For-Service plus an 18% base allowance. Provides a comparison of this calculation to the actual earned revenue of the Charter School based on ADA. NOTE: A Charter School may earn up to, but not more than, the revenue generated by their ADA less their calculated X-pot contribution. (see the Charter School Funding Allocation Procedure)

Additional Schedules

- **Special Education Revenue Pool Expenditure Proposal Summary:** Schedule of planned sources and uses of funds within the Special Education Revenue Pool;
- **AB 602 State Exhibit:** Current State Exhibit;
- **Regional Service Reports:** Regional Service Reports completed Year-to-Date. Includes Service Levels and Service Costs. 1) Regional Service Monthly Pupil Count, 2) County Itinerant DIS Only, 3) Charter School Service Report, 4) Preschool Revenue Distribution.

EXHIBIT B: Attorneys' Fees Policy





The SELPA C3 Team Invites
You and Your LEA Special Education Directors to:

CALPADS REPORTS FOR SPECIAL EDUCATION DIRECTORS

Friday, February 26, 2021

8:00 a.m. to 9:00 a.m.

Heather DiFede, Our In-House Expert

Zoom Link: <https://bcoe.zoom.us/j/95187677031>

No Registration Required

[NOTE: We'll max at 300, but will
record the session.]

CDE Assessment System Update

As of January 27, 2021

Assessment System Updates

Test Administration Options

- The California Department of Education (CDE) is offering two test administration options for the following assessments:
 - Smarter Balanced Summative Assessments for English Language Arts/Literacy (ELA) and Mathematics;
 - The California Science Test;
 - The California Spanish Assessment; and
 - The Summative ELPAC
- These options include:
 - In-person (adhering to state, county, and local health and safety requirements)
 - Remote (using monitoring tools: camera, speakers, chat during test session)

The California Alternate Assessment (CAA) is only available for in person administration.

- The secure browser is required for all in-person and remote testing, with the exception of all K-2 ELPAC domains and the speaking domain for 3-12 ELPAC.

In-Person Testing

- In-Person testing is where the test administrator (TA) or test examiner (TE) and students are in the same room using appropriate physical distancing.

Remote Testing

- The Remote Testing Video Permission defaults to “**Yes**” for all students. Students with this setting can be tested either remotely or in person.
- Any new students who are entered into CALPADS after January 12, 2021, will default to “No” for the Remote Testing Video Permission.
 - Coordinators will need to change the remote permission setting to “Yes” for these students if the student will be tested remotely.
- The Remote Testing Video Permission is retained if the student moves to a different school or LEA.
- Changes to a Remote Testing Video Permission require one business day to update in the system.

Parent/Guardian Notification

- Video monitoring by the test administrator or test examiner is required for remote administration of all CAASPP and ELPAC assessments.

It is no longer a requirement to have collect a signed permission.

- Parents and guardians must be notified that the student will be administered a test remotely and that video and microphone will be used to monitor and communicate with the student during testing.

New Features

- Recommended: Users can schedule their test sessions in advance.
- With the video permission turned on, the test administrator or test examiner will be able to monitor students by video during the testing session.
- Individual messaging is available and can be initiated by the student or by the test administrator or test examiner.
- The raise hand functionality is available for students that need assistance.
- One-on-one video calls allow the test administrator or test examiner to initiate a direct online call with a student.
 - Students cannot initiate a call with their test administrator or test examiner.
- Test administrators and test examiners can broadcast feature a message to all the students within the testing session.
 - These messages are automatically read aloud to the students.

- These features are available on the summative assessments, interim assessments, as well as the practice and training tests.
 - They are available in the secure browser as well as the Web-based Student Testing Interface, **as long as the session was scheduled as a remote testing session.**
- The video features are only available on the practice and training tests **if students are using actual SSIDs and not signed on as a guest user.** A guest user can access a live session and have access to all functionality except for video.

None of the video, messages, calls, or broadcasts are saved.

California Science Test (CAST)

- The CDE is using the original CAST blueprint as there was not a sufficient number of item types to meet the revised blueprint.
- The CDE will have the items and item types to meet the revised blueprint for the 2021-22 administration of the CAST.

California Alternate Assessments

- After a careful review of the necessary requirements for the delivery of the CAAs for ELA, mathematics, and science, the CDE recommends:
 - In-person test administration (adhering to state, county, and local health and safety requirements)
- Remote test administration is not recommended.
- Assistive technology supports are not conducive to a remote testing environment and require support from a test examiner.
- Parents or guardians should not be asked to administer the assessment, as testing regulations do not allow for their participation.

Alternate ELPAC Field Test Delay

- The operational field test has been delayed until 2021–22 due to COVID-19 circumstances.
- Plan to administer the Alternate ELPAC Field Test November 2021 through mid-February 2022.

2020-21 Alternate Testing

- For the 2020-21 school year, LEAs will continue to administer **their locally determined alternate assessments**, following state, county, and local health requirements.
- Alternate assessments should be administered in the Summative ELPAC testing window, February 1 through May 31.

There is no need to attach an addendum to the IEP of a student who was identified and registered for the Field Test.

- There is no need to change the Student Test Assignment in TOMS. Field Test registration will automatically roll over to registration for a locally determined alternate assessment.
- For those who haven't registered, please remember that students determined to need an alternate assessment by their IEP team will need to assign their students to a locally determined alternate assessment in TOMS.

What Can LEAs Do Now?

- Identify students who may be eligible to take the operational field test next year and prepare any necessary IEPs.
 - Registration of students for the Alternate ELPAC Operational Field Test will open in August 2021.
- Complete or refresh Field Test training.
- For additional information visit the Alternate ELPAC web page located at <https://www.elpac.org/test-administration/alternate/>.



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ADDITIONAL EQUITY RESOURCES

[2018-2021 Equity Institute Recordings](#)

[Access to CAJ Courses](#)

[Learning Designed Equity Resources](#)



Developed & Hosted By
Technology Services

Santa Clara County
Office of Education

OUR LOCATION:

Santa Clara County Office of Education
Attn: Inclusion Collaborative
1290 Ridder Park Drive, MC 227
San Jose, CA 95131

CONTACT US:

Phone: (408) 453 6756
Fax: (408) 453 6596
Email: inclusion@sccoe.org

6.6 Desert Mountain Operations Update
Verbal report, no materials



Desert / Mountain Children's Center
17800 Highway 18
Apple Valley, CA 92307-1219

P 760-552-6700
F 760-946-0819
W www.dmchildrenscenter.org

MEMORANDUM

DATE: February 17, 2021
TO: Special Education Directors
FROM: Linda Llamas, Director

SUBJECT: Desert/Mountain Children's Center Client Reports

Attached are the opened and closed cases for the following services:

- Screening, Assessment, Referral and Treatment (SART)
- Early Identification Intervention Services (EIIS)
- School-Age Treatment Services (SATS)
- Student Assistance Program (SAP)
- Speech and occupational therapy

If you should have any questions, please contact me at (760) 955-3606 or by email at linda.llamas@cahelp.org

Delivery of Virtual Critical Incident Stress Management (V-CISM) Services

- Critical Incident Stress Management (V-CISM) Guidelines
 - District to provide credentialed/licensed staff to:
 - Verify critical incident with parent/guardian, coroner and/or police department
 - Obtain parent/guardian approval to disclose cause of death (especially in the case of death by suicide)
 - Obtain signatures on *Critical Incident Notification and Virtual Service Parental Agreement* form. Parent/guardian must agree to provide emergency contact phone number and ensure that a responsible adult remain physically available on the premises for student support and safety during V-CISM Intervention if needed
 - Assist critical incident response team (CIRT) in the development of homogeneous groups by identifying students/staff who had a relationship with the individual(s) affected by the critical incident. For example:
 - Relatives
 - Siblings
 - Sibling's friends
 - Friends of the family
 - Teacher/staff members
 - Best friends
 - Boyfriend/girlfriend
 - Classmates
 - Fellow team or club members
 - Eyewitnesses to the critical incident
 - Remain available to CIRT throughout the duration of V-CISM intervention to assist with student support in the event of an emergency
 - Obtain physical location of the student and keep parent/guardian emergency contact information readily available prior to the start of the V-CISM intervention
 - Conduct Risk Assessment and/or refer to law enforcement or Children's Crisis Response Team (CCRT) for students who present at risk to self and/or others
 - Work directly with the family to ensure proper supervision and safety of student who present at risk of danger to self or others until completion of mental health evaluation by CCRT and/or law enforcement
 - Follow up with parent/guardian of student referred for mental health evaluation

Sample Critical Incident Notification & Virtual Service Parental Agreement

(Place school letterhead here)

Date

Dear Parent/Guardian,

It is with deep regret that we inform you about a recent loss to our school community. On ***(insert date), (insert name of the deceased)¹ (insert brief facts about the death)²***. This loss is sure to raise many emotions, concerns, and questions for our entire school, especially our students.

Our school ***(insert name of school district, if applicable)*** has arranged for the assistance of a Critical Incident Response Team (CIRT) from **(school and/or the Desert Mountain Children's Center)** made up of individuals trained to help with the needs of students, parents, and school personnel at difficult times such as this. Due to the current pandemic, Virtual Critical Incident Stress Management (V-CISM) services will be offered via Zoom. You will be notified of the date and time for your session after the parental agreement (below) is returned. Interventionists will be available for any student who may want help talking about the critical incident or who desire emotional support. Participation is strictly voluntary. We encourage you, as parents/guardians, to also utilize this support. If you would like to attend a separate Zoom session specifically for parents/guardians, please indicate your desire on the form below.

It is not unusual for individuals who have experienced a critical incident to have a strong emotional reaction. Since CISM services are not currently offered in person at the school site, there are some guidelines that need to be implemented to ensure that individuals participating virtually will be supported and kept safe should they experience any intense emotional reactions that may pose a threat to their safety or the safety of others.

Please provide the information requested and initial in the spaces provided below then email or deliver directly back to:

(School administrator or school administrator designee email address)

Initial here

- It is imperative for students who want to participate to have their **Parent/Guardian or responsible adult present on the premises** where the student will be participating in the Zoom session.

Initial here

- The adult will not attend the Zoom session with students, but must provide his/her **name, relationship to the student and an emergency contact phone number** should he/she need to be contacted by a member of the critical incident response team to provide immediate support and supervision to the student.

<i>Student Name:</i>
<i>Physical address where student will participate in session:</i>
<i>Parent/Guardian printed name:</i>
<i>Parent/Guardian signature:</i>
<i>Responsible adult's name who will be on the premises during V-CISM Zoom session:</i>
<i>Relationship to the student attending Zoom session:</i>
<i>Emergency contact phone number(s) of adult present during Zoom session:</i>
<i>Parent/Guardian desires to attend a separate Zoom session? (please circle "yes" or "no").</i> <div style="display: flex; justify-content: space-around;">YESNO</div>

- We have enclosed some information that may be useful to you in helping your child at home. If you would like additional information or need assistance, please do not hesitate to contact ***(insert name of school administrator or school administrator designee)*** at ***(insert phone number)***.

We are saddened by the loss to our school community and will make every effort to help you and your child.

