

**AN INDEPENDENT EVALUATION OF THE
SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT
SPECIAL EDUCATION PROGRAM**

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SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT

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FORWARD

We would like to thank District Superintendent, Dianne Talarico for supporting this study. Throughout the study, Deputy Superintendent, Tim Walker and Director of Special Education, Ruth Valadez assisted the research by providing the consultants with information on the overall operation of the District, as well as special education. Several members of the Office of Special Education provided information concerning the day to day operation of special education services and programs, and the Coordinators provided opportunities for first hand observation of special education programs from pre-school through high school. Harry Kelley, SMMCTA President assisted in scheduling meetings for teacher input. Chief Academic Officer, Sally Chou, provided the consultants with information concerning the District's curriculum and methodology to educate all children, including a significant English Language Learner population. We would also like to extend our appreciation to Sarah Wahrenbrock for her assistance in scheduling meetings and visitations. Lastly we would like to express our appreciation for the large number of parents who met with the consultants and for their letters, e-mails and phone calls.

I. ISSUES AND CONCERNS

The purpose of this study is to conduct an independent evaluation of the special education program operated by the Santa Monica-Malibu Unified School District.

The major issues are:

1. Does the District provide a continuum of placement options for students identified as special education students with various disabilities?
2. Does the School District operate collaboratively within the Special Education Local Plan Area (SELPA) with regard to accessing all available resources and support for students with disabilities?
3. Are students with disabilities provided access to the same books and materials and curriculum as general education students?
4. Are School District funds appropriately utilized, with regard to programming, staffing, professional development, and non-public agencies/non public school (NPSA/NPS) expenditures?
5. Has the District established and implemented appropriate cost containment procedures with regard to special education programs?
6. Are contracted services with outside providers cost effective and /or should the District consider alternative delivery models?
7. Has the District maximized revenues from Federal, State and other sources?
8. Are District programs appropriate with regard to the Individuals with Disabilities Education Act (IDEA), the Least Restrictive Environment ((LRE), curriculum and instruction?
9. Are District programs adequately staffed with administrators, certificated and classified personnel?
10. Are staff provided with relevant research based professional development on an ongoing basis?

11. Are School District special education written policies consistent with Federal and State laws and regulations?
12. Are School District written policies shared in an efficient and comprehensive manner with site administrators and special education teachers?.
13. Are special education written policies implemented consistently throughout the school district?
14. Are settlement agreements produced and implemented within the guidelines of the law?
15. Is the current practice of settlement agreements in the school district similar or different from other school districts within the region?
16. Is the use of confidentiality clauses in settlement agreements legal and considered a common practice?
17. With regard to settlement agreements, are there “industry standards” best practices that would benefit the School District?

II. BACKGROUND

The Santa Monica-Malibu Unified School District provides special education services as a participant in a multi-district Special Education Local Plan Area, (SELPA). The District is joined by the Beverly Hills Unified School District and the Culver City Unified School District in forming the SELPA. The members of the SELPA assure access to special education programs and services for all individuals with exceptional needs residing in the area as required by California Education Code Section 56600. The Santa Monica-Malibu Unified School District as a participating district within the SELPA, is responsible for the provision of all special education programs and services as specified under the Individuals with Disability Education Act, (IDEA) and the California Master Plan for Special Education as found in Part 30 of the California Education Code.

The Santa Monica-Malibu Unified School District has a long and distinguished history of providing quality educational experiences for disabled students. Prior to the passage of the Education of all Handicapped Children Act, (PL 94-142) District Special Education Director, Frank Taylor developed and implemented the use of the Engineered Classroom as a program for learning disabled children. Through these efforts and others Santa Monica-Malibu was recognized a special education leader.

With the passage of PL 94-142 and the California Master Plan for Special Education, the District, like other districts and county offices of education within the State, has maintained a quality educational program despite the lack of adequate funding from the State to carry out the programs mandated by Federal and State Law. This lack of adequate funding has caused an erosion in the other educational program offerings within the District and is recognized in law by the requirement that the District maintain a certain level of general fund allocation for special education. This is generally referred to as the Local General Fund Contribution (LGFC). The continuing erosion of the general fund is generally referred to as encroachment. The full amount of encroachment is not a statutory requirement, but is rather that amount of increased general fund contribution required to maintain special education programs and services.

During the last two decades, school districts within the State of California have been faced with the difficult task of implementing the federal Law, P. L. 94-142, the Individuals with Disabilities Education Act (IDEA) of 1997 and 2004. County offices of education and school districts, while having to meet the federal law requirements, have also been required to participate in the State of California' "Master Plan for Special Education. Most school districts and county offices within the State have found themselves with the problem of how to implement the state law, how to avoid violating the federal law and at the same time attempt to provide a quality education program for all students as well as those in special education.

Legislation was enacted in 1997, AB 602 which dramatically changed the funding formulas for special education beginning in the 1998-99 fiscal year. AB 602 provided for the implementation of new funding formulas which began with equalization funding for local education agencies (LEAs) which were below the statewide averages and equalization funding to SELPAs that were below the statewide average on a per ADA basis for special education. At that time special education funding changed to a block grant perspective with funding calculated on the basis of an amount per general education ADA. Today, SELPAs receive the special education funding and the Local Plan details the allocation of those funds to the participating LEAs in the SELPA.

III. STUDY DESIGN

The purpose of this study was to conduct an independent evaluation of the special education program and to specifically address issues related to the following:

1. Does the District provide a continuum of placement options for students identified as special education students with various disabilities?
2. Does the School District operate collaboratively within the Special Education Local Plan Area (SELPA) with regard to accessing all available resources and support for students with disabilities?
3. Are students with disabilities provided access to the same books and materials and curriculum as general education students?
4. Are School District funds appropriately utilized, with regard to programming, staffing, professional development, and non-public agencies/non public school (NPSA/NPS) expenditures?
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15. Is the current practice of settlement agreements in the school district similar or different from other school districts within the region?
16. Is the use of confidentiality clauses in settlement agreements legal and considered a common practice?
17. With regard to settlement agreements, are there "industry standards" best practices that would benefit the School District?

The study was conducted during the months of December 2007 through March 2008. An initial interview was conducted with the Superintendent, Dianne Talarico to discuss the purpose of the study, to gain first hand knowledge of the issues, and to determine the amount of support the district personnel would provide. Ongoing meetings and communication was conducted with the Superintendent during the course of the study.

It was determined that a series of interviews with parents, teaching staff, principals, ancillary and district office staff would be held. It was also determined that a process to provide immunity for parents with confidentiality agreements would be developed in order to gain direct information from the parents involved. The District's attorney developed a waiver process which was used to provide this immunity. Parents of children with disabilities were notified by mail of four parent input sessions to be held by the consultants. The parent input sessions were conducted with three of them at the District Office and one at Malibu High School. Two sessions were offered in the evening, one session was offered in the afternoon, and one session was offered in the morning. The sessions each ran approximately two hours. Approximately 100 parents participated in the four sessions. Parents were requested to sign in at the session, and if they wanted to speak with the consultant individually, they were offered the opportunity to sign up for an individual interview. In addition, if they had participated in a confidentiality agreement, they were offered the opportunity to accept immunity by signing the waiver form, and they could then share specific information privately with the Consultant without any fear of retribution or other action being taken. Individual

interviews were conducted with approximately 20 parents on February 27 through February 29. Several parents also e-mailed and phoned the consultants to provide additional input. Input was also received from a member of the District Financial Oversight Committee and the Vice Chair of the District Financial Oversight Committee.

School visits were conducted initially at four sites within the District, including preschool, elementary, middle and secondary schools. The school sites were selected by the Special Education Coordinators for Elementary and Secondary Education. Additional visits were made by the consultants without prior notification of the pending visits. In order to determine the operating procedures at various school sites within the District and to determine the communication process for District policy from the Superintendent to school sites, principals and other site personnel were interviewed. Special education classrooms were observed at the sites visited, and interviews were conducted with individual classroom teachers. At Santa Monica High School an in-depth interview was conducted with the special education department chair. During the visit to Malibu High School, special and general education staff provided input regarding the operating procedures and communication network.

A series of three teacher panel interviews were conducted at the SMMCTA offices and at Malibu High School. Approximately 30 teachers from within the District participated on the panels which were conducted for an hour and a half to two hours each. Teachers were selected by SMMCTA to participate on the panels and were invited to attend a panel either in the morning or afternoon. The panels were conducted during school time, and teachers invited were excused from their classroom and/or instructional duties. Included within the teacher panels were speech and language specialists. In addition, meetings were held with speech and language specialists and psychologists to gather their perspective.

Interviews were conducted with a variety of central office staff, including: the Special Education Coordinators, the Special Education Director, the Chief Academic Officer, the Director Fiscal and Business Services, the Assistant Superintendent Business and Fiscal Services, the Assistant Superintendent for Personnel, the Director of the Personnel Commission and the Deputy Superintendent. Input was sought and received from the SELPA Director for the Tri-Cities SELPA. Comparative data was sought and received from the following school districts: Culver City Unified, Beverly Hills Unified, Centinela Valley Union High, El Segundo Unified, Lawndale Elementary, Palos Verdes Peninsula Unified, Wiseburn Elementary, and Las Virgenes Unified. In addition, interviews were held with members of the Governing Board.

An extensive review of the materials used by the District to report data on program, classroom loading, costs, and methods of handling information was made. The following documents were selected for review, as they represent the manner in which the District has designed special education programs, and how the District has reported program operations to the State Department of Education for funding purposes.

Financial Information:

1. 2006-07 end of year actuals.
2. Detailed cost related to NPS/NPA for three years.
3. Listing of any contracted services with outside providers, including other school districts, other public and/or private entities in the area of special education, and costs paid for the past three years.
4. SELPA funding allocation plan.
5. Most recent Maintenance of Effort documents for the SELPA as a whole and for the District that were submitted for three years.
6. 2007-08 Special Education budget showing information for resources 0000, 6500-6500-6510, 3310-3405, 5000-5999 showing expenditure and revenues by function for 1000-8000 object codes.
7. Summary information on general fund contributions to special education for seven years.
8. SELPA Funding Exhibits from CDE for 2005-06 and 2006-07.
9. ADA information for Tri-Cities SELPA districts from 2004-05 through 2006-07.
10. Ed-Data information on annual teacher salary trends for ten year period.
11. Tri-Cities SELPA Budget Planning Process, AB 602.
12. Santa Monica – Malibu Unified School District Deficit Reduction Plan. Summary of Meeting held on March 29, 2006.
13. Communication from Los Angeles County Office of Education regarding Interim Budget Reports 2004-05 to current fiscal year.
14. FCMAT Communication dated February 8, 2007 to Superintendent Talarico regarding multiyear financial study for the District.

Student Information:

1. Special Education Pupil Count information for fourteen years.
2. Current Student Information System (Data system) used to collect data CASEMIS system.
3. C-BEDS information for fourteen years.
4. LEA List of Schools for 2007 Growth Academic Performance Index Report.
5. Annual Report of Findings, Santa Monica-Malibu Unified School District Student Achievement Data 2006-07, AYP, API, CST, CAHSEE, CELDT.
6. 2007 SMMUSD CAPA Proficiency Rates.

Staffing and Program Information:

1. Special Education Staffing FTE, including Support services and instructional services staff for three years.
2. List of current staffing vacancies.
3. Organizational chart of special education central office and clerical staff, including FTE and relationship information depicted.
4. Sample of IEP's for preschool, elementary, secondary, and NPS.

5. Current Year Organizational chart of Special Education programs outlining classes and location.
6. Student enrollments and staffing per program.
7. Instructional Aides Staffing for Special Education for 2006-07 and 2007-08.
8. Sample Student Success Team Agenda, Action Logs, Request for Assistance, and Summary Information.
9. Learning Resource Center Background Information prepared by Gina Kittel, February 2008.
10. EdJOIN.Org Information on Job Postings for the SMMUSD for February, 2008.
11. Recruitment, Examination and Job Offer Flow Charts.

Procedures, Policies and Plan/Handbook Information:

1. Interview information was provided regarding the hiring one-on-one paraprofessionals and documentation was provided regarding the number of this staff.
2. Special Education Procedural Manual.
3. SELPA Local Plan.
4. Draft Special Education Parent Handbook, 2008.
5. On-line Policies for the SMMUSD.

Professional Development Information:

1. Listing of professional development offered in the area of special education for the past two years and current year, including summary information on content, audience targeted and number of participants.
2. Staff Development Budget information.
3. Supplemental Staff Development Information for 2007-08
4. Professional Development – Needs Assessment Special Education.

Due Process and Complaint Information:

1. Listing of complaints filed in the area of special education with state and federal entities for the past year.
2. Number of settlement agreements put in place, by year over the past three years.
3. Communication from Law Office of Mary Kellogg to Timothy Walker regarding History of Due Process Filings, dated December 5, 2007.
4. Communication from CDE dated November 16, 2004 regarding Verification Review Conducted by the CDE, Special Education Division, Between March 8, 2004 and May 28, 2004.
5. Corrective Action Plan dated November 16, 2004 for Santa Monica – Malibu Unified School District.
6. 2007-08 Self Study Corrective Actions, Santa Monica – Malibu Unified School District.
7. Sample settlement agreements and confidentiality clauses were reviewed.

Other Information:

1. Copy of the study, "Analysis of Santa Monica – Malibu Unified School District's Special Education Department, May 2003, Cindy Atlas author.
2. SMMUSD Special Education Strategic Plan, June 2004.
3. Parent and Staff Survey Results, 2004.
4. Analysis of Santa Monica – Malibu Unified School District's Special Education Department, Author Cindy Atlas, May 2003.
5. Report of a Study of Special Education Policies, Procedures, and Resources Related to Compliance in the Santa Monica – Malibu Unified School District, Frederick J. Weintraub Investigator, August 29, 2000.
6. Annual Report of the District Advisory Committee on Special Education to the Board of Education, Santa Monica – Malibu Unified School District, June 16, 2006 and May 8, 2007.

The above documents were reviewed and analyzed as they relate to the legal and fiscal mandates contained within the following documents:

1. Individuals with Disability Education Act, 2004..
2. California Education Code sections relating to the California Master Plan for Special Education.
3. California Administrative Code, Title 5 Regulations.
4. California State Department of Education Policy Statements and applicable correspondence from the State Director of Special Education.

