

# BERKELEY UNIFIED SCHOOL DISTRICT



## FINAL REPORT

December 19, 2107

Educational Strategic  
Planning LLC  
Dr. William P. Gillaspie



December 19, 2017

Dr. Donald Evans, Superintendent  
Berkeley Unified School District  
2020 Bonar Avenue  
Berkeley CA 94702

Dear Superintendent Evans:

In September 2017, the Berkeley Unified School District and Educational Strategic Planning (ESP) LLC entered into an agreement for a review of the district's special education program and services. Specifically, the agreement states that ESP will perform the following:

Review the district's implementation of Student Success Team (SST), Response to Intervention (RtI), and Multi-Tiered System of Supports (MTSS) and provide recommendations as needed.

Determine whether the district is over identifying students for special education services compared to statewide average, and make recommendations that will reduce over identification, if needed.

Analyze special education teacher staffing ratios and class caseload sizes using the statutory requirements for mandated services and statewide guidelines specially review Special Day Class, caseload size using the statutory requirements for mandated services and statewide guidelines.

Review the efficiency of staffing allocation of special education paraeducators throughout the school district. Review the procedures for identifying the need for paraeducators, the process for monitoring the resources for allocating paraeducators and determining the ongoing need for continued support from year to year. (Include classroom and 1:1 paraeducators)

Identify the main reasons why special education costs continue to increase.

Review the use of resource allocations for nonpublic schools and agencies and mental health services, alternative programs and make recommendations for greater efficiency.

Review the costs of due process, alternative dispute resolution and mediations for the past three years

The scope of work was expanded at the request of the associate superintendent of educational services. This report contains findings and recommendations developed as a result of fieldwork conducted at the district November 13-15, 2017.

Because of the complexity of the report, the study objectives and their findings and recommendations will be outlined in more detail within the district's action plan.

I appreciate the opportunity to serve you and extend thanks to all the staff of the Berkeley Unified School District for their cooperation and assistance during fieldwork.

Sincerely

William P, Gillaspie, Ed.D

Educational Strategic Planning LLC

## **About Educational Strategic Planning LLC**

### **And Dr. William Gillaspie, Independent Consultant**

Educational Strategic Planning LLC is owned and operated by William P. Gillaspie, E.D, and designed to provide technical assistance and support to school districts throughout California in organizational leadership, field operations, special education, fiscal management, governance and professional development.

With more than 30 years of experience in public education, Dr. Gillaspie has spent many decades in California educational leadership as a county superintendent, assistant county superintendent, assistant superintendent of educational services, director of special education, teacher, school psychologist, and deputy administrative officer for the Fiscal Crisis and Management Assistance Team (FCMAT) from 2002 to 2016.

Dr. Gillaspie has also taught at community college and state universities and universities and served as a keynote speaker throughout California and nationally regarding public education.



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# Introduction

## Background

Located in the Bay Area, the Berkeley Unified School District has an approximate enrollment of 9,700 students in kindergarten through 12th grade served at 11 elementary schools, three middle schools, one high school, one continuation high school and one adult education center. The district is concerned about increasing costs for special education programs and services, overidentification of special education students, and inefficient operations of special education central office administration.

Berkeley Unified operates a full-inclusion special education delivery system. The following defines the district's delivery system:

Inclusion is a way of thinking – a deeply held belief that all children, regardless of ability or disability, are valued members of the school and classroom community.

Inclusive education is about developing and designing schools, classrooms, programs and activities so that all students learn and participate together. Inclusive schools are characterized by a sense of community, high standards, collaboration, cooperation and flexible staff roles and responsibilities.

Legal support for inclusion is a cornerstone of the reauthorization of the Individuals with Disabilities Education Act (IDEA), which provides that children with disabilities are entitled to receive special education services and that children are placed, to the maximum extent appropriate, in classes with typically developing peers, also known as the least restrictive environment (LRE), so they can receive a free appropriate public education (FAPE).

## Benefits of Inclusion

### For Students with Special Needs

- Establishes higher expectations for academic, social and vocational outcomes.
- Increases confidence and independence.

- Expands range of friendships.
- Promotes pro-social behaviors.
- Provides greater integration into the community.

#### For Educators

- Inspires a collaborative team model and encourages innovative and creative instructional strategies.
- Models acceptance of the full range of human experience.
- Encourages self-reflection and expansion of teacher skill sets.
- Fosters differentiated instruction benefiting all learners.

#### For Peers, Families and the Community

- Advances districtwide welcoming schools philosophy.
- Cultivates appreciation for students' gifts instead of their challenges.
- Demonstrates respect for diversity allowing all students to feel welcomed and celebrated for their unique qualities.

#### Research-based support for inclusive education

Time spent engaged in the general education curriculum is strongly and positively correlated with math and reading achievement for students with disabilities. Students without disabilities made significantly greater progress in reading and math when served in inclusive settings (Cole, et.al. 2004).

Students with autism in inclusive settings scored significantly higher on academic achievement tests when compared to students with autism in self-contained settings (Kurth & Mastergeorge, 2010).

Students with intellectual disabilities that were fully included in general education classrooms made more progress in literacy skills when compared to students served in special schools (Dessemontet, Bless, & Morin, 2012).

The full-inclusion model is difficult to implement and requires extensive ongoing training for all staff, principals, general education teachers, instructional assistants and parents. Many inefficiencies exist because of the lack of in-service training, leading to a dependence on nonpublic schools (NPAs) and nonpublic agencies (NPAs), ongoing parent complaints, and staff frustrations.



# Executive Summary

The district's director of special education has inherited a special education delivery system without policy, procedure and systems. The previous director had strengths in the fiscal area, and during her last year of tenure with the district two years ago, the present director was hired and primarily assigned to work on day-to-day issues on her behalf. The present director is in her third year in that position.

The present director was an effective program specialist, but because of lack of opportunity, did not receive extensive training in special education finance, budget development or budget monitoring.

District sites do not depend on the Special Education Department for direction on policy or procedures to operate special education. Therefore, the director has limited authority to hold school sites accountable in this area.

The present director primarily spends most of her time preparing for litigation and fair hearings, responding to parent complaints and responding to staff on high priority concerns regarding students' education.

Because of the lack of systems in the department, the director cannot be proactive, but functions in a reactive manner. Consequently, she has little time to plan, organize, train and develop an overall delivery system based on consistency that relies on policy and procedures.

The North Region Special Education Local Plan Area (SELPA) has an effective procedural manual with policy and procedures. The district should adopt the SELPA procedural manual and modify it to suit its own needs, but ensure it contains the standards necessary for legal compliance. The district should provide all staff with in-service training on special education operations and the required procedural systems to operate an effective and efficient special education delivery system for the 2018-19 school year.

Without a coherent special education system, the district will have a widespread lack of communication, resulting in staff and parent complaints. A lack of internal operational procedures causes numerous inefficiencies, hinders interdepartmental communication and affects systems that support efficient special education operations.

The district's unrestricted general fund contribution to special education is projected to be 66% of total special education budget in 2017-2018, excluding transportation. This is above the statewide average of 41% reported by the California State Board of Education Workgroup Guidelines developed in November 2016. Increased expenditures are caused by many factors, such as overstaffing and reliance on NPS and NPAs. The total cost of special education programs and services exceed statutory requirements.

Overstaffing has occurred for years at Berkeley Unified because caseloads have not been effectively monitored, instructional assistants were hired to meet student behavior needs, and NPAs were used to meet student needs.

The district offers a full continuum of special education programs and services consistent with the requirements in federal and state law; however, a more robust continuum would allow students to remain in district programs and reduce the need for costly out-of-district placements.

The district identifies 11% of its students as eligible for special education, which is higher than the statewide average of 10%. This is inconsistency in the implementation of Response to Intervention (RtI). Many school sites identify students for special education to receive some level of classroom support, primarily in meeting student behavior needs.

Transportation excess costs for the 2017-18 school year are projected at \$1, 341,241. The district lacks an approach to monitoring the IEP process when decisions are made on providing specialized transportation. It does not use a "decision tree" chart and at IEP meetings to make decisions on transportation.