Sincerely,

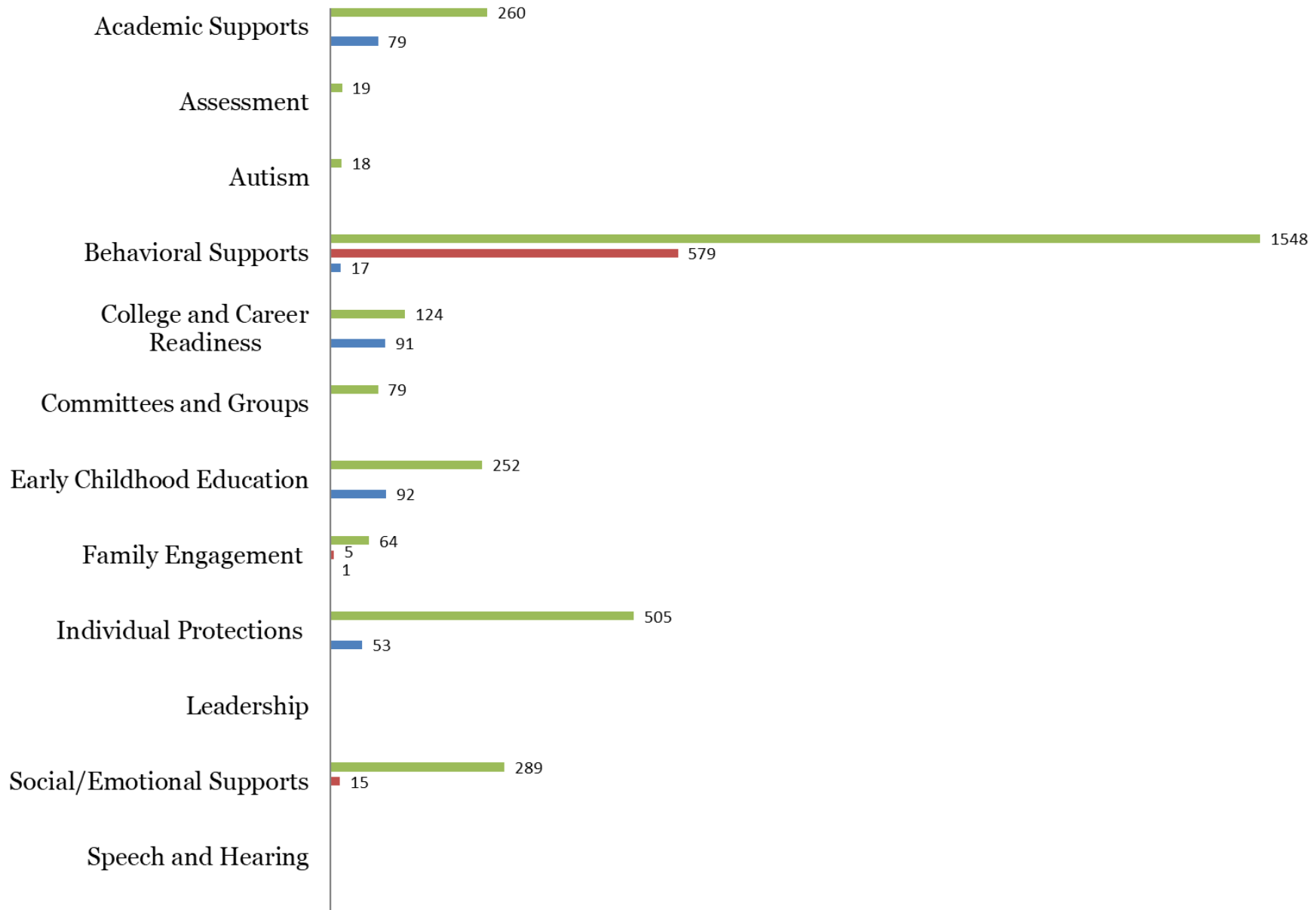
(Type the name of the signer and title. This letter is usually signed by the principal or other school administrator)

D/M SELPA PROFESSIONAL LEARNING PARTICIPATION SUMMARY

JANUARY 2021 - 932 PARTICIPANTS

3158 YEAR-TO-DATE PARTICIPANTS

■ Total Participants YTD by Content Area ■ On-Site Trainings ■ Regional Trainings



Desert/Mountain SELPA
Due Process Summary
July 1, 2020 - February 19, 2021

DISTRICT														CASE ACTIVITY FOR CURRENT YEAR				
	10/11	11/12	12/13	13/14	14/15	15/16	16/17	17/18	18/19	19/20	20/21	Total		D /W	Resolution	Mediation	Settled	Hearing
Adelanto SD	2	0	3	6	5.5	2.5	5	3	3.5	3	2	35.5		0	0.5	0	1.5	0
Apple Valley USD	1.33	0	0	2	1	1.5	1.5	0	3.5	10	4	24.83		1	0	1	2	0
Baker USD	0	0	0	0	0	0	0	0	0	0	0	0		0	0	0	0	0
Barstow USD	1	0	0	0	0	1	3.5	0	2	0	1	8.5		0	0	0	1	0
Bear Valley USD	0	1	0	0	0	0	1	2	0	0	1	5		0	0	0	1	0
Helendale SD	0	0	0	0	0	0	0	1	0	0	0	1		0	0	0	0	0
Hesperia USD	1	5.5	4	3	5	7.5	7	6	7	17.5	5	68.5		0	0	1	4	0
Lucerne Valley USD	4	0	1	2	1	1	2	0	1.5	0	0	12.5		0	0	0	0	0
Needles USD	0	0	0	0	0	0	0	0	0	0	0	0		0	0	0	0	0
Oro Grande SD	0	0	0	0	0	0	0	0	0	2	0	2		0	0	0	0	0
Silver Valley USD	0	1	0	0	0	0	0	0	0	0	0	1		0	0	0	0	0
Snowline USD	0	2	1	1	5	4.5	6.5	2	8.5	7	2	39.5		0	1	0	1	0
Trona USD	0	0	0	0	0	0	0	0	0	0	0	0		0	0	0	0	0
Victor Elementary SD	1	1	1	4.33	3.33	1.83	2.5	6.5	0	7	1	29.5		0	0	0	1	0
Victor Valley Union High SD	0	2	4	3.33	4.3	7.83	4	4	8.5	6.5	5	49.5		1	0.5	1	2.5	0
Academy for Academic Excellenc	1.33	0	0	4	2	0	1	2	1	1	1	13.33		0	0	0	1	0
CA Charter Academy	0	0	0	0	0	0	0	0	0	0	0	0		0	0	0	0	0
Desert/Mountain OPS	0.34	0.5	1	1.33	0.83	4.33	3	1.5	3	2	0	17.83		0	0	0	0	0
Excelsior Education Center	0	0	0	0	0	0	0	0	0.5	2	0	2.5		0	0	0	0	0
Health Sciences HS & MS	0	0	0	0	0	0	0	0	1	1		2		0	0	0	0	0
SELPA-WIDE TOTALS	12	13	15	33	27.96	33	37	28	40	*59	22	313		2	2	3	15	0

Districts showing a value of .50 above indicates that the district is a co-respondent with another district.

*Number accounts for High Tech High but has exited from CAHELP. Actual count for 2019-20 is 67.

Desert/Mountain SELPA
Due Process Activity Summary
July 1, 2020 – January 19, 2021

LEA Case Number	Issue(s)	Date Filed	Resolution Scheduled	Mediation Scheduled	Pre-Hearing Conference	Due Process Hearing	Status
1. Apple Valley Case No. 2020070137	1. Appropriate services, goals, placement, accommodations 2. Failure to implement IEP as written 3. Denial of Home instruction 4. Failure to timely assess and review evaluations 5. Failure to provide accommodations for cheer tryouts	07/03/20	07/13/20 07/16/20 08/14/20	08/27/20	08/17/2020 09/21/20	08/25- 8/27/2020 09/29- 10/01/20	Resolution unsuccessful. Parent demands placement of daughter on cheer team, reimbursement for private/city cheer team participation, compensatory ed, Spanish class letter grade change. Parent agreed to mediation then withdrew. Preparing for hearing. 8/26/20 parent withdrew from mediation. Prepare for hearing. 9/26/20 case dismissed by parent. CLOSED
2. Hesperia USD Case No. 2020070579	1. Appropriate placement and program 2. Statutorily appropriate LAS assessment	07/17/20	7/31/20 08/17/20	09/08/20	10/26/20	11/03- 11/15/20	08/26/20 settlement agreement for DMCC ERMHS, IEE-speech; service increases to speech and occupational therapy. Comp. education: speech, counseling, tutoring. CLOSED
3. VVUHSD Case No. 2020070920	1. Appropriate placement and program 2. Failure to make progress 3. Failure to provide ABA aide at parent request 4. Minimal services during COVID 19	07/29/20	08/11/20		09/11/20	09/22- 09/24/20	08/28/20 settlement agreement for comp. education: tutoring, speech language, occupational therapy. CLOSED
4. Hesperia Case No. 2020070962	1. Appropriate program in LAS, Fine Motor, Behavior 2. Statutorily appropriate LAS assessment and psycho ed assessment	07/30/20	08/07/2020 08/18/20	09/17/20	09/11/20	09/22- 09/24/20 10/20- 10/22/20	08/27/20 settlement agreement for IEEs: speech language, FBA, Psycho-Ed. IEP additions: increase in speech language, occupational therapy. Comp. education: tutoring, speech. CLOSED

Desert/Mountain SELPA
Due Process Activity Summary
July 1, 2020 – January 19, 2021

LEA Case Number	Issue(s)	Date Filed	Resolution Scheduled	Mediation Scheduled	Pre-Hearing Conference	Due Process Hearing	Status
5. VVUHSD 2020080045	Child Find 1. Severe depression 2. Hospitalized 4x 3. Failing classes	08/05/20	8/18/20		09/14/20	09/22- 09/24/20	Seeking identification as SPED in order to cover residential placement. Student in medical RTC in Whittier. Upon release, VVUHSD to commence assessment. Settlement 08/27/20 - CLOSED
6. Victor Elem SD 2020080331	Child Find 1. Failure to assess	08/12/20	09/02/20		09/28/20	10/06- 10/08/20	Student had 504 in Victor Elem SD; VVUHSD found eligible for special education. Seeking comp. education. Settlement 9/24/20 - CLOSED
7. Adelanto SD & VVUHSD 2020080427	Denial of FAPE 1. Health plan 2. Academic 3. Complete assessment	08/13/20	08/25/20		09/25/20	10/06- 10/08/20	09/28/20 settlement agreement; fund IEE – Psycho ed; IEP to modify goals, health plan, and implementation with parent; comp. education; CLOSED
8. Hesperia USD 2020090471	Denial of FAPE 1. Failure to assess in all areas 2. Failure to offer SLP, ERMHS 3. Failure to provide appropriate SAI 4. Lack of appropriate goals 5. Failure to implement IEP	09/16/20	09/23/20 10/05/20	11/17/20	11/02/20 12/21/20	11/10- 12/20/20 01/05- 01/07/21	Mediation goal: comp. ed. differences, teacher placement. Settlement agreement 11/18/20: IEP program enrollment, reassigned class to avoid teacher; CLOSED
9. Adelanto 2020090691	Denial of FAPE 1. Inappropriate program & placement 2. Inaccurate MD 3. Failure to provide FBA 4. No services Feb 2020-May 2020	09/22/20	09/29/20 expedited	10/07/20 Expedited 11/19/20 regular		10/20- 10/22/20 Expedited 11/17- 11/19/20 Regular 01/12- 01/14/21	LEA retracting MD; requesting to dismiss expedited status; gathering DLP data for expedited mediation or regular resolution; expedited status dismissed. Proceeding with regular mediation. 11/23/20 settlement agreement: FBA assessment, IEE for ERMHS, 1:1 behavior aide in home, DMCC and VCC intensive; CLOSED

Desert/Mountain SELPA
Due Process Activity Summary
July 1, 2020 – January 19, 2021

LEA Case Number	Issue(s)	Date Filed	Resolution Scheduled	Mediation Scheduled	Pre-Hearing Conference	Due Process Hearing	Status
10. VVUHSD 2020100043	Denial of FAPE 1. Failed to hold an IEP in February 2019 2. Failed to hold an IEP in February 2020 3. Failed to conduct triennial assessment October 2019	09/22/20	10/14/20 10/15/20 11/04/20	12/03/20	11/13/20 01/22/21	11/24- 11/25/20 02/02-04/21	Child has not been in school since before 2019. Parent refusing placement. Wants full-day SDC class with no class changes. District holds not FAPE. Case withdrawn. No settlement agreement. CLOSED
11. Apple Valley USD 2020100583	Denial of FAPE 1. Substantive concerns for IEPs dated: 10/2018, 10/2019, 03/2020, and 07/2020 2. Home instruction failed to provide FAPE 3. Fall 2019 Triennial timeline 4. Failure to provide parent a copy of IEP 5. Failure to provide accommodations to cheer tryouts 6. Failure to implement IEP during COVID-19	10/16/20	10/28/20	12/17/20	11/30/20 02/08/21	12/08- 12/10/20 02/17-18/21	No settlement at resolution. Parent remains angry; filing staff complaints. LEA offering compromises and not accepted. Mediation scheduled. 02/01/21 – settlement agreement. CLOSED.
12. VVUHSD 2020100503	Child Find	10/16/20	10/30/20 11/17/20		11/30/20	12/08- 12/10/20	12/03/20 student awaiting release of psychiatric hold for RTC; placement tolling agreement. Student under CPS placement.
13. Hesperia USD 2020110001	Denial of FAPE 1. Failure to conduct triennial assessment Sept 2020 2. Lack of educational benefit a. reading goal b. writing goal c. math goal	10/30/20	11/10/20 11/09/20		12/14/20	12/22- 12/24-20	11/30/20 settlement agreement – Comp. ed; CLOSED

