



**CSIS** California School Information Services

# Mt. Diablo Unified School District

## Special Education Review

February 25, 2013



**Joel D. Montero**  
Chief Executive Officer







**CSIS California School Information Services**

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February 25, 2013

Steven Lawrence, Superintendent  
Mt. Diablo Unified School District  
1936 Carlotta Drive  
Concord, CA 94519

Dear Superintendent Lawrence:

In April 2012 the Fiscal Crisis and Management Assistance Team (FCMAT) entered into an agreement with the Mt. Diablo Unified School District for a review of special education programs and services.

The amended scope of work in the study agreement specifies that FCMAT will review the following:

1. A review of the special education administrative structure and compare with single district SELPA districts of comparable size with recommendations for cost savings, if any.
2. Analyze the internal operations of all administrative positions in special education and make recommendations for greater efficiency and cost effectiveness, if any.
3. Analyze the classified support positions within the administrative structure that support internal special education operations.
4. Provide an analysis of staffing ratios, class and caseload size using statutory requirements for mandated services and statewide guidelines. Must include FTE and caseload as of May 1.
5. Provide an analysis of all staffing and caseloads for designated instruction providers: speech therapists, psychologists, occupational/physical therapists, behavior specialists, adaptive physical education and others. Must include FTE and caseloads as of May 1.
6. Review the use of resource allocations for nonpublic schools and agencies and mental health services, alternative programs and make recommendations for greater efficiency.
7. Review the costs of due process, alternative dispute resolution and mediations for the past three years.

This report contains the study team's findings and recommendations.

**FCMAT**

Joel D. Montero, Chief Executive Officer

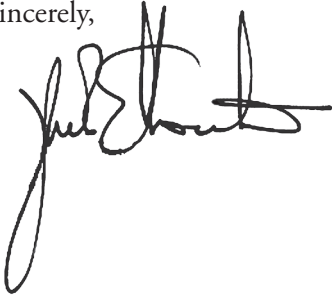
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Administrative Agent: Christine L. Frazier - Office of Kern County Superintendent of Schools

On behalf of FCMAT, we appreciate the opportunity to serve you and extend our thanks to all the staff of the Mt. Diablo Unified School District for their cooperation and assistance during field-work.

Sincerely,

A handwritten signature in black ink, appearing to read "Joel D. Montero". The signature is fluid and cursive, with a large initial "J" and "M".

Joel D. Montero  
Chief Executive Officer

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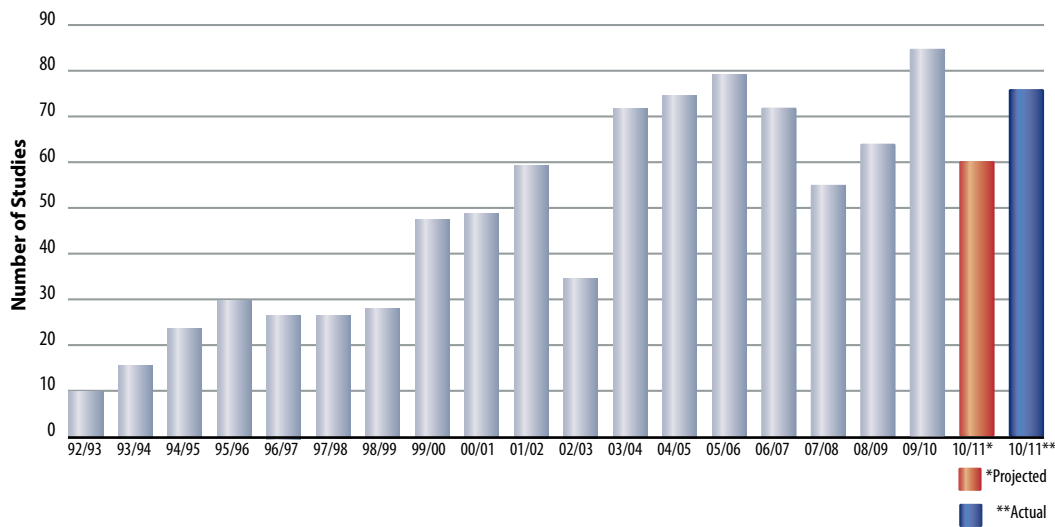
# About FCMAT

FCMAT’s primary mission is to assist California’s local K-14 educational agencies to identify, prevent, and resolve financial and data management challenges. FCMAT provides fiscal and data management assistance, professional development training, product development and other related school business and data services. FCMAT’s fiscal and management assistance services are used not just to help avert fiscal crisis, but to promote sound financial practices and efficient operations. FCMAT’s data management services are used to help local educational agencies (LEAs) meet state reporting responsibilities, improve data quality, and share information.

FCMAT may be requested to provide fiscal crisis or management assistance by a school district, charter school, community college, county office of education, the state Superintendent of Public Instruction, or the Legislature.

When a request or assignment is received, FCMAT assembles a study team that works closely with the local education agency to define the scope of work, conduct on-site fieldwork and provide a written report with findings and recommendations to help resolve issues, overcome challenges and plan for the future.

**Studies by Fiscal Year**



FCMAT also develops and provides numerous publications, software tools, workshops and professional development opportunities to help local educational agencies operate more effectively and fulfill their fiscal oversight and data management responsibilities. The California School Information Services (CSIS) arm of FCMAT assists the California Department of Education with the implementation of the California Longitudinal Pupil Achievement Data System (CALPADS) and also maintains DataGate, the FCMAT/CSIS software LEAs use for CSIS services. FCMAT was created by Assembly Bill 1200 in 1992 to assist LEAs to meet and sustain their financial obligations. Assembly Bill 107 in 1997 charged FCMAT with responsibility for CSIS and its statewide data management work. Assembly Bill 1115 in 1999 codified CSIS’ mission.

AB 1200 is also a statewide plan for county office of education and school districts to work together locally to improve fiscal procedures and accountability standards. Assembly Bill 2756 (2004) provides specific responsibilities to FCMAT with regard to districts that have received emergency state loans.

In January 2006, SB 430 (charter schools) and AB 1366 (community colleges) became law and expanded FCMAT's services to those types of LEAs.

Since 1992, FCMAT has been engaged to perform nearly 850 reviews for LEAs, including school districts, county offices of education, charter schools and community colleges. The Kern County Superintendent of Schools is the administrative agent for FCMAT. The team is led by Joel D. Montero, Chief Executive Officer, with funding derived through appropriations in the state budget and a modest fee schedule for charges to requesting agencies.



# Introduction

## Background

With a student enrollment of 34,116, the Mt. Diablo Unified School District is the largest school district in Contra Costa County. As a single district Special Education Local Plan Area (SELPA), the district provides a full range of programs and services to 4,093 students with disabilities from birth through age 22.

Because of ongoing state budget reductions and increasing operating costs, encroachment on the district's unrestricted general fund has continued to increase each fiscal year. From the 2009-10 fiscal year to 2011-12, encroachment increased by \$3,518,242, according to the maintenance-of-effort document. The second interim financial report for the 2011-12 fiscal year shows that 48.82% of the district's unrestricted general fund is due to special education encroachment, and the average for most districts operating comparable programs is approximately 25% to 35%. The district's goal is to decrease encroachment on the unrestricted general fund while continuing to meet maintenance-of-effort requirements and delivering high-quality educational services to its students.

In April 2012, the district requested that FCMAT review the district's special education, programs and services. The amended scope of work in the study agreement specifies that FCMAT will perform the following:

1. A review of the special education administrative structure and compare with single district SELPA districts of comparable size with recommendations for cost savings, if any.
2. Analyze the internal operations of all administrative positions in special education and make recommendations for greater efficiency and cost effectiveness, if any.
3. Analyze the classified support positions within the administrative structure that support internal special education operations.
4. Provide an analysis of staffing ratios, class and caseload size using statutory requirements for mandated services and statewide guidelines. Must include FTE and caseload as of May 1.
5. Provide an analysis of all staffing and caseloads for designated instruction providers: speech therapists, psychologists, occupational/physical therapists, behavior specialists, adaptive physical education and others. Must include FTE and caseloads as of May 1.
6. Review the use of resource allocations for nonpublic schools and agencies and mental health services, alternative programs and make recommendations for greater efficiency.
7. Review the costs of due process, alternative dispute resolution and mediations for the past three years.

## Study Guidelines

FCMAT visited the district on June 4-8, 2012 to conduct interviews, collect data and review documents. This report is the result of those activities and is divided into the following sections:

- I. Executive Summary
- II. Administrative Structure
- III. Internal Operations/Classified Support
- IV. Staffing and Caseloads
- V. Nonpublic Schools and Agencies
- VI. Due Process and Alternative Dispute Resolution

## Study Team

The study team was composed of the following members:

William P. Gillaspie, Ed.D.  
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Sacramento, CA

JoAnn Murphy  
FCMAT Consultant  
Santee, CA

Leonel Martínez  
FCMAT Technical Writer  
Bakersfield, CA

Debra Fry\*  
Director of Business  
Lassen Union High School District  
Susanville, CA

Trina L. Frazier\*  
Administrator  
Fresno County SELPA  
Fresno, CA

Anne Stone  
FCMAT Consultant  
Mission Viejo, CA

\*As members of this study team, these consultants were not representing their respective employers but were working solely as independent contractors for FCMAT.

# Executive Summary

Encroachment of special education on the Mt. Diablo Unified School District's unrestricted general fund has continued to increase each fiscal year. From 2009-10 to 2011-12 encroachment on the general fund increased by \$3,518,242. The current second interim financial report shows that special education encroachment on the total unrestricted general fund is 48% while the average for most districts operating comparable programs is approximately 25% to 35%.

In this report, FCMAT has made recommendations that could decrease special education encroachment on the unrestricted general fund by \$4,257,827 while continuing to meet maintenance-of-effort (MOE) requirements and maintaining the ability to meet federal and state requirements for disabled students. MOE requirements are found in Part B of the Individuals with Disabilities Education Act (IDEA) (20 USC 1413 (a)(2)(A)) and implementing regulations (34 CFR 300.230-300.232). Briefly, the MOE requires that Part B IDEA funds be used in accordance with the following:

- Pay the excess costs of providing special education and related services to children with disabilities,
- Used to supplement state, local and other federal funds and not to supplant such funds, and
- Shall not be used, except in specified cases, to reduce the level of state and local special education expenditures below that of the prior year.

Following a comparative review of single-district SELPAs of similar size, FCMAT found that Mt. Diablo Unified has more upper-level administrative positions than other districts. While the basic program requirements for single-district SELPA operation are the same for all districts, the duties and requirements are performed by staff member serving at lower-level positions. FCMAT recommends administrative staffing reductions that could result in an annual savings of \$363,992 and provides suggestions for a redesigned administrative organizational structure to maximize efficiency.

When compared to other single-district SELPAs, the district has fewer than the average number of staff members in the clerical positions that support the special education internal operations. Other resources could be available through coordinated efforts with student services, which are also supervised by the assistant superintendent of special education; however there is no overlap in clerical duties between the two departments.

A reduction of some special education certificated staffing positions is recommended that could result in an annual cost savings of \$613,779 with an additional estimated savings of \$92,987 if a reduction in force takes place. Each reduction is based on staffing requirements in the Education Code or guidelines developed by School Services of California, Inc. (SSC), which are used as the industry standard for special education staffing.

Nonpublic school costs negatively affect the special education budget and have increased by more than \$930,000 during the 2011-12 school year. This was primarily because of the additional costs of residential placements transferred to school districts through AB 114. On June 30, 2011, Assembly Bill 114, Chapter 43, Statutes of 2011 (AB 114) was signed into law. Under AB 114, several sections of Chapter 26.5 of the California *Government Code* were amended or rendered inoperative, ending the state mandate on county mental health agencies to provide mental health services to students with disabilities. With the passage of AB 114, school districts are now solely

responsible for ensuring that students with disabilities receive special education and related services, including some services previously arranged for or provided by county mental health agencies.

For maximum savings while maintaining appropriate programs for students, the district should continue efforts to develop district programs staffed with district personnel. FCMAT identified three program options for district expansion and the creation of new options for a potential savings of \$2,112,012 per year.

Nonpublic agency costs including transportation expenses affect the special education budget by more than \$7 million. This includes staffing costs for licensed vocational nurses (LVNs), occupational/physical therapists, and speech therapists. This cost will decrease when district-hired staff members replace NPA services.