Approximately 28% of the district's special education students have transportation designated as a related service on their individualized education programs (IEPs). This exceeds the average of 10% that is found in most districts studied by Educational Strategic Planning LLC (ESP).

# Recommendations and Findings

## SST/RTI/MTSS

The student study team (SST) is a longstanding and widely-used method that gathers information from teachers, specialists and parents to provide a struggling student with additional educational strategies and interventions. A staff member or a parent can make a referral to the program. SST meetings provide an opportunity for all parties to voice concerns and develop a plan for the student. The interventions agreed upon will vary depending on the child's educational needs, and the process has proven to be successful if consistently implemented.

Because the district has no board policies or administrative regulations related to SSTs, there is no consist process or structure for districtwide implementation. The SST process is utilized inconsistently throughout the district; some sites use it and others do not. The decision is left to the site principal. The SST appears to be used as the gateway into special education.

The SST is intended to be a general education process assisting general education teachers with interventions to meet student needs in the classroom. In many instances, the SST at Berkeley Unified is used to obtain approvals for assessment into special education.

Both general and special education staff reported they had the opportunity to attend trainings; however, limited additional professional development is offered.

District staff stated without a strong RtI implementation process have a higher rate of assessment and referrals. Students who may qualify from these under specific learning disability (SLD,) may not have qualified if they received reading or math interventions.

Serving a student with an IEP is more expensive than using intervention and general education supports. Identifying a student for special education before general education interventions is considered illegal under the Individuals with Disabilities Education Act (IDEA) 2004 and is not in student's best interest.

The district school sites operate two main systems for reviewing students prior to special education referral, the SST and Coordination of Services Team (COST).

The COST process is an opportunity for staff to review student education status and suggest RTI interventions for the general education classroom teachers. Parents are usually not involved in the process, and requests for assessments to determine special education eligibility do not occur at COST. The district has no formal systems to operate COST, and there are no districtwide required process to ensure consistency throughout the district.

## **Recommendations**

*The district should:*

1. Develop board-adopted policy and administrative regulations regarding SST.
2. Train all staff at school sites regarding the SST model.
3. Develop a manual for SST, and ensure it is used districtwide all school sites are for consistency.
4. Clarify the role and purpose of COST.
5. Develop a manual for COST outlying responsibilities and purpose districtwide.
6. Train all staff on use of COST manual.
7. Encourage all general education teachers to utilize the SST or a COST model to assist in meeting students' needs before referring to special education for assessment.
8. Provide teachers with training in behavior management prior to SST and COST. This is essential to manage student-behavior problems.

## Response to Intervention

The district office has made attempts to provide training in RtI; however, staff interviews indicated staff are unclear on how RtI works and what it is. Ongoing training is necessary. Many teachers do not use interventions because of lack of training, and many special education and general education staff are new to the district.

IDEA 2004 also shifted researched-based interventions from special education to general education, stressing that this method would no longer be limited to special education students, but would now apply to all students. The law left it up to each individual state to develop its own guidelines and regulations. RtI2 provides districts with the vehicle to drive educational decisions and measure academic growth. RtI is currently referred to as Response to Instruction and Intervention (RtI2).

The California Department of Education (CDE) is coining the term Response to Intervention (RtI2) to define a general education approach of high-quality instruction and early intervention, prevention, and behavioral strategies. RtI2 offers a way to eliminate the achievement gap through a schoolwide process that provides assistance to every student, both high-achieving and struggling learners. It is a process that utilizes all resources in a school and school district in a collaborative manner to create a single, well-integrated system of instruction and interventions informed by student outcome data. RtI2 is fully aligned with the research on the effectiveness of early intervention and the recommendations of the California P-16 Council. Knowledge of RtI2 among the staff is inconsistent throughout the district.

FCMAT interviews found there is one major reason the district is overstaffed in special education and overidentifies special education students, increasing the contribution of the general fund to the special education: It has a limited districtwide consistent intervention system to help students remain in general education with support.

It is unclear if the district has developed a master plan. This document should be on file, current, and presented by the superintendent to the board of trustees for their support and adoption. This should occur in 2018-19. In order for systemic change to occur, this shift must be a districtwide effort and include every staff member in Berkeley Unified.

The staff has had some training in the RtI model. Some administrators and teachers have participated in brief workshops or sessions. However, some interviewees indicated staff is

willing to become involved in developing a master plan and implementing RtI. Specific staff members at each site are capable of leading the staff in this implementation. Some of the resources and interventions being implemented at the school sites would fit appropriately into the RtI model, but others are not researched-based and do not include data-collection and progress-monitoring components. The district must ensure that it has a system that would assist with the data collection components of RtI.

The district should plan to provide the staff with intensive RtI2 training in 2018-19. The training phase should be clearly outlined in the master plan.

The CDE website provides extensive information on RtI at the following website:

<https://view.officeapps.live.com/op/view.aspx?src=https://www.cde.ca.gov/sp/se/sr/documents/sldeligibiltyrti2.doc>

District data and staff report there are inconsistent procedures for developing interventions prior to referral for an evaluation for special education eligibility.

SST is a schoolwide positive approach to early identification and intervention. The team members include the student when appropriate, parents, teachers, and the site administrator. Together, they identify the student's strengths and weaknesses and develop an improvement plan that documents how to implement interventions and collect data on the student's performance. As part of the process, all team members agree to follow the improvement plan. The team schedules follow-up meetings to provide continuous research-based strategies and approaches to improve the student's academic, social and behavioral experience in school.

At Berkeley Unified, general education and special education teachers do not meet regularly to discuss interventions and compare data that would develop strategies and approaches to meet the diverse needs of the students, including those with special needs. These meetings are essential in successfully implementing a full-inclusion model.

The district does not use RtI as part of decision-making for special education. The state has not developed criteria or policies for using RtI to determine eligibility for special education. Therefore, the traditional discrepancy model is utilized to determine eligibility, even at the sites that utilize RtI. This lack of districtwide RtI model results in an increase in assessments and in the percentage of students identified for special education. In addition, parents and parent advocacy groups push for special education assessments.

RtI is cited in the reauthorization of the IDEA related to the determination of a specific learning disability (SLD) and in 34 Code of Federal Regulations Sections 300.307, 300.309, and 300.311 as a proactive approach to providing intervention proportional to student needs. The California Department of Education has recently revised its guidance recommendations to expand intervention support through a Multi-Tiered System of Support (MTSS; Sugai and Horner, 2009).

Two key approaches within the MTSS methodology are establishing an effective RtI2 program and establishing a Positive Behavior Support Program (PBSP).

Detailed information about the MTSS methodology can be found in the California Department of Education 2014 Draft ELA/ELD Framework Chapter 9. Additional information about resources and strategies for effective RtI2 programs can be found in the guide developed by the California Department of Education entitled “Determining Specific Learning Disability Eligibility Using Response to Instruction and Intervention (RtI2),” which can be found at [www.cde.ca.gov/special/education](http://www.cde.ca.gov/special/education).

## Recommendations

*The district should:*

1. Consider universal screening to identify at-risk students.
2. Ensure school sites invest in more professional development with RTI, the Common Core State Standards and engaging lessons to include all students.
3. Develop a districtwide system of data collection and progress monitoring.
4. Provide training on differentiated instruction for a diverse classroom.
5. Develop clear criteria for a prereferral system.
6. Plan regular collaboration time with curriculum, site administrators and special education administrators to develop research-based interventions and materials districtwide and a districtwide data collection and progress-monitoring system.
7. Include special education teachers in all RtI best practices, and provide academic training provided to general education teachers as appropriate for their grade level and subject matter.

8. With all site principals, develop and document a plan to review the status of the RtI model in the district.
9. Allow time for teachers to review data and plan for research-based instructions and interventions.
10. Ensure that all special education teachers have the state and district-approved curriculum and supplemental materials.
11. Establish a district-level leadership team to guide the implementation of RtI.
12. Develop a process to allow SST and COST members and psychologists to use RtI as part of decision-making for referral to special education.
13. Provide training to parents on how RtI is implemented and used as a part of decision-making for referral to special education.
14. Evaluate the effectiveness of the current RtI strategies that affect the identification rate for special education.