The findings were reviewed with the Superintendent and members of her staff. Based upon the information received, recommendations the District should consider to maximize resources and enhance the provision of quality education services to students at cost effective levels were prepared.

IV. DISCUSSION

This section of the report is concerned with the seventeen major issues defined. The following sections are organized according to each of the issues, with conclusions and recommendations identified in each area.

1. Does the District provide a continuum of placement options for students identified as special education students with various disabilities?

A review of the Local Plan for Special Education, the document which authorizes the current service delivery system for disabled students within the SELPA provide evidence of a compliant delivery system. A review of the Pupil Count and the 2006-07 C-BEDS provides evidence that the district is serving approximately 11.34 percent of the District's K - 12 student population. Included within that figure are the significant number of preschool children that are being served.

The District contracts for services with the Los Angeles Unified School District for a small number of students identified with deaf and visual disabilities, as well as on occasion with the Orange County Office of Education for services within the deaf education program. In addition, the District reported contracting with the Los Angeles County Office of Education again on occasion for itinerant services. It would not be financially feasible for the District to build programs internally to serve the small number of students being contracted with these LEAs. The District also reports contracting for Occupational Therapy, Physical Therapy, Audiological Services, specific assessments and consultations, Speech and Language, and other specific educational support services. Non-Public School ADA has been declining in recent years with the 2006-07 ADA totaling 42.10. Additional information will be discussed regarding NPS/NPA services later in this report.

The following information reflects the distribution of special education programs throughout the District:

Pre-school Programs

- Pine Street School** – 3 self-contained and 1 collaborative
- Lincoln Child Development Center** – 1 self contained and 1 collaborative
- McKinley Elementary** – 1 collaborative
- Malibu** – Unable to open at this time due to lack of staffing

Elementary Programs

- Cabrillo** – RSP and SDC (mild-moderate)
- Edison** – RSP
- Franklin** – RSP, 2 SDCs (ED)
- Grant** – RSP, 2 SDCs (mild-moderate), 2 SDCs (moderate-severe)
- McKinley** – RSP, 3 SDCs (moderate-severe), 1 Learning Resource Center
- Muir** – RSP, 2 SDCs (mild-moderate)
- Pt. Dume** – RSP
- Rogers** – RSP, 2 SDCs (mild-moderate)
- Roosevelt** – RSP, 2 SDCs (mild-moderate), 1 SDC (moderate-severe)
- SMASH (K-8)** – RSP
- Webster** – RSP

Secondary Programs

John Adams Middle School – 4 RSP, 2 SDCs (mild-moderate), 1 SDC (ED)

Lincoln Middle School – 2 RSP, 4 SDCs (mild-moderate), 1 SDC (moderate-severe)

Malibu Middle/High School – 4 RSP, 2 SDCs (mild-moderate), 1 SDC (moderate-severe), 1 Learning Resource Center

Santa Monica High School – 7 RSP, 4 SDCs (mild-moderate), 2 SDCs (moderate-severe), 1 Transition

Olympic – 1 RSP (.60 FTE), 1 SDC (mild-moderate)

Community Day School – Teacher is credentialed in special education and serves students with/without IEP who qualify for an alternative placement

The above listing of programs throughout the District details the continuum of special education programs provided in Santa Monica – Malibu. The District is to be commended for the wide distribution of special education programs and the availability of services in schools throughout the District. The one area that was noted by parents as concern regarding the location of classes was the need for a preschool program in the Malibu area.

Beyond only the continuum of placement options, curriculum content and quality programs are important in ensuring success for students with disabilities. The District tracks student achievement for all schools and for significant sub-groups, including students with disabilities. Students with disabilities within the District continue to perform above the Annual Measurable Objective status bar, however, a small drop in performance was observed in 2006-07 as compared to the prior year. The students with disabilities in the SMMUSD that were administered the CAPA also were higher than statewide levels. Thirteen of the sixteen schools in the District met all of their criteria for Annual Yearly Progress in 2007. Two of the schools that did not meet all AYP criteria were Rogers and John Adams Middle School, and for both, one of the criteria that was missing was proficiency for students with disabilities. This points to the need to ensure that programmatic content is strong enough to ensure the success of students with disabilities. Parents further testified to the concern that the District has a lack of programmatic success being demonstrated. The issue goes much broader than only addressing where classrooms are located. Specifically the District may want to review the Strategic Plan that was developed in 2004 for Special Education with respect to the content areas of reading and mathematics for specific strategies, as well as the Learning Resource Center concept being implemented at McKinley, or other intervention programs that could be implemented to address these concerns.

In answering the question as to whether the District provides a continuum of placement options for students with disabilities, historically the review would have looked at whether there was a range of options including resource specialist services, special day classes, itinerant and related services, and non-public school/non- public agency

services meeting the needs of a wide range of disabilities. Clearly the District has met this criteria by providing the continuum of placement options. The pupil count information for the District, as well as the Annual Service Plan demonstrates services being provided across the continuum. However, beyond the issue of quality of programs, federal legislation has changed how we define a continuum of placement options to include interventions prior to special education.

Therefore, in reviewing the District special education program, one must take into consideration two highly relevant recent pieces of federal legislation, the Individuals with Disabilities Education Act of 2004 (IDEA) and the No Child Left Behind Act (NCLB). These two acts of Congress are intended to be implemented in harmony. That is, although separate acts they are intended to work in a supportive manner.

Prior to the passage of these two Acts, most students with significant learning deficiencies were identified as having a learning disability measurable by a significant gap between the student's ability and the student's educational achievement. This gap theory made it difficult to provide specialized services for students identified early in their school careers, since the established gap had not yet been determined. This often resulted in a student spending several years in an unsuccessful educational program. Once the student reached a significant measurable gap, special education interventions could be implemented. NCLB established a new basis for provision of meaningful academic interventions. NCLB provided the provision that no student should be referred for special education until data driven educational interventions had been attempted. The intent was to provide interventions early in a student's schooling and not to allow for educational gaps to develop before intervening services were provided.

This provision of NCLB combined with IDEA establishes a new process the provision of educational services to under achieving students and is identified in law and in the literature as Response to Interventions (RtI). RtI is very relevant to the educational programs of the District. This model is highly dependent on a new approach to educating students with low functioning academic skills. RtI calls for early awareness of student academic shortcomings and requires a rethinking of the role of the school and the classroom. No longer is it necessary to establish an academic gap between ability and achievement. It is incumbent on the school to determine early in a student's schooling when interventions are required and to determine what site based interventions should be implemented.

RtI is based upon the concept that most unsuccessful learning processes can be corrected by short term, data driven interventions without the need for providing special education programs in order to correct these deficits. It should also be noted here, that programs for students with more involved disabilities should continue to be provided in a meaningful way. Therefore it is clear that this does not eliminate the need for resource specialists, special day classes, or other itinerant or related services. However, it makes it required that interventions are to be implemented for a student struggling with

their learning, prior to referring the student to special education.

Successful implementation of Rtl requires several components. First a commitment on the part of the School District's Board of Education needs to be evident. This may be through Board policy supporting Rtl, or by articulating the vision of how services will be delivered at school sites. The District Superintendent must also demonstrate a commitment to establish district procedures and practices that foster Rtl. The District Governance Team must establish a culture and understanding that Rtl will be provided at the site level and not at the district office level. It is critical that this responsibility cannot be delegated upward, but rather must be engaged at the site level.

Secondly the commitment of site level administration to the concept that every child can succeed is fundamental in this strategy. It is well recognized that the principal of the school must be seen as the curriculum leader of the school. This is significant, as this commitment and responsibility cannot be transferred upward to central office staff, and is the cornerstone to understanding the implementation of Rtl. The interventions must be provided at the site level, by resources at the site, and with assistance from the district office staff in the form of resources and consultant services, as needed.

Basic concepts to the implementation of Rtl include that the child is a student of the school, and as such, this responsibility cannot be transferred to others. Put another way, special education is not a place you send students, but is rather a series of programs and services to benefit the school personnel in their provision of services to children with disabilities. The student is a member of the school community in every way and is entitled to the same level of services, education and respect as all other students in a school.

Interviews with school staff and school visits provided evidence that the District is in the infancy stages of implementing Rtl. Detailed procedures and professional development were not observed that would indicate that the District had totally engaged in the implementation of Rtl. It would appear that the District has not yet completely embraced the concepts set forth in Rtl and has not therefore set forth a direction to ensure full implementation. In order to meet the letter of the law, as well as the spirit of the legislation, the District needs to embark on developing a plan for implementing Rtl that would ensure that interventions are created and provided for students struggling with their learning, prior to considering a special education referral.

Conclusions and Recommendations:

The Santa Monica – Malibu Unified School District provides a full continuum of placement options and a service delivery system for special education and is to be commended for the wide distribution of the special education programs and services in all schools. The District may want to explore initiating a preschool program in the Malibu area in the future. In addition, attention needs to be directed to ensure that curriculum content is robust and strong enough to support the success of students with

disabilities, particularly in English Language Arts and Mathematics. The District has not fully engaged in implementing the RtI to expand the continuum to ensure that data driven, research based interventions are provided prior to initiating a special education referral. A comprehensive plan should be developed that would move the District toward implementation of RtI, including professional development, policy and procedure development, and a timeline for implementation.

2. Does the School District operate collaboratively within the Special Education Local Plan Area (SELPA) with regard to accessing all available resources and support for students with disabilities?

Interviews with the SELPA Director and members of the District's special education administrative staff provided evidence that the District cooperates on some minor collaborative efforts such as training programs and joint meetings. During the past year, some sharing of professional development, particularly in the area of autism, has begun within the SELPA with Santa Monica - Malibu taking responsibility for providing professional development for teachers, Culver City providing parent education, and Beverly Hills offering training for para-educators.

With the SELPA retaining only a small portion of the regionalized service and program specialist funds, there is only a .30 FTE of a SELPA Director funded. For the most part the SELPA participates with the District by channeling SELPA related funds to the District. The SELPA Director indicated that some joint meetings were held. However, interviews with District administrative staff indicated that the District personnel had not participated in Superintendent or Chief Business Official meetings in the past year. The District is represented in most SELPA related activities at the program level by either the Director of Special Education or by one of the special education coordinators. The Director of the SELPA and the Director of Special Education for the District both reported that there were program level meetings that were attended by the District. The SELPA has recently begun scheduling Coordinator/Program Specialist meetings, which the District reports that they have designated a coordinator to attend. In this role the coordinator acts as a program specialist and brings SELPA related information back to the District special education administrative staff. The SELPA Director and the District special education administrative staff indicated that there is not a high level of cooperation or collaborative efforts within the SELPA. The SELPA Director noted that more collaboration is observed between Culver City and Beverly Hills. Additionally the SELPA Director reported that Santa Monica – Malibu does not provide information on due process hearings and complaint investigations to the SELPA.

Conclusions and Recommendations:

The Tri-Cities SELPA does not currently demonstrate a strong unifying force in collaboration among the three districts that participate. Efforts at cooperation are primarily within the professional development area and the holding of some joint

meetings. These efforts at cooperation are relatively insignificant with regard to the role of the SELPA as prescribed by the Education Code. Attendance at SELPA meetings is generally by one of the district office administrators, who serves primarily as a receiver of SELPA related information and then brings the information back to the District for dissemination. There was no evidence that meetings among the Superintendents and/or the Chief Business Officials were held and included participation from the District. There is no evidence that the SELPA with the member districts has attempted to establish uniform procedures and/or practices for provision of services to students including those requiring non-public school placements or non-public agency services. As noted earlier, there is little sharing of services among districts within the SELPA. It is recommended that the District engage in discussions with the other two districts in the SELPA to determine if all districts might be better served by the SELPA establishing a stronger collaborative role.

3. Are students with disabilities provided access to the same books and materials and curriculum as general education students?

Teacher input panels and discussions with site staff during visitations provided evidence that students in mild to moderate special day classes and resource programs received the same books and materials as their non-disabled peers at schools. Many in more disabled classes (moderate to severe) received materials especially designed for their academic level of performance. Legislation enacted within the past two years requires that all students have available district adopted textbooks and instructional materials. This legislation resulted from a lawsuit and is generally referred to as the Williams provisions. Districts are required to certify that all students have available books and materials, and Santa Monica – Malibu has met this requirement. In only one parent interview was there information introduced that indicated that a student had not received adequate textbooks and instructional materials. The parent indicated that their child had been served through home and hospital instruction and textbook material had been provided in a foreign language that the child did not speak. The situation was eventually corrected, but the parent had concern with the time that it took to remedy the issue.

Conclusions and Recommendations:

School based personnel should continue to provide students in special day classes and resource programs textbooks and instructional materials used at the site in keeping with appropriate grade levels. Additional attention may be directed toward ensuring that all students, including those being served through home and hospital also have available appropriate textbook and instructional materials as appropriate.

4. Determine if School District funds are appropriately utilized, with regard to programming, staffing, professional development, and non-public agencies/non-public schools (NPA/NPS) expenditures.

In order to respond to the question, as well as the subsequent questions addressing the financial issues for the District, an analysis of income and expenditure data related to special education programs and services was conducted. The following information is presented to provide a comprehensive contextual review of the area of special education funding.

Background on Special Education Funding

Special education funding is primarily based on the total average daily attendance (ADA) for a district. Funding is provided to the SELPA and from there is then distributed to member local education agencies (LEAs) based on an approved allocation plan. The Santa Monica – Malibu Unified School District is a member of the Tri- City SELPA which includes Beverly Hills and Culver City School Districts. The Culver City Unified School District serves as the administrative unit of the SELPA and therefore receives and disperses the funding received in accordance with the allocation plan. The Superintendent of the Santa Monica – Malibu Unified School District sits on the Superintendents' Committee which is the governance body that approves the allocation plan for the SELPA, as set forth in the approved Local Plan. Annual service delivery and budget plans are required to be prepared and approved through the governance structure of the SELPA.