Twenty-six behavior health specialists (BHS) provide a range of mental health services at Sunrise and Alliance to increase student's capacity to benefit from their education and school placement. Staff members indicated that these positions are funded by Medi-Cal billing and AB 114 funding. Medi-Cal billing offsets a great deal of cost to the district and covers expenses including salaries, benefits, supplies, and administrative support. Some of the behavior health specialists' duties include supporting students to improve their behavioral and social functioning at school, providing weekly individual therapy, maintaining ongoing collaboration with families, school staff, and outside agencies, developing treatment goals and therapeutic interventions, providing crisis stabilization, and participating in the individualized education program (IEP) process.

Further analysis would determine whether Medi-Cal dollars actually fund all the costs of these positions. The unrestricted general fund contributes \$1 million to support the total costs for this program. Because of the high encroachment percentage on the unrestricted general fund, the district should thoroughly analyze the cost of providing services in the current model. Services in this model should be cost-neutral and the \$1 million support cost from the general fund should be eliminated.

# Findings and Recommendations

## Administrative Structure

The Fiscal Crisis and Management Assistance Team (FCMAT) used the following districts in its staffing comparison: Clovis Unified, Moreno Valley Unified, Stockton Unified and Poway Unified. While each district special education department had varied responsibilities, Mt. Diablo Unified is the only one that has combined student services, the Special Education Local Plan Area (SELPA) and special education under one assistant superintendent. The Mt. Diablo Unified administrative structure is shown in the following table.

For purposes of this study, the team will provide a comparison of the administrative and operational support positions for special education only.

### *District 2011-2012 Special Education*

Staff	FTE
Assistant Superintendent of Student Services and Special Education	.90/.10 Split w/Student Services
Administrative Assistant	.90/.10 Split w/Student Services
Special Education Administrative Secretary	1.00
Fiscal Analyst I	.90/.10.Split w/Student Services
Sr. Account Clerk	.90/.10 Split w/Student Services
MIS Technician	1.00
SDC Administrator (SDC, RSP, SEAs, Transportation)	1.00
Sr. Secretary	1.00
Transportation Secretary/MIS Clerical Support	1.00
Program Administrator (Speech, OT/PT, APE, AT, AAC, Schools for the Deaf & Blind)	1.00
Behavior Program Manager (Preschool Assessment Center)	1.00
Educational Consultants/Behavior Management Specialists	4.00
Alternative Dispute Resolution Administrator (NPS/NPA)	1.00
Program Specialists	6.00
Parent Liaison (Newsletter, Transition Task Force, DD Counsel)	1.00

The following table outlines the comparative data on single-district administrative structures for comparable size districts: Clovis Unified, Moreno Valley Unified, Stockton Unified, Poway Unified and Mt. Diablo Unified.

Since each district is unique and has its own set of characteristics, comparisons from district to district vary, and no two districts maintain the exact same structure or position responsibilities. The positions in these districts may have a different title, although the administrators perform similar duties. The basic program requirements for single-district SELPA operation are the same for all districts.

### *Comparison of Single District Administrative Structure*

District and ADA	Mt Diablo USD 33,977*	Clovis USD 39,040*	Moreno Valley USD 35,692*	Stockton USD 38,803*	Poway USD 34,569*
<b>Position Title</b>	No. of Staff	No. of Staff	No. of Staff	No. of Staff	No. of Staff
Assistant Supt.	<b>1(.90)</b>				
Administrator(s)/Directors	<b>2</b>	1	1	1	2
Alternative Dispute Administrator	<b>1</b>				
Assistant Director		1	1	1	1
Program Managers	<b>1 Behaviorist</b>				
Program Specialists (admin. & cert.)	<b>6</b>	14	5	9	7
Parent Liaison	<b>1</b>				
<b>TOTALS</b>	<b>12.00</b>	16	7	11	10

*\*2011-2012 projected enrollment per Dataquest*

Mt. Diablo Unified has more upper-level administrator positions when compared to other single districts. However, the district's administrators perform roles that are similar to those who serve in lower-level positions at other single districts. For example, other districts in the comparative sample have educational consultants and behavior management specialists; however, they are part of program delivery for related services and not district administration. These districts do not have an administrative position dedicated to oversight of this related service at a cost of \$111,576 per year. The district should review the structure and supervision of the behavior management department and consider eliminating the program manager position for an annual savings of \$111,576, which includes benefits and is based on the salary schedule and an interview with the business office. The oversight duties should be assumed by special education administration.

The district has the position entitled parent liaison with the primary function of serving as a liaison to parents of special needs students, helping with the resolution of complaints, assisting the community advisory committee, overseeing the parent resource program, and helping parents and staff members to determine student needs in the IEP process. It also includes supervisory and advisory duties prescribed by the superintendent. A full description of the functions of this position can be found in the district job description entitled, "Parent Liaison," and the yearly salary is \$126,464. The district should contact other districts to determine whether the same duties can be achieved in a more cost-effective manner. For example, Poway Unified had a part-time parent facilitator position (15 hours per week) to accomplish similar parent liaison responsibilities at a much lower cost. This parent facilitator was a special education parent that helped all IEP team members, particularly parents.

## Recommendations

*The district should:*

1. Consider eliminating the program manager position in the behavior management model and assigning those oversight responsibilities to the special education administrator for an annual savings of \$111,576.
2. Continue to monitor and review the costs of the behavior management program and ensure that it is cost-effective.

3. Consult with districts of comparable size to review other options for providing cost-effective behavior management services.
4. Consider eliminating the position of parent liaison for an annual savings of \$126,464 while maintaining the integrity of parent liaison activities through the use of volunteer resource parents and parent facilitators at a nonadministrative pay level.

## Administrator Authority

The Special Education Department's decision-making process is required to flow through the assistant superintendent, particularly when it involves the use of district resources. Program specialists have no front-line authority to resolve issues involving district resources, and program administrators have limited authority. The district finalizes placement decisions and the allocation of resources through weekly management meetings of the assistant superintendent, program administrators, and program managers that last all morning or longer if necessary. Each principal and the assigned program specialist are expected to attend to present the student's case for needed programs and services. Principals reported that they can be expected to be present at these off-campus meetings for as long as 1½ hours, but they often participate regarding student issues only about 10 minutes. Final decisions about the allocation of resources and specific recommendations on placement are made in the context of this meeting.

There are two major concerns with the use of the management meeting process:

- It is labor intensive, using approximately 23 to 24 days of administrative time per year.
- Section 300.323 (c) (2) of Title 34 of the Code of Regulations requires IEPs to be implemented as "soon as possible following the development of the Individualized Education Program in accordance with the individual's Individualized Education Program." The management meeting process for either final approval or review of the IEP and related services could result in delays in program delivery and/or compliance issues.

Greater efficiency can be achieved if special education administrators and program specialists were authorized to make the necessary decisions on providing special education and related services. FCMAT has developed a potential redesign of the administrative structure with internal supports by grade level to increase continuity in the program, improve procedures, and maintain services to students. That redesign is depicted after the recommendations in this section of the report.

The behavior management program is a related service of special education and should not be listed on the organizational chart as a direct reporting responsibility in the chain of command to the assistant superintendent. It should be included as a support program along with all the other related services under the supervision of a special education administrator.

## Recommendations

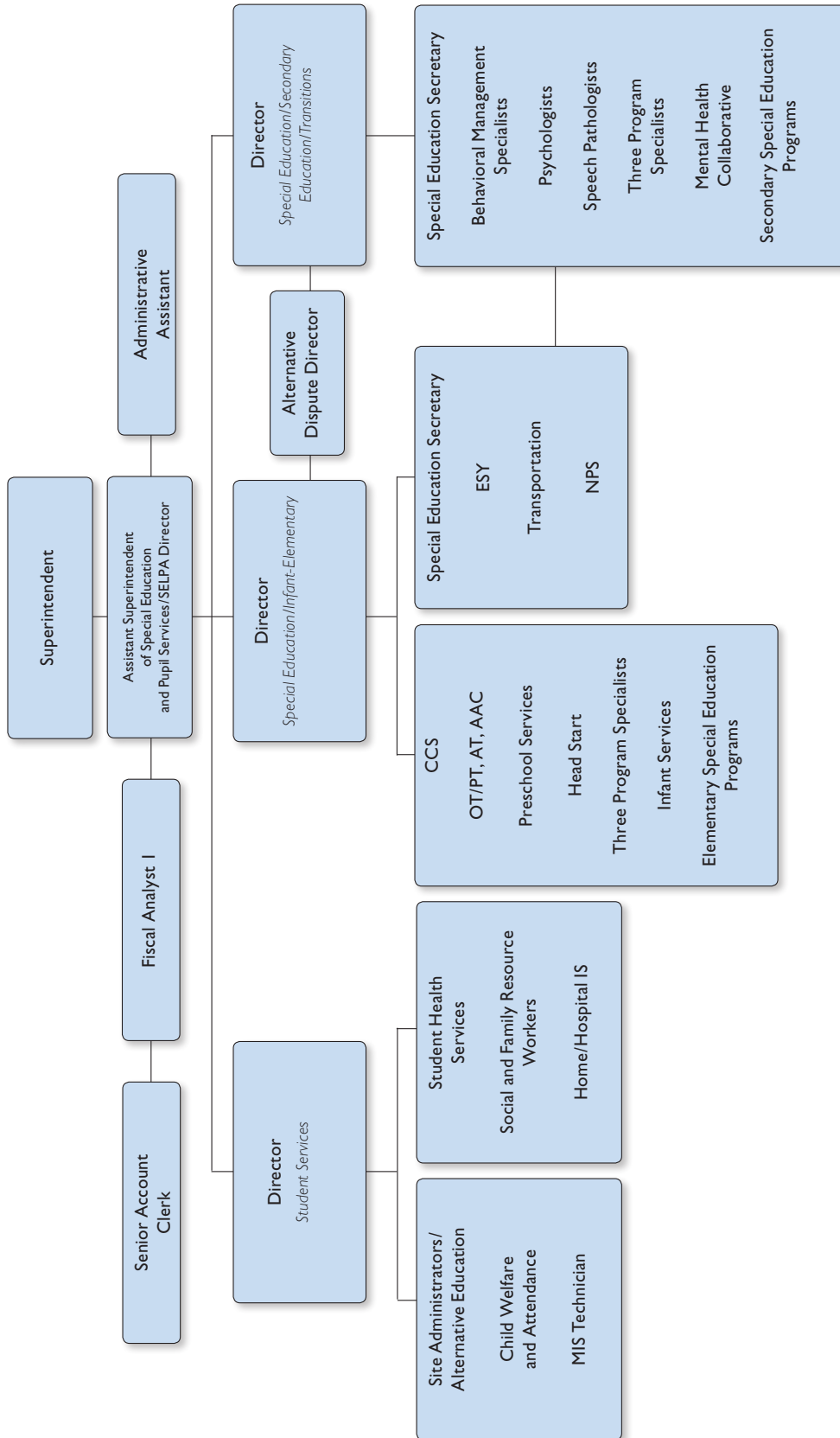
*The district should:*

1. Review the proposed organizational chart on the following page to achieve greater efficiency in program management and development and streamline reporting and supervision structure.

2. Provide the administrators and program managers with sufficient authority to make decisions related to special education services rather than conducting weekly meetings.



Proposed Special Education/Pupil Services





## Internal Operations/Classified Support

Single-district SELPAs have unique responsibilities for program operations as well as the fiscal and data reporting required of all SELPAs. As a result, the classified support staffing level will be higher than a district special education program.

SELPAs are required to manage all federal and state revenues for students with disabilities, and all nonpublic school and agency contracts as well as monitor and annually submit maintenance-of-effort reporting. MOE requirements are found in Part B of the Individuals with Disabilities Education Act (IDEA) (20 USC 1413 (a)(2)(A)) and implementing regulations (34 CFR 300.230-300.232). Briefly, the MOE requires that Part B IDEA funds be used in accordance with the following:

- Pay the excess costs of providing special education and related services to children with disabilities,
- Used to supplement state, local and other federal funds and not to supplant such funds, and
- Shall not be used, except in specified cases, to reduce the level of state and local special education expenditures below that of the prior year.

Each SELPA is required to monitor and maintain a special education student information system, and the data is submitted to the California Department of Education (CDE) on December 1 and with a comprehensive report on June 30 of each year to the California Special Education Management Information System (CASEMIS). Mt. Diablo Unified's system of record is the Special Education Information System (SEIS), which requires daily maintenance of student records documenting the IEP process. Case managers enter all IEPs into the database and these require verification before being finalized in the system. Accuracy is of utmost importance because this data is submitted to CASEMIS, which is then used by CDE to determine whether the district meets federal requirements for students with disabilities.