Desert/Mountain SELPA
Due Process Activity Summary
July 1, 2020 – January 19, 2021

LEA Case Number	Issue(s)	Date Filed	Resolution Scheduled	Mediation Scheduled	Pre-Hearing Conference	Due Process Hearing	Status
14. Academy for Academic Excellence 2020110282	Denial of FAPE 1. Failure to assess comprehensively 2. Failure to provide dyslexia program	11/09/20	11/20/20		12/28/20	01/05-07/21	Preliminary agreement; 12/18/20 settlement agreement – academic ERHMS comp. ed., IEE – dyslexia assessment; CLOSED
15. Snowline JUSD 2020110297	Denial of FAPE 5. Failure to make specific offer of FAPE Denial of parent participation 1. Failure to provide timely records 2. Failure to ensure team members participation	11/09/20	11/16/20		12/28/20	01/05-07/21	Parent seeking reimbursement for tuition at NPS, for summer tutoring expenses, for summer NPS placement, transportation reimbursement for private services; settled 12/01/20; CLOSED
16. Apple Valley USD 2020110631	Denial of FAPE failure to provide: 1. FBA 2. Behavior Plan 3. Appropriate services 4. Ambitious goals 5. Distance learning FAPE Failure to assess: 1. SLP 2. OT 3. ATC 4. PT 5. Psycho-ed triennial	11/19/20	12/04/20	01/13/21 02/02/21	01/04/21 02/19/21	01/12-14/21 03/2-4/21	Settlement demand viewed as excessive. Opposing counsel seeking to amend complaint after IEP of 12/09/20. AVUSD to cross-file.

Desert/Mountain SELPA
Due Process Activity Summary
July 1, 2020 – January 19, 2021

LEA Case Number	Issue(s)	Date Filed	Resolution Scheduled	Mediation Scheduled	Pre-Hearing Conference	Due Process Hearing	Status
17. Hesperia USD 2020120175	Denial of FAPE 1. Failure to assess in all areas 2. Failure offer meaningful goals 3. Failure to offer appropriate goals 4. Failure to find Autism 5. No FBA 6. Learning loss as a result of COVID-19	12/03/20	12/14/20	01/19/21	01/18/21 03/08/21	01/26-28/21 03/16-18/21	12/04/20 resolution cancelled by mutual agreement. 01/21/21 District cross-filed. Cases consolidated. No settlement at mediation.
18. Bear Valley USD 2020120196	Denial of FAPE 1. Child Find 2. Prior knowledge of TBI	12/04/20	12/10/20 Expedited	12/18/20 Expedited	01/11/21 Expedited 01/11/21 Regular	01/20-21/21 Expedited 01/26-28/21 Regular	Parent seeking to overturn expulsion. Settled all claims at mediation – full assessment by LEA, IEE for CAPD, removal of expulsion. CLOSED
19. Barstow USD 2020120631	Denial of FAPE 1. Failure to assess for ERHMS and FBA 2. Goals not reasonably calculated a. math b. reading c. writing 3. Lack of service during COVID-19	12/22/20 12/09/20	12/21/20 01/15/21 Expedited		02/01/21	02/09-11/21	01/19/21 – settlement agreement; FBA to be completed upon return to class. Compensatory education and ERMHS. CLOSED.
20. Apple Valley USD 2020120771	Denial of FAPE 1. Goals not reasonably calculated a. reading b. writing c. math 2. Lack of comprehensive assessment 3. Inadequate SAI	Filed 12/22/20 Received 01/04/21	01/12/21 01/11/21	03/10/21	02/01/21 04/19/21	02/09-11/21 04/27-29/21	01/28/21 – settlement agreement; IEE – neuropsych; District to assess ERMHS compensatory ed; CLOSED

Desert/Mountain SELPA
Due Process Activity Summary
July 1, 2020 – January 19, 2021

LEA Case Number	Issue(s)	Date Filed	Resolution Scheduled	Mediation Scheduled	Pre-Hearing Conference	Due Process Hearing	Status
21. VVUHSD & Adelanto SD 2021020060	Denial of FAPE 1. Failure to provide records 2. Lack of parental participation 3. Failure to assess in all areas 4 .Failure to provide FAPE	02/01/21	02/16/21		03/15/21	03/23-25/21	
22. Snowline JUSD 2021020201	1. Denial of FAPE 2. Failure to provide appropriate ITP and transition services	02/04/21	02/18/21		03/12/21	03/23-25/21	

Desert /Mountain SELPA
Legal Expense Summary
As of February 19, 2021

2000-2001	\$39,301.51
2001-2002	\$97,094.90
2002-2003	\$37,695.13
2003-2004	\$100,013.02
2004-2005	\$136,514.09
2005-2006	\$191,605.08
2006-2007	\$140,793.00
2007-2008	\$171,614.04
2008-2009	\$263,390.71
2009-2010	\$114,076.96
2010-2011	\$293,578.50
2011-2012	\$567,958.10
2012-2013	\$321,646.04
2013-2014	\$250,372.65
2014-2015	\$297,277.76
2015-2016	\$204,756.26
2016-2017	\$233,130.03
2017-2018	\$247,459.52
2018-2019	\$314,479.71
2019-2020	\$475,930.79
2020-2021	\$180,973.94

ALTERNATIVE DISPUTE RESOLUTION (ADR) PROCESS OPTIONS

Once a request for an ADR conference is made, a SELPA facilitator will contact both parties to determine what the issues are. They will have an opportunity to describe the situation from their point of view, and then the SELPA facilitator may suggest that one of the options listed below be tried:

- **Facilitated IEP** - The facilitator works with disputing parties to structure the IEP and facilitate the IEP meeting. Parents/guardians or school staff may request that an ADR-trained SELPA staff to facilitate an IEP meeting if the meeting is expected to be difficult. The facilitator uses specific techniques designed to assist the parties in completing the IEP by coming to agreement while maintaining good relationships. As part of the process, the facilitator clarifies the agenda and meeting outcomes, enforces working agreements, keeps the group focused on child and the IEP process, encourages problem solving, monitors time and encourages equal participation by all team members. The outcome of the facilitated IEP is a signed IEP, which has been developed collaboratively and with agreement between the LEA and parents/guardians.
- **Local Resolution Meeting-** The facilitator organizes and conducts a meeting to resolve the differences between the parent(s) and the school district. During this process, each party has a chance to state his/her position, share concerns, and listen to the other party's position. The facilitator assists the parties in reaching a mutually agreeable outcome. During the meeting, the facilitator encourages open communication between participants and helps to create a safe environment. If an agreement is reached, the specifics are put into writing and signed by all parties. An IEP meeting will be held following any local resolution meeting to make the agreements legally binding, when issues related to FAPE are involved. A parent/guardian may request a support person to attend ~~an ADR Collaborative Conference~~ a Local Resolution Meeting ~~so~~ as long as the person is not an attorney. ~~ADR Collaborative Conferences~~ Local Resolution Meetings can help maintain, and often improve, the relationship between parents and district personnel. ~~The benefits of Families benefit from participating in an ADR collaborative conference-~~ a Local Resolution Meeting ~~parents/guardians is the opportunity to-~~ by gaining insight into the decisions of the school district, negotiating their own position in an informal, non-intimidating space, and reestablishing lines of communication to aid in serving their student.

YOU BE THE JUDGE: OCR Complaint

Was AP's meeting with coach, attendance at team practices satisfactory response to bullying?

A California district's online alert system notified administrators that a student athlete with an unknown disability completed a written assignment wherein he described bullying. He communicated that his teammates made fun of him and his injury, and that the coach told him he was weak and would not play in the game. The parent notified the school and asserted that when other players made comments about his son the coach did not intervene or stop them.

The assistant principal met initially with the coach and the principal and later with the student's teachers and parents. The AP attended several team practices. He emailed the parent about the school's response to the situation, provided a copy of the school's bullying protocol, and provided a summary of his meeting with the coaches. At a subsequent IEP team meeting, the parent provided written concerns, including bullying allegations and how they affected his son. The parent also proposed revisions to the IEP. The IEP team directed the parent to administrators to address his concerns.

The parent contacted the Office for Civil Rights alleging discrimination. Section 504 and ADA Title II provide that, as part of a school's appropriate response to bullying on any basis, the school should convene the IEP or Section 504 team of a student with a disability to determine whether, as a result of the effects of the bullying, the student's needs have changed such that he is no longer receiving FAPE. The school must determine the extent to which additional or different services are needed, ensure that any needed changes are made promptly, and safeguard against putting the burden on the student with the disability to avoid or handle the bullying.

Upon notice of bullying, did the district promptly decide if the athlete's educational needs were still being met?

- A. **Yes.** The principal met with teachers, coaches, and the parent to follow up upon notice of bullying.
- B. **Yes.** IEP and Section 504 teams do not have responsibilities with respect to allegations of bullying of students with disabilities, so the team properly referred the parent to administrators to address his concerns.
- C. **No.** The IEP team never convened to determine the effects of the alleged bullying, if any, on the student.

Correct Answer: C

- A. Yes. The principal met with teachers, coaches, and the parent to follow up upon notice of bullying.

Incorrect. The bullying, and any effect on the student, must be discussed in an IEP team meeting.

- B. Yes. IEP and Section 504 teams do not have responsibilities with respect to allegations of bullying of students with disabilities, so the team properly referred the parent to administrators to address his concerns.

Incorrect. The student's IEP team should have considered the student's needs and if they were affected or changed by the alleged bullying, necessitating modification of his IEP.

- C. **No.** The IEP team never convened to determine the effects of the alleged bullying, if any, on the student.

Correct! Although administrators met with the parent, followed up with the coaches, and communicated steps that were taken to address the alleged bullying, the bullying was not discussed within the IEP team. OCR noted that the effects of bullying could include adverse changes in the student's academic performance or behavior. Pajaro Valley (CA) Unified Sch. Dist., 120 LRP 37038 (OCR 10/07/20). OCR agreed that a resolution agreement was appropriate so that the district might provide the parent an opportunity to discuss with the IEP team whether his son's needs changed as a result of the bullying such that he was no longer receiving FAPE and his IEP needed to be modified. OCR did not make a determination as to whether the district violated the laws OCR enforces.



Year in Review

February 3, 2021

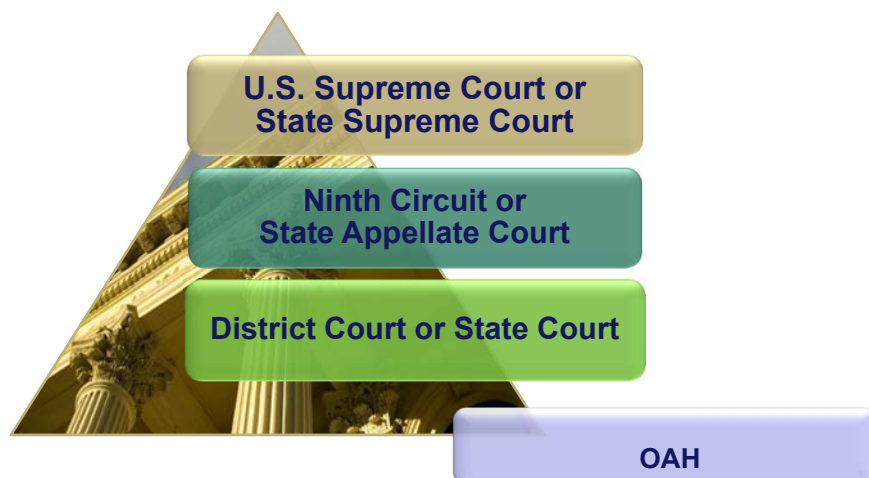
ACSA Every Child Counts Symposium

PRESENTED BY:
Deborah Ettinger, Partner
Kristin Myers, Partner

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Federal and State Court Hierarchy



***A.W. v. Tehachapi Unified School District*, 810 F. App'x 588 (9th Cir. 2020)**

- Parent lost at the OAH and district court level.
- Parent appealed to the Ninth Circuit.
- Student was a nine year old boy diagnosed with high-functioning ASD and ADHD. He presented with behavioral issues –
 - Banging objects together and knocking items off shelves;
 - Aggression such as kicking, hitting, and biting; and
 - Eloping from the classroom and school boundaries without permission.