## Identification Rate

As of November 2017, the district average daily attendance (ADA) was 9,643, with an average of 11 percent identified as requiring special education services. The state average is 10.1%. The district has 1,100 students with IEPs. This data indicates 136 students are overidentified based on pupil counts, and the annual cost to serve a child in special education is about \$20,750 per child, with a total cost of approximately \$2.8 million.

This average cost per child is high compared to districts statewide, probably because of the expense of the full inclusion special education delivery system, which requires a high number of 1-to-1 instructional assistants, and use of NPAs and NPSs.

The district's 504 system is inconsistent districtwide and sometimes used to circumvent the special education process. Staff reported that district staff need more training in understanding the difference between an IEP and 504.

The overall speech services need to be analyzed, caseloads reviewed, an exit process adopted, and staffing ratios reviewed. Based on preliminary review of data, the caseload of 48 is significantly less than the Education Code limit of 55. A review of speech caseloads found that many district employees were significantly under the 48 district limit.

The district contract is restrictive regarding the administration's ability to direct districts to multisites and increased caseloads.

## Recommendations

*The district should:*

1. Reduce the number of students identified as special education.
2. Review all IEPs to ensure students are properly placed.
3. Implement an exit process for speech students who qualify.
4. Develop a speech handbook outlining the exit process and criteria for placement.

5. Update the 504 plan, handbook and provide ongoing in-service training to all staff regarding the process.
6. Through the collective bargaining process, review all caseload limitations and assignments to itinerate staff to multisited.

## Fiscal Issues

### Unrestricted General Fund Contribution

Most school districts need to make contributions from their unrestricted general fund to special education to sustain these programs as required, but when the amount of the contribution is excessive, it becomes a concern.

The Code of Federal Regulations defines excess costs as follows:

Excess costs means those costs that are in excess of the average annual per student expenditure in a LEA (local educational agency) during the preceding school year for an elementary or secondary school student, as may be appropriate. (34 CFR 300.16)

Excess special education costs that require a contribution from a district's unrestricted general fund (also known as encroachment) begin to accrue only after the costs of educating special education students exceed the district's proportionate share of the average per-pupil expenditures. Therefore, a school district's local general fund is required to pay its share of the cost of special education first.

The Legislative Analyst's Report dated January 3, 2016 states, "a combination of increasing special education costs and relatively flat state and federal special education funding has resulted in local budgets covering an increasing share of these costs."

The report also states the following:

Districts have little control over special education revenues. California distributes funds to special education local plan areas (SELPA) based on the total number of students in the SELPA, not on their disability status.

The reporting methods used by districts, county offices and SELPAs can vary. Some districts include transportation, while others do not; some have county office apportionments, but not others. There are also variations in how special education funds are allocated through a SELPA's allocation plan. Therefore, it is not always possible to accurately compare a district's unrestricted general fund contribution to that of other districts. However, when the amount of the general fund contribution is excessive or increasing, it becomes a concern that a district needs to address.

Maintenance of effort (MOE) is the federal statutory requirement that a district must spend the same amount of state and local money on special education each year, with limited exceptions. When considering how to reduce the overall unrestricted general fund contribution, the district is required to follow the guidelines in the MOE document (20 U.S.C.1413 (a) (2) (A)). This document, from the California Department of Education (CDE), lists the following as exceptions that allow the district to reduce the amount of state and local funds spent on special education.

1. The voluntary departure, by retirement or otherwise, or departure for just cause, of certificated and/or classified special education or related service personnel (does not include contract nonrenewal of staff layoff due to budget shortfall).
2. A decrease in enrollment of children with disabilities.
3. The termination of the obligation to provide a program of special education to a particular child with a disability that is in an exceptionally costly program because:
  - A. Child has left the jurisdiction of the agency; or
  - B. Child has reached the age at which the obligation of the agency to provide free appropriate public education to the child has ceased.
  - C. The child no longer needs the program of special education.
4. The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities (must have per unit cost of \$5,000 or more).

The district’s percentage of general fund contribution based on the MOE documents for the 2017-18 school year is 66%, high compared to the statewide average of 51%. This does not include transportation costs.

Budget 2014-2015		\$20,769,154
2015-2016		\$22,229,690
2016-2017		\$23,495,645
2015-2016	support from general fund	\$15,046,020

2016-17	support from general fund	\$16,657,927
	(\$1.6 million dollar increase from 2015-16 to 2016-17)	
2017-18	66% of general fund contribution	\$15,046,020

Some fiscal documents indicate that the general fund contribution to the special education budget is more than \$16 million.

The is concerned about the percentage of the general fund contribution and the increase to the general fund. Several areas often affect a district's general fund contribution. This includes the revenue received to operate the programs and the expenditures for salaries and benefits, staffing and caseloads, nonpublic school and nonpublic agency costs and transportation. Litigation and Extended School Year (ESY) can also be a factor. The district had legal settlements of more than \$1 million in the 2016-2017 school year. These included reimbursing parents for their child's attendance in NPS or paying for parents' attorney fees.

The single revenue area that a district does have some control over is Medi-Cal Local Education Agency (LEA) billing. It is generally understood that Medi-Cal monies cannot be used to supplant (to substitute for funds or services that would otherwise be provided during the time in question) the district's current expenditures or for staff salaries during the portion of the day that they generate Medi-Cal funds.

Medi-Cal funds can generally be used for one-time expenditures such as purchasing a van, other equipment and travel. However, when district budgets are severely affected, such purchases may not be possible, even with Medi-Cal funds. These resources are also used to cover the contract for the Medi-Cal billing provider and for staffing such as new health aides. Medi-Cal money can also be used to cover expenses such as new testing materials, protocols or conferences for the support staff that generate Medi-Cal revenue. Once an item is funded under either the special education or general fund budget, the ability to fund it under Medi-Cal is significantly restricted.

The special education director, director of curriculum and the business office should perform a thorough review of Medi-Cal funding. The district has no formal process for the Special Education Department, business services and human resources to meet regularly to review all special education revenues and expenditures.

District staff reported that the increases and fixed costs in salaries from 2016-17 to 2017-18 for certificated staff, additional NPA costs and the increase in the classified budget was for additional instructional aide positions.

## Recommendations

*The district should:*

1. Review the costs of serving students in special education and detail the charges to special education to cover these costs.
2. Review all Extended School Year placements for special education students, determine the need for transportation and develop a budget and monitor the process.
3. Schedule regular meetings monthly between the Special Education, Business Services, Transportation, and Human Resources departments. Develop a budget adoption and motioning process between all departments.
4. Develop a budget process to determine the amount of Medi-Cal funds received and whether the district generates the maximum amount.
5. Reduce the amount of contribution from the general fund by reducing number of students in special education, NPS, and NPA assignments.

## Communication

### Budgeting

The special education budget has been under the direction of the Business Department, but the director has had little opportunity to meet with that department regarding either budget development or budget monitoring. District staff reported that the special education budget is rolled over from one year to the next year based on the prior fiscal year's income and expenditures.

A special education budget normally fluctuates during the year, so it is important for the Business Department to be aware of these fluctuations. The district's Student Services, Human Resources and Business departments do not meet or communicate regularly regarding budget changes.

With the Curriculum and Instruction Department implementing the Common Core State Standards, it is equally important for Student Services and Special Education to meet regularly with Curriculum and Instruction to avoid the duplication of training and materials purchased.

### Recommendations

*The district should:*

1. Monitor the district's general fund contribution through the annual MOE, and determine if the district can reduce expenditures using any of the exemptions allowed.
2. Monitor the proposed federal regulations regarding MOE and any changes regarding the local-only test that may allow increased flexibility in reducing the unrestricted general fund contribution.
3. Review the process for Medi-Cal billing with all staff who can submit for Medi-Cal, and monitor the billing monthly to ensure maximum recovery of revenue.
4. Review the coding of all special education staff to determine if some staff should be coded to general education, reducing the potential increase in the general fund contribution in the MOE. School psychologists may be an example.