District special education departments commonly have fiscal staffing to help with budget management and nonpublic schools and agency contracts. The requirements can be cumbersome and include an annual master contract for each school or agency and an individual service agreement for each student, which is adjusted and monitored throughout the year. This requires at least monthly oversight of attendance and service verification.

### *Classified Support Positions for Special Education in Comparable Single-District SELPAs*

District	Mt. Diablo USD	Clovis USD	Moreno Valley USD	Stockton USD	Poway USD
Sr. Office Assistant		1		2	
Administrative Assistant	1	4		1	2
Secretary (Sr.)	1				
Administrative Secretary	1				
Fiscal Analyst/Budget/Contracts	1				1
Account Clerk					
Senior Account Clerk	1				
Registration Specialist		1			
MIS Staff/Data Control Specialist	1	1		6	1
Secretary/Clerks			7	1	
Total	6	7	7	10	4

The average number of classified support staff members at other single-district SELPAs of comparable size is seven, and the district has fewer support positions. Mt. Diablo Unified is unique in that student services is also supervised by and located in the same office as the assistant superintendent of special education. Student services also has seven positions, and there is no overlap or coordination of services between the clerical staffing in these two departments. The staff indicated that department morale is low and the relationship between the student services and special education staff is strained.

The workflow for clerical support is monitored and adjusted by the assistant superintendent. In most large offices, this type management usually falls to the administrative assistant to the assistant superintendent. Since this individual is available daily to review the overall daily plans of the department with the assistant superintendent, clerical duties can be adjusted during peak times.

## Recommendations

*The district should:*

1. Maintain special education clerical staffing support at the current level.
2. Review the clerical duties and workflow of student support services and determine whether special education can be provided with additional assistance.
3. Ensure that daily consistency of workflow is monitored and adjusted through the administrative assistant.
4. Build a collaborative system to share workload between special education and student services during peak times.
5. Improve morale among all members of the clerical support staff in special education and student services by conducting activities such as biweekly meetings to review job-alike functions and to facilitate Department communication.

# Staffing and Caseloads

## Resource Specialist

The district employs a total of 76.27 full-time equivalent (FTE) resource specialist teachers who serve special education students and provide intervention to general education students. Selected general education students receive interventions from the special education teachers to provide additional instructional strategies to improve the students' comprehension regarding the core curriculum. The general education services delivered by resource specialists are intended to provide intervention to students within the framework of Response to Intervention (RtI). In many districts, RtI or intervention services are provided by general education staff members in collaboration with the special education staff. At Mt. Diablo Unified, the intervention services are provided only by special education teachers.

The following table shows the breakdown of special education and general education FTEs for district resource specialists. This information was provided to FCMAT by the Special Education Department. Seventy-seven percent of the students served by resource specialist teachers are in special education, and 23% are in general education. Resource specialists are funded 60% from special education and 40% from the general fund, and the intention is to provide services to a proportionate amount of special education and general education students based on this ratio. The district has not maintained the 60%-40% ratio.

### *Resource Specialist Funding Source*

Funding Source	Percentage	FTEs
Special Education	77%	58.80 Resource Specialist
General Education	23%	17.47 RTI

The caseload average for district resource specialists was calculated using a divisor of 28 students, which is the Education Code (EC 56362) cap on the number of special education students these teachers can serve without a state waiver. The average district caseload is 28 students per teacher. This caseload ratio is based on the 58.80 FTEs of teacher time that is used to serve special education students. The number of students calculated in this ratio is 1,655 and represents those with an IEP who receive special education services. It does not include the number of pending students who are being evaluated for special education eligibility. The average of 28:1 students to teacher ratio is within the Education Code guidelines.

Staff members indicated that after a student is assessed for eligibility, resource specialist teachers leave their SEIS record in "pending" status for the rest of the school year, even if the students did not qualify for special education. This creates an inflated caseload number for resource specialist teachers.

### *Resource Specialist Caseload Ratios*

Provider	Funding Source/ Student Population	Education Code Ratio (Student to FTE Caseload)	Average Ratio	Total District Caseload Ratio	Interventions
Resource Specialist (RS)	58.80 FTE-Special Education			58.80:1655	
	<i>Does not include 17.47 FTE providing intervention to general ed. students</i>	28:1	28:1	1655\58.80=28.14:1	
<i>Caseload based on eligible students only (not pending)</i>	<i>include 17.47 FTE providing intervention to general education students</i>			58.80 +17.47 =76.27 FTE 1655\76.27FTE=21.7:1 student\teacher ratio?	17.47 FTE providing intervention to general ed. students

Each resource specialist teacher is supported with one .375 FTE special education assistant as indicated in the teachers' contract.

## Special Day Class (SDC)

The district's delivery model provides a continuum of program options for students. Students are served in the least restrictive environment (LRE) as determined by their Individualized Education Program (IEP) and in accordance with the Individuals with Disabilities Education Act (IDEA). The following table illustrates the SDC programs operated by the district.

### *Mount Diablo Special Day Class Programs*

Type of Program	Acronym
Learning Handicapped (Mild/Moderate)	LH
Severely Handicapped (Moderate/Severe)	SH
Autism Class	AU
Aurally Handicapped	AH
Moderately Disabled	MOD
Augmentative & Alternative Communication	AAC
Small Group Instruction	SGI
Physically Handicapped	PH
Counseling Enriched Program	CEP
Therapeutic Learning Center	TLC

The following table provides a brief description of each SDC program type and the negotiated special education class size maximums as outlined in Article 6 (Class size) Section 6.2 of the teachers' contract. This section also states the following:

A severely handicapped class is defined as a special day class with at least 2/3 of its enrollment composed of students with the following profound disabilities: autism, blindness, deafness, severe orthopedic impairments, serious emotional disturbances, and severe mental retardation.

Class size and caseloads for the severely handicapped (SH) have been applied to the following programs as outlined in the contract language above: severely handicapped (SH), autistic (AU), aurally handicapped (AH), physically handicapped (PH), and participating in a mental health collaborative (MHC).

### ***Type of Programs and Maximum Number/Ratio of Students (Teachers' Contract)***

<b>Program Type</b>	<b>Maximum # of Students/Teacher Ratio</b>
<b>Learning Handicapped (LH)</b> – This program serves students who have mild to moderate disabilities including specific learning disabilities, mild intellectual disabilities, speech and language disabilities, autism, other health impaired, and other mild disabilities.	12:1 - Preschool 15:1 – Elementary and Secondary
<b>Severely Handicapped (SH)</b> - This program serves students with moderate to severe disabilities. Disability appropriate curriculum is used in these classrooms. Students in these programs may receive a certificate of completion.	10:1 - Preschool 9:1- Elementary 15:1 – Secondary through age 22
<b>Autism Classes (AU)</b> – This program serves students who have autism and require instruction to improve communication, social skills and behavior. The classes are separated into three levels; Benchmark, Strategic and Intensive.	10 :1- Preschool 9 :1- Elementary 15:1 – Secondary through age 22
<b>Autism Magnet (AU Magnet)</b> – This program serves students with neurological, socially-based disorders (Autism Spectrum Disorder, Asperger Syndrome, Pervasive Developmental Disorder, etc.) who are excelling academically and are in need of intervention in the social, executive functioning, and communication domains.	11:1- Elementary 2:1 student \staff ratio (Per program guidelines, not contract)
<b>Aurally Handicapped (AH)</b> – This program serves students who are deaf or hard of hearing (DHH).	10:1 - Preschool 9:1 - Elementary 15:1 – Secondary through age 22
<b>Moderately Disabled (MOD)</b> – This program serves students with moderate disabilities. Disability appropriate curriculum is used in these classrooms. Students in these programs have moderate intellectual disabilities and receive a certificate of completion.	11:1
<b>Augmentative and Alternative Communication (AAC)</b> – This program serves students who have a variety of disabilities and are expected to be long-term users of AAC materials and devices. AAC is best thought of as a system and an integrated group of components that includes low tech supports such as picture communication strategies with access to components. It also includes high tech components such as computerized voice output communication aids used by students to enhance communication.	6:1 – K through age 22

<p><b>Small Group Instruction (SGI)</b> – This program serves students at the preschool level with developmental delays. This is a half day program for four days per week and some of the students also attend general preschool programs. This program is provided to preschoolers who do not require a special day class.</p>	<p>55:1 - Caseload 15:1 - Class size</p>
<p><b>Physically Handicapped (PH)</b> – This program serves students with orthopedic impairments and severe physical limitations.</p>	<p>10:1 - Preschool 9:1- Elementary 15:1 - Secondary through age 22</p>
<p><b>Counseling Enriched Program (CEP)</b> – This program serves students who are referred by the Positive Behavior Team. The students are in 2<sup>nd</sup> through 6<sup>th</sup> grades and the program includes behavior supports and is part of the mental health collaborative.</p>	
<p><b>Mental Health Collaborative (MHC)</b> – This program serves students who have mental health and special education needs. A team approach is used to support students with emotional, behavioral and mental health problems. The service providers collaborate to provide case management, counseling, and other related services based upon the IEP.</p>	<p>10:1 - Preschool 9:1 - Elementary 15:1 – Secondary through age 22</p>

The district’s staffing data was collected, compared with recommendations from School Services of California (SSC), and summarized in the following table. District programs were clustered by type of special education assistant (SEA) support level. The Special Education Department has established district guidelines for classrooms with intense needs. Within each program and grade level, the number of teacher FTEs, SEA FTEs, additional support for each program, and 1:1 support are identified. Caseload averages are stated for each program and compared to caseload averages recommended by SSC and caseload guidelines established by the district.

*Special Day Class Caseloads and Staffing*

Program	Grade Level	Teacher FTEs	SEA FTEs	Caseload Averages	District Guidelines	SSC Recommended Caseload	Additional Staff Support	1:1 Support
<b>Learning Handicapped LH</b>	Preschool	6.00	4.47	12 Students .75 SEA	12 Students	10-12 Students 1-2 Aides	0	0
	Elementary	18.00	11.35	14 Students .63 SEA	15 Students 1 SEA (5 hr)	12 Students 1 Aide	4	8
	Middle School	12.00	8.75	11 Students .73 SEAs	15 Students	12 Students 1 Aide	0	5
	High School	13.00	8.125	11 Students .73 SEAs	15 Students	12-15 Students 1 Aide	1	2



<b>Severely Handicapped**SH</b>	Preschool	3.00	4.50	10 Students 1.50 SEAs	10 Students	10-12 Students 2 Aides	0	1
	Elementary	10	13.625	9 Students 1.36 SEAs	9 Students 2 SEA (6 hr)	10-12 Students 2 Aides	0	7
	Middle School	5.00	6.375	10 Students 1.275 SEAs	11 Students	10-12 Students 2 Aides	1 1-Behaviorist (NPA)	8
	High School	8.00	7.375	9 Students .92 SEAs	11 Students	10-12 Students 2 Aides	5	8
	Post-Secondary	8.00	12.00	10 Students 1.5 SEAs	11 Students	10-12 Students 2 Aides	2	9
<b>Autism** AU</b>	Preschool	4.00	11.00	9 Students 2.75 SEAs	10 Students 3 SEA (6 hr)	8 Students 2 Aides	0	0
	Elementary	13	31.625	9 Students 2.4 SEAs	9 Students 3 SEA (6 hr)	8 Students 2 Aides	1	7
	Middle School	1.00	1.875	9 Students 1.875 SEAs	9 Students 3 SEA (6 hr)	8 Students 2 Aides	0	2
	High School	1.00	1.50	8 Students 1.5 SEAs	11 Students 3 SEA (6 hr)	8 Students 2 Aides	0	1
<b>Autism Magnet AU Magnet</b>	Elementary	2.00	5.625	8 Students 3.75 SEAs	Not specified	12 Students* 1 Aide	0	0
	Middle School	1.50	2.5	11 Students 1.66 SEAs	Not specified	12 Students* 1 Aide	0	1
	High School	1.00	.625	11 Students .41 SEAs	Not specified	12-15 Students* 1 Aide	0	4
<b>Aurally Handicapped** AH</b>	Preschool	3.00	1.25	10 Students .42 SEAs	10 Students	8-10 Students 2 Aides	1	0
	Elementary (Program Support)	3.00	4.615	8 Students 1.54 SEAs	9 Students	8-10 Students 2 Aides	Program Support	0
	Middle School 4-Interpreters	1.0	3.00	7 Students 1 SEA	11 Students	8-10 Students 2 Aides	0	0
<b>Moderate MOD</b>	Middle School	1.00	1.25	15 Students 1.25 SEAs	15 Students	12 Student 1 Aide	0	2
<b>Augmentative &amp; Alternative Communication AAC</b>	Elementary	1.00	1.5	6 Students 1.5 SEAs	6 Students	Not specified	LVN 1:1	3
	Middle School	1.00	3.00	4 Students 3.00 SEAs	6 Students	Not specified	0	2

<b>SGI</b>				20 Students		10-12 Students	0	0	
<b>Small Group Instruction</b>	Preschool	3.00	1.875	.625 SEAs	15 Students	1-2 Aides			
<b>Physically Handicapped**</b>	Elementary	1.00	.75	10 Students .75 SEAs	10 Students	8 Students 2-3 Aides	3	1	
<b>PH Counseling</b>						8-11 Students	0	0	
<b>Enriched Program**</b>	Elementary	2.00	3.0	10 Students 1.5 SEAs	9 Students	2 Aides			
<b>CEP</b>	Elementary	7.00	10.50	6 Students 1.5 SEAs	9 Students 3 SEA (6 hr)	8-10 Students 2 Aides	0	1	
<b>Mental Health Collaborative**</b>	Middle School	6.00	4.5	10 Students .75 SEAs	9 Students 1 SEA (6 hr)	8-10 Students 2 Aides	0	0	
<b>MHC</b>	High School	12.00	9.00	9 Students .75 SEAs	15 Students	8-10 Students 2 Aides	1	0	
<b>Transitional Learning Center</b>	Elementary	1.00	.75	0 Students .75 SEA	Not specified	Not specified	0	0	
<b>TLC</b>									
							<b>TOTAL</b>	<b>22</b>	<b>72</b>

\*\* Indicates SDC program for severely handicapped

\*Note: SDC nonsevere guidelines were applied to this program

On average, programs for students with mild to moderate disabilities are staffed within the SSC recommended caseloads except for the elementary mental health collaborative class (MHC), which have approximately two fewer students than the recommendation. However, the ratio of SEAs assigned to the classes is consistent with the number of students.