The current funding model for Special Education was established in AB 602 which was signed into law on October 10, 1997. The new model went into effect beginning in the 1998-99 fiscal year. California has had three very different funding formulas for special education programs over the last forty years. Prior to 1980, funding was provided for special education based on the disability of the student. Each handicapping condition was deemed to carry specific funding amounts. One of the challenges with this model was that the funds provided based on a student's particular disability were not always adequate to fund a class or specialist to provide the services. As a result, the Master Plan for Special Education was enacted and after pilot programs were implemented and funded, the State moved to a new model referred to as the J-50 funding. The new model provided special education monies based on the number of classes or specialists, described as instructional personnel service units and the support service funds needed to operate the program. Concerns with this model included the complexity of the formulas, the lack of flexibility, and the inequity of funding between LEAs. After several efforts to reform the special education funding formula, AB 602 was finally enacted.

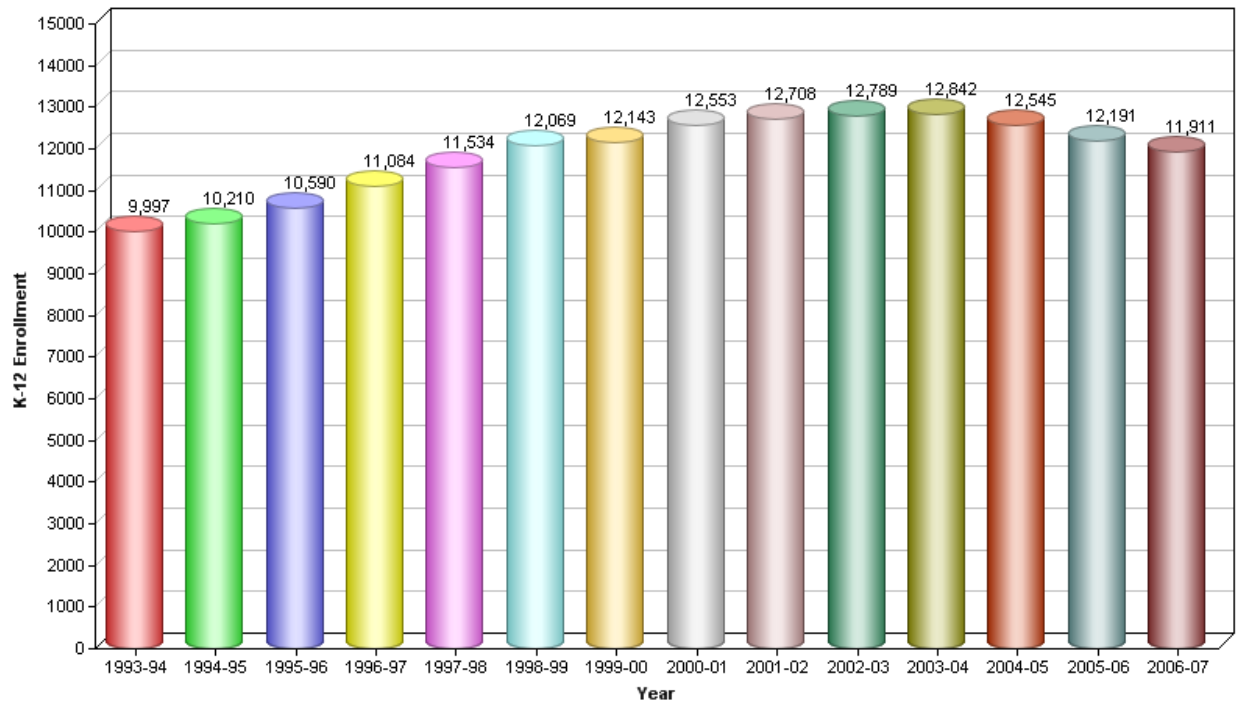
As noted earlier, the current special education funding formula is predicated primarily on an amount per K-12 ADA within the SELPA. Therefore, special education pupil counts no longer affect the funding provided. Funding is based on the greater of current year or prior year ADA for the entire SELPA. Enrollment growth is funded for K-12 ADA increases at the statewide dollar average. Beginning in the 2005-06 fiscal year, the State bifurcated special education funding between state and federal sources. The

intent of the bifurcation was to allow the State to use growth in federal aid for special education to pay for COLA and growth on the federal share. However, the reality was that there was no increase in federal aid in 2006-07, nor any material increase in 2007-08, which resulted in special education growth ADA being funded at about 70% of the rate for the base ADA and special education only receiving about 70% of the COLA funds that would have been provided prior to the bifurcation. In short, the bifurcation of COLA and growth funding has had serious negative consequences that were not intended.

Demographic Information on Santa Monica – Malibu Unified

The following chart reflects a fourteen year history of the C-BEDS for the district. Growth is visually depicted in the enrollment for the District through 2003-04. In the more recent years, the District has experienced what many school districts throughout California are addressing which is a declining enrollment.

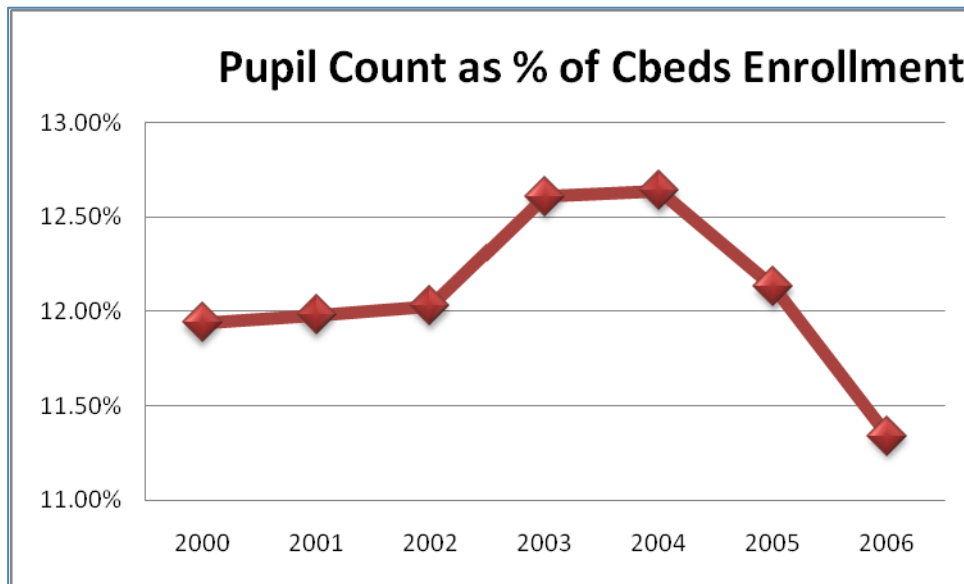
Chart 1 – C-BEDS History for SMMUSD



As noted earlier, funding is provided to the SELPA based on the overall ADA of the SELPA, and special education pupil count does not affect the overall special education income. However, one measure of whether special education costs are in a general comparative band with other districts throughout the State is to review the percentage of students identified as special education in comparison to the total ADA for a district. The following chart reflects the overall percentage of special education pupils identified

in the District in relation to the C-BEDS count for the District for the past six years.

Chart 2 – Pupil Count as a % of C-BEDS Enrollment



The District has generally been in the 12% range of identified students receiving special education, with a couple of years higher than that figure, but most recently a decline in the overall percentage. These numbers are slightly higher than statewide data. The following chart reflects the detail of the pupil count for the District by handicapping condition and reflects the changes from year to year.

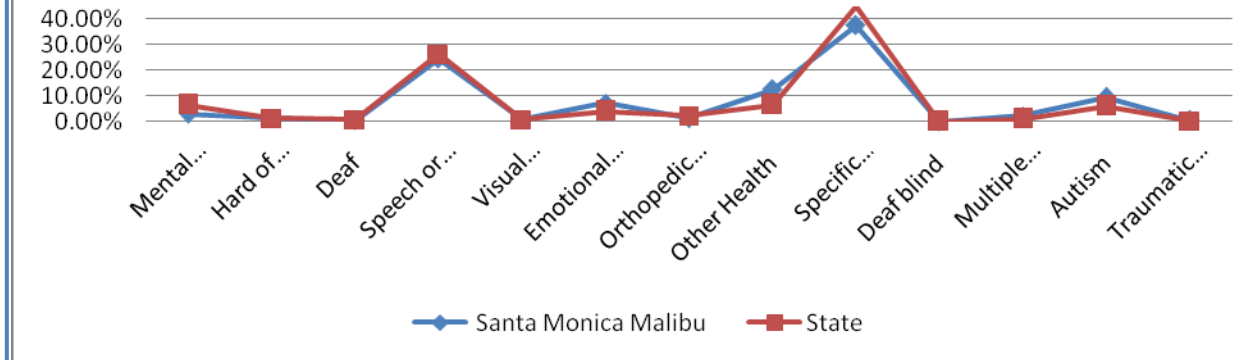
Chart 3 – Annual Pupil Count Summary 2000 to 2007

Annual Special Education December Pupil Count Summary 2000 to 2007																		
	Mental Retardation	Hard of Hearing	Deaf	Speech or language	Visual Impairment	Emotional Disturbance	Orthopedic Impairment	Other Health	Specific Learning Disability	Deaf blind	Multiple Disability	Autism	Traumatic Brain Injury	Total	Change	% Change		
2000	40	8	2	445	9	79	17	96	697	1	46	56	3	1,499				
2001	36	12	0	402	7	88	12	117	715		65	66	3	1,523	24	1.6%		
2002	37	10	0	410	8	101	16	145	690		39	80	2	1,538	15	1.0%		
2003	35	10	3	461	7	109	26	163	677		33	94	1	1,619	81	5.3%		
2004	42	10	4	412	9	116	23	181	645		33	109	2	1,586	(33)	-2.0%		
2005	54	14	4	373	9	104	19	180	578		22	120	2	1,479	(107)	-6.8%		
2006	39	15	2	335	8	99	15	167	517		28	120	6	1,351	(128)	-8.7%		
2007	39	16	5	351	6	114	23	188	470		32	131	5	1,380	29	2.2%		
Change from 2006 to 2007	0	1	3	16	-2	15	8	21	-47	0	4	11	-1	29				
% Change	0.0%	6.7%	150%	4.8%	-25.0%	15.2%	53.3%	12.6%	-9.1%		14.3%	9.2%	-16.7%	2.2%				

As noted on the above chart, the District has experienced a decline in the number of students identified as specific learning disabled since 2001. Many of the other categories are so small in number that they are not significant, even though the percentages appear to be quite large. The other figure that does bear attention is the increase in autism that has been occurring over the seven year period. Costs to serve students on the autism spectrum are generally quite high, so the increases in identified students within this category can translate to increased costs for the District. It is also reflective of what has been occurring nationally with increased number of students being identified as autistic. It is currently estimated that one in every 150 live births in the United States is a child with autism like disabilities. The following chart depicts the pattern of identified students with disabilities in the District in comparison to statewide figures.

Chart 4 – Pupil Count by Disability Compared to Statewide Averages

2006-07 Special Education Pupil Count % of Special Education Population by Disability Santa Monica-Malibu Unified compared to State Average



As noted on the above chart, the patterns appear generally consistent with statewide patterns. The following information for 2006-07 reflects the specific information detailing each of the figures for Santa Monica in comparison to the statewide numbers.

Chart 5 – Pupil Count by Disability Compared to Statewide Figures

2006-07 Pupil Count by % Santa Monica-Malibu compared to Statewide Average													
	Mental Retardation	Hard of Hearing	Deaf	Speech or Language	Visual Impairment	Emotional Disturbance	Orthopedic Impairment	Other Health	Specific Learning Disability	Deaf blind	Multiple Disability	Autism	Traumatic Brain Injury
Santa Monica Malibu	2.92%	1.11%	0.32%	24.58%	0.63%	7.19%	1.11%	12.57%	37.47%	0.00%	2.21%	9.41%	0.47%
State	6.40%	1.21%	0.62%	26.28%	0.69%	3.98%	2.27%	6.40%	45.16%	0.03%	0.83%	5.84%	0.26%
Variance	-3.48%	-0.10%	-0.30%	-1.70%	-0.06%	3.21%	-1.16%	6.17%	-7.69%	-0.03%	1.38%	3.57%	0.21%

The chart reflects that the District is lower than statewide figures in the areas of mental retardation and specific learning disabled. The District appears higher than statewide figures in the areas of emotional disturbance and autism. This data is also consistent when the District is compared to other districts within Los Angeles County and when examined in relationship to the other districts within the SELPA for 2006-07 as reflected on the following chart.

Chart 6 – Pupil Count Information Compared to LA County and Tri-Cities SELPA

2006-07 Pupil Count by %
 Santa Monica-Malibu compared to LA County, Statewide Average, Tri-Cities SELPA

	Mental Retardation (MR)	Hard of Hearing (HH)	Deaf (DEAF)	Speech or language (SLI)	Visual Impairment (VI)	Emotional Disturbance (ED)	Orthopedic Impairment (OI)	Other Health (OHI)	Specific Learning Disability (SLD)	Deaf blind (DB)	Multiple Disability (MD)	Autism (AUT)	Traumatic Brain Injury (TBI)	Total
LA County	10,906	1,999	984	37,261	1,149	7,349	4,026	11,597	91,730	38	1,317	13,747	442	182,545
% of total	5.97%	1.10%	0.54%	20.41%	0.63%	4.03%	2.21%	6.35%	50.25%	0.02%	0.72%	7.53%	0.24%	100.00%
State Total	43,522	8,241	4,242	178,599	4,697	27,081	15,429	43,498	306,950	207	5,673	39,711	1,798	679,648
% of total	6.40%	1.21%	0.62%	26.28%	0.69%	3.98%	2.27%	6.40%	45.16%	0.03%	0.83%	5.84%	0.26%	100.00%
Tri-Cities SELPA	67	20	5	661	16	199	85	345	924	-	67	236	10	2,635
% of total	2.54%	0.76%	0.19%	25.09%	0.61%	7.55%	3.23%	13.09%	35.07%	0.00%	2.54%	8.96%	0.38%	100.00%
Santa Monica Malibu	37	14	4	311	8	91	14	159	474	-	28	119	6	1,265
% of total	2.92%	1.11%	0.32%	24.58%	0.63%	7.19%	1.11%	12.57%	37.47%	0.00%	2.21%	9.41%	0.47%	100.00%