5. Ensure that the director of special education is involved in all areas of special education budget development and monitoring.
6. Schedule meetings monthly, or at least quarterly, between the Special Education, Human Resources and Business department to monitor the general fund contribution and all budget adjustments.

## **External**

Under the previous directors of special education, there was a systemic lack of verbal and written communication from the Special Education Department, which has created isolation between the Special Education Department and the school sites. No effective policies or procedures were developed to guide the overall special education delivery system.

The present director of special education has found that the department is not organized in a manner that allows the director to work on conceptual planning and organizational procedural policy development. She is involved in the everyday responsibilities of running the department and providing direct series to the schools sited, parents, teachers, and other agencies. The director does not have time to work on development of policies and procedures because of her heavy workload. The support of an assistant director would be beneficial to the organization.

Site principals seek support and guidance from upper special education administrators only when they have serious issues that require immediate assistance. Phone calls and emails sometimes take days to return from the district office to sites or parents. The significant degree of ineffective communication has created serious issues, which the principals and school site staff are still attempting to rectify. Lack of policy and procedure, poorly defined roles and responsibilities, ineffective communication, and nonresponsiveness have limited the overall structure of the organization and its cost-effectiveness.

Site principals are unclear on their role in relation to special education staff and students on their campuses. There is little communication from the Special Education Department when staff are assigned or reassigned to their sites. The Special Education Department has historically had limited communication with principals about the roles and responsibilities of special education staff and programs on their site.

Principals are not regularly invited to the IEP meetings for students who are placed at their site and/or off-site (NPS) programs. This lack of inclusion occurs even when the student may transfer to the principal's school site. The central office handles basically all on-site operations involving special education, which is not cost-effective or the best practice instructionally since the school principal is the fiscal gatekeeper and instructional leader.

Program specialists and principals do not consistently review information when it involves one of the students on their site.

## **Recommendations**

*The district should:*

1. Ensure that centralized structured plans and processes are developed in the Special Education Department and at the school sites.
2. Ensure that the policy and procedural manual is developed, finalized and reviewed by a small committee prior to its release. A small number of principals, general education teachers, and parents should be included in the review.
3. Clearly define the role and responsibilities of the special education administrator, program specialists, and support staff. Provide this information to the Special Education Department and school site staff districtwide. Present this at each school site through principal staff meetings.
4. Ensure that the special education program specialists convey a common message.
5. Ensure that the information given to the school sites is consistent with the processes and procedures to be developed.
6. Ensure that training and collaboration are provided to the Special Education Department and school site staff (i.e. Extended School Year, specialized transportation, special circumstances instructional assistance, policy and procedure manual).
7. Ensure proper notification to all the necessary staff when special education staff are assigned or reassigned at the school sites.
8. Ensure that the principals are notified of IEP meetings for students on site and notified of off-site placements if the student may attend their site.

9. Consider hiring an assistant director of special education to meet the daily requirements of overall operation of the department. This will allow the director to develop systems, procedures and policies to operate a cohesive delivery system districtwide.

## Special Education Program Efficiency

The special education program is administered through the Department of Special Services. The department leadership includes one director, four full-time equivalent program supervisors and a secretarial staff member. This staff is responsible for providing support and oversight for the special education program preschool through 12th grade.

Special education programs and services do not align with the districtwide Special Education Procedural Manual. This manual should be a continuum of programs and services that were intended to meet the minimum standards required by state and federal regulations. The SELPA has a procedural manual that the director refers to regarding legal compliance.

Furthermore, use of Special Education Department and school site procedures has deteriorated over time, leading to overidentification of students as well as overstaffing in certificated, classified, and itinerant positions across the district. The increased demand and use of NPSs and NPAs are not an effective or efficient use of district resources.

There is lack of communication between school site principals and Special Education Department. Because of a lack of policies and procedures, the principals depend on the director of special education for authority and direction concerning implementation of special education. Principals indicated the Special Education Department does not provide a vision or clarity on how full inclusion functions or how to implement it. Because of a lack of policy and procedure, the site principals and Special Education Department do not communicate clearly or consistently. Poor communication between departments leads to parent conflicts with school personnel about what services are required and to meet student needs.

The current level of overidentification (11%) and overstaffing has resulted in more than \$2 million in increased contribution from the unrestricted general fund. In other words, the total cost of the special education program and services exceed statutory requirement by that amount as a result of inefficiency and lack of program design and implementation.

The following examples serve as evidence of the need training and development of systems for the special education program and full-inclusion service delivery model:

1. The job descriptions for the various positions in the Special Education Department are dated. The full-inclusion model job descriptions do not appear to be up to date.

2. There is no formalized procedure for assessing the need for a student to transfer for one tier of intervention to another. In other words, changes in learning environment from least restrictive to more restrictive are made arbitrarily based on subjective data gathered on an individual basis.
3. Interviews indicated special education teachers and instructional assistants need more training in dealing with student behavior and instructional strategies.
4. General education teachers lack training on how to deal with placement of special education students in their classrooms.
5. Because of a high turnover of instructional assistants, these staff lack ongoing training to assist in implementing the full inclusion model.
6. There is an inconsistent districtwide response to the intervention (RtI) system that provides support at the lowest level prior to making program placement adjustments. This practice distances students from interactions with typical peers and grade level learning experiences with the Common Core State Standards.
7. There is a lack of internal capacity to provide sufficient services to students with special needs and an overreliance on student placement at NPSs because of limited space available in district classrooms.
8. There is a lack of communication and ongoing training between principals and director of Special Education Department.

Because of the lack of a districtwide system for implementing PBIS, behavior needs take the primary time of principals and teachers at the school site. The district hires instructional assistants to help deal with behavior needs, providing them with little training and lacking a school sitewide behavior management system.

The questions raised throughout interviews during FCMAT fieldwork include the following:

- Who is accountable to follow up with general education in meeting special education student's needs?
- What training does the special education teacher have in assisting general education with full inclusion?

- Who is responsible for training instructional assistants placed in the general education classroom to assist in meeting academic and behavior needs of students?

A breakdown in communication between the Curriculum and Special Education departments may be a possible cause of the overall disconnect between student identification and individualized services provided in the least restrictive environment.

Special education teachers stated they do not have access to training for the implementation of Common Core State Standards. Special education teachers and students do not have adequate access to grade level core curriculum and classroom technology commensurate with the general education teachers and students. An overall lack of training in the use of state standards, combined with inadequate core instructional materials and technology, creates inequitable access to grade-level learning environments for students with special needs.

There are deficiencies in the policies, procedures, and implementation of mental health services. With the passage of Assembly Bill 114 on June 30, 2011, the use of county mental health agencies to provide mental health to students with disabilities was ended. School districts are now solely responsible for providing all services to students with special needs including related mental health services. Both the funding and cost for these services have been transferred to the school districts to manage. Detailed information about AB 114 Special Education Transition can be found at the California Department of Education website.

Berkeley Unified offers a variety of related services based on student needs. The related services are identified within the designated instructional services (DIS), otherwise noted as related services. Similar to the program service delivery options, the terms and descriptions are dated and require updating to align to industry standard. Many of the related services are provided using an NPA. However, there is no indication that the district has procedures for developing individual service agreements that are fiscally responsible and include fading plans for student reintegration into the mainstream environment.

The district maintains commitment to the full inclusion model to deliver special education services. However, training and a review of the mission for the model should be provided as well as ongoing training for special education and general education staff because of the staff turnover.