***A.W. v. Tehachapi Unified School District* (cont'd)**

- District conducted an FBA and convened a March 2016 IEP where the aide was continued and BIP was recommended.
 - Parent's attorney informed the team if the aide and the BCBA supervision was not continued, they would sue.
 - District verbally agreed to look into whether they could find someone to continue to provide the BCBA supervision.
- The school psychologist testified:
 - The BCBA supervision was not required.
 - Such supervision is only necessary when the BIP is particularly complex.
 - Student's behavior were neither complex nor frequent enough to require supervision from anyone other than a school psychologist.

A.W. v. Tehachapi Unified School District (cont'd)

- Parents, in their filing, provided Student required “ABA/BCBA” services specifically that his individual aide be trained in ABA and that a BCBA supervise the individual ABA-trained aide for 2 hours each week.
 - It was undisputed that Student received the individual ABA-trained aide.
 - It was also undisputed the ABA-trained aide was not supervised for hours a week by a BCBA after the March 2016 IEP meeting.
- However, Student’s behaviors were improving spring 2016.
 - Behaviors were characterized as “manageable.”
 - Aide decreased her proximity and allowed him to attempt tasks on his own.
 - Different aides rotated in the classroom to work with him.

A.W. v. Tehachapi Unified School District (cont'd)

Ninth Circuit Upheld the previous decisions in favor of the District:

- A school district need provide a due process hearing only if it “determines that the proposed special education program component to which the parent does not consent is necessary to provide a free appropriate public education to the child.”
- The school district appropriately determined that BCBA supervision requested by Student’s parents was not necessary to Student’s FAPE.
 - The only testimony provided in support of the BCBA supervision was Parent’s testimony and she was not found credible.

A.W. v. Tehachapi Unified School District (cont'd)

- The aide was able to reduce the severity and frequency of the student's biting, spitting, hitting, and eloping behaviors on her own,
 - The district proved that supervision from the BCBA was not necessary for the student to receive FAPE.
- It pointed out that while the student still presented behavioral issues occasionally, supervision from a BCBA was not necessary to provide the student an educational benefit.
- "A student is not denied FAPE simply because the district's proposed education plan provides less educational benefit than what a student's parent might prefer."

D.D. v. Los Angeles Unif. Sch. Dist. **(9th Cir. 2020) 2020 WL 7776924**

- D.D., an IEP-eligible student with ADHD, regularly displayed severe behavioral issues at school.
- Parents requested a 1:1 behavioral aide; the school district denied the request.
- D.D.'s behavior worsened and the school district proposed a nonpublic school placement.
- The 43-page due process complaint alleged FAPE claims under the IDEA, and discrimination claims under Section 504 and the Americans with Disabilities Act.

D.D. v. Los Angeles Unif. Sch. Dist. (cont'd)

- D.D. and the District eventually negotiated a settlement agreement resolving "all educational claims ... arising under the IDEA, ... and all California special education statutes and regulations." (At p. *2)
- The six-page agreement expressly did not "release any claims for damages required to be asserted in a court of law and which could not have been asserted in proceedings under the IDEA and/or California special education statutes and regulations," including "any claims that can be made under" the ADA. (*Ibid.*)



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D.D. v. Los Angeles Unif. Sch. Dist. (cont'd)

- Parents later brought a federal lawsuit, alleging the District denied D.D. equal access to a public education in violation of Section 504 and the ADA.
- The United States District Court dismissed the complaint for failure to exhaust administrative remedies under the IDEA.
- On appeal, the Ninth Circuit reversed, and held the complaint alleged a denial of access to public facilities, not a denial of a FAPE.
 - The Ninth Circuit stated that "the complaint repeatedly highlights D.D.'s *exclusion* from the classroom, not the inadequacy of his experience *in* the classroom." (At p. *9, emphases in original.)



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D.D. v. Los Angeles Unif. Sch. Dist. (cont'd) *Fry Test*

To distinguish requests for FAPE relief from non-FAPE relief:

- The first hypothetical question asks whether the plaintiff could "have brought essentially the same claim if the alleged conduct had occurred at a public facility that was not a school," such as a public theater or library. (*Fry v. Napoleon Cmty. Sch.* (2017) 137 S. Ct. 743, 756.)
- The second question inquires whether "an adult at the school," such as an employee of the school or visitor to the school, could "have pressed essentially the same grievance." (*Ibid.*)

D.D. v. Los Angeles Unif. Sch. Dist. (cont'd)

- The Ninth Circuit reasoned that "[I]n determining the need for exhaustion, the question is not 'whether the suit "could have sought" relief available under the IDEA,' but 'whether a plaintiff's complaint -- the principal instrument by which she describes her case -- seeks relief for the denial of an appropriate education.' *Id.* at 755." (2020 WL 7776924 at p. *7.)
 - Put differently, we must answer this question: Is the "essence [of D.D.'s claim] equality of access to public facilities, [or] adequacy of special education"? (*Id.* at p. *10.)

D.D. v. Los Angeles Unif. Sch. Dist. (cont'd)

- Judge Rawlinson dissented, pointing out D.D. could not have brought a claim against a public theater or library — or likely not even against a private entity — on the basis of the denial of a one-to-one behavioral aide or the provision of behavioral services.
 - “Those claims are viable against the School District solely because of the School District’s obligation to provide a FAPE.”
- Further, “the allegations of the [federal] Complaint are remarkably similar to those in the complaint brought pursuant to the IDEA.”

Does *D.D.* incentivize multiple bites at the apple?

- Claims that a student’s exclusion from the classroom are not related to FAPE?
- Expansive reading of *Fry* blurs the distinction between claims that require exhaustion and those that do not.
- What is the point of settlement agreements that carve out ADA claims?
- And when we read D.D. together with *Tustin/Poway*, what’s stopping parents from taking claims straight to federal court?

LEAs' Responsibilities to Special Education Students

- It is imperative that school districts consider their obligations to provide any number of services under both the IDEA and the ADA.
- Re-evaluate how to respond to requests for accommodations, aids, and services.

Who is your
504/ADA compliance officer?

Student v. Los Angeles Unified Sch. Dist. (2020) OAH Case No. 2020050465

- Student, who was 21 years old and eligible under Autism and Intellectual Disability, attended an NPS vocational program.
- Student's IEP included nine goals, all of which directed to preparing Student to live independently.
- Prior to the closure, 40% of Student's weekly schedule – 630 minutes – was devoted to community-based instruction.
 - This included a major shopping trip on Mondays from 9:30 a.m. to 1:45 p.m., in which the class traveled on foot and by bus, shopped, and ate in the community.

Student v. LAUSD (cont'd)

- During closure, Student made some progress on her functional academic and speech goals, but less so on her vocational, social skills, or community skills goals.
 - Student's progress in these area depended heavily on in-person participation in job training, or personal interaction with peers and others in her community.
 - Student was also unable to engage in community volunteer and work training activities.
- The educators agreed that Student would have made more progress towards her goals under a classroom-based learning model with in-person instruction.

Student v. LAUSD (cont'd)

- Parents requested compensatory education for the missed services minutes and based on her limited progress.
- OAH found that LAUSD “fell materially short of adequately implementing Student's IEP by [not] providing Student ... the type of instruction required for Student to make meaningful progress on her vocational, social skills, community skills, behavioral, and transition goals.”

Student v. LAUSD (cont'd)

- “In particular, Student’s weekly participation in in-person community-based instruction and vocational training fell from a total of 870 minutes – more than half of her total instruction, to zero. Instead of spending 630 minutes each week navigating her community and interacting with the businesses and people in it, Student received 30 minutes of non-interactive virtual community instruction, visiting interesting places online ... Student received none of the hands-on job training that had allowed her to make progress prior to distance learning.”
- The ALJ found notable that based on the amount of community-based instruction and vocational training Student received before distance learning, “her acquisition of life skills and vocational skills was especially critical for her to live independently and function in daily life after high school.”

Student v. LAUSD (cont'd)

- As a remedy the ALJ ordered LAUSD to fund a total of **40 hours** of postsecondary transition counseling for Student by an appropriately-credentialed counselor of Parent’s choice.
- The ALJ noted that this case was unique, in that Student had turned 22 and was no longer eligible for services under the IDEA, so the traditional remedy of compensatory services was not feasible in this instance.

Student v. LAUSD (cont'd)

- Should Student's IEP team have revised her goals to reflect the significant decrease in community-based instruction crucial for her progress in her non-academic areas of need?
- Would the ALJ have found no need for compensatory education if the Student's IEP team had revised her goals for distance learning?
 - Draft the goal to focus on the need (ordering a meal, making a purchase), rather than tethering it to an environment in which the skill is to be demonstrated.

Student v. Pleasanton Unified School District (2020)

OAH Case No. 2020070970, "Order Granting Motion for Stay Put"

- Student is an 11 year old who was born with Wolf-Hirschhorn chromosomal syndrome, which significantly impacted all areas of her development.
- Student's last agreed upon and implemented IEP included related services including, speech therapy, occupational therapy, physical therapy, adapted physical education, and specialized vision services.
- Student's IEP also included a health care plan and provided for a full-time Licensed Vocational Nurse.

Student v. Pleasanton Unified School District (cont'd)

- Student sought a stay-put order with respect to what she deemed “essential related services” in her IEP.
- The stay-put doctrine provides that a special education student is entitled to remain in his or her current educational placement, unless the parties agree otherwise. (20 U.S.C. § 1415(j); 34 C.F.R. § 300.518(a); Ed. Code § 56505(d).)
- Additionally, a school closure for budgetary reasons requires a “comparable program” in another location for stay put. (E.g., *McKenzie v. Smith* (D.C. Cir. 1985) 771 F.2d 1527, 1533.)

Student v. Pleasanton Unified School District (cont'd)

- OAH granted Student’s Motion for Stay Put, reasoning that the guidelines issued by the California Department of Education under EO N-26-20 did not preclude districts from providing in-person educational services, and the local public health authority in which the District is located took the position that they are “allowing in-person educational services for any activities that cannot be done remotely and are required for students to be able to obtain their education.”
- OAH also noted that the district and county office of education failed to provide any legal authority to support a finding that the COVID-19 pandemic creates an exception to the stay-put requirement.

Student v. Pleasanton Unified School District (cont'd)

- The OAH ordered the district and county office of education to provide in-person services to Student, in the duration and intensity described in her IEP, including her LVN, speech therapy, physical therapy, and vision services.
- The order did provide that the district and county office of education could use qualified staff from a non-public agency to provide the services, that the services could be provided in Student's home, and that they were not required to provide the services on school sites or with school staff.

Student v. Norris School District (2020) Case Nos. 2020010423 & 2020060184

- The Complaint alleged in part that the District failed to implement Student's IEP by failing to provide appropriately tailored special education or related services to Student from March 18, 2020 (when the closure began), until May 7, 2020 (when the amended complaint was filed).
- The District argued that "it complied with state and federal mandates and provided Student's education using appropriate alternative supports and services given the school closure."

Student v. Norris School District (cont'd)

- OAH held that District “was obligated to ensure that it provided Student with the special education and related services identified in Student’s IEP developed under IDEA to the extent possible, even if direct delivery of those services and supports was delayed or required modification by government directives. Because it did not do so, [the District] denied Student a FAPE from March 23, 2020 until May 7, 2020. (*Van Duyn, supra*, 502 F.3d at p. 822.)”

Student v. Norris School District (cont'd)

- “Student also proved that, during the relevant time, [the District] committed procedural violations that significantly impeded Parent’s opportunity to participate in the decision-making process in Student’s alternate educational program. (*Rowley, supra*, 458 U.S. at p. 205; 20 U.S.C. § 1415(f)(3)(E)(ii); see Ed. Code, § 56505, subd. (f)(2); *Target Range, supra*, 960 F.2d at p. 1484.)”