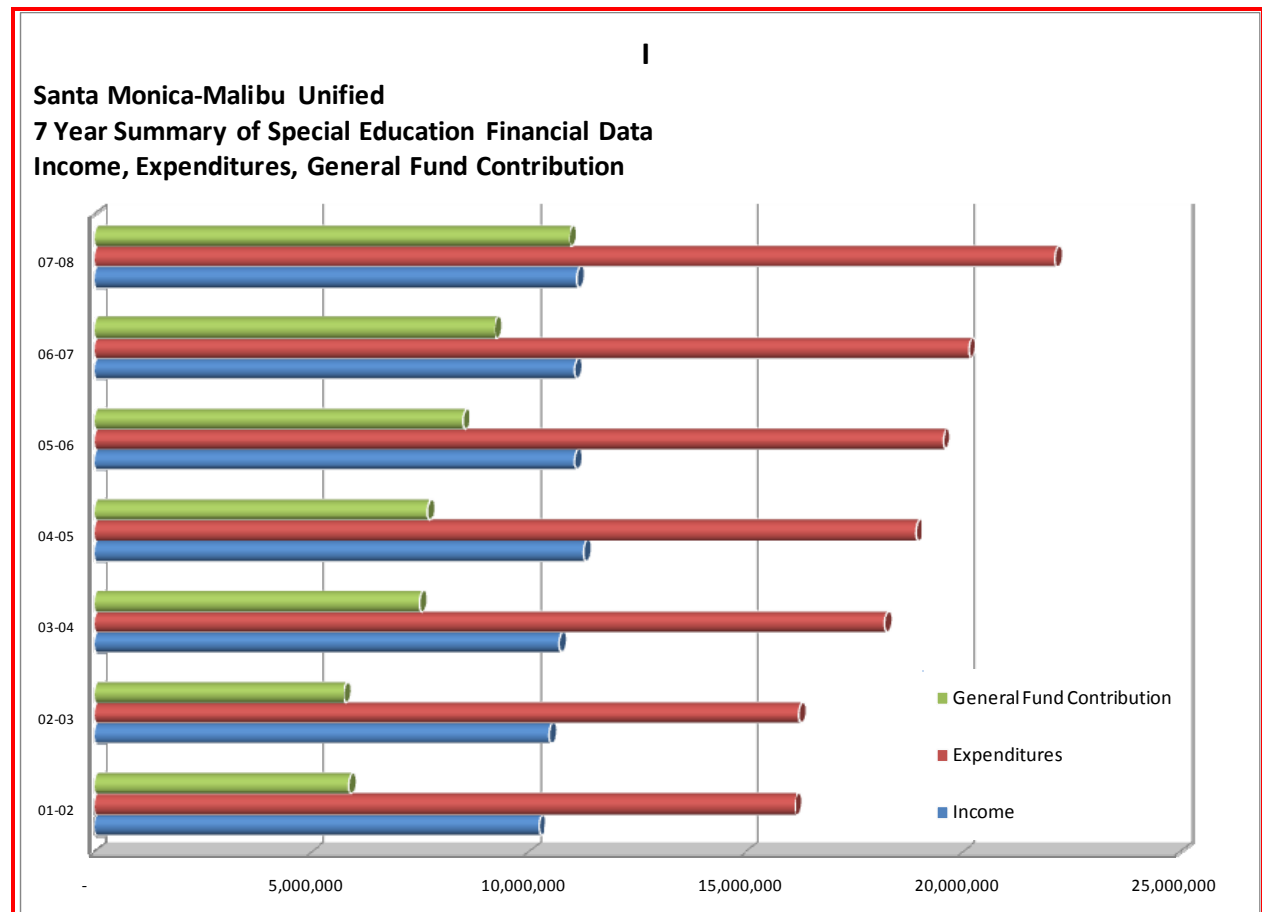
This information suggests that the District may want to consider reviewing assessment procedures and protocols in these categories to ensure appropriate utilization.

Preliminary Analysis of Income and Expenditure Data

A preliminary analysis of income and expenditure data related to special education indicates that income has increased slightly over a seven year period, while expenditures have increased significantly. The result has been that the general fund contribution has also risen significantly. The following chart depicts the income and expenditures for the District from the 2001-02 fiscal year through the budgeted figures for the 2007-08 fiscal year. The variance between income and expenditures essentially becomes the general fund contribution for the District with some slight adjustments from other income sources. As noted on the chart, the income for the District has increased from approximately \$10.2 million to just over \$11.1 million during that period of time. However, expenditures have gone from \$16.1 million to \$22.1 million during the same time period. The result of the significant increases in expenditures has been an escalation of the general fund contribution to a figure that exceeds \$11 million budgeted in the 2007-08 fiscal year. While the District reports a conservative budgeting process which may result in a lower figure at year end, a review of the actual data from 2006-07 indicates that the general fund contribution was over \$9.2 million at that time. Again, going back to the 2001-02 fiscal year, this figure was \$5.8 million, and even \$5.7 million in the 2002-03 fiscal year. A significant increase in expenditures occurred in the 2003-04 fiscal year with an almost \$2 million increase.

Chart 7 – 7 Year Special Education Income and Expenditure Summary

Santa Monica-Malibu Unified							
7 Year Special Education Income & Expenditure Summary							
	2001-02 Actuals	2002-03 Actuals	2003-04 Actuals	2004-05 Actuals	2005-06 Actuals	2006-07 Actuals	2007-08 Budget
Income	10,234,093	10,480,919	10,696,424	11,264,821	11,065,661	11,066,069	11,114,179
Expenditures	16,133,833	16,231,201	18,196,229	18,914,658	19,544,819	20,134,823	22,127,414
Income - Expenditures	(5,899,740)	(5,750,282)	(7,499,805)	(7,649,837)	(8,479,158)	(9,068,754)	(11,013,235)
General Fund contribution	5,861,960	5,751,353	7,499,629	7,670,508	8,479,158	9,221,989	10,942,276
Other	(37,780)	1,071	(176)	20,670	0	153,235	(70,959)



The above chart depicts the financial information described in a more observable manner, with the blue line from the income staying relatively constant, while the red line for expenditures shows the trend of growing over time. As noted earlier, this results in the green line, denoting the general fund contribution also growing over the seven year period.

Income Detail

To drill into the data, the first level of analysis will be to examine the income detail. Beginning with the 2001-02 fiscal year, the following chart reflects the change that has

occurred in income for a seven year period, and contrasts that with the ADA growth and special education pupil counts for the same time period.

Chart 8 – Income Analysis Depicting Change in Income, K-12 ADA, and Pupil Count

Santa Monica-Malibu Unified Special Education Income Analysis							
Change in Special Education Income							
Change in K-12 ADA							
Change in Special Education Pupil Count							
Summary	2001-02 Actuals	2002-03 Actuals	2003-04 Actuals	2004-05 Actuals	2005-06 Actuals	2006-07 Actuals	2007-08 Budget
Special Ed. State Aid	6,602,560	6,486,590	6,319,907	6,332,759	6,327,319	6,394,699	6,423,014
Revenue Limit (SDC ADA)	1,998,488	2,177,872	2,162,277	2,381,243	2,070,803	2,033,202	2,124,307
Local Revenue	1,825	750	750	5,225	108,234	153,234	65,011
Federal PI 94-142	1,631,220	1,815,707	2,213,490	2,545,594	2,559,305	2,484,934	2,501,847
TOTAL:	10,234,093	10,480,919	10,696,424	11,264,821	11,065,661	11,066,069	11,114,179
Change		246,826	215,505	568,397	(199,160)	408	48,110
% Change		2.41%	2.06%	5.31%	-1.77%	0.00%	0.43%
Cumulative Change % (Income)							8.60%
K-12 ADA	12,086	12,160	12,186	11,986	11,568	11,359	11,103
Change		74	26	(200)	(418)	(209)	(256)
% Change		0.61%	0.21%	-1.64%	-3.49%	-1.81%	-2.25%
Cumulative Change % (K-12 ADA)							-8.13%
Special Ed. Pupil Count	1,523	1,538	1,619	1,586	1,479	1,351	1,380
		15	81	(33)	(107)	(128)	29
		0.98%	5.27%	-2.04%	-6.75%	-8.65%	2.15%
Cumulative Change % (Pupil Count)							-9.39%

Over the seven year period reflected on the chart, special education income for the District has increased a cumulative amount of 8.6%. The most significant increase is noted for the 2004-05 fiscal year, going up 5.31%, while recent years are showing little to no increases. Special education income increases primarily as a result of the COLA and enrollment growth. The COLA will be examined more closely in the next chart. Enrollment growth has decreased over the seven year period reflected by approximately 8.1%. The decline in enrollment for the District is noted as beginning in the 2004-05 fiscal year. As described earlier, in its' simplest form, AB 602 SELPA funding is based on K-12 ADA in the SELPA times the unique rate of the SELPA.

Simplified SELPA Funding Example		
Part 1		
28		
1	SELPA K-12 ADA	10,000
2	Rate	\$ 600.00
3	Funding (ADA x Rate)	\$ 6,000,000

If the SELPA is declining in enrollment, funding is based on greater of current year or prior year: This formula works well for a single LEA SELPA, where the district receives the true benefit of being funded on current or prior year.

Simplified SELPA Funding Example Part 2		
1	SELPA K-12 ADA Prior Year	10,000
2	SELPA K-12 ADA Current Year	9,500
3	Funded ADA (> of Current or Prior Year)	10,000
4	Rate	\$ 600.00
5	Funding (ADA x Rate)	\$ 6,000,000

However, in the situation where some districts are growing and some are declining within the SELPA, the issue becomes more complex and problematic. The following example depicts the dilemma, where one district is growing by 500 students and one district has declined by 1,000 students. The SELPA is protected at the prior year ADA and receives the same amount of money as prior year. However, District A is looking for the growth funding from their increased 500 students, and yet the SELPA has no increased money. The only way District A receives funding for the growth ADA is if the SELPA allocation plan provides that District B funding is decreased and the funding allocated to District A.

Simplified SELPA Funding Example Part 3			District A	District B
1	SELPA K-12 ADA Prior Year	10,000	5,000	5,000
2	SELPA K-12 ADA Current Year	9,500	5,500	4,000
3	Funded ADA (> of Current or Prior Year)	10,000		
4	Rate	\$ 600.00		
5	Funding (ADA x Rate)	\$ 6,000,000		

This illustration reflects the impact of ADA decline and/or growth when it is not consistently experienced by all districts within the SELPA. In the case of the Tri-Cities SELPA, all three districts have been in a decline in 2006-2007 as reflected on the following chart.

Chart 9 – Tri-Cities SELPA K-12 ADA Change over Three Year Period

Tri-Cities SELPA					
K-12 ADA Change over Three Year Period					
	2004-05	2005-06		2006-07	
	K-12 ADA	K-12 ADA	Change	K-12 ADA	Change
Culver City Unified	6,504.76	6,558.28	53.52	6,385.99	(172.29)
Beverly Hills Unified	5,034.48	5,105.23	70.75	5,085.84	(19.39)
Santa Monica-Malibu Unified	11,984.00	11,569.60	(414.40)	11,358.57	(211.03)
Total	23,523.24	23,233.11	(290.13)	22,830.40	(402.71)
		(290.13)		(402.71)	
Change from year to year		-1.23%		-1.73%	

Additional Analysis of Factors Affecting Income

Special Education Income is affected by many factors, but primarily COLA from the State and change in K-12 ADA. The following chart shows in a “broad stroke” the difference between actual state aid/federal funding for special education and what it would look like if the state funded at full COLA and adjusted for current or prior year ADA by LEA. Recognize the state does NOT fund this way, but it helps illustrate why income has not kept pace with the variables one would expect would inflate income. Over a 7 year period, income only increased about 8% when it should have increased over 15% to keep up with the change in ADA and COLA.

Chart 10 – Income Analysis Regarding COLA and Change in K-12 ADA

Santa Monica-Malibu Unified Special Education Income Analysis
Projected Income if 2001-02 State Aid/Federal Income were inflated each year for full COLA and change in K-12 ADA (hypothetical analysis)

	COLA	Change in K-12 ADA	PY hold harmless	IF - base grew by COLA and K-12 ADA*	State funded Special Ed on full COLA/K-12 ADA change	Funding (Sped State Aid & Federal only)	Actual Change
2001-02				8,233,780		8,233,780	
2002-03	2.00%	0.61%	0.61%	8,449,686	2.62%	8,302,297	0.83%
2003-04	1.86%	0.21%	0.21%	8,624,925	2.07%	8,533,397	2.78%
2004-05	2.41%	-1.64%	0.00%	8,832,786	2.41%	8,878,353	4.04%
2005-06	4.23%	-3.49%	-1.64%	9,055,428	2.52%	8,886,624	0.09%
2006-07	5.92%	-1.81%	-3.49%	9,256,766	2.22%	8,879,633	-0.08%
2007-08	4.53%	-2.25%	-1.81%	9,500,960	2.64%	8,924,861	0.51%
Cumulative Change				1,267,180	15.39%	691,081	8.39%
<i>*hypothetical because the formula doesn't work this way - but used to illustrate the fact that special education funding doesn't keep up with COLA/growth</i>							
<i>Summary</i>	<i>2001-02 Actuals</i>	<i>2002-03 Actuals</i>	<i>2003-04 Actuals</i>	<i>2004-05 Actuals</i>	<i>2005-06 Actuals</i>	<i>2006-07 Actuals</i>	<i>2007-08 Budget</i>
<i>Sped State Aid</i>	6,602,560	6,486,590	6,319,907	6,332,759	6,327,319	6,394,699	6,423,014
<i>SDC RL</i>	1,998,488	2,177,872	2,162,277	2,381,243	2,070,803	2,033,202	2,124,307
<i>Local</i>	1,825	750	750	5,225	108,234	153,234	65,011
<i>Federal</i>	1,631,220	1,815,707	2,213,490	2,545,594	2,559,305	2,484,934	2,501,847
<i>Total</i>	10,234,093	10,480,919	10,696,424	11,264,821	11,065,661	11,066,069	11,114,179
<i>Adjust - less SDC RL and Local</i>	8,233,780	8,302,297	8,533,397	8,878,353	8,886,624	8,879,633	8,924,861

Financial Factors

Further analysis looks at the change in expenditures which increased over 37% for the same time period. It is also important to note that the Special Education Pupil Count decreased over 9% from 2001 through 2007.