## Recommendations

*The district should:*

1. Form a special education taskforce (composed of representatives from all stakeholder groups) to improve the efficiency and effectiveness of the full inclusion model, and make recommendations that will lead to the development of a procedural manual. This plan will define the service delivery model for supporting students with special needs.
2. Review the special education program service delivery models and align them to industry standards, maximizing student access to mainstream classroom and typical peers, as in reviewing caseloads on OT and speech.
3. Revise and align special education certificated job descriptions to redefined program service delivery models of the full-inclusion model.
4. Revise guidelines for preparation and facilitation of a legally defensible IEP team meeting process.
5. Develop guidelines for IEP teams to follow when considering out-of-district placements in and/or NPSs.
6. Develop procedures for student placement at NPSs and/or NPAs to include fading plans that return students to mainstream educational environments as rapidly as possible.
7. Establish a strong communication system between the Curriculum and Instruction and Special Services departments to ensure that special education programs are valued and included in district planning and decision-making related to curriculum and instruction.
8. Ensure that all special education teachers and staff have access to a variety of professional development opportunities (Common Core State Standards, collaboration, progress monitoring, intervention, curriculum review, etc.) to continually develop their knowledge, skills and abilities to provide high-quality instruction aligned to grade-level standards.

9. Ensure that all special education teachers and students have access to high-quality, district-adopted, and state-approved instructional materials aligned to grade level standards.
10. Create an interdepartmental committee to develop a comprehensive MTSS that includes an RtI2 program and a districtwide PBSP to address student needs at the lowest level and as rapidly as possible.
11. Develop a positive behavior support team to provide necessary training and support to both general and special education staff.
12. Develop a multidisciplinary team to develop and implement a system for preschool screening and identification.
13. Develop the special education procedures manual after the completion of the special education taskforce and the development of the special education strategic plan.
14. Develop and clearly communicate to the special education staff the evaluation criteria and procedures including who is responsible for evaluation, timeline for observation and feedback, procedures for evaluation and assistance.
15. Provide ongoing training for general education and special education staff.
16. Institute ongoing meetings and training between principals and the Special Education Department. Improve communication between both departments by including agenda items that allow for open discussion on what school sites need and to effectively serve students. This two-way communication and will also help clarify roles and responsibilities.



## Staffing and Caseloads

The district provided FCMAT with staffing reports, each of which was generated manually in isolation from the other. However, a review of these documents identified discrepant information related to staffing levels for special education services districtwide.

A staffing report contained staff lists aligned to budget codes. However, maintaining data manually can lead to significant inefficiencies. Manually compiled data is often inaccurate, outdated, or more vulnerable to human error. It is also time-consuming to enter and maintain, and inaccurate staffing data may lead to decisions that are subjective rather than driven by objective staffing criteria. The district does not use a position control system to monitor staffing assignments for certificated and classified staffing positions.

The caseloads assigned to special education mild to moderate full inclusion maintain a small classroom load compared to the RSP statutory maximum of 28 students per caseload. The full-inclusion model often only has 12-15 students on IEPs, and the teacher has a push-in model for full inclusion to the general education classroom.

Instructional assistants are hired to meet the needs of support for the general education teachers. These assistants have little or no training, and general education teachers received little training on understanding IEP implementation.

It is a best practice for special education administrators to establish objective staffing criteria and to monitor the following data monthly as follows:

1. Develop caseloads and class sizes of all service providers and teachers using a carefully maintained database. This should include lists by school, service delivery option, and teacher to be shared with special education staff and school site principals.
2. Review the number of instructional assistants and 1-to-1 assistants, especially when new staff is added.
3. Analyze all related services (formerly DIS) caseloads including psychologists (counseling), speech language pathologists, adaptive physical education, occupational therapy, assistive technology, etc.

## Recommendations

*The district should:*

1. Develop and implement caseload criteria for RSP teachers and instructional assistants based on the Education Code.
2. Develop and implement consistent criteria for a standard workday for instructional assistants supporting full inclusion.
3. Develop an automated system for monitoring and tracking special education staffing and caseloads for both certificated and classified staff.
4. Align the automated staffing and caseload system with the information maintained in multiple databases across multiple departments (Support Services, Human Resources, and Business Services).
5. Schedule consistent interdepartmental staffing meetings to discuss staffing levels and make adjustments as appropriate before, during and after the school year.

## Related Services

Ancillary assistance, instruction, therapy and supports necessary for the attainment of objectives designated in the IEP-including counseling and transportation are considered “related services” in California; the term “designated instructional services” is utilized. IDEA supplies this definition:

The term related services” means transportation, and such developmental, corrective, and other supportive services (including speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, school nurse services designed to enable a child with a disability to receive a free appropriate public education...

Related services costs can be more than \$3,000 per child as assigned in the IEP. The IEP should carefully consider the services it offers, the costs of the related service, and most importantly, the child’s actual needs.

District-provided related services staffing and caseloads should be thoroughly analyzed to determine the state and/or the industry standard for staffing ratios. It appears that the number of APE IEPs could be reduced because of the number assigned at high school level.

Occupational therapy (OT) services have average caseloads of less than 30 students, which is under the statewide average of one therapist to 45-55 students. Staffing include seven OTs, five FTEs, and two part-time staff. The district contracts for four OTs, with caseloads and the number of school sites assigned as outlined by the contract. There is no exit process for OTs, and staff indicated it is difficult to remove students from OT services. The APE-caseloads are significantly lower than the statewide average of 45-55 students. The district is significantly overstaffed in APE and OT services.

SLP services have an average caseload of 40 students to one speech pathologist, significantly below the statutory requirements of 55 within the SELPA (EC 56363.3). There is no handbook or exit process to address this area. This district has nine FTE speech therapists and one part-time staff. It also contracts with an NPA for eight speech therapists, but no speech handbook or exit process has been implemented. Because the district cannot obtain an FTE speech therapist, it contracts with an NPA for these services, which is not cost-effective. Because of limiting contract language, speech therapists have limited caseloads compared to statewide averages; therefore, the district is significantly overstaffed in speech therapists.

## **Psychologist Caseloads**

The statewide best practice is a ratio of one psychologist to 1,366 students. Based on this data, the district is overstaffed by 7.6 school psychologists. It has 14.6 FTE school psychologists at an annual salary of \$104,579 each. Therefore, the 7.6 psychologists mentioned above equal \$794.800 in staffing costs.

The school psychologist primarily conducts assessment, evaluations, attend RTI meetings. At Berkeley Unified, each school site utilizes the school psychologist in a different manner.

## **Recommendations**

*The district should*

1. Based on the findings and recommendations of this report, establish as one of the goal action plan objectives a complete analysis of the each caseload of special education staff and determine how they compare to the statewide caseloads and staffing ratios.
2. Review the current staffing for mild to moderate preschool classrooms to ensure that staffing is within statewide guidelines.

3. Develop and implement consistent criteria for a standard workday for instructional assistants supporting each school site that is implementing the full-inclusion program in classrooms.
4. Develop an automated system for monitoring and tracking special education staffing and caseloads for both certificated and classified staff in full-inclusion classrooms.
5. Align the automated staffing and caseload system with the information maintained in multiple databases across multiple departments (Support Services, Human Resources, and Business Services).
6. Schedule consistent interdepartmental staffing meetings to discuss staffing levels and make adjustments as appropriate before, during and after the school year.
7. Develop a speech handbook outlining processes and procedures, including an exit process.
8. Develop a school psychologist handbook outlining major duties and responsibilities. Include a district-recommended template for report writing that is legally defensible.

## 1-to-1 Instructional Aides

Because of the implementation of the full-inclusion model in Berkeley schools, the district depends on instructional assistants to help the general education teacher implement student IEPs in the classroom. During interviews, staff frequently stated these assistants are not trained at the level required to meet student needs.

Site and district staff reported that 1-to-1 aides are requested only when absolutely necessary. The district has no general guideline regarding adding 1-to-1 aides. However, the North Region SELPA has procedures for special circumstance instructional assistance (SCIA). They are not used in the district, and many staff indicated they were not aware of the SELPA guidelines.

Guidelines should include observations, data collection, an independence plan, a flow-chart, and a school day analysis. The analysis enables an IEP team to determine if and when during a school day a student needs additional support and whether natural supports or other staff are available that may mitigate the need to add support either for the student or for the classroom. District and site staff also reported that they do not complete these forms, including at the time of the annual IEP.