Student v. Norris School District (cont'd)

- District “was obligated to provide Parents with prior written notice if it proposed to change Student’s placement or provision of FAPE. (20 U.S.C. § 1415(b)(3). [The District] should have sent Parents prior written notice explaining how [the District] proposed to change or modify Student’s IEP as an alternate mode of delivery of instruction during the school closure. Although [the general education teacher] reached out to [the District] members of Student’s IEP team for additional guidance and materials, [the District] did not send a prior written notice to Parents, **specifically relating to Student**, before May 7, 2020.”

Student v. Norris School District (cont'd)

- The District “also should have held an IEP meeting, virtually if not in person. The CDE noted in its April 9, 2020 New Guidance, at Point 1, ‘there may be instances when amending the IEP to reflect the change to distance learning might be necessary and or appropriate.’ (CDE Special Education Guidance, Point 1 (April 9, 2020); 20 USC § 1414 (d)(4)(A); 20 USC § 1414 (d)(3)(D); 34 C.F.R. § 300.324.) Here, scheduling an IEP team meeting was appropriate to allow the entire IEP team to consider with Parents alternate methods of delivery of Student’s services, particularly because Parents were struggling to deliver all of the instructional materials provided by [the District] to Student.”

Student v. Norris School District (cont'd)

- The District's "failure to hold an IEP team meeting, in combination with its failure to send specific prior written notice to Parents, significantly impeded Parents' opportunity to participate in the decision-making process regarding Student's alternate educational program during the school closures. (20 U.S.C. § 1415(f)(3)(E)(ii); Ed. Code, § 56505, subd. (f)(2); *Target Range, supra*, 960 F.2d at p. 1484.)"

Student v. Norris School District (cont'd)

- "In total, for November 27, 2018 until May 7, 2020, Student's operative IEP provided for 2,360 minutes of specialized academic instruction by a resource teacher based upon 59 weeks at 40 minutes a week. Student did not establish through credible evidence how much of the approximately 2,360 minutes of specialized academic instruction Student missed before May 7, 2020. However, the evidence established that Student accessed the academic materials provided by [the general and special education teachers] during the COVID-19 closure, with Parent's help. Student also made some academic progress during the 2018-2019 and 2019-2020 school years, which justifies reducing compensatory academic hours by a small amount. "

Student v. Norris School District (cont'd)

- “In addition, for Issue 6, Norris shall convene an IEP meeting, virtually or in person, whichever is safe and feasible. **The IEP team shall develop an appropriate alternative temporary distance learning plan for Student consistent with the intent of Student’s January 22, 2020 IEP**, and updated present levels of performance, until Student can return to the school campus for in-person instruction. Any agreements shall be documented as an amendment to Student’s January 22, 2020 IEP.”

Closing Thought

“Life is like riding a bicycle. To keep your
BALANCE, you must keep moving.”

Albert Einstein

Question & Answer Session

Thank You

For questions or comments, please contact:

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Deborah Ettinger represents California public school districts, county offices of education, and special education local plan areas. Ms. Ettinger specializes in education law, with a focus on special education and student issues. For over a decade, she has assisted clients in serving the needs of disabled students, including matters ranging from Section 504 disability discrimination complaints and student disciplinary matters to special education administrative proceedings. Ms. Ettinger has successfully litigated special education cases in state and federal trial and appellate courts and before administrative agencies. She also works with clients proactively to help avoid costly disputes through advice and counsel, reviewing policies and practices and training staff on legal compliance.

Firm News

AALRR Hosts 2nd Annual Civil Rights Conference
09.20.2019

AALRR Announces New Equity and Non-Equity Partners
01.09.2018

Events & Speaking Engagements

Ms. Ettinger frequently conducts trainings for school districts on a variety of topics, from the individualized education process to compliance with Section 504. She also regularly speaks at statewide education associations.

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SpedTalk
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Alerts & Articles

The "Discovery Rule" Applies to Time-Bar Parent Claims Under the IDEA
05.18.2017

Publications

Ms. Ettinger is a contributor to the firm's education publications and EdLaw Connect Blog.

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Kristin Myers represents California school districts and county offices of education, specializing in special education and student discipline matters. Her practice focuses on Section 504 and IEP team meetings, resolution sessions, mediations, and due process hearings. Additionally, Ms. Myers represents school districts in federal court litigation regarding violations of the IDEA, Section 504, the Americans with Disabilities Act, and the Unruh Act. Ms. Myers also has significant litigation experience in delinquency and dependency proceedings.

After graduating law school, Ms. Myers worked with Legal Aid Societies to help families and minor children. She represented low income clients in family law and custody matters and helped victims of domestic violence obtain restraining orders. She also represented children in their criminal cases.

During law school, Ms. Myers won several American Jurisprudence Awards for earning the highest grade in the class and served as Case Note Editor for the *Trinity Law Review*. She also volunteered at the Trinity Law Clinic, working with the Orange County Rescue Mission to help homeless individuals expunge their criminal records so they could secure employment.

Firm News

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Kristin M. Myers

AALRR Announces 2020 Equity and Non-Equity Partners
01.15.2020

Events & Speaking Engagements

Ms. Myers is a presenter at many of the firm's special education conferences and breakfast briefings.

SpedTalk
At Your Desk, WINTER 20/21

Alerts & Articles

Central District Dismisses Statewide Class Action Lawsuit (*Martinez v. Newsom et al.*)
11.26.2020

School Districts Are Not Considered a "Business Establishment" Under the Unruh Act
11.19.2020

OAH Denies Motion for Stay Put During School Closure
09.25.2020

Cohorting Guidance Issued by California Department of Public Health
08.31.2020

OAH Grants Decision Against LAUSD Regarding Distance Learning
08.31.2020

OAH Grants Motion for Stay Put and Orders In-Person Services During School Closure
08.28.2020

Publications

Ms. Myers is a frequent contributor to the firm's school law publications and blog.

Blog Posts

Bullying & Harassment in Special Education
EdLawConnect Blog, 11.21.2014

ESY: Are You Appropriately Addressing the Eligibility Standards?
EdLawConnect Blog, 06.09.2014

Kristin M. Myers

Attorney's Fees and IEEs: A School District May Still Have to Pay Parents' Attorney's Fees Despite Voluntarily Withdrawing Its Own Due Process Complaint to Defend Its Assessment
EdLawConnect Blog, 06.05.2013

Community & Professional

Ms. Myers has helped organize and run the firm's Student Enrichment Program for the last two years. In this program, school districts bring their students to the law firm. The students are given a tour of the firm and listen to attorneys' testimonials about their paths to success and the importance of education. Ms. Myers has given many of these presentations herself.

Mitigating Risk, Getting ahead of Learning Loss in Times of Covid-19

Kathleen Kennedy Peters
Program Specialist
DMSELPA/CAHELP
February 2021



In today's discussion, we will look closely at:



- ▶ Foundational Facts about Compensatory Relief
- ▶ Calculating Learning Loss
- ▶ Data Gathering
- ▶ Mitigating Risk

Learning loss is not from a failure to provide FAPE; it is from...

- ❑ when a District was unable to provide all services in an IEP through remote learning
- ❑ when all services were provided but not as effective as in-person instruction
- ❑ a result of school closure

Foundational Facts

Compensatory Education

- ▶ A remedy for failure to provide FAPE
 - ▶ Undo harm
 - ▶ Compensate for loss of progress
- ▶ To put the child in same position as if services/supports fully provided
- ▶ Not fully compensating hour for hour but “reasonably calculated”
- ▶ District logistics are not reason for lack of FAPE (truancy, staff shortage, union agreements etc.)

Learning Loss Recovery

- ▶ NOT for a failure to provide FAPE
- ▶ Relief for the purposes of school closure
 - ▶ Undo harm
 - ▶ Compensate for loss of progress
- ▶ To put child in the same position as general education children as a result of school closure (remediation concept)
- ▶ Individualized determination; does not rely on formula; reasonably calculated
- ▶ IDEA requirements still in place, district circumstances/logistics are not reason for lack of FAPE (reduced day formula, truancy, staff shortage, union agreements etc.)

Calculating Learning Loss

Following school closure each IEP team should make an individualized decision as to whether learning loss remediation is needed.

Evaluate

- ▶ Academic progress
- ▶ Progress towards goals
- ▶ IEP present levels
- ▶ Assessment results

Considerations

- ▶ Expected progress
- ▶ Actual progress
- ▶ Ability and availability of student
- ▶ Regression in skills
- ▶ Services and supports needed to bridge the gap

Data Gathering

Data Points

- ▶ End of in-person instruction
March/April 2020
- ▶ End of virtual learning June 2020
- ▶ ESY gains summer 2020
- ▶ Beginning of virtual learning
August 2020
- ▶ End of Semester 1, 2020-21
- ▶ End of Semester 2, 2020-21

Data Sources

- ▶ Teacher data logs
- ▶ Reports of Progress on goals
- ▶ Diagnostic assessments
- ▶ Teacher made assessments
- ▶ Service providers data logs
- ▶ Student level of engagement in virtual setting
- ▶ Progress in Gen Ed & Special Ed
- ▶ Parent input

Steps to Mitigating Risk

Begin now

- ▶ Determine a budget
- ▶ Develop a plan for gathering data and providing remediation
- ▶ Hold an IEP to determine the need for and the provision of remediation
- ▶ Begin with students who have not been engaging or for whom FAPE was not provided the same as IEP



**Communicate with
and inform parents
of District plans to
address learning
loss**



**Come into
compliance with
testing and IEP
requirements**



**Train staff, coach
teachers, prepare
decision makers**

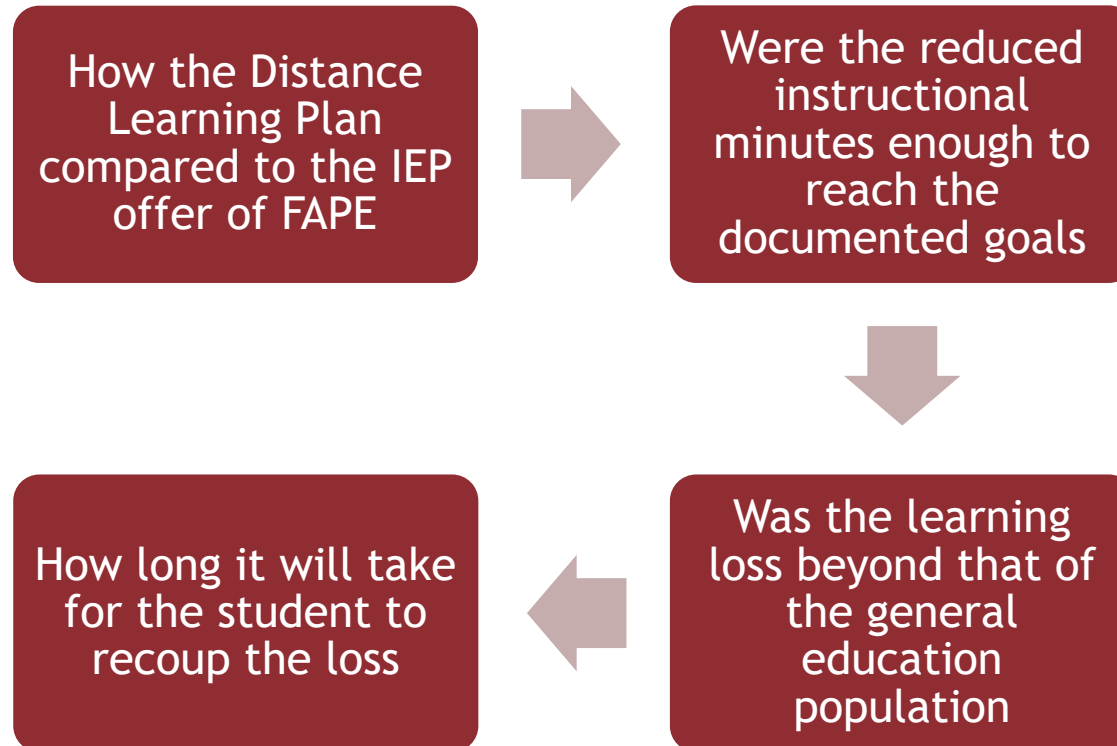
More Steps to Mitigating Risk

Points to consider:

- ▶ Was the IEP implemented as written?
- ▶ Were IEPs held to revise goals based on virtual learning?
- ▶ Did new concerns surface during virtual instruction?
- ▶ What parent input was obtained?
- ▶ What services were unable to be provided?
- ▶ What was the student's level of engagement?
- ▶ Were tiered engagement strategies implemented for students with inconsistent, little or no attendance?