Chart 11 – Special Education Income Analysis over 7 Year Period

Santa Monica-Malibu Unified Special Education Income Analysis								Expenditure Change		Sped Count Change	
Projected Income if 2001-02 State Aid/Federal Income were inflated each year for full COLA and change in K-12 ADA (hypothetical analysis)								Expenditures	Actual Change	Sped. Pupil Count	Actual Change
	COLA	Change in K-12 ADA	PY hold harmless	IF - base grew by COLA and K-12 ADA*	State funded Special Ed on full COLA/K-12 ADA change	Funding (Sped State Aid & Federal only)	Actual Change				
2001-02				8,233,780		8,233,780		16,133,833		1,523	
2002-03	2.00%	0.61%	0.61%	8,449,686	2.62%	8,302,297	0.83%	16,231,201	0.60%	1,538	0.98%
2003-04	1.86%	0.21%	0.21%	8,624,925	2.07%	8,533,397	2.78%	18,196,229	12.11%	1,619	5.27%
2004-05	2.41%	-1.64%	0.00%	8,832,786	2.41%	8,878,353	4.04%	18,914,658	3.95%	1,586	-2.04%
2005-06	4.23%	-3.49%	-1.64%	9,055,428	2.52%	8,886,624	0.09%	19,544,819	3.33%	1,479	-6.75%
2006-07	5.92%	-1.81%	-3.49%	9,256,766	2.22%	8,879,633	-0.08%	20,134,823	3.02%	1,351	-8.65%
2007-08	4.53%	-2.25%	-1.81%	9,500,960	2.64%	8,924,861	0.51%	22,127,414	9.90%	1,380	2.15%
Cumulative Change				1,267,180	15.39%	691,081	8.39%	5,993,581	37.15%	-143	-9.39%

This information is important to review to answer the question as to whether the expenditure increase could be explained by the amount of COLA that was funded for general education. Employee salaries and benefits generally account for 80% - 85% of a District's budget. Employee compensation increases, including benefit costs are often related to the amount of COLA increases that are funded within the general education revenue limit. So the chart reflects that a cumulative increase of almost 15.4% would have been recognized from COLA and ADA change since 2001-02, rather than the actual increase that the District realized of only 8.39%. Because special education funded staff would have in all likelihood received the same employee compensation increases that other employees of the District realized during this time period, it would have been fair to assume that expenditures might have increased over 15% related to employee compensation costs. However, the expenditures increased by more than double this figure, and at the same time, the number of identified students with disabilities declined by over 9%. The chart below summarizes the changes in variables:

- COLA
- K-12 ADA
- Special Education Pupil Count
- Special Education Income (adjusted)
- Special Education Expenditures

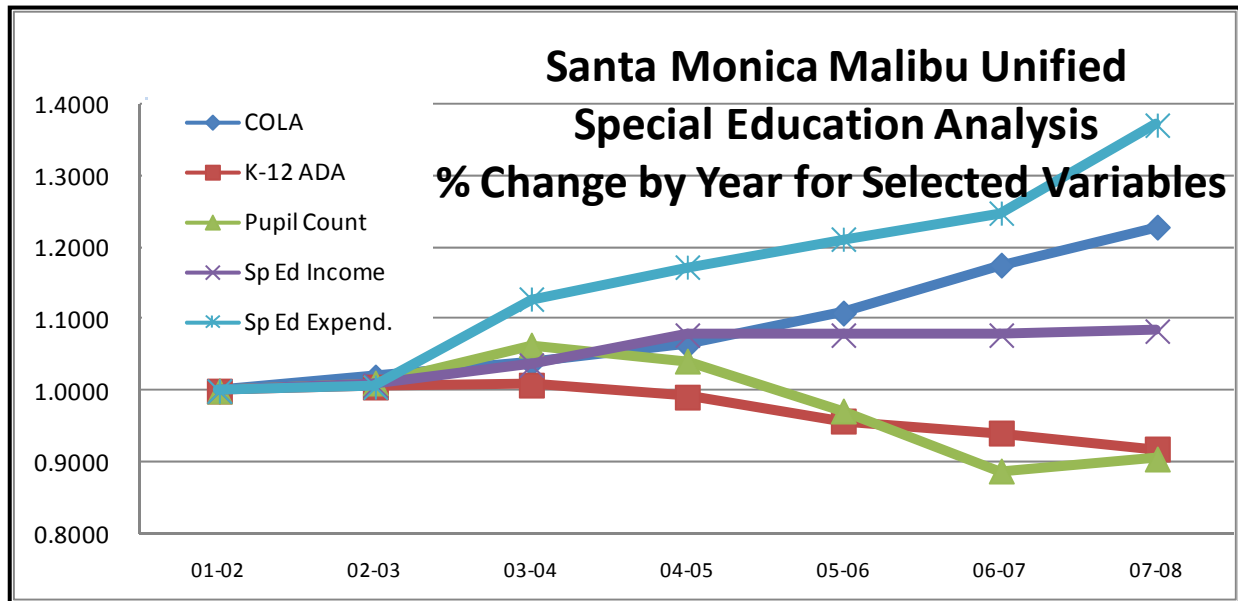
Chart 12 – Special Education Analysis of Selected Variables

Santa Monica Malibu Unified Special Education Analysis					
% Change by Year for Selected Variables					
	State Funding COLA	Change K-12 ADA	Change Special Ed Pupil Count	Change in Sp Ed Income (adj)	Change in Sp Ed Expenditures
2001-02					
2002-03	2.00%	0.61%	0.98%	0.83%	0.60%
2003-04	1.86%	0.21%	5.27%	2.78%	12.11%
2004-05	2.41%	-1.64%	-2.04%	4.04%	3.95%
2005-06	4.23%	-3.49%	-6.75%	0.09%	3.33%
2006-07	5.92%	-1.81%	-8.65%	-0.08%	3.02%
2007-08	4.53%	-2.25%	2.15%	0.51%	9.90%
Cumulative % Change over time (01-02 base)					
	COLA	K-12 ADA	Pupil Count	Sp Ed Income	Sp Ed Expend.
01-02	1.0000	1.0000	1.0000	1.0000	1.0000
02-03	1.0200	1.0061	1.0098	1.0083	1.0060
03-04	1.0390	1.0082	1.0630	1.0363	1.1278
04-05	1.0640	0.9917	1.0413	1.0782	1.1723
05-06	1.1090	0.9571	0.9710	1.0792	1.2113
06-07	1.1747	0.9398	0.8870	1.0783	1.2479
07-08	1.2279	0.9187	0.9061	1.0838	1.3714

As noted in the above chart, the ADA decline for the District has continued since the 2004-05 fiscal year. Special Education pupil count numbers have also declined in recent years, with the exception of the current year, which saw a slight increase. The 2002-03 fiscal year saw the biggest increase in the expenditure growth for special education.

The following graph illustrates each of the factors by depicting expenditure growth, COLA changes, income stability, and both ADA K-12 population and special education student population over the seven year period.

Chart 13 – Analysis of Selected Variables – % Change by Year



As noted earlier, a portion of the problem is that income has not kept up with COLA. However, this does not account for the total issue. In addition, one would reasonably expect that expenditures would decline in some proportion to the decline in special education students served.

Chart 14 – SELPA CDE Exhibit for 2006-07

SELPA Allocations

As described earlier, special education funding is provided to the SELPA and an allocation plan is developed which delineates the distribution of those funds to the participating LEAs. A review of the SELPA wide funding begins with the CDE exhibit for 2006-07 as reflected on the adjacent chart.

One question that would then be appropriate to explore is whether the Santa Monica – Malibu Unified School District is receiving their fair share of the SELPA funding. A preliminary analysis of the information would examine the percentage that the District represents of the total SELPA and whether the funding provided under the allocation plan is consistent with that percentage.

The following chart depicts the percentage that each district within the SELPA represents.

1	SELPA Special Education Funding Exhibit (excerpts/condensed)	19-BX Tri-City
2	2006-07 P2	
3	SELPA: 19-BX Tri-City	
4	District: Culver City Unified	
		CDS Code:
5	Greater of Prior Year or Prior Prior Year SELPA total ADA (applicable to new SELPAs only)	A-0
6	Section A: ADA and Rates	
7	SELPA total ADA	A-1
8	Prior Year SELPA total ADA	A-2
9	Prior Prior Year SELPA total ADA	A-3
10	SELPA funded ADA (Greater of A-1 or A-2)	A-4
11	Prior Year SELPA funded ADA (Greater of A-2 or A-3)	A-5
12	SECTION - B - BASE - [E.C. 56836.10]	
13	Prior Year Base	B-1 \$
14	Prior Year Supplement to Base Rate	B-2 \$
15	Prior Year COLA	B-3 \$
16	Prior Year Growth or Declining ADA Adjustment	B-4 \$
17	Prior Year Total (Sum of B-1 through B-4)	B-5 \$
18	Base Rate (B-5 / A-5)	B-6 \$
19	Supplement to Base Rate	B-7 \$
20	Base Entitlement (A-5 * B-6)	B-8 \$
21	Supplement to Base Entitlement (A-5 * B-7)	B-9 \$
22	Local Special Education Property Taxes [E.C. 2572]	B-10 \$
23	Federal IDEA, Part B, Local Assistance Grants	B-11 \$
24	Applicable Excess ERAF	B-12 \$
25	Total Deductions (Sum of B-10 through B-12)	B-13 \$
26	Net Base Entitlement (If B-8 > B-13, B-8 - B-13; else 0)	B-14 \$
27	SECTION D - GROWTH - [E.C. 56836.15]	
28	Growth ADA (If A-4 > A-5, A-4 - A-5; else 0)	D-1
29	Growth Base Entitlement (A-13 * D-1)	D-2 \$
30	STR Times IM (A-13 * A-15)	D-3 \$
31	Growth IM Entitlement (D-1 * D-3)	D-4 \$
32	Growth Entitlement (D-2 + D-4)	D-5 \$
33	Decline in Funded ADA (If A-4 < A-5, A-4 - A-5; else 0)	D-6
34	Declining ADA Adjustment (D-6 * Prior Year SELPA Base Rate)	D-7 \$
35	SECTION E - SPECIAL DISABILITIES ADJUSTMENT (SDA) - [E.C. 56836.155]	
36	Incidence Multiplier (IM) Rate (A-14 * (A-15 + 1))	E-1 \$
37	COLA plus Base plus COLA IM Rates (A-12 + B-6 + C-2) minus 2001-02 Supplemental Equalization SDA Rate (If A-15 > 0; E-1 - Greater of (A-14 or E-2), else 0)	E-2 \$
38	SDA Entitlement (E-3 * Lesser of (A-4 or A-5), (If E-3 < 0, 0))	E-3 \$
39		E-4 \$
40	SECTION H - OUT OF HOME CARE - [E.C. 56836.165]	
41	Out of Home Care Apportionment	H-1 \$
42	SECTION K - APPORTIONMENT SUMMARY	
43	Base (B-17)	K-1 \$
44	Supplement to Base (B-9)	K-2 \$
45	COLA (C-6) (PRIOR YEAR ADA x statewide amount adjusted for SDA)	K-3 \$
46	Growth or Declining ADA Adjustment (D-9)	K-4 \$
47	SDA (E-6)	K-5 \$
48	SubTotal (Sum of K-1 through K-5)	K-6 \$
49	Total PS/RS (F-11)	K-7 \$
50	Low Incidence Materials and Equipment (G-3)	K-8 \$
51	Out of Home Care (H-1)	K-9 \$
52	NPS ECP (I-3, Annual Only; else 0)	K-10 \$
53	Adjustment for NSS with Declining Enrollment (J-3)	K-11 \$
54	Total Apportionment (Sum of K-6 through K-11)	K-12 \$

Chart 15 – Tri-Cities SELPA K-12 ADA Summary for 3 Years

Tri-Cities SELPA K-12 ADA Summary for Three Years District ADA as % of Total K-12 ADA in the SELPA						
	2004-05	% of total	2005-06	% of total	2006-07	% of total
Culver City Unified	6,504.76	27.65%	6,558.28	28.23%	6,385.99	27.97%
Beverly Hills Unified	5,034.48	21.40%	5,105.23	21.97%	5,085.84	22.28%
Santa Monica-Malibu Unified	11,984.00	50.95%	11,569.60	49.80%	11,358.57	49.75%
Total	23,523.24	100.00%	23,233.11	100.00%	22,830.40	100.00%

As reflected on the chart, the District represents approximately fifty percent of the total ADA of the SELPA. The following chart reflects the funding provided to all three districts participating in the SELPA for the 2006-07 fiscal year.

Chart 16 – 2006-07 District End of Year Report for SELPA

2006-07 District End of Year Actual Reporting on SELPA				
2006-07 District reporting	2006-07		2007-08	
Culver City	4,827,536	28%	4,689,543	28%
Beverly Hills	3,854,096	22%	3,841,127	22%
Santa Monica Malibu	8,751,037	50%	8,702,616	50%
Total	17,432,669		17,233,286	

Summary of 2006-07 Funding Reported by the SELPA	
Base Funding (state aid)	10,134,562.80
Federal (PL 94-142)	4,050,356.00
State aid (supplement)	196,953
Cost of Living Increase	664,282.27
Adjustment for decline in ADA	-166,550.22
Special Disability Adjustment	1,330,829.97
Program Specialist/Reg. Services	326,726.62
Low Incidence funding	49,089.80
Out of home care	186,679.00
Subtotal	16,772,929.24
Mental Health	119,728
Federal Preschool	127,790
Federal - Section 619 preschool	204,138
Other Federal	83,206
Other adjustments	124,877
Total	17,432,668

This information addresses whether there is a fair distribution of funds within the SELPA and the congruence in the ADA distribution with the funding distribution makes further analysis unnecessary. However, it would be important that regular updates and review of the allocation plan take place including the provision of written documentation which details the specific distribution of funds.