The special education staff and administration reported that the data including the number of SEAs and 1-to-1 aides in the above table is inaccurate. Because the district SEA pool was exhausted in January of this fiscal year, SEAs were added by contracting with an NPS/NPA or paying them through supplemental time sheets. They also reported that the district is overstaffed with SEAs.

According to the data provided, 72 1-to-1 SEAs are assigned to individual students. A reported total of 22 additional support staff members are assigned to SDC programs. The number of 1-to-1 SEAs assigned to students is high and represents an area of potential cost savings. The district has no consistent system to determine the hours SEAs are assigned. A system should be developed to increase cost efficiency.

The following table indicates the four types of SEAs in the district and the number reported; however, the data contained in this table should be analyzed for accuracy once a system for assigning and tracking SEAs is developed and carefully monitored.

*Special Education  
Assistant FTE Summary  
Fiscal Year 2011-2012*

Position	FTEs
SEA 1 CLS	57.12500
SEA 1 IEP	22.76375
SEA 1 IEP 193	1.50000
SEA 2 CLS	131.08250
SEA 2 CLS 192	11.25000
SEA 2 IEP	30.28500
SEA 2 IEP 193	0.75000
SEAGENED 3	6.06250
SEA 4 BEH	3.00000
<b>TOTAL</b>	<b>263.81875</b>

## Recommendations

*The district should:*

1. Consider calculating the resource specialist caseload based on the number of students who have active IEPs, and exclude students with pending eligibility.
2. Consider charging resource specialists according to students served, identified and placed.
3. Consider developing a policy that requires students who are being assessed for special education eligibility to have their status in the SEIS system changed immediately from “pending” to either active or not eligible once the assessment is complete to increase caseload accuracy.
4. Consider combining some of the elementary MHC classes to maximize class size capacity and increase cost efficiency and savings of \$80,981.
5. Consider developing a system for assigning and tracking SEAs that includes assignment and FTE/hours, and monitor this system on an ongoing and consistent basis for cost efficiency.
6. Consider reviewing and revising the policy and guidelines for assigning 1-to-1 SEAs and revise as appropriate to increase cost efficiency.
7. Consider analyzing the SEA funding table for accuracy once a system for assigning and tracking SEAs is developed and carefully monitored.

## Designated Instructional Services

Designated Instructional Services are support services developed to help a child benefit from his or her special education program and make progress in the general curriculum.

### Speech and Language Pathologists

The district has a total of 51.05 speech and language pathologists (SLP); 35.75 are district-employed and 15.3 are contracted. Contracting for SLPs is usually more costly for districts and the ability for local oversight and monitoring can be compromised. The following table indicates the average district caseload for SLPs serving K-12 students is 1:52. These caseloads are within the Education Code requirements (EC 56363.3); however they could be increased to the maximum average of 55 to maximize efficiency. The average district caseload for SLPs serving preschool students averages 1:28. These caseloads are significantly less than the guideline of 1:40 in Education Code 56641.7(a) and could be increased to that number to maximize cost efficiency.

#### *Speech and Language Pathologist Caseloads*

Provider	Ed. Code Guideline ratio (FTE to Student Caseload)	Average Caseload Ratio	Total Caseload Ratio (Total FTE to Total Student Caseload)
Speech-Language Pathologist-Preschool	1:40	1:28	12:332
Speech-Language Pathologist K-12	1:55	1:52	39.05:2027

*Source: Ed Code 3051.1(4)(b) for ages 5-22; Ed Code 56641.7(a); for ages 3-5*

Many SLPs have a combined caseload of preschool and K-12 students. Overall, the district could decrease the number of SLPs by approximately five FTEs to increase the caseloads to the maximum amount recommended in the Education Code for preschool and K-12 students. If the district elects to decrease the number of staff members to increase cost efficiency and caseloads, an analysis should be conducted to increase combined caseloads proportionately and stay within the recommended guidelines.

A \$5,000 stipend was previously offered to each district-hired speech and language pathologist; however, this incentive was eliminated because of the high costs of providing special education services in the district, and some pathologists left. When the stipend was offered, most pathologists were hired by the district, but since it was eliminated, more of these services are provided by contract. The district should conduct a cost analysis to determine the cost effectiveness of hiring its own SLPs and decreasing the number of contracted speech and language pathologists.

## Recommendations

*The district should:*

1. Consider eliminating five SLP positions at a savings of \$404,905. If the district releases five nonpublic agency therapists, the savings may be higher depending on whether they exceed the contracted rate for district staff members.

2. Consider conducting an analysis to determine how to strategically decrease SLP staffing and maintain combined SLP caseloads (preschool and K-12) within the recommended guidelines.

## School Psychologists

School psychologists in the district work 200 days a year and provide counseling services because the district does not employ counselors. The district has three different types of school psychologists, including those that are traditional, categorically funded, and counseling. The following table provides an overview of the three funding sources for school psychologists, the proportion of FTEs from each funding source, and a description of the respective job duties associated with the requirements of each funding source.

### *Mt. Diablo Unified School District School Psychologist Funding Sources*

	General Fund	Categorical Funding	Counseling & Wrap Clinic
School Psychologist FTE Total: 35.7	18.6	6.7	10.4
Job Duties	Traditional school psychologist roles in schools. All grade levels. Duties include: Assessments Behavior Support Plans (BSP) IEP Designated Counseling 504 Plans SST and Care Team Triage Packets	Special assignments and duties focusing on mental health needs as assigned specific schools and special programs that fund these positions.	Individual counseling and Wrap-Around services of students who meet the program requirements (most often full scope Medi-Cal)
Caseload/Workload	In 2011/2012 the 18.6 FTE served 36,271 students of the district in all 54 schools. Completed over 1500 assessments. Assessment Totals by Level: Preschool: 162 Elementary: 644 Middle: 376 High School: 386	Caseloads of categorical funded programs are varied by assignment and program.	In 2011/2012 served approximately 175 high need general education and special education students and their families.  Note: Clinic School Psychologists cannot do special education assignments while they are on Clinic assignments per Medi-Cal guidelines.
Funding Source	Special Education general fund	Categorical funds/Medi-Cal funds, Title I funds, and other funding as developed by school or program.	EPDST Medi-Cal. Program is supported by the direct Medi-Cal billing of the clinicians (school psychologists).

*Contents provided by the Mt. Diablo Unified School District*

A committee meets annually to determine how much traditional school psychologist time each site will be assigned and site assignments. It uses the SDC student count and number of assessments as the criteria to determine this time. The psychologists assigned to middle and high schools are given more time to allow for the additional work of determining the emotional status of students. A number of students have moved to the district with outdated assessments, which creates additional assessments for the psychologists.

Categorically funded psychologists are funded through the individual school site budgets. Each school site has the discretion to determine whether it would like additional psychologist time. Funding sources for categorical psychologist time include Medi-Cal, Title I, and other sources generated by individual schools. Psychologist time funded through categorical dollars is in addition to assigned traditional psychologist time at each school site.

The psychologist time designated for providing counseling and wraparound (WRAP) services is funded with mental health dollars. Psychologists who are assigned to counseling and WRAP services serve in a narrow capacity, providing these services to students who meet program requirements. The Special Education Department employs a clerk who works at the county mental health department. This staff person is responsible for submitting all psychologist billing. The billing is monitored monthly to ensure that each psychologist with a counseling/WRAP assignment bills for all of the time spent carrying out these job duties. If the billing is not maintained at a level that is adequate to obtain the maximum amount of Medi-Cal reimbursement, the psychologists are reminded to submit their billing in a timely manner. This is necessary to ensure adequate reimbursement for services rendered. Submission of billing must be closely monitored to ensure these positions are entirely supported by mental health funds. Psychologists assigned to the counseling clinic are not permitted to conduct other activities that traditional school psychologists perform when they work in the clinic. This is mandated by the Medi-Cal billing requirements.

The district average caseload ratio was computed based on school psychologist FTEs paid for by the general fund and categorical funds only. In this calculation, the categorically funded and counseling/WRAP FTEs were not included in the calculated district average ratio. The statewide average ratio of school psychologists to K-12 students published in California Education Facts (CalEdFacts) for 2010-11 is 1-to-1,466. The Mt. Diablo Unified school psychologist ratio is 1-to-1,822 as exhibited in the following table. This calculation is based on current school psychologist FTEs serving in the traditional role and the projected total enrollment for June 2012. A second calculation was computed for caseload ratios based on the total FTE of both traditional role psychologist time and categorically funded psychologist time, which totals 25.3 combined FTEs. This ratio is 1-to-1,339 and is less than the statewide average.

### *School Psychologist Caseloads*

Provider	FTEs by Funding Source	District Average Ratio	CalEdFacts Staffing Ratio	Total Ratio by funding category (FTE:Total Enrollment)
Total School Psychologists	35.70 FTEs			
Traditional Role /General fund	18.6	1:1,822	1:1,466	18.6:33,880*
General Fund Categorical Funds TOTAL	18.6 FTEs 6.7 FTEs 25.3 FTEs	1:1,339	1:1,466	25.3:33,880*
(Mental Health Funds)	(10.4 FTEs)			

*\*Note: The total enrollment is based on the projected June 2012 student count*

The counseling and WRAP positions are funded through mental health dollars that have certain requirements and narrowly define the role of these psychologists to the extent that they do not reflect the role of a traditional school psychologist.

School psychologists work eight hours per day with a 30-minute paid lunch. The contract states that school psychologists can be assigned to work for a reasonable amount of time beyond the eight hour work day by their supervisor, and this extra work qualifies for compensatory time or they receive supplemental pay for this time. The contractual agreement between the district and the Mt. Diablo School Psychologist Association states the following:

The workday shall consist of eight (8) hours, inclusive of a 30 minute lunch period. Assignments of reasonable length beyond this either (8) hour day may be made periodically by the immediate supervisor to meet the needs of the District. Compensatory time off for such assignments shall accrue on a 1:1 basis. Approval for taking this compensatory time off must be obtained from his/her immediate supervisor. Such approval shall not be unreasonably withheld. Supervisors will attempt to restrict staff meetings to the eight (8) hour day, however, staff meeting time beyond the eight (8) hour day shall be exempt from compensatory time.

If an IEP meeting causes psychologists to work more than an eight-hour day, additional compensation is provided. It is costly for the district to provide compensatory time and/or paid compensation to both the psychologists and behavior specialists.

Compensatory time is requested with e-mails to the assistant superintendent of special education. No form is completed or used to track requests and approvals of compensatory time or additional pay. The following tables show the amount of compensation paid to behavior specialists for the past three years and the amount of compensatory time and pay provided to psychologists for the same period.

