

# The 2022-23 Budget: Special Education Proposals

JANUARY 2022

**Summary.** This post provides background on various special education programs, describes the Governor’s proposals related to these topics, and offers associated recommendations and issues for the Legislature to consider.

## Background

### **California Provides Most Special Education Funding Based on Overall Student Attendance.**

The state allocates most special education funding (84 percent in 2021-22) through a base rate formula commonly called AB 602 (after its enacting legislation). This funding is allocated to Special Education Local Plan Areas (SELPA). SELPAs are typically a regional consortium of local education agencies (LEAs)—school districts, charter schools, and county offices of education (COEs)—that coordinate special education funding and services, with large districts often serving as their own SELPA. The way funds are allocated within a SELPA is locally determined by the SELPA’s governing board, consisting of representatives from its member LEAs. The formula distributes funding to SELPAs based on two components: (1) total SELPA student attendance in Transitional Kindergarten through grade 12 and (2) a per-student base rate. With regard to attendance, AB 602 funding is provided to SELPAs using the highest attendance of the most recent three years (the current year or previous two years). Regarding the per-student rate, most SELPAs receive funding using the same base rate—\$715 per student in 2021-22. (For historical reasons, a small number of SELPAs have higher base rates.) This rate reflects significant base augmentations provided in recent years, largely due to concerns over schools’ growing special education costs. (More information about recent special education cost trends can be found

under the “Special Education Finance” section of our 2019 report [Overview of Special Education in California](#).)

**State Provides Remaining Funding Through Other Programs.** Roughly 16 percent of state special education funding is provided outside of the AB 602 base through various programs based on other formulas and/or for specific types of special education services. The largest of these programs allocates funding (\$396 million Proposition 98 in 2021-22) to SELPAs for mental health services. Funding for the program was initially restricted to mental health services for students with disabilities. The 2020-21 budget package subsequently expanded the use of these funds for all student mental health services.

**State Has Two Extraordinary Cost Pools to Address Certain High-Cost Services.** The state provides a total of \$6 million ongoing Proposition 98 to run two extraordinary cost pools (\$3 million each) to reimburse SELPAs for high-cost student services and placements. One extraordinary cost pool reimburses small SELPAs (those with fewer than 15,000 students) for high-cost mental health services. Typically, funding requests from the extraordinary cost pool for small SELPAs do not fully exhaust available funding. Provisional language in the annual budget typically authorizes any remaining funding to be made available to the second extraordinary cost pool, which provides reimbursement for high-cost student placements in nonpublic schools exclusively serving students with disabilities. Requests for this latter pool consistently exceed available funding, in which case SELPAs receive a prorated portion of their request. In 2019-20, the nonpublic school extraordinary cost pool reimbursed funding requests around \$0.22 to the dollar.

**State Has Funded Several Special Education Studies to Inform Future Reforms.** The state recently funded several work groups and studies aimed at reforming different aspects of the special education system. The 2020-21 budget provided a total of \$600,000 one-time federal funds to convene two work groups. One work group was required to develop a statewide individualized education program (IEP) template that LEAs could use to focus on capturing student strengths and improving student outcomes. (An IEP is a legal document for students with disabilities that specifies the supports they will receive to support their education. The IEP is developed by a team that includes the student's teachers, parents, and school administrators.) The second work group was required to provide recommendations to expand access to a regular high school diploma for students with disabilities, including recommendations related to developing an alternate pathway for students with significant cognitive disabilities (as allowed under federal law). Both work groups submitted their final reports to the Legislature on October 1, 2021.

**State's Accountability System Includes Local Planning Requirements and a Statewide System of Support.** California made major changes to its school accountability system starting in 2013-14, in tandem with significant changes to the state's school financing system. Under the current system, LEAs are required to annually adopt a Local Control and Accountability Plan (LCAP) that sets goals in key state priority areas and specifies actions they will take to achieve these goals. In developing its LCAP, an LEA must seek feedback from school employees, students, and parents. The state also has a school dashboard that reports school and district performance based on measures aligned with the state priority areas. A district that is identified as low performing based on the school dashboard is to receive targeted support from its COE. In providing this support, COEs sometimes consult with other regional and state partners known as resource leads. Since 2018-19, the state has funded seven special education resource leads (\$10 million ongoing Proposition 98) to provide statewide expertise and technical assistance in the areas of system improvement, best practices to support students with autism, universally

accessible instructional methods, English learners with disabilities, and disproportionate identification of certain student groups for special education. The current special education resource leads were awarded five-year contracts, which will expire June 30, 2023. The state has the option to renew or replace the existing resource lead contracts.

## **Governor's Proposals**

**Provides \$500 Million to Increase Base Rates Under Modified Formula.** The Governor proposes to increase the base rate for most SELPAs from \$715 per student to around \$820 per student—an increase of nearly 15 percent. In addition to the base augmentation, the Governor's budget modifies the existing base formula to calculate total student attendance at the LEA level, rather than the SELPA level. Specifically, rather than funding the highest year of SELPA-level attendance across three years, the Governor proposes to fund the highest year of attendance for each respective member LEA across three years. Funds would continue to be allocated to SELPAs. This formula modification is one of several Governor's proposals that would generally support shifting funding allocations from SELPAs to LEAs.

**Includes \$400,000 One-Time Federal Funds to Convene Stakeholders to Further Develop Two Previously Funded Studies.** Of the total amount, \$200,000 is provided to continue work on the statewide IEP template by convening stakeholders to provide feedback and further refine the template. The remaining \$200,000 would be for developing alternative coursework and activities for teachers to use with students with disabilities pursuing a high school diploma under the state minimum graduation requirements as an alternate diploma pathway.