Expenditure Detail

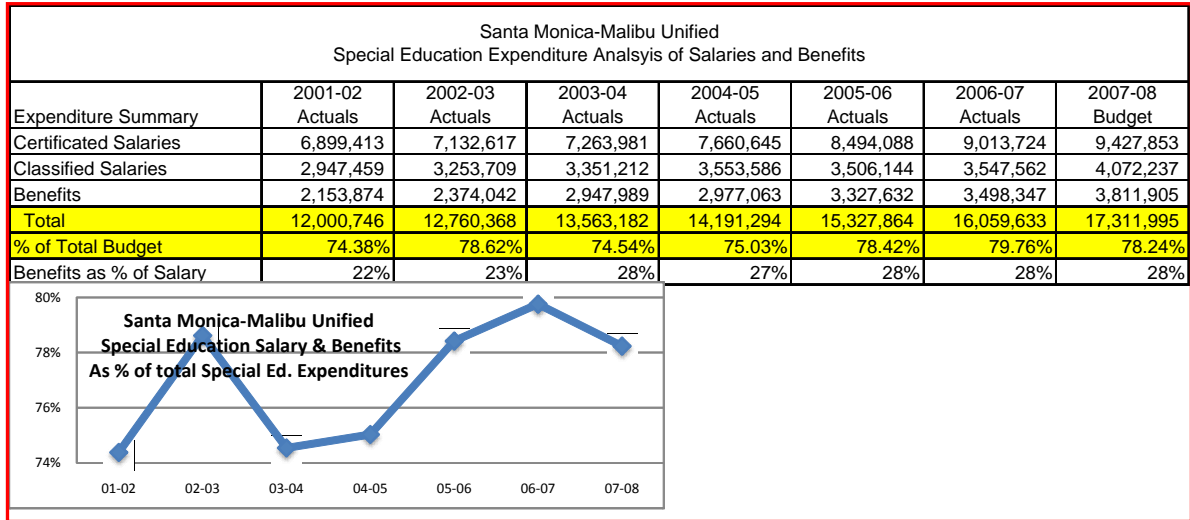
The obvious next area of review would be to analyze expenditures over this time period. The following chart reflects the major categories of expenditures for the seven year period.

Chart 17 – 7 Year Special Education Expenditure Detail

Santa Monica-Malibu Unified 7 Year Special Education Expenditure Detail							
Expenditure Summary	2001-02 Actuals	2002-03 Actuals	2003-04 Actuals	2004-05 Actuals	2005-06 Actuals	2006-07 Actuals	2007-08 Budget
Certificated Salaries	6,899,413	7,132,617	7,263,981	7,660,645	8,494,088	9,013,724	9,427,853
Classified Salaries	2,947,459	3,253,709	3,351,212	3,553,586	3,506,144	3,547,562	4,072,237
Benefits	2,153,874	2,374,042	2,947,989	2,977,063	3,327,632	3,498,347	3,811,905
Supplies	176,245	97,044	99,745	79,286	130,023	136,322	252,900
Other Operating Exp.	3,932,663	3,373,789	4,524,033	4,633,278	4,082,059	3,925,705	4,553,001
Equipment	18,550	-				8,151	
Indirect/other	5,628	-	9,269	10,800	4,873	5,012	9,518
Total	16,133,833	16,231,201	18,196,229	18,914,658	19,544,819	20,134,823	22,127,414
Change		97,368	1,965,028	718,429	630,161	590,004	1,992,591
% Change		0.60%	12.11%	3.95%	3.33%	3.02%	9.90%
Cumulative Change in Expenditures							37%

As indicated earlier, salaries and benefits generally account for the vast majority of the expenditures for a District. The following chart reflects the primary component of expenditures is salary and benefits for the area of special education for the District.

Chart 18 – Expenditure Analysis of Salaries and Benefits



Staffing Information

The following chart presents further analysis of full time equivalent (FTE) of staffing levels. This information helps in shedding more light on the changes in expenditures. It is important to note that the FTE data was only available from 2003-04 to 2007-08.

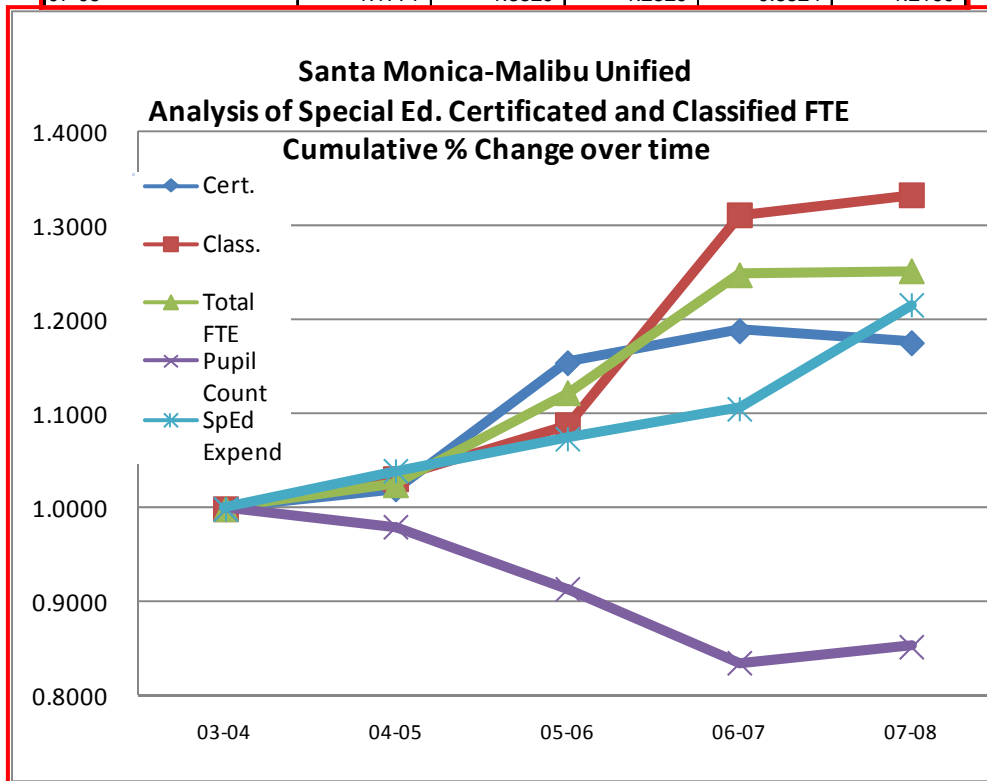
Chart 19 – Special Education FTE Staffing Levels

Santa Monica-Malibu Unified					
Special Education FTE Analysis (data from 2003-04 through estimated 2007-08 budget provided)					
	2003-04 Actuals	2004-05 Actuals	2005-06 Actuals	2006-07 Actuals	2007-08 Budget
Sp. Ed Certificated FTE	105.70	107.80	122.10	125.70	124.40
Change		2.10	14.30	3.60	-1.30
Cumulative Change in Certificated FTE					18%
Sp. Ed. Classified FTE	100.61	103.77	109.49	132.00	134.11
Change		3.16	5.72	22.51	2.11
Cumulative Change Classified FTE					33%
Total FTE (Cert. & Class.)	206.31	211.57	231.59	257.70	258.51
Change		5.26	20.02	26.11	0.81
Cumulative Change Total FTE					25%
Special Ed Pupil Count	1,619	1,586	1,479	1,351	1,380
Change		(33)	(107)	(128)	29
Cumulative Change in Pupil Count					-14.76%
Sp. Education Expend.	18,196,229	18,914,658	19,544,819	20,134,823	22,127,414
Cumulative Change in Special Education Expenditures					21.60%

It would appear that the change in FTE over time had a significant impact on the increase in expenditures over the four years presented. Certificated staff increased from almost 106 FTE staff members in 2003-04, to just over 124 FTE budgeted in 2007-08. This represents an increase of 18% in the four year period. Classified staff went from approximately 101 FTE in 2003-04 to over 134 FTE budgeted in 2007-08. The most significant increase in classified staff is noted in 2006-07 with over 22 additional FTE. The increases in classified staff represents a 33% growth in the four year time period. Looking at total staff increases for the four year period, an increase of 25% is reflected with the above figures. These increases in staffing correspond to the increased expenditures for the same time period, with expenditures going up over 21% for same time period. However, during these same years, special education pupil count declined by almost 15%. The following charts presents a pictorial display of the factors including certificated staffing, classified staffing, total FTE, and special education pupil count.

Chart 20 – Analysis of Certificated and Classified FTE for 5 Year Period

Santa Monica-Malibu Unified Analysis of Special Education Certificated and Classified FTE (5 Year Period)					
	Sp Ed Cert.	Sp. Ed. Class.	Total FTE	Pupil Count	Sp. Ed. Expend
03-04					
04-05	1.99%	3.14%	2.55%	-2.04%	3.95%
05-06	13.27%	5.52%	9.46%	-6.75%	3.33%
06-07	2.95%	20.55%	11.27%	-8.65%	3.02%
07-08	-1.03%	1.60%	0.31%	2.15%	9.90%
Cumulative % Change over time (03-04 base)					
	Cert.	Class.	Total FTE	Pupil Count	SpEd Expend
03-04	1.0000	1.0000	1.0000	1.0000	1.0000
04-05	1.0199	1.0314	1.0255	0.9796	1.0395
05-06	1.1552	1.0883	1.1225	0.9135	1.0741
06-07	1.1893	1.3119	1.2490	0.8345	1.1065
07-08	1.1771	1.3329	1.2529	0.8524	1.2160



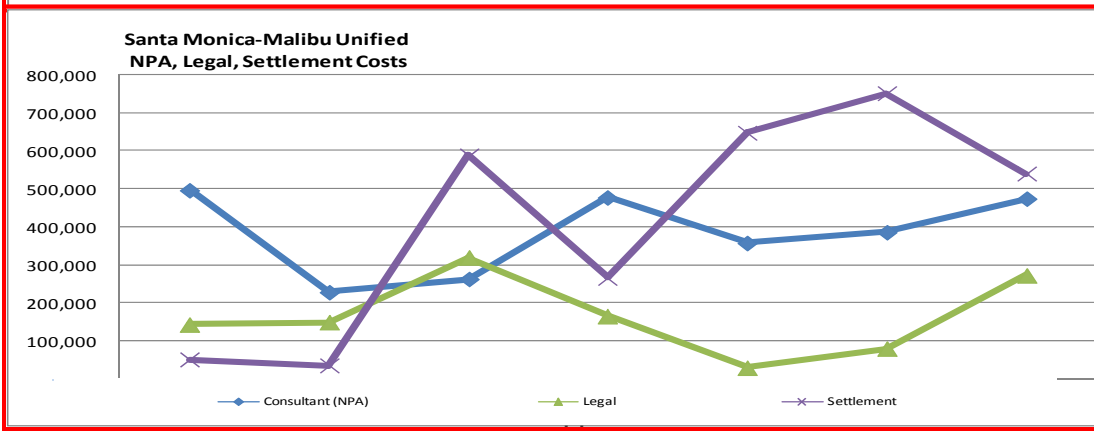
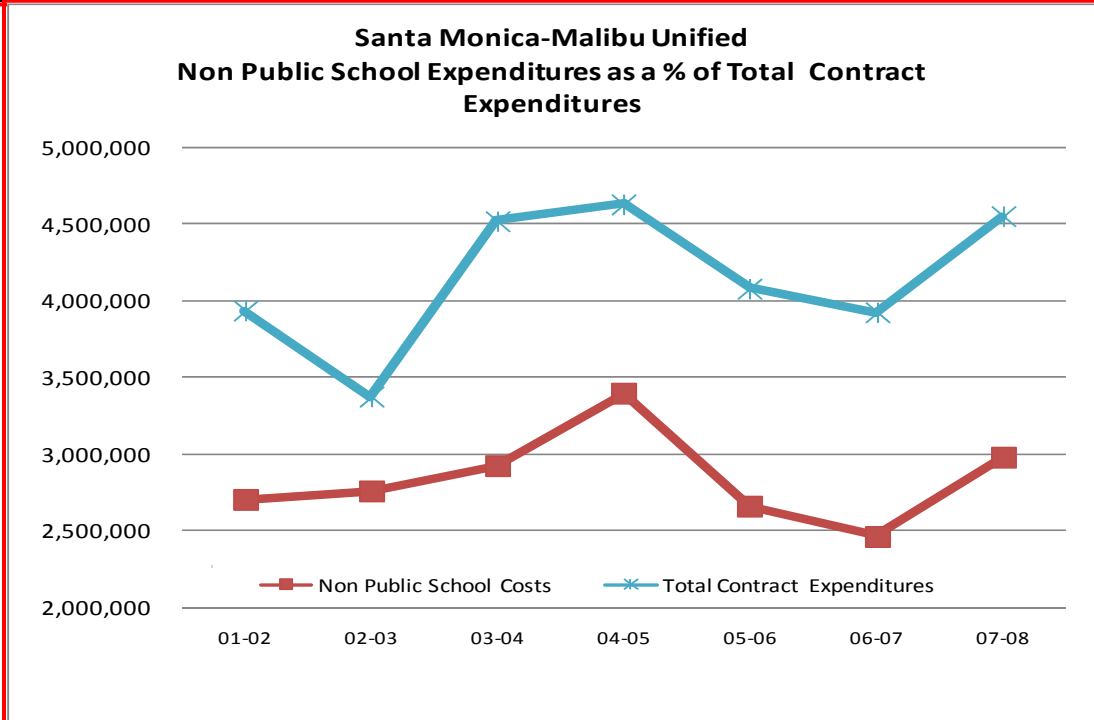
Operating Expenditures

The next area of expenditure review is the “5xxx Operating Expenditure Category”. This

category typically consists of expenditures such as travel, utilities, consultants, legal, etc. An analysis of the account is shown in the chart below. Non-Public School (NPS) Costs are a significant portion of this cost, ranging from 65% to a high of 82%. The inclusion of Non-Public Agency (NPA) costs and Settlement Costs with the NPS represents the vast majority of the expenditures in this category.

Chart 21 – Operating Expenditure Category Detail

Santa Monica-Malibu Unified Special Education Contract/Other Operating Expenditure Detail (5000 accounts)							
Summary:	2001-02 Actuals	2002-03 Actuals	2003-04 Actuals	2004-05 Actuals	2005-06 Actuals	2006-07 Actuals	2007-08 Budget
Consultant (includes NPA)	497,777	229,424	263,500	479,031	360,061	387,313	475,088
NPS Contracts	2,704,422	2,757,524	2,922,487	3,398,265	2,656,080	2,463,586	2,980,000
Legal Fees	145,663	149,131	319,917	167,266	31,130	79,963	275,000
Settlement Costs	51,717	36,391	589,569	268,379	648,698	751,661	540,000
Other	533,084	201,319	428,560	320,336	386,091	243,182	282,913
Total	3,932,663	3,373,789	4,524,033	4,633,278	4,082,059	3,925,705	4,553,001
NPS as % of Total	69%	82%	65%	73%	65%	63%	65%



Clearly, there were significant changes in NPS placements in 2005-06. ADA and Costs declined by over 20%. Again in 2006-07 the decline in ADA and costs for NPS continued. The projection for 2007-08 continues the trend of declining NPS ADA. However, costs are projected to increase by approximately \$500,000 for the current year. Interviews with special education administration indicated that they are anticipating taking on some major cases this year. However, It is unclear why increased costs for NPS placements are budgeted in 2007-08, rather than in settlement or consultant categories. It is also important to note that even though NPS costs have declined, settlement costs have increased in the 2005-06 fiscal year by an amount that is similar to the decline in costs that were noted in NPS.

