



## **2012 California Special Education Priorities**

### ***Meeting the 40% IDEA Funding Promise Continues to be #1 Priority***

California schools face unprecedented fiscal challenges as the state and federal economy continues to experience a slow rebound, and at the same time, school agencies are facing increasing costs and funding reductions at both the state and national level.

When the Individuals with Disabilities Education Act (IDEA) was enacted by Congress over 40 years ago, Congress promised to provide 40% of the average per-pupil expenditure to pay for the new federal mandate. Unfortunately, current estimates show that the federal government has failed to meet that commitment and that the percentage has actually decreased. For California, 40% of the current average per-pupil expenditure is nearly \$3 billion per year, but the federal government provides only \$1.2 billion, leaving an annual shortfall of about \$1.8 billion in ongoing revenue that could be used to provide services to California's children with special needs. In 2010-11, California spent over \$10.3 billion to provide services required by the IDEA.

This underfunding has had a major impact on a school agency's ability to balance its annual operating budget and maintain quality education programs and services for all children. Over the past five years, the local contribution by school districts for special education has increased from \$2.97 billion to \$4.42 billion, or 43% of the total cost. This is especially troubling when the cost of providing special education continues to rise because of the increase in the population of students with high-cost disabilities, such as autism. Between December 2000 and 2011, the number of students with significant disabilities has increased by over 66,000.

Now is the time for Congress and the Obama Administration to step up and meet their commitment to provide funding increases to pay for these federal mandates. Our Coalition strongly supports S. 1403 (Harkin), which sets forth a reasonable plan to increase IDEA funding nationally over the next ten years from \$11.5 billion in 2013 to \$35 billion in 2021 to meet the 40% promise. We also strongly oppose any cut to IDEA funding through the sequestration process.

#### **Medicaid Reimbursement**

The Coalition opposes recent proposals by the House majority to block grant Medicaid funding. We understand that the proposal would essentially result in the elimination of the Medicaid reimbursement funding provided to schools for special education transportation, outreach and health service coordination, and monitoring services for Medicaid-eligible children with Individualized Education Plans (IEPs) or Individualized Family Service Plans (IFSPs).

#### **Early Intervention Needed to Address Rise in Intensive and Costly Special Education Services**

The incidence of students with complex and intensive disabilities, such as students with autism and severe emotional disturbances, has increased significantly in California. For example, from 2000-01 to 2009-10, the incidence of children with learning disabilities decreased by 19.7%, while the number of children with autism increased by 357%!

Research has shown that intensive, early intervention services for students with disabilities significantly increases his or her ultimate educational success. For example, much of the increase in required services for children with autism is for those who are of preschool age. We urge Congress and the President to provide an ongoing increase in funding for infant and preschool grants, as well as funding for intervention services to address this growing population. Additionally, we also call on the U.S. Department of Education to assist states in establishing uniform standards for assessing students with autism and identifying the best research-based practices.



### **Eliminate Unnecessary State Performance Plan Reporting Mandates**

Finally, given the lack of any funding increases, we urge Congress, the President, and the U.S. Department of Education to immediately suspend the state performance plan requirements in Section 616 (b) of the IDEA until such time as the level of funding for IDEA reaches 25% of the average per-pupil expenditure. We also support elimination of reports that are duplicative, such as the academic achievement of students with disabilities on statewide assessments (which is collected through reporting of progress by all students), and those that have no bearing on measuring the achievement of students with disabilities.

### **IDEA/Elementary and Secondary Education Act (ESEA)-related issues**

In addition to the critical need for Congress and the President to meet the commitment to appropriately fund federally mandated special education programs, there are several that warrant attention in the coming year. We urge Congress and the President to consider the following recommendations:

California's education community agrees on several principles regarding IDEA and ESEA including:

#### **Standard of Care**

- Establish a basic standard of care so that school personnel, parents, advocates, and the courts have a benchmark to gauge "appropriate" services for students with disabilities.

#### **Testing and Assessments**

- When conflicts arise between IDEA and ESEA in any or all areas, IDEA shall take precedence.
- The IDEA-required IEPs must take precedence for student testing, including parents' ability to opt out students, out-of-level assessments, and the variety of accommodations and modifications that may be provided.
- Since the U.S. Department of Education determined that parents may unilaterally withdraw their children with disabilities from special education services that are required for the provision of Free Appropriate Public Education (FAPE), and since parents have the right in California to remove their child from testing, the federal government should not penalize districts when their participation rate is less than 95%.

#### **Highly Qualified Teachers (HQT)**

- The HQT provisions should be amended to allow special education, English language learner, career-technical education, alternative education, and middle school teachers who are fully certified by their state to be considered "highly qualified."
- The HQT provisions should be amended to require teachers in all schools that receive federal funds, including charter schools and certified special education nonpublic schools, to meet all the requirements of "highly qualified."

#### **Response to Intervention (RtI)**

One of the most positive provisions of IDEA 2004 was the option for school districts to implement scientifically based early intervention services. In California, this has been implemented in many districts as RtI, which incorporates data-based interventions implemented through general education. These services are provided to ensure that students have the opportunity to learn, prior to referral for evaluation, to determine if they may have a disability. We are already seeing significant improvement in literacy among at-risk students. We recommend this provision also be incorporated into ESEA to clarify that it is a general education intervention for all at-risk students.

#### **Seclusion and Restraint**

Out of concern for safety in the classroom, we oppose federal legislation that would prohibit the use of restraints and seclusion and instead support efforts geared toward preventing the *inappropriate use* of restraints and seclusion for *all* students. Toward that end, we support funding for programs that focus on training teachers and support personnel on appropriate safety practices, including student management techniques and de-escalation.