



# FIC 2010 — IDEA Background

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## *Individuals with Disabilities Education Act*

The reauthorized Individuals with Disabilities Education Act (IDEA) became effective July 1, 2005. In September of 2005, California passed, and the Governor approved, legislation that brought a number of provisions of state law into conformity with federal law in order to ensure continued eligibility for federal special education funding.

State statute, AB 1662 (Chapter 653, Statutes of 2005), harmonized state law with recently enacted changes to federal law governing services for pupils with exceptional needs. The bill's approach to federal conformity amended provisions of state law that conflicted with new federal requirements, but didn't repeal provisions of state law that were different than, but not in conflict with, federal law. Key changes were made in areas such as discipline, teacher qualifications, modifications to Individualized Education Plans (IEPs), conflict resolution, transition, and procedural safeguards.

In 2007-08, special education services were provided to 677,875 individuals, newborn through twenty-two years of age. Individuals are provided with specially designed instruction to meet their unique needs. This instruction is provided in a variety of settings that allow infants and their families, preschoolers, students, and young adults to be educated with their peers as much as possible. Special education services are available in a variety of settings, including day-care settings, preschool, regular classrooms, classrooms that emphasize specially designed instruction, the community, and the work environment.

### **Issues/Recommendations**

Funding: In 2009, Congress approved the American Recovery and Reinvestment Act (ARRA) which provided increased funding to states for a variety of programs, including education, to counter the effects of national economic downturn. CSBA appreciated the infusion of these one-time funds. For special education the increased funding was spent primarily on staff development, equipment and retaining teachers and support staff.

While the one-time funding was of great assistance to schools and districts, Congress has yet to meet its financial commitment to pay for federal special education program mandates. This has placed a major burden on school districts that are required to pay for the excess costs when state and federal revenues decline or stay stagnant. This is especially critical as the cost of federally mandated special education services continues to rise and the population of students with high-cost disabilities continues to increase.

Now more than ever, the promise to fund 40 percent of the average per-pupil costs for special education services needs to be met. In his proposed FY 2011, President Obama has proposed to

fund special education at \$12.8 billion. While this is an increase over the FY 2010 appropriation, it still only funds about 17 percent of the national average cost.

**CSBA strongly supports increased federal funding, which, at a minimum, meets the needs for funding growth and COLA and eventually meets the 40 percent funding promise.** The 2011 Appropriations bill should be amended to provide an increase of \$3 billion, with a commitment to provide annual increases of the same amount over the next six years along with language to ensure future federal funds are directed to education for students with disabilities. This is consistent with the provisions in S 1652 (Harkin, D-IA) and HR 3578 (Van Hollen, D-MD).

Autism: Autism Spectrum Disorder (ASD) is the fastest growing special education category in California and the nation. Between 1998 and 2002, the number of students receiving special education services in California almost doubled, from 10,360 to 20,377. As of 2007-08, that number again doubled to 46,196.

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

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

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

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

IDEA and the Elementary and Secondary Education Act: In addition to the urgent need to appropriately fund federal mandated special education programs, there are several IDEA/ESEA issues that also need attention in the coming year as the Administration works to reauthorize ESEA.

As California’s education community has reviewed ESEA and its impact on students over the last eight years, we have come to agreement on a number of principles that have had an undesirable impact on special education programs and services.

**To address these impacts, CSBA recommends the following:**

- **When conflicts arise between IDEA and ESEA in any or all areas, IDEA must take precedence.**
- **The individualized education plan that is enacted for each special education student details their educational program. This IEP must take precedence for student testing, including parents' ability to opt-out students, the need for out-of-level assessments, and the variety of accommodations and modifications that a student may need.**
- **Since the US Department of Education determined that parents may unilaterally withdraw their students from special education services that are required for the provision of a free and appropriate public education, and since parents have the right in California to remove their children from testing, the federal government should not penalize districts under ESEA when their participation rate is less than 95 percent.**
- **Highly qualified teacher (HQT) provisions should be amended to allow special education, English learners, career-technical education, alternative education and middle school teachers who are fully certified by their state to be considered "highly qualified."**