The district should develop a procedure manual. Without a current manual of this kind, inconsistencies in programs and procedures can lead to inefficiencies. The district has no adopted policies, procedures or systems besides the SELPA manual. It should adapt the SELPA procedural manual to meet its needs.

The best practice is to provide mandatory training for administrators and general and special education staff to ensure that the information in the procedure manual are followed.

Guidelines can help staff determine the following:

- The need for additional aides

- Dependence factors

- Measurable outcomes

- Descriptors of success

- Alternatives to aides

Whether existing resources are used optimally

The need to continue services

The need to increase or decrease aide hours

Fading procedures

When a 1-to-1 or additional classroom support aide is included in a student's IEP, it is important to have goals for independence and a fading plan to reduce and/or eventually eliminate the additional support.

Staff stated that the district has no commonly used process to determine whether paraprofessionals are needed although the continued need for additional support is discussed at the annual IEP team meeting. Having goals and a fading plan in the IEP ensures that all staff, the family, and the student work toward the same goal of independence and student success.

The district does not have a procedure manual for any of the instructional aides. Staff reported the 1-to-1 aide may sometimes assist other students in the class, but this is at the discretion of the classroom teacher and not based on district guidelines. Staff also reported that many 1-to-1 aides are not trained and may not be certain what to do if their student is absent.

A specific aide procedural manual could provide expectations for all aides, including those who do not work exclusively with one assigned student, or explain how aide support could be provided by various staff. As stated earlier, a lack of standard procedures causes inconsistencies and inefficiencies.

Although the district does not use the forms for 1-to-1 aides or develop fading plans, it employs only nine one-on-one aides. Many are assigned to students for medical reasons and therefore would not have a need for forms or fading plans.

The other aides are assigned either for behavior reasons, to prevent a nonpublic school placement or to avoid litigation. These students would have required the forms and fading plans.

Staff also indicated that there is no district personnel position action form to be completed when a student no longer needs the 1-to-1 aide. The school site should be responsible for informing the Special Education Department regarding the prospective change. Staff indicated this does not happen in a timely manner.

The school site is not involved in the selection process when a 1-to-1 aide is approved, and problems have resulted, according to staff. For example, one assigned 1-to-1 aide did not have the skills needed for the position.

## Recommendations

*The district should:*

1. Ensure the IEP team completes and reviews the SELPA SCIA form and procedures that prior to the determination of the need for a 1-1 aide.
2. Conduct a thorough analysis on the number of instructional assistants and 1-to-1 aides employed and their locations on each site, and review the status of the fading process and overall cost for these aides.
3. Ensure that every IEP that includes a 1-to-1 or extra support aide, with the exception of medically necessary support, also includes goals for independence and a fading plan.
4. Ensure that at every annual review, the initial 1-to-1 placement forms are completed as part of the process for continuing the 1-to-1 aide.
5. Develop guidelines and/or a procedure manual to ensure that all 1-to-1 aides have the same information regarding expectations of their assignment, district policies, and practices on student and aide absences.
6. Review and as appropriate adjust the process for informing Special Education, Human Resources and Business when a 1-to-1 aide's time is reduced or eliminated.
7. Develop a process that includes the school site administration in the selection of the 1-to-1 aides.
8. Provide in-service training for all instructional assistants in the area they are assigned. For instance, if their job is to help a student with behavior issues, the assistant should be trained in behavior management.

9. Develop a district hiring pool for instructional assistants.
10. Reduce the number of NPA instructional assistants.

## Special Education Transportation

The Special Education Transportation budget is as follows”

\$1,314,273      2016-17

\$1,341,241      2017-18 (budgeted)

District staff stated that the district does not appear to closely monitor the provision of transportation. There is limited communication between the Transportation and Special Education departments.

District data indicates 127 of the 1,100 special education students in grades one through 12 utilize transportation services. The district serves only 17 students over the statewide average, and based on district fiscal information the average cost of transportation per student of \$10,560. The cost savings of reducing transportation services to within 10% of identified students could be approximately \$179,570.

Although a full transportation study was not part of the scope of this site visit, the district should engage a detailed study of special education transportation that focuses on the following:

1. The percentage of students who are assigned transportation through the IEP process versus typical standards.
2. Maximizing route efficiency.
3. Potential language to include in any new contracts for special education transportation.
4. Use of the IEP “decision tree” chart to decide whether to provide transportation services at each IEP meeting. Such a document is on file in the director of special education’s office, but it is not used districtwide or at IEP meetings.
5. Training for all members of the IEP team and transportation administration in the use of the “decision tree” process.

In the meantime, the Special Education Department should review IEPs to determine students who receive transportation, but may not need this related service.



## Nonpublic Schools and Agencies

Education Code 56034 defines a nonpublic school (NPS) as follows:

(a) Private, nonsectarian school that enrolls individuals with exceptional needs pursuant to an individual education program and is certified by the department. It does not include an organization or agency that operates as a public agency, an affiliate of a state or local agency, including a private, nonprofit corporation established or operated by a state or local agency, or a public university or college. A nonpublic, nonsectarian school also shall meet standards as prescribed by the Superintendent and Board.

The North Coast SELPA along with the other SELPAs in the Bay Area negotiate NPS rates and provide the district with an NPS/NPA contract.

Berkeley Unified is responsible for developing the individual service agreement for each NPS student, but the practice is for the NPS to complete this agreement. Once completed, the staff submits information to the Business Department for budgeting and paying NPS invoices.

The Special Education Department submits documentation to the Business Department when students are enrolled or no longer attending an NPS. However, the communication has been inconsistent, sometimes resulting in an inflated special education budget. Keeping track of these changes is important, particularly when the district has increased the amount of expenditures and does not want to further increase the district's obligations under the MOE.

The district has a written procedure for placing a student in an NPS; however, site staff were not consistently aware of it. It is also unclear when the procedure was written, whether it was distributed, and if so, how. Sites reported that they know they should attempt to provide for students in district programs. They also indicated that when they refer a student to the district director for an NPS, the student is placed. Sites reported are aware that NPS placements are expensive, but have no idea of actual costs.

District staff indicated the IEPs for NPS students do not include a transition plan to return the student to a district program. A student's ability to return to a district program is discussed at the annual IEP meeting, but without a formal plan.

The total number of students that the district enrolled in NPSs has increased the last three years. The information provided by special education in the documents titled NPS/NPA Budget 2015-16, 2016-17, 2017-18 includes the daily rate for educational services, the cost of any related services that are not included in the daily rate such as speech, APE, OT, counseling, transportation, residential room/board and therapy.

Budget breakdown NPS:

2014-2015	\$1,423,178
2015-16	\$1,239,401
2016-17	\$1,424,405

The cost of placing a student in an NPS is more than \$40,000 per year on average, twice the cost of serving a student in the district-operated program.

Site and district staff stated that the Berkeley Unified special education programs would not be appropriate for the students in an NPS, but data was unavailable to indicate what the district needs to retain those students. Once a district determines what those services or alternative programs are, they can be developed to reduce the need for NPS placements. Once students are placed in a NPS, it is often difficult to return them to a district program.

District staff reviewed information on the 34 NPS students and indicated that some could be returned to a district program with some additional supports. Every effort should be made to return students to the least restrictive environment, their home school of district residence.

The district should determine how many students assigned to NPS are referred from the district and how many are transferred students for other districts. When this analysis is conducted, it should make an attempt to review transfer IEP NPS students and determine whether the district has a suitable program for them.

### **Nonpublic Agencies (NPA)**

Education Code requirements for NPAs are the same as those for NPSs. Specifically the code requires an NPA meet the following requirements.

...be under contract with the local educational agency to provide the appropriate special educational facilities, special education, or designated instruction and services required by the individual with exceptional needs if no appropriate public education program is available.” Education Code 56365(a)

The district uses NPA services for nursing, physical therapy, speech, independent educational evaluations, and autism services. The district likely has an insufficient number of students to hire staff for these services cost effectively. It is important to review each of these contracts to determine whether the services are still needed and whether the current NPA is the most cost-efficient way of providing the services.