Also consider ...

- ▶ Did the student achieve expected growth, less than expected growth or experience regression
- ▶ Do what makes the most sense to bridge the gap



Ideas for provision of learning loss services

Develop

Accessible options for providing remediation for ALL students

Don't provide

A virtual environment for learning loss if the student did not do well virtually

Include

A process for students with disabilities above and beyond the current IEP

- ▶ Bolster existing support
- ▶ designate as *recoupment of learning loss*
 - ▶ Additional 1:1 assistance
 - ▶ Additional service minutes
 - ▶ NPA 1:1 placed in the home during virtual learning
- ▶ Extended summer program beyond ESY
- ▶ After school tutoring or support
- ▶ Contracts with private providers (NPA)
- ▶ On-line services

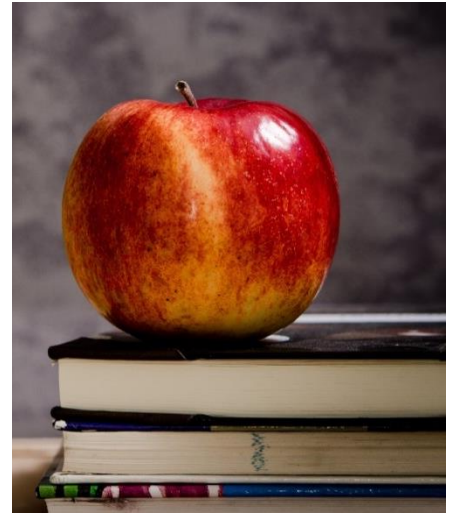
To emphasize...

- ▶ Don't wait to start
- ▶ Be proactive
- ▶ Be creative, think outside of the box
- ▶ Document everything: attendance, participation, engagement, parent concerns, District responses
- ▶ Update and monitor
- ▶ Convene IEP meetings
- ▶ Provide written notice when necessary
- ▶ Protect relationships

It is the duty of the IEP team to decide

- ▶ How much, in what areas and if learning loss occurred
- ▶ The extent to which there was regression
 - ▶ Update goals
- ▶ If it was beyond that of the general education population
- ▶ The best mode and length of recoupment
- ▶ As reasonable

Roundtable: Assessments in the time of COVID-19



Every Child Counts Symposium
February 3, 2021

Presented by:
Deborah U. Ettinger, Partner
dettinger@aalrr.com • (628) 234-6200





Roundtable: Assessments in the time of COVID-19



association of california
school administrators

Every Child Counts Symposium
February 3, 2021

PRESENTED BY:
Deborah Ettinger, Partner

Cerritos • Fresno • Irvine • Marin • Pasadena • Pleasanton • Riverside • Sacramento • San Diego



Questions

How have
assessments changed
in the time of
COVID-19?

What have we
learned?

Have our
assessment
responsibilities
changed?

Questions

Did we change our
assessment plans?

Did we conduct
file reviews
only?

Did we get creative
using different
assessment tools?

aa/rr

2

Questions

How did virtual
testing affect
assessment
outcomes?

Did we put
disclaimers in
our reports?

Did we account for
the pandemic in
determining
eligibility?

aa/rr

3

Questions

What about rating
scales, parent
interviews, virtual
observations?

Could we ask
parents to waive
an assessment?

What about
cognitive
assessments?

California Association of School Psychologists (CASP)

- [New CASP Guidance Document Re: Assessment Under COVID-19 – Aug. 15, 2020](#)
- [Casponline.org](#)
- <https://casponline.org/pdfs/publications/covid/CASP%20Online%20Assessment%20Resource%20Paper.pdf>

Cognitive Assessment Without Direct Testing? (cont'd)

- New Guidance released from CASP noted that “evaluation and assessment are possible practices even if testing cannot and should not occur.”
- For triennials, CASP asks practitioners to consider the follow questions: “Do you have enough data through qualitative data means (review of records, interviews, etc.) to document continued presence of a disability and the need for special academic services to access the core curriculum,” and “[a]re there any new concerns that have been brought up and need to addressed?”

aa/rr

Cognitive Assessment Without Direct Testing? (cont'd)

- For initial assessments, CASP recommends that “data collection should encompass all available data sources... not just from tests in order to draw the defensible conclusions about student strengths and potential disabilities.”
 - Make sure you are clearly documenting in the testing section how all assessments were completed, including a validity statement if you believe any results and/or interpretation of the results were impacted by the virtual assessment.

aa/rr

Cognitive Assessment Without Direct Testing? (cont'd)

- What do the data mean?
 - Will the testing lead to an accurate measurement of functioning?
 - Will the testing facilitate the accurate measurement of functioning?
 - If you can answer either question “yes,” do you believe — based on community standards, and your training and experience — that you are “assessing” that area of functioning?
 - If the answer is “yes,” certainly you should check that assessment area box on the plan. But the bigger question is whether you feel your assessment will gather sufficient data to measure the student’s functioning, right? The task is not merely to administer testing in the area of functioning, but to measure functioning.
- Can you explain to the parents what the data mean, and why the assessment is an accurate and appropriate representation of the student’s functioning?

aa/rr

Student v. San Juan Unified School District and Visions in Education Charter School, (2020) OAH Case No. 2020050817

- Parent of a 10th grade general education student requested a special education assessment.
- Student previously qualified under SLI, but was exited from former school district in 2017.
- Parent requested assessment due to continued learning challenges (math, organization, handwriting and enunciation), prior eligibility and outside assessments.
- District declined to assess and sent parent prior written notice (PWN).

aa/rr

Student v. San Juan Unified School District and Visions in Education Charter School (cont.d)

- OAH held the district violated child find by not assessing student.
- OAH found that the parent request for assessment *triggered* the district's obligation to assess.
- In particular, the notice of *past* eligibility and that parent stated that student displayed symptoms of a suspected disability triggered the obligation to assess.
- At the same time, OAH evaluated the PWN, suggesting that such PWN could be a proper response to a parent request to assess.

aa/rr

Student v. San Juan Unified School District and Visions in Education Charter School (cont.d)

- OAH found the PWN deficient because it did not include the list of records relied upon by the District in declining to assess.
- While the District generically stated that it reviewed records in determining there was no area of suspected disabilities, OAH found it needed to list the records reviewed.
- **OAH ordered the District to assess student through its own staff on school campus or other publicly available location. If it could not due to Covid-19 restrictions, “through no fault of Student,” it shall make best efforts to locate and contract with private assessors. The District would not be penalize if the private assessments could not take place within 60 days.**

aa/rr

Question & Answer Session

Thank You

For questions or comments, please contact:

{ Deborah Ettinger
(628) 234-6200
dettinger@aalrr.com } }

{ Adam Newman
(562) 653-3200
anewman@aalrr.com } }

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Loya, Ruud & Romo
A Professional Law Corporation

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Deborah U. Ettinger

Partner

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Deborah Ettinger represents California public school districts, county offices of education, and special education local plan areas. Ms. Ettinger specializes in education law, with a focus on special education and student issues. For over a decade, she has assisted clients in serving the needs of disabled students, including matters ranging from Section 504 disability discrimination complaints and student disciplinary matters to special education administrative proceedings. Ms. Ettinger has successfully litigated special education cases in state and federal trial and appellate courts and before administrative agencies. She also works with clients proactively to help avoid costly disputes through advice and counsel, reviewing policies and practices and training staff on legal compliance.

Events & Speaking Engagements

Ms. Ettinger frequently conducts trainings for school districts on a variety of topics, from the individualized education process to compliance with Section 504. She also regularly speaks at statewide education associations.

Publications

Ms. Ettinger is a contributor to the firm's education publications and EdLaw Connect Blog.

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J.D., Whittier Law School
B.A., University of California, Irvine

ADMISSIONS

2000, California
U.S. Court of Appeals, Ninth Circuit
U.S. District Courts, Central, Eastern,
Northern, and Southern Districts of
California

PRACTICE AREAS

ADA, IDEA & Section 504
Education
Student Services and Disabilities



GenerationGo!
Powered by San Bernardino County Workforce Development Board

sbcounty.gov/workforce



NOW ENROLLING!

GenerationGo! is San Bernardino County's exciting Workforce Innovation and Opportunity Act (WIOA) youth program. Through GenerationGo! you may be eligible for free skills and career exploration, free one-on-one mentoring, free career training and education, paid work experience, and many other free opportunities to prepare you for a sustainable career. Come join us. You are GenerationGo!

Program Elements:

- Individualized Career Development Plan
- Leadership Development
- Paid and Unpaid Work Experience
- Financial Literacy
- College Enrollment Assistance
- Employment Assistance
- Occupation Training/Certificates
- Supportive Services

Requirements:

- 16-24 years of age
- Out-of-School AND meet one or more of the following barriers:
- No High School Diploma or GED
- Documented Disability
- Basic Skills Deficient or ESL AND Low Income
- Parenting Youth
- Foster Youth
- Homeless

For more information or to enroll, please contact

Tennille Wright

Desert/Mountain SELPA

17800 Highway 18

Apple Valley, CA 92307

(760) 843-3982, ext. 200, For TTY, please call 711

Tennille.Wright@cahelp.org



Funding for this program is provided by San Bernardino County Workforce Development Board (WDB). This WIOA Title-1 financially assisted program or activity, the WDB, and CAHELP are Equal Opportunity Employers. Auxiliary aids and services are available upon request to individuals with disabilities.



PREVENTION AND INTERVENTION SUPPORTS

WINTER 2021, MID-YEAR REPORT





Regional Trainings Provided

46

Onsite Trainings/Coaching

128

Participants Reached

2,223

2020-21 Current Contracts of Support

24

Early Childhood Sites

37

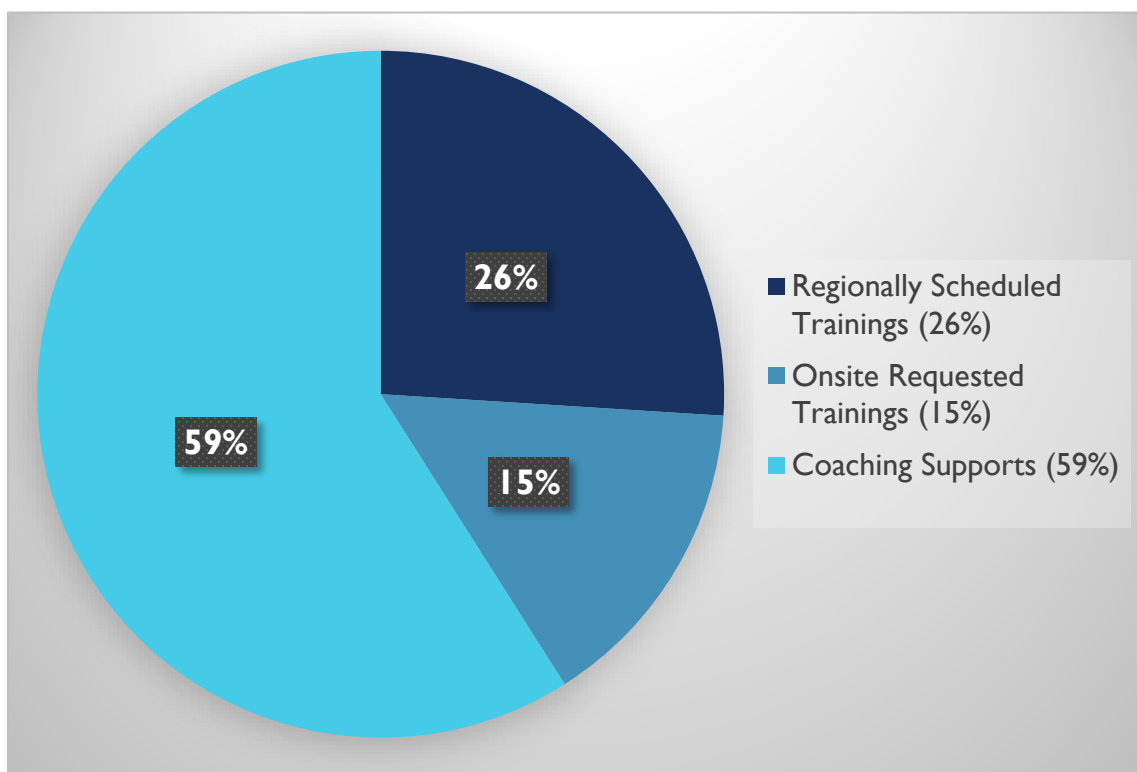
K-12 Sites

12

LEAs

*Additional funding and supports provided through the SB82 Triage Grant.