### ***Behavior Specialists Overtime School Year and Extended School Year 2009-12***

School Years	FTE	Hours	Compensation
2009-10	14.5	1288	\$56,468.91
2010-11	25	2095	\$97,476.
2011-12	27	2192.65	\$80,736.80
<b>Total</b>			\$234,681.71

### ***Psychologists Compensatory Time and Compensation 2009-12***

School Year	FTE	Hours	Used	Paid
2009-10	31.4	654.6	384	\$14,000
2010-11	32.2	637.	441	\$25,361
2011-12	35	557	\$25,361	\$ 25,712
2012-13 (as of Dec. 31, 2012)	30	\$1501		
<b>Total</b>				66,574.

### ***Psychologist Overtime Pay***

2009-10	\$156,158
2010-11	\$244,193
2011-12	\$224,085
2012-13 (as of 1/24/13)	\$55,825.
<b>Total</b>	\$680,261

The psychologist work year is 200 days long, which is 17 days more than the standard district calendar, resulting in an increased cost of \$92,987 each year. The district should consider aligning the psychologist work schedule with the traditional school calendar. Additional days can be added for extended school year if psychologist services are needed at that time.

## Recommendations

*The district should:*

1. Consider reducing the number of school psychologist duty days from 200 to 183 school days per year, and choose a small number to work extended school year if needed.
2. Consider reevaluating the method used to assign school psychologists to the school sites.
3. Consider reducing the number of school psychologists to align with the CalEdFacts ratio of 1-to-1,466 using the combined FTE based on general fund and categorically funded psychologist time.
4. Consider conducting a cost analysis to determine if the Medi-Cal reimbursement actually covers the cost of these positions or the general fund supplements some costs.
5. Consider reviewing and revising the contract agreement to reduce or eliminate compensatory time and overtime for school psychologists.



## Visually Handicapped Itinerant/Adaptive Physical Education/ Physical Therapy/Occupational Therapy/Augmentative and Adaptive Communication/Assistive Technology/Audiology

District caseloads for staff members providing designated instructional services (DIS) were compared to the recommended SSC guidelines and outlined in the following table.

### *Itinerant Caseload Ratios*

Provider	SSC Guideline Ratio (FTE to Student Caseload)	Average Caseload Ratio	Total Caseload Ratio (Total FTE to Total Student Caseload)
Visually Handicapped Itinerant & Orientation and Mobility Contract (.40 FTE temporary to cover for staff on leave)	1:10-30	1:15	4:61
Adapted Physical Education	1:45-55	1:40	3.8:152
Physical Therapy-all contracted	1:20-35	1:40	2.80:113
Occupational Therapy	1:20-35	1:42	16:664
District 3		1:39	3:118
Contract 13		1:42	13:546
Augmentative and Adaptive Communication (AAC) (SLP)	Not specified	1:45	2.4:107
Assistive Technology Specialist	Not specified		1:whole district
Audiologist	Not specified	1:77	1.4:108

Most caseload providers carry caseloads that are comparable to those recommended by SSC. Occupational therapy providers are contracted by a nonpublic agency, and the district employs three of the 16 occupational therapists. There is one contracted certified occupational therapy assistant (COTA) and no COTAs hired by the district.

Contracting with a nonpublic agency for these services may be an inefficient means of providing services to students. Districts that employ their own occupational therapists (as well as other DIS providers such as physical therapists and speech/language pathologists), have an increased ability to monitor caseloads, oversee staff, and monitor the identification of students who require services. In addition, using nonpublic agencies to provide services can result in increased costs. If the district were to hire its own DIS providers, it could bill for LEA Medi-Cal or MAA as an additional source of revenue.

Visually handicapped itinerant and orientation and mobility teachers have an average caseload ratio of 1-to-15 compared to the SSC guidelines of one teacher for every 10 to 30 students. These caseloads are low when compared to the SSC guidelines, and they could be increased to the recommended maximum of 30 for cost efficiency.

Adapted physical education (APE) teachers have an average caseload ratio of 1-to-40 compared to the SSC guidelines of one teacher for every 45 to 55 students. These caseloads are within SSC guidelines; however, they could be increased to the maximum average of 45-55 for cost efficiency purposes.

The district contracts for most of the registered nurse (RN) and LVN services through Maxim. According to district-provided data, Mt. Diablo Unified employs seven nurses for a total of 3.70 FTEs and one nurse who works 4.75 hours per day (23.75 hours/week). Sixteen contracted nurses work 377.25 hours per week total.

It can be very costly to contract for these types of services, and local caseload control and the district evaluation process can be compromised. The district may determine that it is more cost effective to hire its own registered nurses and LVNs.

## Recommendations

*The district should:*

1. Consider recruiting district occupational therapists instead of contracting for these services to increase cost efficiency.
2. Consider increasing the caseload for the visual handicapped itinerant and orientation and mobility teachers to align with the SSC recommended guidelines to increase cost efficiency by eliminating one teacher in this area at a savings of \$56,231.
3. Consider increasing the caseload of APE teachers to align with SSC recommended guidelines to increase cost efficiency, and eliminating one APE teacher at a savings of \$71,662.
4. Consider hiring its own registered nurses and LVNs and reduce the number of contracted nurses/LVNs to increase cost efficiency.

# Nonpublic Schools and Agencies

According to Education Code 56034, a nonpublic school (NPS) is defined as follows:

A private, nonsectarian school that enrolls individuals with exceptional needs pursuant to an individualized education program and is certified by the department. It does not include an organization or agency that operates as a public agency or offers public services, included by not limited to, a state or local agency, an affiliate of a state or local agency, including a private, non-profit 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 Mt. Diablo Special Education Procedure Manual, Section 11.2, explains the process of considering a student for a nonpublic school placement. This section also includes information regarding out of state nonpublic school placement, and out of home placements. Forms for NPS placement are included. Program specialists present the case for placement at an NPS to a manager's meeting, where it is reviewed, and district and NPS options are discussed. This information is taken to an IEP team meeting for placement; however, the frequent delays in this process have sometimes left students in either a home/hospital placement or in another placement for several months.

Staff members indicated that licensed children's institutions (LCIs) and family foster homes (FFH) have increased the number of students in nonpublic schools. According to the Mt. Diablo Foster Youth Services Program, 30 LCI and FFH students are placed in nonpublic schools. However FCMAT could verify only 16 of these through a review of the NPS budget data. Sixteen LCI and FFH students are 6.6% of the total number of students in nonpublic schools. Thirty students would be 12% of the NPS students. FCMAT accounted for 16 LCI and FFH students that were in either the Seneca or Spectrum NPS programs.

Staff members indicated that students were placed in nonpublic school programs because the district did not have school counselors to respond to emotional issues. Therefore, these students were referred to county mental health for counseling and in many cases, as reported by staff, for special education services. These counselors were eliminated as part of the budget cuts that the district made several years ago.

Another reported reason for nonpublic school placements is that the programs available in the district are full, and a nonpublic school is the only alternative. Staff members verified that this is often the case. Cost comparisons for district programs and NPS programs are addressed later in this section.

The district has 15 less students in NPSs than in 2009-10, but the total cost for nonpublic school placements has increased. This is primarily because of the cost associated with specific placements. When calculating nonpublic schools costs for 2011-12, the residential portion of the placement was not included because residential costs had been the responsibility of county mental health. The total number of NPS students includes those who attended for any portion of the year. On any one day, this number would be lower.

### *Comparison of NPS students from 2009-10 through June 2012*

Year	Total No. of students in nonpublic schools	Total cost of educational placement
2009-10	259	\$7,447,415.20
2010-11	246	\$8,163,575.89
2011-12	244	Budgeted amount: \$9,094,741.30

It is difficult to obtain an accurate number of nonpublic school students from other districts because districts often do not provide this information. It is also difficult to compare districts even of similar size, because many factors influence these placements. One major factor that increases placements is the accessibility of NPSs. In some counties, the county office does not offer any SDC/SH program options. The following table is included for informational purposes only.

### *Comparison of NPS placements*

District	Enrollment	NPS Placements
Lodi Unified	30,319	89
Orange Unified	30,136	50
Poway Unified	34,846	95
Saddleback Unified	30,885	34
Mt. Diablo Unified	33,977	244

*Source: FCMAT survey of comparable districts by size in June 2012*

The fact that the district has a higher number of students in NPSs than comparable districts is not new. The Special Education Department reported that the district enrolled more students in nonpublic schools than neighboring districts in 2011: San Ramon 55 and West Contra Costa 77.

NPS costs negatively affect the special education budget. A report on Mt. Diablo Unified issued by MGT of America, Inc. in February 2010 states as follows:

These costs (\$7,205,818 for 191 students) could be reduced if the district could build capacity to serve students in district, with better utilization of existing staff such as school psychologists who are not based in schools as well as behavioral services staff.

With targeted staff development in schools, it may be possible to utilize the Special Day School model for some of these students, resulting in a cost savings to the district.

School districts are now also responsible for room and board and mental health counseling costs in residential placements. State funds are available to cover some of these costs, but they are limited, and the funds likely will be insufficient if district residential placements increase. For 2011-12, an estimated \$662,133.88 will be needed to cover the residential portion of 11 placements. The district has reduced the total number of students in residential programs from 16 to eight, (there were 11 total placements during the school year); however, close monitoring of residential placements is necessary to ensure the district does not expend more than the revenue allocated.

The district contracts with an agency to conduct observations and case management for students placed residentially out of state. District staff participates in all IEPs via telephone. Some districts indicated that having special educators observe these schools has helped the district transfer students back to a district or local NPS programs.

When reviewing the cost of NPSs, including Seneca and Spectrum collaborative programs housed in the district, the cost of a district program must be considered. To determine this cost, the district's salary scale including statutory health and welfare benefits was used at the mid-range position.

Teacher	\$91,251
Instructional Assistant	\$27,631
Behavior Assistant	\$41,559
Psychologist (.40 FTE)	\$55,109

A class of 12 students staffed at a level similar to that of a typical nonpublic school with one teacher, two aides, one behavioral assistant and a part-time psychologist for mental health counseling is estimated at \$243,181 or \$20,265 per student. District-provided transportation and related services are not included in this calculation because the students can usually access district transportation and the school site's related services providers. Startup costs for materials and supplies were also not considered.

Seneca and Spectrum programs are appropriately considered NPSs, although they operate collaborative programs housed in the district. The NPS district list for this year includes 170 students placed in 17 nonpublic schools, 28 in the Seneca collaboratives, and 46 in Spectrum collaboratives for a total of 244 students.

The district has attempted to control the more expensive nonpublic school placements through these collaboratives, which have funding agreements based on a classroom rate instead of an individual student rate. The rate for a student in a Seneca program is more difficult to determine since Medi-Cal reimbursements reduce overall costs. The NPS printout provided by the district indicates that there are three classes costing \$190,000. Using the \$190,000 rate, the average cost for the 10 students in a class is \$19,040 if all seats in the class are filled; however, the lower rate for fewer students assists with overall district costs. District-provided transportation and related services costs were not included in this calculation.

The average rate per student in a Spectrum class of 10 is \$29,634 plus district-provided transportation and related services. Spectrum has operated five classes in the district and will operate four classes for 2012-13, which will reduce the contract by approximately \$254,000. For Spectrum classes, the district provides the classroom, custodial services, maintenance, use of the library, cafeteria, all cleaning supplies, utilities and transportation. Of the 141 students in the Spectrum program, only 46 were in collaborative classes, which are more costly to operate than a district class, and the rest were charged at more typical NPS rates.

The Spectrum classes were originally intended to establish the program and train district staff members to assume responsibility with Spectrum providing consultation, but this has not occurred. Staff members also indicated that classes are not consistently full, so the benefits of the per/class fee are not maximized.

The Seneca and Spectrum NPS classes are less costly than the other NPSs and provide the students with a program in the district. The average daily rate for students attending the other NPSs is \$153 per day or \$27,540 for a 180-day school year, and varies from \$119 to \$191 per day depending on the program. In addition, there are costs for independent contractor out-of-district transportation and for the related services provided by the NPS staff. Related services increase NPS costs. The district NPS list indicates the total cost of a NPS placement with related

services ranging from \$31,776 to \$109,832 annually, excluding residential costs. This brings the average NPS rate closer to \$68,353 per student or \$48,088 more per student than a district class.

To achieve maximum savings while maintaining appropriate programs for students, the district should develop district programs staffed with district personnel. However, it is important to recognize that some district students will always need an NPS, and these tend to be those with specialized needs.

Since averages were used to develop the cost projections indicated below, the actual cost savings will vary depending on the students returning to the district and the actual staffing costs of a district program. Reducing reliance on NPS placements will provide students with their education in the least restrictive environment (LRE) and give the district greater control of the curriculum and outcomes.