NPA costs for the district

2017-18     \$3,794,065

\$1,616,501.25 used in lieu of district staffing

NPA costs continue to increase because of the use of outside staff that are not available for hire by the district. These include speech therapists, nurses, occupational therapists. More than \$800,000 in NPA costs are expended to contract for speech services.

## Recommendations

*The district should:*

1. Continue the practice of the SELPA negotiating NPS and NPA contracts.
2. Monitor and adjust the district special education budget accordingly when students enter or exit from an NPS placement.
3. Develop a process to hire speech therapists within the district and reduce the need to contract for NPA speech. The district should develop a salary incentive to hire speech therapists that would be negotiated and agreed upon with the collective bargaining unit.
4. Develop a process for all sites to follow before making a referral for an NPS that includes data on the supports provided to a student before the NPS referral.

5. Provide information to the site administrators on the actual costs of NPS placements.
6. Ensure that every NPS IEP includes a transition plan to return the student to a district program. Develop a procedure so that the Business Department is given the information it needs to ensure that the mental health funds are appropriately allocated.
7. Develop a process for determining the specific reasons for a NPS referral, and use that information to develop district's supports and programs to appropriately serve those students in the district.
8. Review each of the students in an NPS to determine if the district could develop programs to meet the needs of those students.
9. Monitor NPA costs to make budget adjustments as appropriate. The Business and Special Education departments should meet regularly to determine budget adjustments.
10. Review each NPA contracts to determine whether the services are required and whether the NPA is the most cost-efficient way of providing those services

## Action Plan

The district should develop a districtwide one- to three-year action plan based on the findings and recommendations of this report. Each section should include a goal statement such as, but not limited to the following:

- Ensure staffing ratios and caseloads are at maximum caseload according to statutory requirements and statewide standards.
- Develop a procedural manual that reflects policies, procedures and process.
- Develop a parent/community advisory committee.

The action plan should be developed with input from district stakeholders. The following areas should be addressed in a matrix format:

- Goals (recommendations from the report)
- Tasks to be completed to meet the goals
- Those responsible for implementation
- Status of outcomes
- Progress made on implementation of meeting goals and completion of tasks
- Evidence of accomplishment
- Timelines to accomplish tasks

The action plan will serve as a road map for the district in developing special education systems, policies, procedures that ensure a legal, fiscally compliance, and programmatic sound special education delivery system. It will serve as an accountability document to measure progress in development of a best-practice special education delivery system.

The action plan should be led by the director of special education and consist of stakeholders such as but not limited, to the following; special education teachers, classified, support staff, site administrators, general education staff, program specialists, parent representative, etc.



## **Procedural Manual, Policies and Procedures**

The Special Education Department has no special education policy and procedural manual to guide special education practice and decision-making. As a result, there are no clear written directions, guidelines or procedures for the department staff and site principals, and no processes exist to guide staff in addressing questions and seeking support. Staff is uncertain who to approach for support, how to make request for services (such as 1-to-1 assistant support), or how to determine when a requested service or support is appropriate. Even when purchasing materials, it is unclear whether this is a site responsibility since special education staff are often referred to the district office to obtain these items.

Some staff are not trained in implementing the existing procedures, resulting in inconsistencies in the special education delivery system throughout the district.

The manual should consist of purpose and vision statement, referral process, assessment, case management, continuum of service options, specialized programs, IEP development, administrative interim placement, educational mental health service (ERMHS), policies and procedures, and leadership.

The manual should also include SST, COST, and Section 504 information. While these are not special education responsibilities, the Special Education Department is often referred to for direction and leadership in these areas.

Interviews with staff, review of due process resolutions, complaint corrective actions, and review of the systemic noncompliance items from the SESR indicate that a significant number of procedures should be included in a final procedure manual.

Twenty-five areas were identified and recommended to be included. These areas may require a separate section or the addition of information to a current section. As the task-force of stakeholders review the document, additional areas may be identified.

The identified areas are as follows:

- Organization chart - A flowchart of Special Education Department staff, with their specific duties and responsibilities, to assist site staff in knowing who to call when a specific question arises.

- Definition of Least Restrictive Environment - “Students must be educated with their non-disabled peers to the maximum extent appropriate. Supplementary aides and services must be provided to enable disabled students to access general education. Only the most severely disabled students should be provided with separate schooling.” This definition sets the stage for many sections of the procedure manual.
- Continuum of educational options offered in the districts with descriptions of each, including nonpublic schools, state schools, etc.
- A clear definition of accommodations and modifications and the responsibility of the general education teacher in providing these based on a student’s IEP.
- A definition of due process and complaints to provide clarity on what issues may result in which of these actions.
- The process that the district and CDE follow when either a due process or a complaint is filed.
- When a complaint is filed, the responsibility of the site administrator and site staff in responding to the complaint and/or resolving the complaint.
- When a due process is filed, the responsibility of the site administrator and site in responding to the due process and/or resolving the issue(s) that resulted in the due process filing.
- How and when transition IEPs should be held for students changing programs from one school to another at the same level, or from one level to another (i.e. elementary to middle school).
- How interim placements are completed for a student who enrolls in the district when schools are not in session, and how this information is provided to the school site on time.
- How all interim placements are completed, who is responsible for the paperwork, who decides where the student will be placed, and the process for ensuring that the receiving school is prepared for the student. With input from sites, the Special Education Department should develop an intake procedure form that could be

completed at the time of the interim placement so that a student's specific requirements are in place when he or she comes to school the first day. Additionally, if a behavior support plan is part of the IEP, it would be available prior to the student's first day, and all the necessary personnel should be on board the day the student arrives.

- How district students attending an NPS will be transitioned into district-operated programs, who will attend the IEP meetings when this is being discussed, how the site that the student may attend is kept informed, and the responsibility of the district office and the site for the implementation of the IEP.
- When an interpreter will be at an IEP meeting, who is responsible for ensuring the interpreter is present and the duties of the interpreter.
- When documents and/or IEPs should be translated into the language of the parents, the process for accomplishing this, and who is responsible for the translation and getting the documents to the parents.
- When special education records are requested by parents or parent attorneys, the timeline for producing the records, which records are copied, and who is responsible for ensuring that all required records are copied and sent on time.
- The process for hiring a new aide for a school site, either as an additional classroom aide or as a specific aide for a student, based on that student's IEP. The process would appropriate forms and timelines for approval from initiation through hiring.
- The procedure for determining if an aide is moved with a student from one site to another.
- The procedure for determining if an aide is no longer needed for a student.
- The procedure to determine where aides will be placed when the student they have been assigned to either moves out of the district or no longer requires an aide.
- The formula for assigning aides to mild/moderate programs, moderate/severe programs, and specialized programs with information regarding exceptions to this formula.

- When to schedule staffing or file reviews and who should attend these meetings.
- How to schedule IEP meetings when district special education staff should be in attendance and how to proceed if that staff cannot attend.
- What must be included in an assessment report to ensure that it is defensible in a due process hearing, and that the report must be available to the parents at the IEP meeting.
- How to complete the forms required that have been identified as problematic, including the prior written notice, invitation to the IEP meeting, and the assessment plan.
- How to complete the IEP sections that have been identified as problematic, including transition, assessment, general education, and parental input.

## Recommendations

*The district should:*

1. Develop district board policies, as indicated and as they relate to special education, to ensure that each policy reflects the current Education Code.
2. Establish a committee made up of representative Special Education Department staff, site administrators, site special education staffs, related services, parents, general education staff, instructional assistants, and other district departments to develop the procedure manual and make changes as needed. This committee should meet as soon as possible and be given a short timeline to develop a document that is based on the North Region SELPA manual.
3. Develop a training module and schedule to distribute the adopted procedure manual to all site administrators and special educators so that there is consistency in providing special education throughout the district.
4. Post the procedure manual online so that it can be accessed by all staff and parents.
5. Establish a process to write the additional sections or portions of sections of the procedure manual indicated in this report.