Chart 22- NPS ADA and Cost Information for 7 Year Period

Santa Monica-Malibu Unified	NPS ADA	NPS Costs	Change in NPS ADA	Change in NPS Costs
01-02	62.83	2,704,422		
02-03	58.45	2,757,524	-6.97%	1.96%
03-04	56.16	2,922,487	-3.92%	5.98%
04-05	60.24	3,398,265	7.26%	16.28%
05-06	47.89	2,656,080	-20.50%	-21.84%
06-07	42.10	2,463,586	-12.09%	-7.25%
07-08	38.96	2,980,000	-7.46%	20.96%

Settlement costs have changed dramatically over time. It is unclear why they shifted so dramatically in 2003-04 and started a pattern which has continued.

Chart 23 – Settlement Cost Information for 7 Year Period

Santa Monica-Malibu Unified	Settlement Costs	Change	% change
01-02	51,717		
02-03	36,391	(15,326)	-30%
03-04	589,569	553,178	1520%
04-05	268,379	(321,190)	-54%
05-06	648,698	380,318	142%
06-07	751,661	102,963	16%
07-08	540,000	(211,661)	-28%

Consultant costs which include primarily NPA costs have fluctuated a great deal over time.

Chart 24 – Consultant/NPA Cost Information for 7 Year Period



Legal costs have fluctuated greatly over time. It is our understanding that the district added in-house counsel in 2005-06, which is why the decline in 05-06 costs. It is unclear why costs are projected to increase in 07-08.

Chart 25 – Legal Cost Information for 7 Year Period

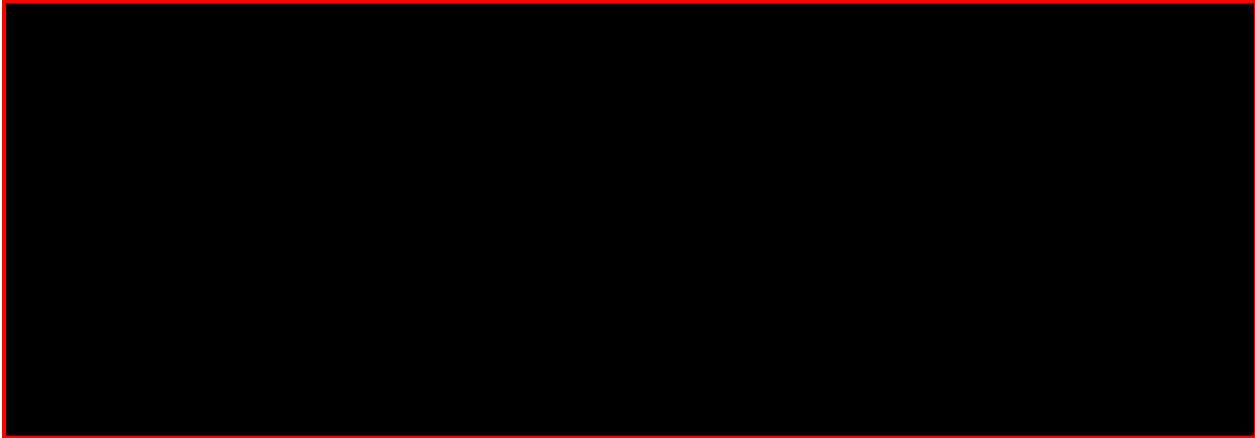


Summary:

Special education is significantly underfunded. However, the District clearly has other dynamics at work that are causing the general fund contribution to increase dramatically.

In 2001-02, the District spent 57% more than they received in special education income. In 2007-08, they are projected to spend 98% more than they receive in income. Put another way, the District expenditures as a % of income were 158% more in 2001-02, and they are now almost 200% of income.

Chart 26 – 7 Year Special Education Income and Expenditure Summary



Statewide data is available in 2004-05, but they view the calculation from another perspective; % of unfunded costs as a % of total costs. Santa Monica-Malibu Unified has a ratio of 41% unfunded costs as a % of total special education costs. The calculated statewide average is 25%. This translates to a difference of approximately \$3 million.

The chart below shows the expected General fund contribution if Santa Monica-Malibu Unified were at the statewide average of 25%.

Chart 27 – General Fund Contribution Comparison to Statewide Average

Santa Monica-Malibu Unified	
2004-05 Special Education Expenditures	18,914,658
State Average Unfunded Costs %	25%
Expected GF contribution	4,728,665
Actual	7,670,508
Amount that Exceeds Average	2,941,843

Conclusions and Recommendations:

The District would appear to be receiving their fair share of the SELPA dollars for special education. Income in the area of special education for the District has risen in accordance with state funding. Expenditures have grown significantly in recent years. The increases are primarily related to increases in certificated and classified staffing with approximately 20 positions being added in 2005-06 and approximately 26 positions being added in 2006-07. At the same time, special education pupil count figures have decreased by 107 students in 2005-06 and 128 identified students in 2006-07. Declines were particularly noted in the specific learning disabled and speech and language categories. Increased numbers were noted particularly in autism which can account for some of the increased costs being realized.

Non-public school costs and non-public school ADA have decreased in this same time period. The District has seen a decline by over 20% of their NPS ADA and costs from 2004-05 to the 2005-06 fiscal year. This decline continued into the 2006-07 fiscal year with the District's reported NPS ADA going down by over 12% and costs being reduced by over 7%. However, budgeted costs in 2007-08 were projected to increase, while the NPS ADA continued to decline. The District may want to review the NPS cost information for the current year to determine if there may be savings in this area. The reduction of NPS ADA and the costs may also help explain some of the increases in staffing reflected earlier. However, the amount of the increases in staff that were added in 2005-06 and 2006-07 would still appear to be higher than would be anticipated given the reduction in pupil count figures. Settlement costs have also increased following the 2004-05 fiscal year with amounts that would appear to correspond with the decreased costs being reflected in NPS.

NPA costs have fluctuated a great deal over the seven year history presented. The District has budgeted over \$475,000 for the current year, which is close to the highest years of 2001-02 (\$497,777) and 2004-05 (\$479,031). Again the budget may be presenting a conservative approach, with prior year actual costs being reflected almost \$100,000 less.

General fund contributions for special education are evident in almost all school districts throughout California. However, the amounts being reflected for the Santa Monica – Malibu Unified School District are higher than might be expected. Interviews with special education administration and business office administration indicated that there is not ongoing communication between the two divisions which would be helpful in ensuring proactive planning and analysis of the impacts of programmatic decisions. The Business Office has new administration. However, it was evident in the discussion

that was held with the Assistant Superintendent that she is knowledgeable and has a strong understanding of special education. It is recommended that regular meetings be held with the special education administration and the business office administration to forge a stronger relationship and establish communication which would assist both in providing greater leadership in the area of special education fiscal oversight.

5. Has the District established and implemented appropriate cost containment procedures with regard to special education programs?

As noted in the prior question area, the District has a significant general fund contribution to special education. For special education programs, based on a statewide information, every school district and county office is experiencing an encroachment into general funds and/or county school service funds. The only exception to this statement is for county offices of education that are implementing bill back procedures for school district students or basic aid counties. However, it is important to note that the general fund contribution figures for the Santa Monica – Malibu Unified School District are higher than generally found in districts of this size.

Staffing Levels

The analysis in this area of inquiry will begin with a review of staffing levels to determine if the District's staffing levels are comparable to what is generally found in each area.

The District employs a total FTE of 11.97 psychologists. The District ratio of students per school psychologist would be approximately 995:1. The statewide average for psychological services is approximately 1,800 students per one psychologist. The ratio for students to psychologists in the District is much lower than statewide data.

Like psychologists in most urban school districts, psychologists provide a wide variety of services essential to the well being of the school district. However, the major role of school psychologists in California is to provide initial assessments and three year reevaluation of students with disabilities. The staffing of school psychologists is almost double what one might expect in comparison to statewide information. This is an area that should be reviewed to determine if any cost containment is possible.

The District employs 5.0 full time special education administrators, including a Director of Special Education, and four Coordinators for Special Education. The organizational chart for the Special Education Department also reflects a Deputy Superintendent . Without considering the Deputy Superintendent position, this would provide a ratio of special education administrators for every 2,382 K-12 students, which is also high in relation to statewide figures. There is great variability in the administrative staffing levels for special education throughout the state. However, as noted in the area of the

psychologists, it would be much more common to see a ratio of almost twice this figure.

The next area of inquiry regarding this issue will review the District's special education programs to determine if the loading of Special Day Classes (SDC), Resource Specialist Programs (RSP) and speech and language appears appropriate. The District reports serving 53 preschool students with 7 teachers, which would equate to a ratio of 7.57 per teacher. The District also reports that 18 students were in the process of considering placement, and another 30 students are scheduled for testing. The preschool programs are offered for approximately 4.5 hours daily at three sites, including Pine Street, Lincoln Child Development Center, and McKinley School. The District may want to consider operating a split shift to accommodate more students within the existing staffing levels and to meet the needs of students currently in process.

For the elementary programs in the District, 17 SDC teachers are reported serving 125 identified students, which would result in a ratio of 7.35 students per teacher. This is much lower than one would expect to see based on statewide figures. Ten of these programs are for the mild-moderate where one would expect to see ratios in the area of 10 to 12 students per classroom. None of the programs identified had ratios that high. Elementary RSP programs reported 11.2 Resource Specialists serving 213 students which resulted in an average of almost 20 students per RSP. This again is lower than might be anticipated with a statewide average of 24 and a cap of 28, most RSP are close to that figure or in fact exceed the 28 figure with a waiver.

Secondary SDC teachers are reported at 21 FTE serving 286 students for a ratio of 13.61 per teacher. This figure is consistent with statewide data. In the secondary RSP program, 17.6 FTE RSP are reported serving 403 students for a ratio of 22.9. This is much closer to what would be expected in service levels comparing to statewide data.

The District also reported employing 15.2 Speech and Language Specialists serving a total of 370 students, which equates to a ratio of 24:1. This is a very low ratio, when statewide data would indicate that most SELPAs are at or exceeding the legislative average cap language of 55:1. It should be noted that a statewide average cap of 40 is established for preschool students, and the District reports 54 preschoolers within the number of students being served. The number of students identified for speech and language services appears consistent with statewide data with a 27% overall percentage being served in this area, compared to statewide data of 28.2%. The number of speech and language specialists serving the population identified is an area that should be reviewed in detail to determine if cost containment could be exercised in this area.

Occupational therapy is another area that was reviewed to determine comparability with statewide figures. The District reports serving 268 students with 5 FTE which is an identification rate of 19.5% as an overall percentage. Statewide information reflects only 3.5% of the population being identified for occupational therapy. This is an area

that should be reviewed in detail to determine if cost containment could be realized in this area in the future.

Physical therapy figures were found to be in accordance with statewide information. Adapted Physical Education reported serving 125 students for a 9% overall percentage. This is slightly higher than might be expected based on statewide information.

Discussion with the Deputy Superintendent and Director for Special Education substantiated their understanding of the conditions under which related services should be provided. Education Code particularly defines that related services are only to be provided when it is necessary for the child to benefit from the primary educational program and when it is not feasible for the primary provider to deliver the service. This understanding should continue to be communicated with IEP Teams.

Interdistrict Attendance Agreements

An additional area of review with respect to cost containment involves the number of inter-district transfers that have been permitted within the District. In the 2005-06 fiscal year, the District reported that 131 students with disabilities were being served that came from outside the District boundaries. The largest numbers of these students were identified as specific learning disabled (59 students), speech and language (42 students), other health impaired (18 students), and emotionally disturbed (9 students). In the 2006-07 fiscal year, the District reported 86 students with disabilities that came from outside the District and were being served in District programs. Again the largest numbers of these students were identified as specific learning disabled (43 students), speech and language (24 students), emotionally disturbed (8 students), and other health impaired (8 students). In interviews with special education administrators and discussion with the SELPA Director, it was reported that this information only began to be collected in the 2005-06 fiscal year, and prior to that time it was not reviewed.

Education Code Section 48204 establishes residency requirements for school attendance to include students when an interdistrict attendance agreement has been approved by both the sending and receiving school districts. In addition, residency can be met through the means of at least one of the parents of the child physically being employed within the boundaries of the receiving district. However, the Education Code goes further to indicate the following, "The school district to which the pupil is to be transferred under this subdivision may prohibit the transfer of the pupil if the district determines that the additional cost of educating the pupil would exceed the amount of additional state aid received as a result of the transfer." Clearly the costs being incurred by the SMMUSD are in excess of state aid and the numbers of transfer students being served within the District are necessitating additional staffing.

It may be important to consider further that the Education Code Section 48204 (7) notes that once residency has been established in the instance of the employment of one of the parents, an interdistrict attendance agreement does not have to be reapplied for as

long as the parent continues to be employed within the district. This would suggest that the District may not want to pursue changing existing interdistrict attendance agreements, even for students that are in fact having costs which exceed state aide. However, the District should certainly reconsider the practice of continuing to grant interdistrict agreements for any student that would create an additional financial burden on the District and exceed the state aide received as a result of the transfer.

Budget Development and Budget Monitoring

A review of the costs for special education indicated that the District's higher than statewide comparable information for general fund contribution, and that the significant increases in expenditures were related to increased staffing in recent years. The data presented in this section, drills down further as to how the District compares on the staffing levels to statewide data, and helps to respond to the question as to what is contributing to that general fund encroachment. Interviews with business office administrative staff suggests that the District has used an additive model of budget development rather than examining the need for all existing resources and analyzing current staffing and student populations when developing budget projections. In addition, personnel in both of the business department and the special education department reported that there are not regularly scheduled mid-year meetings held to review the status of the budget from both income and expenditure perspectives. Implementing mid-year budget meetings may be of assistance in reviewing the financial status of the District on an ongoing basis, which may be particularly helpful given the non-public school cost projections that were discussed earlier.