***Possible Savings if District Opened Three Classes for 12 Students Each in Comparison with NPSs***

<b>NPS</b>	<b>Cost/student</b>	<b>Cost for district program/student</b>	<b>+/- difference for 3 classes of 12 students each</b>
Seneca	\$19,040	\$20,280	-\$14,880
Spectrum	\$29,634	\$20,280	+\$381,384
NPS with related services	\$68,353	\$20,265	+\$1,730,628

Before the current school year, the special education staff did not consistently attend NPS IEP meetings. Transition plans and goals were not developed at NPS IEP meetings to return the student to a district program. The intent of any nonpublic school placement is to provide a free and appropriate public education for a student until the district can provide an appropriate program. The district has a parent visitation policy for students in residential NPSs; however, the policy is ambiguous about some issues, including whether there is a cap on mileage or hotels costs and which receipts are required for reimbursement. This causes delays in payment and frustration for special education staff members, business staff, and participating families.

The data provided to FCMAT indicates that the number of student days in nonpublic schools is 180. Extended school year (ESY) days were included in some contracts but not in others and it was for 30 days when included. The SELPA master contract includes the following language regarding NPS calendars:

The CONTRACTOR shall submit to LEA a school calendar with the total number of billable days not to exceed 180 regular school year (RSY) days, plus up to twenty (20) extended school year (ESY) days as determined by LEA's calendar. Billable days shall include only those days that are included in the submitted and approved school calendar, and shall not exceed number of days in LEA's approved calendar and/or required by the IEP for each student. In the event the LEA adjusts the number school days for the regular school year and/or extended school year, the approved number of days shall become the total billable days for the nonpublic school or agency. In which case, an amended calendar shall be provided by CONTRACTOR for LEA approval.

If the NPSs adhered to the district school calendar, excluding residential programs, the total number of days would be reduced by 10. If the 170 NPS students, excluding the eight in residential programs, had 10 fewer days at the average rate of \$153 per day, the district would save approximately \$260,000 per year.

The transportation costs associated with nonpublic school placements increased over the three-year review period. NPS transportation costs are included in the transportation study that FCMAT recently completed for the district.

### *Cost of NPS Transportation*

Year	Cost of transportation for NPS
2009-10	\$470,700
2010-11	\$592,458
2011-12	\$623,774 (as of June 1, 2012)

The district has some concerns about two sections in its nonpublic school contract, one on the collaborative and the other in the area of indemnification. FCMAT was requested to compare the language in the Mt. Diablo Unified contract with that of other SELPAs. The SELPA organization provides an NPS contract to use as a template, which was reviewed along with NPS contracts for three other districts that participate in collaboratives for negotiations. None contain collaborative language, and each indicates that it is a specific contract for that district/SELPA.

The indemnification language in the SELPA template contract states the following:

To the fullest extent permitted by law, CONTRACTOR (defined for this paragraph to include its managers, trustees, officers, agents, members, employees, affiliates, contractors, subcontractors, or any other legal person for whom CONTRACTOR bears legal responsibility) shall defend, indemnify, and save harmless LEA and its Superintendent, Governing Board, officers, agents, members, employees, affiliates, sub-contractors, volunteers, and representatives, and each of them, of and from any and all claims, demands, suits, causes of actions, damages, penalties, violations of employee occupational health and safety laws, costs, expenses, attorney's fees, losses, or liability for property damage, personal injuries to include, but not limited to, bodily injury, emotional injury or distress, sickness, or disease or death of persons, in law or in equity, of every kind and nature whatsoever arising out of alleged to have arisen out of, or relating in any way to CONTRACTOR'S performance of the Master contract, or from the negligence, recklessness, or intentional acts of omissions of the CONTRACTOR.

CONTRACTOR's obligation to defend and indemnify shall apply regardless of whether the LEA is passively or actively negligent. The obligation of the CONTRACTOR to defend the LEA in any suit or action shall arise immediately upon the CONTRACTOR being notified by the LEA of any claims, demands, suits, or causes of action that allege facts that would give rise to the duty of indemnity and shall not be conditioned upon any finding or fault or on the outcome of the litigation to be defended.

CONTRACTOR shall indemnify and hold LEA and its Board Members, administrators, employees, agents, attorneys, volunteers, and subcontractors (LEA Indemnities) harmless against all liability, loss, damage and expense (including reasonable attorneys' fees) resulting from or arising out of this Master Contract or its performance, to the extent that such loss, expense or liability was caused by sole negligence or willful misconduct of CONTRACTOR, including, without limitation, its agents, employees, subcontractors or anyone employed directly or indirectly by it (excluding LEA and LEA Indemnities).

The Parties agree that if there is a disputed IDEA matter where the LEA is required to pay ascertainable monetary damages, including but not limited to attorneys' fees, for a time period the student is under the custody, care or control of CONTRACTOR, CONTRACTOR shall reimburse the LEA those ascertainable damages, which were incurred by the LEA as a result of CONTRACTOR's failure to perform or provide services for said students, within thirty (30) days of a formal written request. The LEA shall notify the CONTRACTOR within 45 calendar days of a claim being filed.

The indemnification language in another contract is less involved and states the following:

CONTRACTOR shall indemnify and hold LEA and its Board Members, administrators, employees, agents, attorneys, volunteers, and subcontractors (LEA Indemnities) harmless against all liability, loss, damage and expense (including reasonable attorneys' fees) resulting from or arising out of this Master Contract or its performance, to the extent that such loss, expense or liability was caused by sole negligence or willful misconduct of CONTRACTOR, including, without limitation, its agents, employees, subcontractors or anyone employed directly or indirectly by it (excluding LEA and LEA Indemnities).

LEA shall indemnify and Contractor and its Board Members, administrators, employees, agents, attorneys, and subcontractors (CONTRACTOR Indemnities) harmless against all liability, loss, damage and expense (including reasonable attorneys' fees) resulting from or arising out of this Master Contract or its performance, to the extent that such loss, expense, damage or liability was proximately caused by the negligent or willful act or omission of LEA, including, without limitation, its agents, employees, subcontractors or anyone employed directly or indirectly by it (excluding CONTRACTOR and/or any CONTRACTOR Indemnities).

A third option is to use only the following paragraph from the 2010-11 contract:

CONTRACTOR shall indemnify and hold LEA and its Board Members, administrators, employees, agents, attorneys, volunteers, and subcontractors (LEA Indemnities) harmless against all liability, loss, damage and expense (including reasonable attorneys' fees) resulting from or arising out of this Master Contract or its performance, to the extent that such loss, expense or liability was caused by sole negligence or willful misconduct of CONTRACTOR, including, without limitation, its agents, employees, subcontractors or anyone employed directly or indirectly by it (excluding LEA and LEA Indemnities).

All three options provide the district with some level of protection, with the first option offering the most protections. Mt. Diablo Unified is the responsible party regarding special education for district students whether they are in a district, county or NPS program.

## Recommendations

*The district should:*

1. Review the NPS placement process to ensure the following:
  - That students are not considered for a NPS placement until all district options have been attempted and found unsuccessful.



- That undue delays do not occur when students are considered for an NPS placement.
2. Continue monitoring the number of licensed children's institutions students placed in NPSs to ensure they are not placed there when a district program was appropriate to provide the services and goals of their IEPs.
  3. Consider reviewing the role and cost of district counselors to determine if reinstating these positions would reduce the number of students in NPSs, serving students appropriately and more efficiently in the LEA.
  4. Consider increasing the number of behavior specialists and behavior aides to prevent additional nonpublic school and agency placements and to support students who are returned to the district from nonpublic schools.
  5. Closely monitor residential NPS placements and work closely with the mental health department to prevent these placements and return the students to a district program or to a local NPS as soon as possible.
  6. Consider having appropriate special education staff members attend the IEPs for residential students and observe the educational program to help the district return the student to a district program when appropriate.
  7. Review the costs of students in the Seneca programs to ensure the classes are cost efficient and if so, maintain those programs while ensuring that all seats are filled to maximize efficiency.
  8. Determine how the district can assume responsibility for the Spectrum classes housed in the district to reduce overall costs.
  9. Begin developing classes for students in NPSs and return students to these district programs as soon as possible.
  10. Ensure that special education staff members attend all NPS IEPs and develop transition plans and goals there to return the student to district programs.
  11. Clarify the district's reimbursement policy for families visiting students in residential placement to reduce confusion, frustration and delay in payments.
  12. Ensure the NPS provides the same number of days as the district for the school year and extended school year, with the exception of the residential schools.
  13. Refer to the recent FCMAT transportation study regarding NPS transportation cost reductions.
  14. Adjust the language in the NPS contract to remove any reference to the collaborative.

## Nonpublic Agencies and Independent Contractors

A nonpublic, nonsectarian agency is a private, nonsectarian establishment or individual that provides the related services necessary for an individual with exceptional needs to benefit from the educational program according to an IEP certified by the department. It does not include an organization or agency that operates as a public agency or offers public service, including, but not limited to, a state or local agency, an affiliate of a state or local agency, including a private, nonprofit corporation established or operated by a state or local agency, a public university or college, or a public hospital. The nonpublic, nonsectarian agency “shall also meet standards as prescribed by the superintendent and board.” (Education Code 56035)

Mt. Diablo Unified contracts with 16 NPAs for the following services.

### *Nonpublic Agency Contracts*

Service	Projected Budget
Nursing	\$515,354.00
Augmentative Communication/Assistive Technology	\$60,000.00
Vision	\$2,500.00
Occupational Therapy/Physical Therapy	\$1,349,808.00
Speech	\$1,410,741.88
Autism	\$388,830.00
Total	\$3,727,233.88

The district also has 35 independent contracts. Because one contract was listed in the contract list and the NPA list, it was deducted from the projected independent contract budget included in the table below.

### *Independent Contractors*

Service	Projected Budget
Assessments	\$153,400
Autism	\$130,400
Counseling	\$93,000
Interpreting/ASL	\$505,990
Nursing	\$108,004
Occupational Therapy	\$59,000
Physical Therapy	\$41,900
Printing	\$10,500
Speech	\$100,800
Staff Development	\$41,470
Translating	\$74,500
Transportation	\$1,761,378
Tutoring	\$196,620
Vision	\$11,200
Total	\$3,288,162

NPAs are approved by the state and generally have a state generated rate. At times, that rate can be negotiated based on the quantity of services provided to a district. Independent contractors are not approved by the state and do not have a state rate.

There are several reasons for a district to contract with a NPA or independent contractor, including the following:

- Few students require a particular service. With the number of special education students in Mt. Diablo Unified, this is not the case.
- A sufficient number of employees cannot be hired in a particular area. This is reported to be the case for the district in speech, occupational therapy, physical therapy, and interpreting.
- Out of district services are required and can be provided only through an independent contractor. Examples may include transportation, staff development, printing and in many cases translating.
- Mediated agreements require out of district staff members for assessments or to provide services such as tutoring, vision testing, counseling, or autism support.

When an NPA or independent contract is needed, the district adds costs over what would be incurred with services provided by district employees and decreases its control over the quality of the services provided.

The district contracts for \$1,450,708 for occupational therapy (OT) and physical therapy (PT), \$1,511,541 for speech therapy, \$623,358 for nursing, \$505,990 for interpreting, \$1,761,378 for transportation, \$519,230 for autism services, \$196,620 for tutoring, \$93,000 for counseling, and \$153,400 for assessments. District-provided data indicates that \$423,520 of NPA and independent contract costs are from mediated agreements.

Independent contract and NPA services should be provided by district employees whenever possible, allowing for the most flexibility in use of staff and district control of the programs and services. NPA and independent contract costs were combined in four high cost areas and compared with estimated district staff costs. When computing OT costs, some agencies provide both OT and PT services. In that case, costs were estimated at 4/5 OT and 1/5 PT since the primary service provided is generally OT. All district salary costs are estimates and include statutory health and welfare benefits.

### *Cost of NPA vs. District Employee*

Service	Total cost of NPA/IC	Cost of District Employee
Occupational Therapy	\$1,160,566	\$92,372
Nursing	\$515,354	\$70,383
Behavior	\$737,554	\$41,558
Speech Therapy	\$1,511,541	\$103,620

The district reported that 13 contracted occupational therapists serve 546 students at a ratio of 1-to-42. Three district-hired OTs serve 118 students at a ratio of 1-to-39. If the 13 positions were necessary and filled with district employees at step five of the classified salary schedule, the cost would be approximately \$1,200,836. Staff also indicated that contracting OTs determine whether a student needs the service, its frequency and duration. It is not always in the best interest of a district to have NPAs or independent contractors provide assessments and determine frequency and duration of services, and the number of district OTs is insufficient to provide all the assessments.