6. Establish a committee to review these additions to the procedure manual.
7. Develop a training module and schedule to distribute these additions.
8. Incorporate the additions into the online manual.
9. Develop a process for reviewing and revising the procedure manual at least annually, and when any changes are required due to state or federal regulations or because of due process resolutions or corrective actions.
10. Establish the purpose of the manual, which is to provide useful and legal guidelines for determining special education placements, reviews and process for teachers, parents, administrators.
11. Ensure the manual is annually reviewed by stakeholders, such as program managers, school psychologist, principals and parents.
12. Ensure training on the implementation of the manual takes place August 1 each year and involves all stakeholders. All stakeholders should agree to these procedures, and consistent direction should be provided to site administration and staff.
13. Ensure the procedural manual evaluated annually for district administrative staff.
14. Provide electronic copies to all site administrators in the first of each year with in-service training by the special education administration.
15. Ensure the manual is current and outlines but is not limited to the following topics: The interventions used before referral to special education testing, program options, placements, discipline and many other legal and necessary areas.

The manual should be finalized spring of 2018. All stakeholders (principals, teacher's special education and general education, program specialist, and, CAC) should review and have input into the final document. At the start of school year, 2018-19, all school sites should receive in-service training. All district office special education staff should deliver the same message and consistently interpret the manual with full agreement; this will ensure consistency of implementation of special education within the district.



## The Role of Principal

Berkeley Unified embraces a special education model that enhances the opportunity for all students to be mainstreamed into the general education. Therefore, the role of the principal is the key element for success. Along with the principal, the Special Education Department must ensure all staff are involved in training and communicating effectively with parents and staff.

A constant turnover in principals over the past years and the lack of consistent processes from the Special Education Department has resulted in inconsistent policies and confusion among staff, students and community regarding how special education should operate.

The single issue that runs throughout all the sections of this report is how principals provide special education services to children with learning, mental, social, and emotional, or physical disabilities.

Teachers and parents naturally consider the principal as the leader of the school who guides them in meetings about their child's education. New principals in the district should be trained in special education policy, procedures or special education law and gain an understanding of the full-inclusion model.

Because of their busy work schedules, principals have not had the time to stay abreast of ever-changing laws and regulations not to mention the volumes of pertinent court decisions. Several principals are new to the position and are learning about the complexities of their role and function.

Through no fault of their own, the principals and special education staff are limited in their understanding of issues that include but are not limited to the following:

1. Special education eligibility
2. Definition of an IEP, legal requirements, timelines and need for accuracy, required contents, documentation, revision and implementation, and conduction of IEP meetings
3. The role of the principal on the IEP team

4. Understanding placement
5. Accountability
6. The role of counselors and/or school psychologists
7. Understanding special education law
8. The principal's responsibility for the education of students in the school
9. Mandatory and permitted participants at IEP meetings
10. Behavioral management
11. Expelled students
12. Transition planning
13. Graduation
14. Section 504
15. IEP disputes and remedies

There is a lack of behavior support plans throughout the district. The rate of discipline action for special education students was high at the middle and high school. Consequently, principals need assistance in identifying student's behavior and how to change negative behaviors, creating a school environment that is positive and fosters respect and trust among all students and staff. The involvement and leadership of principals in the start of BPIS implementation is positive. Discipline is much more than dealing with student with problems; it should also be considered as a way to prevent problems.

The district superintendent recognizes that the improvement of family and school relationships is an essential element in increasing student learning and bettering behavior. School partnerships with families are underway. Family resources to assist parents with their child's problems have been lacking, and the degree of involvement between parents and school defines the level of success students have in school. The principal can lead the efforts to develop improved family relationships, and districtwide support from the superintendent and board is essential.

## Recommendations

*The district should:*

1. Ensure principals are familiar with the concept and practice of special education as it relates to full inclusion.
2. Direct the principals to ensure that all staff members know what is necessary for providing special education services.
3. Ensure the principals verify that staff members are appropriately implementing services for student with disabilities within the full-inclusion model.
4. Ensure the director of special education provides the necessary leadership in helping the principals implement the full-inclusion model.
5. Ensure the principal leads the effort for data collection with support from Human Resources, Business Services, and Special Education.
6. Ensure the principal make certain that all staff member are aware of the process for identifying student with disabilities with support from Special Education Department.
7. Ensure the principals are prepared to lead meetings related to services for student with disabilities.
8. Ensure the principal knows all students on the school site.
9. Ensure the principal knows how prevent discipline problems, with the assistance of the school psychologists, program specialists and behavior specialists.
10. Ensure principals, with assistance from the school psychologist, counselor, special education teacher, understand how to conduct and interpret functional behavior assessments and not just for student with disabilities. These assessments determine the possible reasons for student behavior; the goal is reduce or eliminate behaviors before they become programs.
11. Ensure principals know special education law.

12. Hire an assistant director who is responsible for day-to-day special education operations; this is essential in assisting the overall full-inclusion model.
13. Provide training for principals on their role and function in relationship to issues that include but are not limited to the following:
  - Education law
  - Policy
  - Procedures
  - Role at the IEP meetings
  - Full inclusion
14. Establish monthly meetings between the director of special education and principals to provide communication and support regarding special education delivery that is consistent throughout the district.
15. Encourage the superintendent to direct bimonthly meetings between Business Services, Human Resources, Curriculum and Special Education directors to review staffing, budget, and curriculum development, SST, COST, and RTI2.
16. Ensure principals are familiar with the concept and practice of special education as it relates to current law and full inclusion at their school sites. This should be consistent throughout the district.
17. Make certain principals ensure that staff members know what is necessary for providing special education services in the general education classroom through full inclusion; this comes with commitment, communication and support from the Special Education Department.
18. Ensure the principals verify that staff members appropriately implement services for student with disabilities in the full-inclusion model.
19. Assign the principal to lead effort for data collection.
20. Ensure the principal makes certain that all staff member are aware of the process for identifying students with disabilities.

21. Ensure principals prepare to lead meetings related to services for student with disabilities.
22. Continue to develop BPIS schoolwide.



## Families/School Relationships

Many families are in conflict with the district on meeting their child's individual needs, and consequently, due process and parent complaints are common. The legal expense to settle agreements between parents and school are costly and create a sense of mistrust.

Trust and respect needs to be developed to allow parents to freely engage in their child's education without the threat of due process.

A districtwide parent/community advisory committee should be developed. This would improve families/school relationships and help enhance leadership from the principals and director of special education regarding parents' concerns and complaints. The committee should include, but not be limited to the following criteria:

- Membership should include but not be limited to parents of children with special needs.
- The committee should be chaired by a parent.
- The committee should have bylaws, and all meetings should open to the public and advertised at least 48 hours in advance. Meeting agendas should be posted on district webpage.
- The director of special education, with input from the committee should develop the agenda, notify the public of meetings, and have minutes recorded and approved each meeting.
- General education and special education teacher representatives should be appointed to serve on the committee.
- A school site principal representative from the district should be on the committee.

## Recommendations

*The district should:*

1. Work toward strengthening parent, family school relationships. The district should offer information on child development at each age and grade level.

2. Explain the relationship between home influences and school performance.
3. Provide parents with information on curricular changes and how to monitor their students' progress.
4. Provide parents with home visits at critical transition points; elementary to middle school, middle school to high school; to establish personal contact, provide information and address parental questions.
5. Develop parent support systems and parent education offerings responsive to family preferences. The development a family center for services provided is essential.
6. Survey parents to assess their interest and needs, and use the results to establish a volunteer program and improve communication between home and school.
7. Develop a system for parents and schools to work together regarding behavior plans; when students are emotionally upset, disturbed and/or demonstrating anti-social behavior, obtain the family support needed to remediate the problems.
8. Regard parents as equal partners in discussions regarding their student needs; develop trust and respect among all parties.
9. Regularly invite parents to observe and visit the school site. Always debrief after a visit with parents, and answer any questions regarding their child's education.