**Proposes Other Policy Changes to Special Education.** The Governor's budget also includes several other special education funding and policy proposals, as described below:

- **Allocates Mental Health Funding to LEAs.** Rather than allocating special education mental health funding to SELPAs, the Governor's budget allocates this funding directly to LEAs.

- **Consolidates Extraordinary Cost Pools.** The Governor proposes to consolidate the two existing special education extraordinary cost pools into one single cost pool.
- **Requires Development of Special Education Addendum to the LCAP.** The Governor proposes to direct the California Department of Education to develop a new addendum to the LCAP focused on special education.
- **Requires Resource Lead on IEP Best Practices.** The Governor’s proposal requires that one of the existing special education resource lead contracts be redirected to focus on IEP best practices beginning in 2022-23, when the current contracts will be up for renewal.

## Recommendations and Issues for Legislative Consideration

**Recommend Adopting Proposed Base Rate Increase.** Given historical statewide increases in special education costs, we think using growth in Proposition 98 funding to provide special education base rate increases is a prudent way to address local cost pressures. This approach would reduce the need for LEAs to rely on local general purpose funding to cover growing costs. Furthermore, the base rate augmentation helps to offset reductions in special education funding that are driven by decreases in overall attendance. (The base rate formula is tied to overall student attendance, which has been declining for several years.)

**Formula Modification Provides Additional Funding Buffer for Some SELPAs.** The proposed formula modification would benefit SELPAs that include a mix of growing and declining member LEAs. (The proposed change would have no effect on SELPAs where all members are declining or growing, or on single LEA SELPAs.) As **Figure 1** shows, under current law—where attendance is calculated at the SELPA level—a member district with growing attendance could have their gains offset by another

member district with declining attendance. By contrast, the Governor’s proposed approach would provide additional funding to reflect growth within a specific district, even if overall attendance in a SELPA is declining. We think this is a reasonable approach, as it provides additional cushion for SELPAs with some member LEAs experiencing declining enrollment. Depending on how funds are allocated within the SELPA, this cushion could allow growing districts to receive more special education funding without requiring reductions to districts experiencing attendance declines.

**Recommend Setting Clear Expectations and Time Lines for Activities Related to Previous Work Groups.** The proposed activities to continue work from previous work groups lack specific time lines. For instance, the Governor’s proposal does not specify a date by which the alternative coursework and activities for an alternate pathway to a diploma must be finalized or made available to teachers. In the report submitted this past October, the alternate pathway work group suggested that districts be allowed to pilot the new alternate pathways as soon as possible, with statewide implementation by 2023-24. It is unclear how the proposed activities would affect this time line. Similarly, the administration has no deadline for when stakeholders must convene and refine the statewide IEP template and no expectations for next steps after the template has been refined. Should the Legislature be interested in funding additional activities to implement the recommendations of these work groups, we recommend it specify clear deadlines and reporting requirements to monitor the outcomes of these activities. To ensure these

Figure 1

### Comparing Governor’s Proposed Special Education Base Formula Modification to Current Law

	Total Student Attendance			Funded Attendance	
	Year 1	Year 2	Year 3	Current Law	Governor’s Proposal
Member District 1	100	103	105	—	105
Member District 2	100	95	90	—	100
<b>SELPA Totals</b>	<b>200</b>	<b>198</b>	<b>195</b>	<b>200</b>	<b>205</b>

Note: Under both current law and the Governor’s proposal, funding is allocated to Special Education Local Plan Areas (SELPAs).

activities result in statewide policy changes, the Legislature may also want to consider setting explicit deadlines for the state to adopt these items. For example, by setting a date by which the State Board of Education must adopt alternate pathways to a diploma.

***Consider the Effects of Mental Health Proposal on Regional Programs and Partnerships.*** Before adopting the Governor’s proposal, the Legislature may want to better understand how the mental health proposal might impact regionally coordinated programs and partnerships. Although many SELPAs allocate mental health funding directly to their member LEAs, some SELPAs—especially those with smaller member LEAs—retain this funding and operate regional mental health programs on behalf of their members. In some cases, the member LEAs would not receive sufficient funding from the program under the Governor’s proposal to hire mental health staff and, hence, likely would still need to combine funds across the SELPA to ensure access to mental health services when required by a student’s IEP. Allocating funding directly to LEAs could also affect partnerships with county mental health programs. The state has provided \$235 million one-time and \$10 million ongoing funding for school-county mental health partnerships since 2019-20. Under such a partnership, a SELPA could direct mental health funds to its county mental health department, which then provides widespread student services in schools throughout the county. Allocating funds directly to LEAs could pose challenges for maintaining the existing levels of funding for regional mental health services,

or could make managing these programs more administratively burdensome (by requiring counties to develop agreements with each LEA). The Legislature may want to further explore the potential benefits of this proposal and determine whether these benefits outweigh the impact on regional programs or partnerships.

***Impact of Consolidating Extraordinary Cost Pools Unclear.*** We are uncertain whether the proposal to consolidate the two existing extraordinary costs pools would have any practical impact. Our understanding is that the administration intends to fund mental health services requests from small SELPAs first, and then make any remaining funding available for high-cost nonpublic school placements. In practice, this is consistent with how the extraordinary cost pools currently operate, because the mental health services funding is rarely exhausted.

***No Concerns With Developing Special Education Addendum or Establishing an IEP Best Practices Resource Lead.*** A special education addendum to the LCAP could increase transparency regarding how LEAs spend special education funding and facilitate more local input on actions to support special education students. Designating a resource lead for IEP best practices within the system of support could assist with the implementation a statewide IEP template. The Legislature may want to require the new resource lead be involved in the development of the IEP template, to ensure that statewide technical assistance on IEPs is consistent with the final statewide IEP template.

## LAO PUBLICATIONS

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