

Legislature Allocates \$100 Million from General Fund for Prevention and Alternative Dispute Resolution of COVID-19 Related Special Education Disputes

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On July 9, 2021, Governor Gavin Newsom signed into law Assembly Bill 130, known as the 2021–2022 Education Omnibus Budget Trailer Bill (AB 130). Among other things, AB 130 makes a one-time appropriation of \$100 million from the General Fund to support school districts, county offices of education, and charter schools (LEAs) in preventing and resolving special education disputes related to the COVID-19 pandemic.

Special education local plan areas (SELPAs) are to receive the allocated funds in an equal amount per “pupil” based on a given calculation. SELPAs must then proportionally allocate 80% of the respective amounts received to their member LEAs by September 13, 2021. A SELPA must have a plan in place and provide support to its LEAs in utilizing the funds to offer voluntary alternative dispute resolution (ADR) activities to families.

Of note, parents/guardians cannot be required to participate in any ADR activities because this funding does not alter the rights and procedural safeguards granted by the Individuals with Disabilities Education Act (IDEA) or related state law. AB 130 is not meant to prevent or deter conflicts from being resolved through the individualized education program (IEP) process.

Which special education disputes may be funded?

This funding is to be used for special education disputes “resulting from school disruptions stemming from the COVID-19 public health emergency during the period of March 13, 2020, to September 1, 2021, inclusive, in a collaborative and equitable manner.”

How must this funding be used?

LEAs must use this funding in collaboration with their respective SELPAs to support several objectives, such as the following:

- Undertaking early intervention efforts to promote positive relationships between families and schools, and prevent disputes through proactive communication, collaborative problem solving, and parent support activities;
- Conducting voluntary ADR activities, including offering the same at no cost to parents for issues that are not resolved through the IEP process;

- As practicable, working in partnership with family empowerment centers or other family support organizations to prevent and resolve disputes in a pupil-centered, collaborative, and equitable manner; and
- Developing and implementing plans to identify and reach out to families who face language barriers and other challenges, and those pupils who have experienced significant disruption to their education because of the pandemic, so that they may participate in the special education process.

What happens after an LEA receives this funding?

An LEA that receives this funding must track certain information and submit a report to its SELPA by September 30, 2023. This report must include several statistics, such as the number of cases mediated through ADR services, the number of resolved cases, and the number of cases where parents/guardians refused ADR services and filed for due process.

Who is considered a “pupil” for purposes of this funding?

For purposes of this funding, “pupil” includes two categories of pupils:

- those identified under state law as individuals with exceptional needs, and
- those who were referred for an initial special education assessment but whose assessments were delayed due to the COVID-19 school disruptions from March 13, 2020 through September 1, 2021.

Takeaways

This one time \$100 million appropriation creates additional avenues for special education dispute prevention and resolution in relation to the COVID-19 pandemic. LEAs should work collaboratively with their respective SELPAs to develop appropriate activities and tracking methods related to this funding. Effective use of these funds is intended to lead to fewer and shorter disputes, improved family-school relations, and stronger safeguards for some of the most vulnerable members of the community.

If you have any questions about AB 130, ADR funding, or COVID-related special education issues, please contact the author of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#) or download our [Client News Brief App](#).

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