The district does not employ certified occupational therapy assistants (COTAs) to provide direct therapy to students while OTs perform assessments and supervise clinic and direct instruction. Hiring COTAs is another way to improve services provided to students at a lower cost than an NPA or independent contract OT.

The district has more than \$500,000 in NPA and independent contractor nursing contracts. While the total cost is charged to special education, these nurses also serve the general education population, which incurred \$267,850 of the total cost in 2011-12. The district should consider the actual cost incurred by special education for nursing services and the cost of hiring district staff members to provide consistency and control of costs associated with services.

The budget shows that the district spent more than \$500,000 on retired special education certificated personnel who acted as substitutes for open positions to oversee the mental health collaborative, assessment services, etc. The district should examine its options in using district staff members to meet these needs.

The total cost for certificated staff in the district's behavior management program delivery model is \$575,776 per year. This program has a behaviorist program manager at \$111,576 per year and four education consultants at \$116,050 per year each. In the recent Annual Report on Special Education prepared for the board by the assistant superintendent, the behavior management program is credited with serving 393 students and avoiding 10 nonpublic school placements, saving the district approximately \$200,000. The benefit of this service should not be overlooked; however, the district should consider cost efficiency when creating program options for disabled students. The behavior management specialist's salary is also higher than that of the program manager.

School site staff members and administrators reported that the number of behavior consultants is insufficient to significantly reduce the number of NPS placements. The district could increase the number of behavior consultants, and the level of hiring could be based on not expending more than is being expended through NPA and independent contracts. The team would be assigned to prevent additional NPS placements and support students returning from these placements, lowering costs, serving students in the LRE, and maximizing program quality.

The district has 10.75 FTE NPS speech therapists and one independent contractor at a cost of \$128,641 per FTE per year. Hiring district staff members to provide these services would save the district \$293,996 yearly, increase the stability of the speech department, and enable the district to increase control of the program quality.

District staff members indicated that when changes are made to a student's IEP involving NPS or NPA services, this information is not always forwarded promptly to the appropriate staff members in the special education office. This is also the case when a NPA or independent contractor has gone over the contract amount and needs to have the amount extended. Certain changes require individual service agreements to be developed or amended, and failure to accomplish these steps results in payment delays, which can prevent services from being provided.

The district is pursuing alternatives to hiring an independent contractor for deaf/hard of hearing interpreting, an area in which finding appropriately skilled staff has become increasingly difficult. Therefore, the district has considered a system referred to as Real Time Translation, which is used by several colleges including CSU San Bernardino, CSU Northridge, Chapman University and Saddleback Community College. FCMAT has little information about the system; however, the district should perform a trial with appropriately identified students to determine the effectiveness of the product.

## Recommendations

*The district should:*

1. Increase recruiting efforts to hire OTs, PTs, and speech therapists, reducing its reliance on NPAs and independent service contractors.
2. Ensure that district staff members and not contracted personnel provide OT assessments and determine the frequency and duration of services whenever possible. This is not an issue with the contracted NPAs for speech because they are expected to carry a caseload as a district speech therapist.
3. Consider hiring COTAs to provide direct OT services to students under the guidance of an OT.
4. Review how NPA or independent contract nursing services are charged. Although contracts are initiated through special education, the district should adjust budget codes to accurately reflect the general education portion of the services.
5. Consider hiring additional nurses to provide the required services, reducing reliance on NPAs and independent contracts.
6. Increase recruiting efforts to hire additional behavior specialists and behavior assistants to reduce the number of NPS placements and NPA autism contracts.
7. Develop a method to promptly notify the fiscal special education staff when any changes occur in NPS, NPA or independent contract services so that additional individual service agreements or contracts can be adjusted and monitored.
8. Contact the company that provides Real Time Translation to determine whether a trial group can be established so that the district can determine if this type of program is cost and program effective.
9. Consider maximizing the use of district staff rather than using retirees to oversee the mental health collaborative and assessments.
10. Through the collective bargaining process, consider restructuring the behavior management specialist and program manager salary schedules.

## Mental Health Collaborative

The district and county mental health indicated that nearly 600 students have used the services of the mental health collaborative this year. While the business office staff estimated initial costs at more than \$4 million per year, the cost to the district is approximately \$1 million for 2011-12. This included intensive classes and therapy services provided to special education and general education students. However, operational costs must be consistent with funding levels so that this program is cost-neutral to the special education budget, and Medi-Cal is the billing source for the balance of program costs.

The projected revenue data provided to FCMAT for 2012-13 includes \$2,065,727 in IDEA mental health dollars, \$1,200,387 in AB 114/26 dollars and \$163,689 in AB 114. It is unclear whether the district will need to provide additional funds to maintain the current level of service since the state budget was not finalized at the time of FCMAT's fieldwork.

Total mental health program costs should be monitored and reviewed to determine whether some facets of the program should no longer be implemented or should be implemented differently. The collaborative agreements describe the process for referring a student for services and indicate that mental health determines whether the student will receive the service as well as the frequency and duration. Without school counselors to provide support to general and special education students, referrals are made to mental health. Staff indicated that in many cases students have become eligible for special education through the mental health referral process. The number of students receiving county mental health services poses a concern for increased district responsibilities.

## Recommendations

*The district should:*

1. Review all the mental health collaborative programs to determine which are fully funded through Medi-Cal and which have district contributions.
2. Determine whether the hiring of district counselors could reduce the reliance on the collaborative.
3. Determine if any of the mental health collaborative programs could be reduced in total numbers while continuing to serve students who require that level of therapy.
4. Reduce the program to align with funding to decrease the impact of \$1 million on the special education budget.

## Due Process and Alternative Dispute Resolution

Education Code 3082 (a) states the following:

A parent or public education agency may initiate a hearing pursuant to Education Code sections 56500 through 56507 and Title 34, Code of Federal Regulations, sections 300.506 through 300.514 on any of the matters described in Education Code Section 56501.

56501(a) goes on to say the following:

The parent or guardian and the public agency involved may initiate the due process hearing procedures prescribed by this chapter under any of the following circumstances:

- (1) There is a proposal to initiate or change the identification, assessment, or educational placement of the child or the provision of a free appropriate public education to the child.
- (2) There is a refusal to initiate or change the identification, assessment, or educational placement of the child or the provision of a free appropriate public education to the child.
- (3) The parent or guardian refuses to consent to an assessment of the child.
- (4) There is a disagreement between a parent or guardian and a local educational agency regarding the availability of a program appropriate for the child, including the question of financial responsibility, as specified in Section 300.148 of Title 34 of the Code of Federal Regulations.

The district has had no due process hearings in the past year, and all cases have been resolved through mediation or local resolution meetings. The number of requests for a due process filed with the Office Of Administrative Hearing (OAH) as of June 4, 2012 was 18, the same as last year.

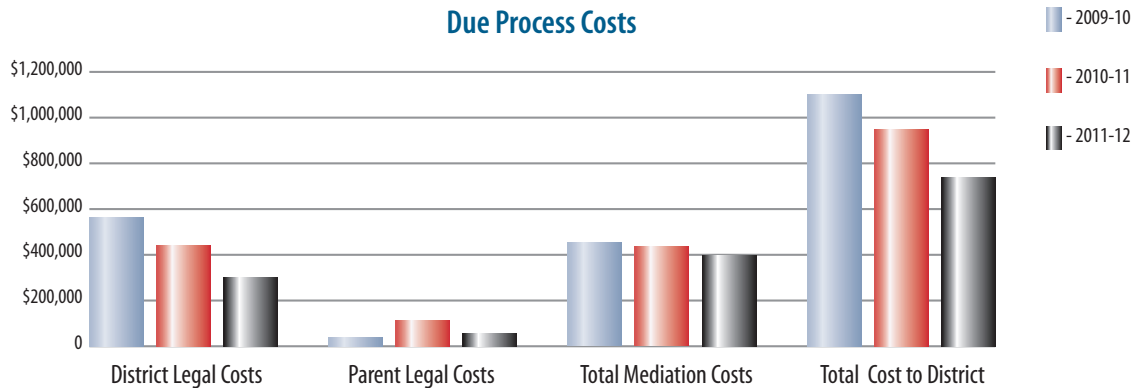
Education Code 3080, Sections 4600 through 4671 apply to the filing of a complaint in accordance with provisions of Title 34, Code of Federal Regulations, Section 76.780-783, regarding a public agency's alleged violation of federal or state law or regulation relating to the provision of a free appropriate public education.

Some complaints have been filed with the California Department of Education, Special Education (CDE) over the past three years. The exact number was not available from the district; however, some complaints were resolved through local resolution, some were withdrawn and some resolved through a CDE investigation. When a local resolution meeting results in an agreement from a complaint, the agreement does not specify whether it originated with a filing for a due process, a complaint with CDE, or a contact to the district alternative dispute resolution coordinator.

Only three records were found on CDE investigations this year. The district was found out of compliance in one and in compliance in two.

FCMAT was provided with copies of mediated agreements and other due process/complaint data from the special education staff, but there may be other cases of which FCMAT was not made aware. This data shows little change in the actual number of due process filings over the past three years with 17 in 2009-10, 18 in 2010-11, and 2011-12. The cost for district legal

representation in mediations and complaint resolutions and parent attorney fees has decreased. There has also been a decrease in the cost of mediated agreements, which is discussed later in this section. Using the data provided, FCMAT found that the total cost to the district in 2011-12 is \$298,804 less than it was in 2009-10.



Staff members perceive that special education usually settles disagreements with parents by granting their requests. However, a review of cases indicates that in most settlement agreements, the district and family came to an agreement that was not entirely one-sided. Data showed that decisions to reach a settlement were often the result of compliance issues, rather than students who were in inappropriate programs or did not receive educational benefit.

A recent SELPA survey determined that the average cost for a district's attorney fees in a due process hearing was \$39,300. The total cost of the settlement agreements reviewed was usually less, making it appear that the settlement was cost efficient. However, the initial settlement is often not the actual cost. When a settlement results in a nonpublic school or private school placement, the cost continues until the student graduates from high school unless otherwise stipulated, and this was not factored into total mediation costs. Also not included in the total mediation costs were additional tutoring services, occupational therapy, private speech services, or other private services in which there is no end date or the district cannot transfer services to a district employee. Assessments, attorney fees and payment for other specific services already rendered are finalized with the agreement.

Therefore, a due process may be more cost efficient when the student is appropriately placed and gaining educational benefit in the program even when there are compliance issues.

Staff members indicated there are several reasons why a due process or complaint is initially filed and why cases are regularly settled in a local mediation. They include the following:

- They involve compliance issues that could be rectified and prevented by careful monitoring of timelines, IEP content and the provision of services as indicated on the IEP.
- Staff members are not held accountable for compliance, and the IEP computerized system cannot be the only compliance monitor.
- Although the district has had alternative dispute resolution (ADR) for several years, many parents do not know about it or do not trust it. The district does not have a brochure explaining and encouraging ADR, and only two program specialists and one manager were trained in how to handle difficult IEPs through a program such as facilitated IEPs. The current ADR administrator has not had this training.



- Program specialists, site special educators and site administrators are not involved in mediations and therefore have little understanding why a settlement was necessary. Program specialists, site special educators and site administrators are not provided with sufficient information regarding the settlement agreement to ensure that it is carried out as written. This has led to additional complaints being filed.
- The district has not tracked all due process filings, complaints and contacts to both the parent liaison and ADR coordinator as to reasons for concern, steps followed and specific results. Without this data, it is difficult or impossible to develop systematic responses such as ensuring that timelines are followed, adding staff in a specific area to ensure that services are provided as indicated on the IEP, training staff in how to write defensible IEPs, etc.
- Program specialists are highly valued by sites and may be unable to provide special educators with the level of support required. The level of program specialist support is discussed in another section of this report.
- Although the district has a procedure manual that can be accessed on the district's Web page, several process and procedures need to be clarified. These include the referral for a nonpublic school and unilateral placements.

## ADR

The final report regarding the special education consent decree that was filed with the courts 12 years ago states the following:

Policies and practices will be developed and implemented which provide the District and the families of students with special needs opportunities to resolve complaints and parent disagreements within the IEP process through local resolutions, prior to reliance on complaints to the CDE and due process hearings.

It goes on to state the following:

Assistance will be provided to staff and parents who are addressing complicated or challenging concerns. The ADR Director's Administrative Assistant position has been eliminated. Parents are reporting their phone calls to the ADR Director are not being returned. This reduction in staff has caused an obstacle in parents' ability to access ADR options." Without adequate Administrative Assistant support, clerical tasks are taking up about 25% of the time allotted to this position.