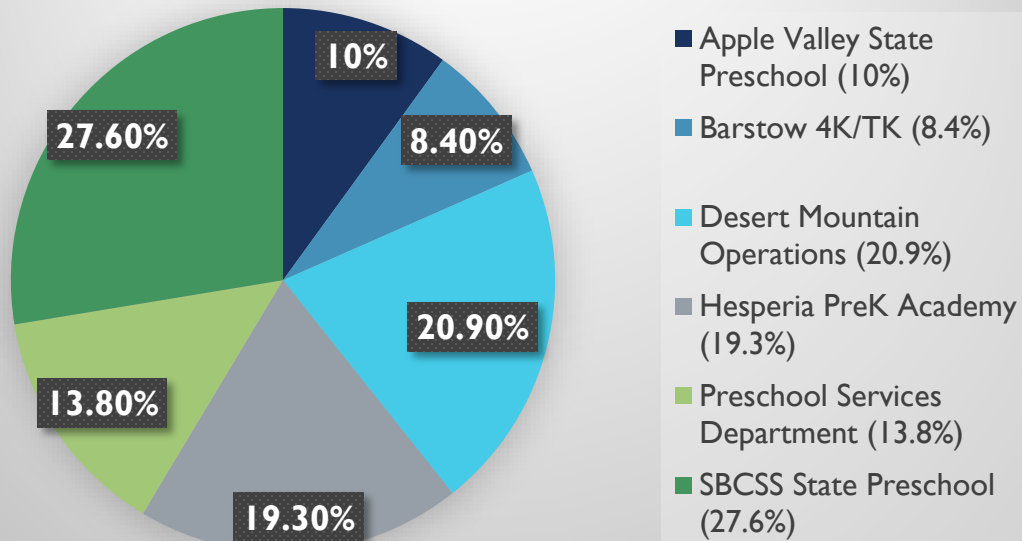
VIRTUAL TRAINING AND COACHING SUPPORTS CONTINUED



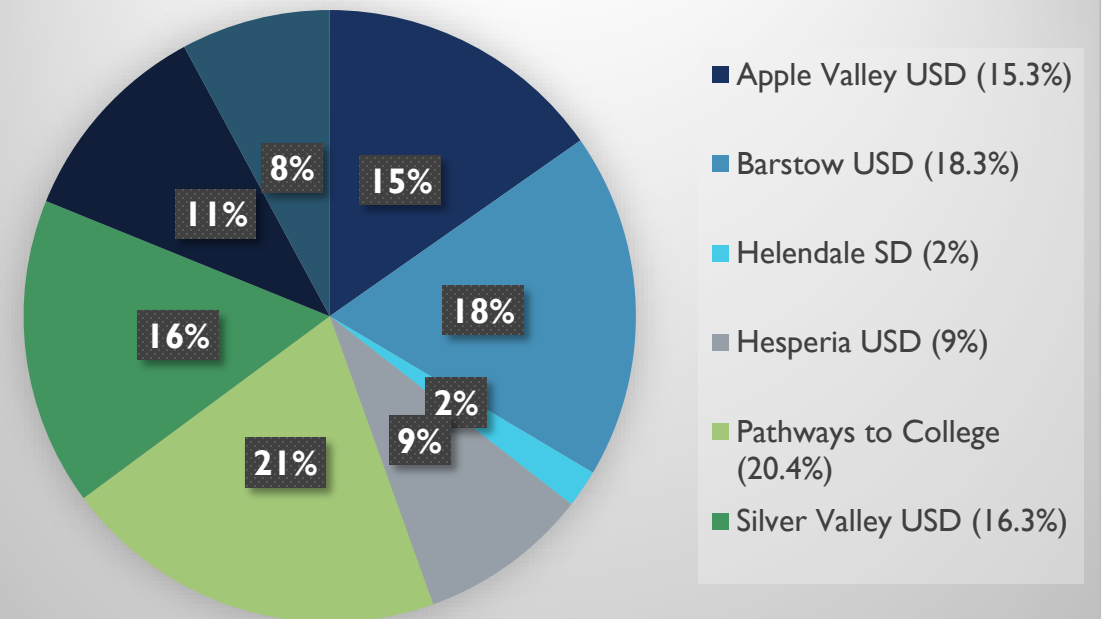
Training and coaching have been adjusted to accommodate the current social and education climate. Data is reflective of the need for increased customized supports, and evidence-based practices for implementing multi-tiered systems of supports while responding to school disruptions.

DISTRICT SUPPORTS

Early Childhood Coaching Hours



K-12 Coaching Hours



NEW AND NOTEWORTHY

❖ **Family Engagement**

- ❖ Additional training and supports are being provided geared specifically for families. 12 family engagement events have been conducted so far.

❖ **Cultural Responsiveness**

- ❖ Implementing Culturally Responsive Systems and Practices continues to be one of the top requested trainings by sites.

❖ **School Climate Survey**

- ❖ The School Climate Surveys are brief, reliable, and valid for assessing perceived school climate among families, staff, and students in grades 3-12. This free assessment tool is available for all sites.



Leading the Way for Positive and Equitable Schools

MARCH 2, 2021 CALIFORNIA PBIS VIRTUAL CONFERENCE

1:00pm – 3:45pm (PST)

Keynote Topic: “No One is Exempt! Engaging All to Establish Safe and Equitable School Environments Together”

While this past year has challenged us in more ways than ever imagined, one thing we have learned is that we need to continue on the path of improving outcomes for both our students and adults. Working together, learning how to identify needs, and creating safe spaces that are equitable and supportive for all is critical for effective learning to occur. This keynote will introduce many free resources available to support PBIS implementation and describe how stakeholder engagement is essential for positive impact.

Conference Agenda:

1:00pm – 1:15pm (PST)	Welcome
1:15pm – 2:15pm (PST)	Keynote Address by Dr. Heather George
2:15pm – 2:25pm (PST)	Break
2:25pm – 2:45pm (PST)	Dr. Nicholas Gage “California and Beyond: What Rigorous Research Tells Us About School-Wide Positive Behavior Interventions and Supports”
2:45pm – 3:45pm (PST)	Dr. Rhonda Nese “Moving away from Exclusion: Addressing Implicit Bias and Exclusionary Discipline in our Schools”

California PBIS
Conference

More than 1500
education
professionals
attended in 2019

Keynote address by
Dr. Heather George

Take away
actionable items

Register at
[pbisca.org/cpc-
conference-home](https://pbisca.org/cpc-conference-home)

\$40 per person

Credit cards and purchase orders
accepted

CALIFORNIA PBIS COALITION





Getting to Know Us: CAHELP Program and Services

Discover what we have to offer!



Presented By

CAHELP Family
Engagement
Team

Date

March 10, 2021

Time

1:00 - 2:30 p.m.

Cost

FREE

Description

Join us to learn about the programs and services that are provided through the California Association of Health and Education Linked Professions (CAHELP) organization. Teams from the Desert/Mountain Children's Center (DMCC), Outreach Services, and Career Technical Education will provide information about their departments, including the referral process for services. This event will help utilize, identify, and share community resources to meet the needs of families and individuals in the Desert/Mountain Region.

Registration

Please register online at: <https://sbcss.k12oms.org/52-198291>

Location

Virtual training, a link will be sent to each participant prior to the training date.

Audience

Community resource representatives, counselors, administrators, teachers, liaisons, parents and caretakers.

Special Accommodation

Please submit any special accommodation requests at least fifteen working days prior to the training by notating your request when registering.



CAHELP
17800 Highway 18
Apple Valley, CA 92307



Jeni Galyean
Jeni.Galyean@cahelp.org
442-292-5094 ext. 213



www.cahelp.org
<https://sbcss.k12oms.org>

Work and Life Balance: Being Mindful of the Present Moment

Take time to invest in your self-care, connect with colleagues, and learn mindfulness practices for you and your students. Grab a cup of cocoa, coffee, or tea and enjoy an hour and a half of reflection sprinkled with laughter.

Presented By

Danielle Coté, Program Specialist

Jessica Soto, Prevention and Intervention Specialist

Belinda Jauregui, LCSW, RPT-S

Robin McMullen, Intervention Specialist

Date

March 16, 2021

Time

2:00 - 3:30 p.m.

Location

Virtual training, a link will be sent to each participant after registering. **This training may be recorded.**

Audience

General and special education teachers, site and district administrators, directors, school psychologists, counselors, paraprofessionals and support staff.



Cost

Free to attend

Registration

Please register online at:
<https://sbcss.k12oms.org/52-197929>

Special Accommodations

Please submit any special accommodation requests at least fifteen working days prior to the training by notating your request when registering.



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6.16 Compliance Update
Verbal report, no materials

6.17 Nonpublic School/Nonpublic Agency Update
Verbal report, no materials



Desert/Mountain Special Education Local Plan Area
17800 Highway 18
Apple Valley, CA 92307-1219

P 760-552-6700
F 760-242-5363
W www.dmselpa.org

MEMORANDUM

Date February 19, 2021

To: Directors of Special Education

From: Peggy Dunn, Program Manager

Subject: **Occupational and Physical Therapy Reports**

Attached are the occupational and physical therapy Referral Status, and Current Students Direct Services reports by district.

If you have any questions concerning either report, please contact me at (760) 955-3568 at peggy.dunn@cahelp.org

Desert Mountain SELPA
2020-2021 Non-Public School Placement Report

	January				February				March				April				May				June			
	District Placed	Residential Placed	LCI/Foster Placed	TOTAL	District Placed	Residential Placed	LCI/Foster Placed	TOTAL	District Placed	Residential Placed	LCI/Foster Placed	TOTAL	District Placed	Residential Placed	LCI/Foster Placed	TOTAL	District Placed	Residential Placed	LCI/Foster Placed	TOTAL	District Placed	Residential Placed	LCI/Foster Placed	TOTAL
Adelanto	4			4																				
Apple Valley	15	3	12	30																				
Baker																								
Barstow	5			5																				
Bear Valley																								
Helendale																								
Hesperia	17	2	1	19																				
High Tech High																								
Lucerne Valley																								
Needles																								
Oro Grande																								
Silver Valley																								
Snowline	11		1	12																				
Trona																								
Victor Elem	9			9																				
VVUHSD	21	2	2	25																				
TOTALS	82	7	16	104																				
2019-20 Totals	76	7	18	101	76	8	15	99	78	7	16	101	78	7	15	100	77	7	16	100	75	6	16	97
2018-19 Totals	56	18	10	84	63	15	10	88	66	15	13	94	76	13	15	103	81	12	17	110	82	12	17	111
2017-18 Totals	32	17	5	54	30	16	5	51	33	16	6	55	30	17	5	51	21	17	6	44	23	17	5	45
2016-17 Totals	88	21	15	124	79	20	13	112	79	17	14	110	87	17	14	118	90	19	14	123	90	21	14	125