The district ADR operates differently than in other areas. Since Mt. Diablo Unified is a single-district SELPA, solutions panels, which are often the vehicle for resolution in ADR, are not conducted. Instead, the ADR director either attends an IEP meeting or meets alone with the family to resolve the issues. The director is assigned to determine whether additional assessments or services will be provided. It is the director's responsibility to contact the program specialist for the student to gather information necessary to resolve the issues, but this is not always sufficient.

## Recommendations

*The district should:*

1. Develop a monitoring system that enables the district to quickly determine the number of process filings, CDE complaints, and contacts to the district that result in a local mediated agreement; the issues involved in each of these and the result of any agreement including a breakdown of costs incurred.
2. Continue to monitor the district cost of attorney fees and parent attorney fees.
3. Ensure that the decision to settle a case through formal or local mediation is based on the student being inappropriately placed and not gaining educational benefit in the program and is not based only on compliance issues.
4. Include in the total costs of mediation the long-term costs of nonpublic school, private school, and other services without end dates such as tutoring, occupational therapy, or speech.
5. Ensure that the staff is appropriately trained in compliance issues and in rectifying and correcting areas that are determined to be problematic.
6. Develop a computerized IEP system to monitor timelines, IEP content and IEP service delivery and to assist in holding staff accountable for IEP compliance.
7. Develop an ADR brochure that is distributed to the Community Advisory Committee (CAC) and at all IEP meetings to encourage families to contact the district before contacting CDE or filing for a due process.
8. Train additional program specialists, ADR staff and other key IEP members in handling difficult meetings such as facilitated IEPs.
9. Ensure that school site special educators, administrators and program specialists have input into any ADR, complaint, or due process filing case.
10. Ensure that the school site special educators, administrators and program specialists are clear about the reasons a case is settled and the responsibilities of each in carrying out the settlement agreement.
11. Track all ADR, complaints, and due process filings to determine problematic areas and to develop solutions to rectify and prevent the reoccurrence.
12. Consider how the role of the program specialist can be enhanced to better prevent ADR, complaints, and due process filings.
13. Review the procedure manual and develop more specific procedures in areas that have been determined to result in ADR, complaints, or due process filings.
14. Consider how the process for ADR can be enhanced to include site staff and program specialists in decision-making.

# Appendix

## A: Study Agreement



# FCMAT

FISCAL CRISIS & MANAGEMENT  
ASSISTANCE TEAM

CSIS California School Information Services

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## FISCAL CRISIS & MANAGEMENT ASSISTANCE TEAM STUDY AGREEMENT April 19, 2012

The FISCAL CRISIS AND MANAGEMENT ASSISTANCE TEAM (FCMAT), hereinafter referred to as the Team, and the Mt. Diablo Unified School District, hereinafter referred to as the District, mutually agree as follows:

### 1. BASIS OF AGREEMENT

The Team provides a variety of services to school districts and county offices of education upon request. The District has requested that the Team provide for the assignment of professionals to study specific aspects of the Mt. Diablo Unified School District operations. These professionals may include staff of the Team, County Offices of Education, the California State Department of Education, school districts, or private contractors. All work shall be performed in accordance with the terms and conditions of this Agreement

### 2. SCOPE OF THE WORK – Special Education and Home to School Transportation Review

#### A. Scope and Objectives of the Study

#### **Special Education and Home to School Transportation Review Transportation Review:**

Provide a comprehensive evaluation of the District's pupil transportation program to include both home-to-school and special education student transportation services, vehicle maintenance and safety and training practices. Specific areas to be reviewed include:

1. Analysis of the District's state transportation revenue and contributions (encroachment) from the unrestricted general fund for the transportation program for home to school and special education transportation.
2. Evaluate the Transportation Department's staffing and provide recommendations to improve the efficiency, if needed.

3. Review routing methodology and relative routing efficiency for both home to school and special education transportation services.
4. Review the District's scheduling of extracurricular field trips/athletic trips.
5. Provide an evaluation of the transportation department's operational efficiency and make recommendations for potential savings.
6. Review the department's driver training and safety and compliance with driver training laws and regulations.
7. Review the department's compliance with all laws and regulations which shall include Vehicle Code, Education Code, CAC Title 5, 8 & 13.
8. Evaluate the department's vehicle maintenance program, vehicle safety, compliance with vehicle maintenance laws and regulations. This component will also include a review of the bus and vehicle replacement schedule and provide recommendations
9. Review the department's board policy, administrative regulations and purchasing procedures for parts and equipment.
10. Evaluate the department's transportation operations facility to include compliance with industrial waste and hazardous materials rules and storm-water run-off regulations.
11. Review of the District's fuel storage facility and management systems.
12. Review use of technology within the transportation program in the areas of routing, scheduling of extracurricular/athletic trips, vehicle maintenance and other areas for efficiency.

B. Services and Products to be Provided

Orientation Meeting - The Team will conduct an orientation session at the District to brief District management and supervisory personnel on the procedures of the Team and on the purpose and schedule of the study.

On-site Review - The Team will conduct an on-site review at the District office and at school sites if necessary.

1. Exit Report - The Team will hold an exit meeting at the conclusion of the on-site review to inform the District of significant findings and recommendations to that point.
2. Exit Letter - The Team will issue an exit letter approximately 10 days after the exit meeting detailing significant findings and recommendations to date and memorializing the topics discussed in the exit meeting.
3. Draft Reports - Electronic copies of a preliminary draft report will be delivered to the District administration for review and comment.
4. Final Report - Electronic copies of the final study report will be delivered to the District administration following completion of the review. Written copies are available by contacting the FCMAT office.
5. Follow-Up Support – Six months after the completion of the study, FCMAT will return to the District, if requested, to confirm the District’s progress in implementing the recommendations included in the report, at no cost. Status of the recommendations will be documented to the District in a FCMAT Management Letter.

### 3. **PROJECT PERSONNEL**

The study team will be supervised by Anthony L. Bridges, CFE, Deputy Executive Officer, Fiscal Crisis and Management Assistance Team, Kern County Superintendent of Schools Office. The study team may also include:

- |               |                  |
|---------------|------------------|
| A. Eric Smith | FCMAT Consultant |
| B. Tim Purvis | FCMAT Consultant |
| C. Mike Rea   | FCMAT Consultant |

### 4. **PROJECT SCHEDULE**

The following schedule outlines the planned completion dates for key study milestones:

Orientation:	May 21, 2012
Staff Interviews:	May 21-23, 2012
Exit Interviews:	May 23, 2012
Preliminary Report Submitted:	to be determined
Final Report Submitted:	to be determined
Board Presentation:	to be determined
Follow-Up Support:	if requested

Other equally qualified consultants will be substituted in the event one of the above noted individuals is unable to participate in the study.

## 5. PROJECT COSTS

The cost for the transportation component studies requested pursuant to E.C. 42127.8(d) (1) shall be:

- A. \$500.00 per day for each Team Member while on site, conducting fieldwork at other locations, preparing and presenting reports, or participating in meetings.
- B. All out-of-pocket expenses, including travel, meals, lodging, etc. The District will be invoiced at actual costs, with 50% of the estimated cost due following the completion of the on-site review and the remaining amount due upon acceptance of the final report by the District.

**Based on the elements noted in section 2A, the total cost of the transportation component of the study is estimated at \$14,700.**

- C. Any change to the scope will affect the estimate of total cost.

## 6. SCOPE OF THE WORK – Special Education Program Review

### A. Scope and Objectives of the Study

#### **Special Education Program Review**

The FCMAT Team will provide a comprehensive operations analysis of the delivery of all special education services throughout the district to ensure the effective use of resources while providing quality special education services to students with disabilities. Identify service delivery options that may be expanded or modified to realize savings and provide recommendations for reallocation of resources and program development options to improve the program effectiveness.

*The review process will consist of but not be limited to the following:*

1. An examination of the district's philosophy, programs and procedures in special education/504 to determine whether they are consistently aligned with the district mission and core beliefs.
2. A review of the special education administrative structure and responsibilities in districts of comparable size. Review of all administrative procedures regarding special education/504 and the relationship to the district's overall organization.



3. Review board policy and administrative regulations for the special education/504, SELPA Local Plan, Annual Service Plan and other documents outlining the delivery system for special education/504 services.
4. Provide an analysis of staffing ratios, class and caseload size in relation to other districts across the state and legal mandates.
5. Dissemination of surveys to all teachers and staff that provide data regarding staff morale, communication, effectiveness of programs, services and support.
6. Provide recommendations to address the necessary balance between providing a full continuum of services required by law for students with special needs while providing full consideration of the financial effects that the funding of special education has on the district.
7. An evaluation of the efficiency of resource allocations for special education staffing and services such as district staff, the use of nonpublic agencies, mental health services, nonpublic schools.
8. An analysis of parent input regarding the opportunities currently available for parent involvement, district outreach and parent communication related to obtaining services for their students.
9. Dissemination of parent surveys to all parents of students with disabilities in the district that provide data on parent satisfaction, communication, problem solving, parent participation and support. Survey development and dissemination will be done in coordination with the district and FCMAT staff.
10. Conduct parent focus groups to gather additional parental input regarding special education programs, communication and community satisfaction.
11. Review of any district data already available regarding parent satisfaction with special education programs such as SESR parent survey or focus group data.
12. Review of the Speiler vs. Mt. Diablo Consent Decree and all supporting data regarding implementation.

## 7. PROJECT PERSONNEL

The study team will be supervised by Anthony L. Bridges, CFE, Deputy Executive Officer, Fiscal Crisis and Management Assistance Team, Kern County Superintendent of Schools Office. The study team may also include:

- |                          |                                     |
|--------------------------|-------------------------------------|
| A. Dr. William Gillaspie | FCMAT Deputy Administrative Officer |
| B. Debbie Fry            | FCMAT Consultant                    |
| C. JoAnn Murphy          | FCMAT Consultant                    |
| D. Ann Stone             | FCMAT Consultant                    |

## 8. PROJECT SCHEDULE

The following schedule outlines the planned completion dates for key study milestones:

Orientation:	5 days field work to be determined
Staff Interviews:	to be determined
Exit Interviews:	to be determined
Preliminary Report Submitted:	to be determined
Final Report Submitted:	to be determined
Board Presentation:	to be determined
Follow-Up Support:	if requested

## 9. PROJECT COSTS

The cost for the special education program component studies requested pursuant to E.C. 42127.8(d) (1) shall be:

- D. \$500.00 per day for each Team Member while on site, conducting fieldwork at other locations, preparing and presenting reports, or participating in meetings.
- E. All out-of-pocket expenses, including travel, meals, lodging, etc. The District will be invoiced at actual costs, with 50% of the estimated cost due following the completion of the on-site review and the remaining amount due upon acceptance of the final report by the District.

**Based on the elements noted in section 6 A, the total cost of the special education component of the study is estimated at \$22,200.**

- F. Any change to the scope will affect the estimate of total cost.

**The total agreement cost for transportation and program review is estimated at \$36,900.**

Payments for FCMAT services are payable to Kern County Superintendent of Schools - Administrative Agent.

**10. RESPONSIBILITIES OF THE DISTRICT**

- A. The District will provide office and conference room space while on-site reviews are in progress.
- B. The District will provide the following (if requested):
  - 1. A map of the local area
  - 2. Existing policies, regulations and prior reports addressing the study request
  - 3. Current or proposed organizational charts
  - 4. Current and two (2) prior years' audit reports
  - 5. Any documents requested on a supplemental listing
  - 6. Any documents requested on the supplemental listing should be provided to FCMAT in electronic format when possible.
  - 7. Documents that are only available in hard copy should be scanned by the district and sent to FCMAT in an electronic format.
  - 8. All documents should be provided in advance of field work and any delay in the receipt of the requested documentation may affect the start date of the project.
- C. The District Administration will review a preliminary draft copy of the study. Any comments regarding the accuracy of the data presented in the report or the practicability of the recommendations will be reviewed with the Team prior to completion of the final report.

Pursuant to EC 45125.1(c), representatives of FCMAT will have limited contact with pupils. The District shall take appropriate steps to comply with EC 45125.1(c).

11. CONTACT PERSON

Name of contact person: Bryan Richards, Chief Financial Officer

Telephone: (925) 682-8000 x4092 FAX: (925) 691-5246

E-Mail: richardsb@mdusd.org



\_\_\_\_\_  
Steven Lawrence, Superintendent  
Mt. Diablo Unified School District

\_\_\_\_\_  
Date



\_\_\_\_\_  
Anthony L. Bridges, CFE  
Deputy Executive Officer  
Fiscal Crisis and Management Assistance Team

\_\_\_\_\_  
April 19, 2012

\_\_\_\_\_  
Date