California Association of Health and Education Linked Professions

Upcoming Trainings

Date/Time	Event	Location
2/18/2021 5:00 PM - 6:30 PM	COMMUNITY ADVISORY COMMITTEE	VIRTUAL
2/18/2021 9:00 AM - 3:00 PM	HOLA LANGUAGE SERVICES - INTERPRETING IEP MEETINGS VIRTUALLY & IN PERSON	VIRTUAL
2/18/2021 3:30 PM - 4:30 PM	PEERS TEEN GROUP COHORT 10A	
2/18/2021 2:00 PM - 3:30 PM	STRUCTURED LITERACY WITH ORTON-GILLINGHAM: ADVANCED	VIRTUAL
2/19/2021 11:00 A - 1:00 PM	SPECIAL EDUCATION DIRECTORS TRAINING- SOCIAL EMOTIONAL MENTAL HEALTH	VIRTUAL
2/22/2021 12:00 PM - 3:30 PM	ORTON-GILLINGHAM APPROACH	VIRTUAL
2/22/2021 9:00 AM - 10:30 A	WEBIEP AM QUESTION AND ANSWER SESSION	VIRTUAL
2/22/2021 2:00 PM - 3:30 PM	WEBIEP PM QUESTION AND ANSWER SESSION	VIRTUAL
2/23/2021 3:30 PM - 4:00 PM	PEERS TEEN PRACTICE COHORT 10A	
2/24/2021 8:30 AM - 3:30 PM	CPI FLEX BLENDED LEARNING	ONLINE

For more information, visit the CAHELP Staff Development calendar (url: www.cahelp.org/calendar)

17800 Highway 18, Apple Valley, California 92307
(760) 552-6700 Office * (760) 242-5363 Fax

California Association of Health and Education Linked Professions

Upcoming Trainings

Date/Time	Event	Location
2/24/2021 2:30 PM - 4:00 PM	CPI FLEX BLENDED LEARNING Q & A	ONLINE
2/24/2021 3:00 PM - 3:40 PM	Forms & Facts 101 Q & A	Virtual
2/24/2021 3:45 AM - 4:30 AM	LEGALLY COMPLIANT IEP PRESENT LEVELS OF PERFORMANCE (PLOPS), GOALS, AND EDUCATIONAL BENEFIT Q & A	Virtual
2/24/2021 12:30 PM - 3:00 PM	TIER TWO EC TRAUMA-INFORMED PBIS - SEL - (MAKE UP DAY 5 - AVUSD)	VIRTUAL - MODULE 1
2/26/2021 1:00 PM - 3:00 PM	BUILDING TEACHER RESILIENCE IN A PRESCHOOL CLASSROOM-HOW TO KEEP YOUR CUP FULL	VIRTUAL
3/2/2021 1:00 PM - 4:00 PM	SLP Collaboration Group	Virtual
3/3/2021 2:30 AM - 3:30 AM	ARTS INTEGRATION: LEVERAGING THE ART OF LEARNING	VIRTUAL
3/10/2021 2:30 PM - 3:30 PM	ARTS INTEGRATION ON-LINE TRAINING	ON LINE TRAINING
3/10/2021 1:30 PM - 2:30 PM	GETTING TO KNOW US: CAHELP PROGRAM AND SERVICES	VIRTUAL
3/10/2021 9:30 AM - 11:30 A	REAL TALK...PARENT-TO-PARENT GROUP CHATS	VIRTUAL

For more information, visit the CAHELP Staff Development calendar (url: www.cahelp.org/calendar)
 17800 Highway 18, Apple Valley, California 92307
 (760) 552-6700 Office * (760) 242-5363 Fax

Upcoming Trainings

Date/Time	Event	Location
3/10/2021 9:00 AM - 10:30 A	WEBIEP AM QUESTION AND ANSWER SESSION	VIRTUAL
3/10/2021 2:00 PM - 3:30 PM	WEBIEP PM QUESTION AND ANSWER SESSION	VIRTUAL
3/11/2021 8:30 AM - 3:30 PM	SUPPORTING AND UNDERSTANDING CHILDREN FROM ADVERSE BACKGROUNDS	VIRTUAL

For more information, visit the CAHELP Staff Development calendar (url: www.cahelp.org/calendar)
17800 Highway 18, Apple Valley, California 92307
(760) 552-6700 Office * (760) 242-5363 Fax

Forms and Facts 101

Presented By

Sheila Parisian, Program Specialist

Date

Available until May 28, 2021

Time

Self-paced virtual course

Cost

Free



Description

In this self-paced virtual course, participants will gain knowledge of the procedural and substantive protections for parents and their children with qualifying disabilities. Participants will be guided through specific required forms and components of the IEP to ensure understanding of legal compliance when considering the unique circumstances of an individual child. All participants will have access to resources, links to the Desert/Mountain SELPA policies and flowcharts to help IEP teams conduct meaningful IEP meetings. Participants are encouraged to participate in discussions and questions.

Registration

Participants will receive access to the online training once they register.

Please register online at:

<https://sbcss.k12oms.org/52-198261>

Once you register you will receive an optional link for a live session that will provide an opportunity to review main points and an opportunity for a Q & A session.

Audience

Special education teachers, school psychologists, general education teachers, and site administrators.

Special Accommodations

Please submit any special accommodation requests at least fifteen working days prior to the training by notating your request when registering.



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17800 Highway 18
Apple Valley, CA 92307



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www.cahelp.org
<https://sbcss.k12oms.org>

Present Levels of Performance (PLOPs), Goals, and Educational Benefit

Presented By

Sheila Parisian, Program Specialist

Date

Available until May 28, 2021

Time

Self-paced virtual training

Cost

Free



Description

This self-paced virtual course will focus on understanding the IEP process and ways to determine if a student is receiving educational benefit. The participants will explore how the IEP process guides the development of legally compliant present levels of performance (PLOPs) as baseline indicators so that IEP goals are written for each area of need and directly linked to the baseline or PLOP. Participants will learn how to establish a statement of measurable annual goals by identifying areas of educational need derived from the student's areas of strengths and concerns. Participants will have the opportunity to view examples of both PLOPs and goals while practicing writing from the case studies provided. A brief discussion on how to link goals to the Common Core State Standards and Essential Standards will be addressed. Participants will gain an understanding of how to use data to determine whether a student has shown progress on goals to enable a child to make appropriate progress in light of their circumstances.

Registration

Participants will receive access to the online training once they register.

Please register online at:

<https://sbcss.k12oms.org/52-199110>

Once you register you will receive an optional link for a live session that will provide an opportunity to review main points and an opportunity for a Q & A session.

Audience

Special education teachers, general education teachers, site administrators, counselors, and school psychologists.

Special Accommodations

Please submit any special accommodation requests at least fifteen working days prior to the training by notating your request when registering.



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Crisis Prevention Institute (CPI) Flex-Blended Learning

Presented By
CPI Team Members

Date
Part 1: Complete the on-line
CPI module prior to the
February 24, 2021 Q & A
virtual session from 2:30 to
4:00 p.m.

Part 2: In Person Training-
To be determined

Cost
\$40 Per Attendee

Description

The Non-Violent Crisis Prevention Institute (CPI) is a two-part course focusing on crisis prevention and intervention. With a core philosophy of care, welfare, safety, and security and aligned with positive behavioral supports principles, it gives educators the skills to safely and effectively prevent, disengage, and physically withhold (as a last resort) dangerous situations.

Part 1: The self-paced on-line modules will take 2 - 4 hours, once completed the participants must print their certificate and bring it to the in-person training.

Part 2: The in-person training, participants should dress safely and must attend the entire course. Upon successfully demonstrating competency of disengagement skills, physical interventions, and passing of a written exam, they will receive CPI certification. The date for this training will be determined based on state and county guidelines.

Audience

Special education teachers, general education teachers, paraprofessionals, school psychologists, and administrators.

Special Accommodation

Please submit any special accommodation requests at least fifteen working days prior to the training by notating your request when registering.

**This training may be
recorded.**

Registration

<https://sbcss.k12oms.org/52-197916>



CAHELP
17800 Highway 18 Apple
Valley, CA 92307



Jennifer Holbrook
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760.955.3559



www.cahelp.org/
<https://sbcss.k12oms.org>

New Training Available: Arts Integration: Leveraging the ART of Learning

Are you ready to provide an "optimal learning environment" for your students that allows them to be creative, and increase student achievement at the same time? If so, then allow me to introduce to you, Arts Integration (AI).

AI is an approach to teaching, and learning, through which content standards are taught and assessed equitably in and through the arts. As a participant of this virtual training, you will have the opportunity to explore the defining characteristics of AI; learn strategies on how to integrate various art forms with the teaching of curriculum content associated with different core content areas; and, how to adapt AI strategies in a remote learning environment.

Let us explore the various elements of AI - where teaching is an art form, and learning is meaningful and exciting.

Presented By

Adrien Faamausili, Program Specialist

Date

March 3rd & 4th, 2021

Location

Virtual Training, a link will be sent to each participant prior to the training date.

**This is a virtual training and may be recorded*



Time

2:30 - 3:30 p.m.

Cost

Free

Registration

Please register online at:

<https://sbcss.k12oms.org/52-197543>

Audience

General and special education teachers, and site administrators.

Special Accommodations

Please submit any special accommodation requests at least fifteen working days prior to the training by notating your request when registering.



CAHELP
17800 Highway 18
Apple Valley, CA 92307



Julie Wheeler
Julie.Wheeler@cahelp.org
760.955.3592



www.cahelp.org/
<https://sbcss.k12oms.org>

Student Discipline: Manifestation Determination

Presented By

Sheila Parisian, Program Specialist
Renee Garcia, Program Specialist

Date

March 9, 2021

Time

Virtual training will be held from
1:00 - 3:00 p.m.

Cost

Free



Description

This course provides foundational information related to how the Individuals with Disabilities Education Act (IDEA's) discipline procedures apply to children not previously determined to be eligible for special education and related services and the legal requirements for how students with disabilities may be (or may not be) disciplined at school for violating a code of student conduct. The course will discuss the school system's obligation to provide special education and related services during disciplinary removals. Further, the participants will examine the purpose and construct of a manifestation determination (MD) and determine if there is a relationship between the child's disability and the behavior. Finally, the course will briefly discuss how both the LEA and the parent of the child with a disability have the right to request a due process hearing to appeal decisions taken during disciplinary procedures.

Location

Virtual training, a link will be sent to each participant prior to the training date.

Registration

<https://sbcss.k12oms.org/52-198717>

This training may be recorded.

Audience

General and special education teachers, paraprofessionals, site administrators, and speech-language pathologists.

Special Accommodations

Please submit any special accommodation requests at least fifteen working days prior to the training by notating your request when registering.



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Apple Valley, CA 92307



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760.955.3573



www.cahelp.org
<https://sbcss.k12oms.org>

Universal Design for Learning In A Flash

Presented By

Linda Rodriguez, Program Specialist
Adrien Faamausili, Program Specialist

Date

March 16, 2021

Time

Virtual training will be held from
2:30 - 3:30 p.m.

Cost

Free



Description

Universal Design for Learning in a Flash: An introduction to designing learning environments based on neuroscience. Move beyond traditional methods and use the principles of engagement, representation, and action/expression to develop motivated, resourceful, and goal oriented learners in your classroom.

Location

Virtual training, a link will be sent to each participant prior to the training date.

Registration

<https://sbcss.k12oms.org/52-190753>

This training may be recorded.

Audience

Special education teachers, general education teachers, instructional coaches, and site administrators.

Special Accommodations

Please submit any special accommodation requests at least fifteen working days prior to the training by notating your request when registering.



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Social Justice for Students-A Behavioral Perspective

Presented By

Richard Kleindienst, PhD, BCBA-D

Additional presenters include

Dr. Jeffrey Sprague, Tameika Meadows, Dr. Rebecca Gehlke, Andrew Hourouvas, Chad Petties, Julio Chavez, Shane Mullikin, and Krystle Steele.

Date

March 25, 2021

Time

8:30 a.m. - 3:00 p.m.

Cost

Free



Description

Social Justice and equity for all, must exist in our school system without compromise. Educators who seek positive outcomes for each and every student will be equipped for success on a variety of topics, including but not limited to: behavior focused support for social justice, reducing disproportionality, increasing family engagement, and identifying antecedent interventions for all environments. The educational landscape has significantly changed, and educational leaders must emerge to ensure students meaningfully benefit from their school experience.

Outcomes

Participants will:

- Identify supportive strategies to increase equitable student outcomes.
- Gain a better understanding on how student behavior and diversity intersect.
- Discover implementation strategies on family engagement and virtual crisis intervention.
- Develop skills on how to mitigate behavior related equity issues.

Location

Virtual training, a link will be sent out to each participant prior to the training date.

Audience

School psychologists, behavior specialists, mental health therapists, school counselors, administrators, program specialists, teachers and paraeducators.

Registration

<http://rcselpa.k12oms.org/1386-198100>

Register By: March 15, 2021



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