Conclusions and Recommendations:

A review of the cost containment and expenditure control procedures for the District indicate that the District is currently operating programs with low ratios in comparison to statewide figures. In addition, the staffing for special education administrators, psychologists, and speech and language specialists is much higher than might be expected given the population of the District. A review of staffing should be completed in all areas noted to determine if reductions and/or merging of programs is possible to reduce general fund contribution to special education. It is not unusual to have RSP staff serving more than one site when school sizes are small. It is also an option to have staff serve as a RSP/SDC when program sizes are such to allow for a blended program. The District Financial Oversight Committee noted that the District had indicated that they were preparing a cost containment plan. Each of the staffing areas noted in the above discussion should be reviewed for inclusion within the cost containment plan with specific goals and timelines established for each area. In addition, the District should continue to ensure that IEP Teams have an understanding of the conditions under which related services are to be provided.

Interdistrict attendance agreements should be reviewed to determine if the transfer for the student will result in additional costs for the District beyond that which is provided by state aid. Interdistrict attendance forms should include a specific reference to E.C.

48204 (b) (3) which details the provisions under which a transfer can be denied. In addition, the protocol for processing such transfer requests should be reviewed to ensure adherence to this issue. This recommendation is specifically set forth for prospective transfers and is not suggested for denying existing transfers that have previously been approved. The District is to be commended for beginning to collect the information which allows for a review of the number of students with disabilities that are being served that come from outside the District boundaries.

The budget development process for the District should also incorporate a process whereby all existing resources are re-examined to determine student populations and staffing levels, rather than beginning the process at the current levels. Mid-year budget meetings should also be considered with business and special education leadership reviewing income and expenditure assumptions, against actual revenue and expenditures to date. This review process would appear to be particularly helpful in determining whether the non-public school projections are accurate or whether adjustments could be made.

6. Are contracted services with outside providers cost effective and /or should the District consider alternative delivery models?

As noted earlier in this report, the District has minimal contracts with Los Angeles County, Los Angeles Unified and Orange County for students needing services in the areas of deaf and visually impaired. In addition, the District has contracted with Beverly Hills Unified on occasion to employ visually impaired services. The District reports contracting for speech and language services, occupational therapy and physical therapy. Given the information presented earlier on the ratios for speech and language services currently in place within the District, as well as the occupational therapy numbers of students receiving services, the District should review these contracts to determine the feasibility of providing these services with District personnel.

Interviews with special education administration noted that there are times when compensatory education is being required because of staff leaving in the middle of the year, and IEPs not being implemented for a period of time. This is an area that the District may want to apply greater vigilance in reviewing and reassigning staff coverage to avoid the loss of time in providing services to students when staff changes have occurred unexpectedly.

The District also reported that they were attempting to build capacity with Speech and Language Specialists receiving additional training in the area of assistive technology. The District should be commended for their attempts in this area, as well as their efforts to build internal capacity to serve students identified within the autism spectrum. Information prepared by the special education administration noted the savings of over \$81,000 per year from providing Behavioral Intervention Assistants under the direction of a Behavioral Intervention Specialists in contrast to contracting these services through

a non-public agency. Data presented earlier in this report noted that NPS ADA and costs had decreased in the past two years. NPA, consultant costs, settlement costs, and legal costs have continued to increase. It is critical for the District to continue to try and build internal capacity in these areas.

Conclusions and Recommendations:

The minimal numbers of students being served in other district and county office programs does not indicate that the District should change these contracts. However, the contracting out for supplementary services, such as speech and language and occupational therapy should be reviewed in detail to consider how these services can be provided directly by existing staff. The District may need to consider reassigning staff in order to ensure coverage for all needs, as well as pursuing additional training for some staff to build the internal capacity in these areas. Commendations are offered to the District for their efforts in building capacity through the Behavior Intervention Services and pursuing similar efforts with Assistive Technology. The District may also want to consider how information is presented regarding their services in order to assure parents that quality services are being provided to meet their children's needs.

7. Has the District maximized revenues from Federal, State and other sources?

The purpose of this section is to determine if the District has maximized funding sources for special education. Prior to the new funding formula being implemented under AB 602, how programs were reported had a significant impact on the funding provided. However, with the new formulas implemented as a result of the enactment of AB 602, special education funding is primarily driven by the ADA of a district through the SELPA. Earlier discussion was presented that detailed this process and concluded that the District was receiving their fair share of SELPA funds.

However, it may be important to note a couple of issues for consideration to ensure that the District has maximized resources. The first is to review that all attendance is being captured for students in special education programs, including within the extended year program. ADA revenue limit funding is on top of the special education funds and therefore is critical to ensure that all ADA is being reported. The second area for exploration would be to ensure that the District is pursuing Medi-Cal LEA billing and MAA billing opportunities to the greatest extent. Federal changes may limit the availability of MAA billing, but the District should ensure that both of these options are being captured to the extent allowed.

Conclusions and Recommendations:

The District has appeared to receive their fair share of special education funds within the SELPA. Maximization efforts are extremely limited under AB 602 provisions and so

no recommendations are necessary in this area. However, the District should review practices to ensure that full special education ADA is being captured and that the District has pursued Medi-Cal LEA billing and MAA billing opportunities as allowed.

8. Are District programs appropriate with regard to the Individuals with Disabilities Education Act (IDEA), the Least Restrictive Environment ((LRE), curriculum and instruction?

Interviews with parents, teachers, site administrators and district office administrators provided input that special education classes and programs are located at local school sites and that generally students had the opportunity for interaction with their non-disabled peers. However, visitation at some school sites provided evidence that while programs were located at school sites, meaningful integration was not readily available.

The issue of least restrictive environment can be examined in a multitude of ways. In this report, several specific strategies for examining the least restrictive environment issue have been chosen. First, the District is to be commended for not operating any isolated and separate facilities that do not allow for integration opportunities for students. The District is also to be commended for operating special education programs and services on school sites throughout the District.

Least Restrictive Environment Issues

One area of examination that will assist in illuminating the issue of least restrictive environment is an examination of the distribution of special education students among instructional settings. As discussed earlier in this document, the District serves approximately 11.3% of their population in special education programs and services. The District serves over 5% of their population in Resource Specialist programs and reports almost 3.5% of their population in Special Day Classes. Resource specialist programs are by definition special education settings where the student spends the majority of their day in the general education classroom. Therefore, the high percentage of students served in RSP is reflective of a priority being placed on students being served in a less restrictive environment.

The District also has been decreasing the number of students being placed in non-public school instructional settings. The NPS ADA for the District has declined from a reported 62.83 in the 2001-02 fiscal year to 42.10 in 2006-07. This number reflects a reasonable number of non-public school placements for the size of the Santa Monica – Malibu Unified School District, particularly when the large number of non-public schools in the area are considered.

In addition, to an analysis of the data presented above, interviews were held with staff and administrators at the elementary, middle, and high school levels, as well as with parents and teachers. At the elementary level it was reported, that there is generally a

greater acceptance for special education students. There was also evidence that the District has expended significant efforts to ensure that the most involved students are included with their non-disabled peers through a variety of programs, such as "Circle of Friends" which operates at the Santa Monica High School. A somewhat similar social program is also operating at Malibu High School.

However, even though there are programs being currently operated to facilitate integration opportunities, many interview respondents indicated that there are challenges in the delivery and implementation of mainstreaming and inclusionary practices. Parents reported several examples of environments that were not welcoming and did not enhance integration opportunities. Three days of input from parents which had requested the opportunity to discuss their children and the use of settlement agreements, as well as numerous e-mails and phone calls from parents, provided testimony that although their children were on regular school campuses, they felt that their children were subjected to an unwelcoming environment.

One set of parents reported that whenever their child came to school late, the gate he was supposed to go through was always locked and when they asked to have it opened, they were told he would have to enter through the office. Although this does not appear to be unreasonable, further information is helpful in understanding the parents' concerns. The child is in a wheelchair and the normal path of entry for him and his assistant is blocked either by books and boxes, as well as stairs which impede his access. This then requires the assistant to lift him to get him onto the school campus and to his classes. This issue is identified not to deal with issues related to the path of entry, but rather to illuminate the attitude of the school administration and staff. From the parents' point of view, the whole issue could have been avoided by providing any number of alternatives. The situation described would appear to be a clear violation of Section 504 of the Rehabilitation Act of 1973, but more importantly it would appear to be a violation of the spirit of the IDEA. What is significant in this situation is that an attitude is tolerated and perhaps encouraged that creates an access issue for a disabled child. During the five days of input from parents, numerous examples were cited of instances where parents indicated that they felt that the environment at the school where their children attended was hostile toward their children and towards them. Most parents indicated that hostility was felt from the central district office down through the school site level.

Interaction Between General Education and Special Education

At Santa Monica High School special education students are treated differently than their non-disabled peers in class assignment and programming. Students within special education programs are having their class schedules programmed last and therefore often are placed in a position where they are unable to meet their program requirements. Interviews with teachers at Santa Monica High School provided a number of examples of how difficult scheduling their students in to general education

classes was. Scheduling special education students at the high school level is always difficult, but almost impossible unless their needs are considered in the schedules prior to their non-disabled peers. Santa Monica High school has not developed a system to assure that students with disabilities will be integrated in a meaningful manner throughout the general education curriculum classes. Classroom visitations provided information that frequently special day class students and resource specialist students were programmed into classes comprised of only special education students. This practice is definitely antiquated with regard to concepts from both IDEA and NCLB.

The process of scheduling special education students into general education classes after all the general education students have been scheduled fosters an attitude of second class citizens and in almost all cases results in the special education students being grouped in larger than normal distribution in the few remaining classes. This has the effect of distorting the population and in effect defeats the purposes and the intent of mainstreaming.

The concept of mainstreaming is to provide a practice which encourages students with disabilities to associate with their non-disabled peers in manner which builds social interactions which have ongoing and lasting qualities. Many questioned whether the central district office supported an overall systemic approach to mainstreaming practices. Instead what appeared to be in place were piece-meal programs devised by dedicated teachers that often feel very little support from the District. For example, the approach taken by Circle of Friends at Santa Monica High School is systematically designed to develop relationships through having special education students have lunch with specially trained general education students. It is designed to provide pragmatic speech and language development in a normalized setting and at the same time facilitate meaningful social interaction. Although one can question whether typical students are really receiving enough training to be effective in shaping social skill pragmatics, one cannot question the invaluable experiences and development being achieved by all students involved. Sadly, there is a perception that the District would rather eliminate the program instead of work with staff to improve the program and help it blossom and thrive.

At an elementary school the teacher of a special day class reported that she was made to feel unwelcome at the site since the start of school year. She felt that her students and the staff of the class were treated in a hostile manner because the administration had not made an effort to create a climate of inclusion or to establish an environment for her class that was safe and welcoming. This teacher further indicated that she would be seeking employment elsewhere next year as a result of her feeling that she was being treated as an "outsider." This results in the personnel department having to again recruit a qualified staff member, at a time when finding highly qualified special education staff is extremely difficult. Again this may well result in a qualified teacher being lost to the District, which may have been able to be avoided by a change in attitude toward students with disabilities. Staff and parents at all levels reported serious concerns

regarding meaningful interaction between disabled and non-disabled students.

Conclusions and Recommendations:

Education in the Santa Monica - Malibu Unified School District is often times paradoxical. The academic, extra-curricular and social environment is exceptional for students without disabilities. No parent could ask for more. The community as a whole is supportive of education and expects and receives excellence from their school district. The recent passage of a parcel tax with over 70% support, bears witness to this. Yet parents of children with disabilities report a very different set of conditions. Parents of students with disabilities report stories of mistreatment and verbal abuse. Several parents reported that a special education coordinator was hostile toward them. Teachers reported that they had observed a special education coordinator verbally abusing a site administrator for actions that had taken. Interviews with some individual teachers provided input that they had directly observed situations where they also believed that parents were being treated in a combative manner and cited examples of instances that were described as hostile.

Success for all students depends on a site based attitude that all students are embraced by the staff for who they are and for their unique qualities. This embracing of all students can only occur when a site staff owns all their students and only when the staff is reinforced for caring about all students. If the attitude of site staffs could be the same for students with special needs as it is for general education students, meaningful mainstreaming and a supportive environment for all students could be achieved.

The Santa Monica - Malibu Unified School District clearly has a challenge to ensure that the infrastructure of the District is inclusionary for all areas of education, and that all children's needs are addressed within the internal structure in the District. Special education needs to be perceived and treated as an integral part of general education , including that for all decisions made, special education needs to be considered.

Currently special education is still considered a separate entity, without recognition in many quadrants of the District. Administratively special education is managed from the district office. Site level administrators do not own responsibility for special education students and for their educational program. Parents reported that frequently special education aides are treated as outsiders and that their activities are not seen as the responsibility of site level administration.

In order to adhere to public policy and the provisions required under the least restrictive environment principles, the attitudes of site administrators and general education teaching staff must be addressed. Training needs to be provided and District and

special education procedures need to be developed in order to move forward on these agendas.

District personnel are commended for operating special education programs on all school sites and not having separate sites for special education. In addition the District is commended for prioritizing services for students in the RSP setting. The NPS placements appear to be reasonable, and the District should continue to review NPS placements.

9. Are District programs adequately staffed with administrators, certificated and classified personnel?

As of February 29, 2008, the Personnel Department reported that there were two certificated vacancies, one for a speech and language specialist and one for a resource teacher. The Department also reported 12 openings for special education aides.

Several panels were held to gather information from personnel within the District. As noted earlier in this report, panels included principals, psychologists, speech and language specialists and four teacher panels. Administrators interviewed included the Deputy Superintendent, the Chief Academic Officer, the Assistant Superintendent for Personnel, the Director of Special Education, three of the four Special Education Coordinators and the Director of the Personnel Commission. In addition, interviews were held with the Tri-Cities SELPA Director and numerous parents. The following information is as a result of those interviews and data collected from the District:

Staff reported that it is extremely difficult to recruit and retain qualified special education aides. Some concern was expressed regarding the length of time that the process takes to hire aides which are in great demand.. Administrators indicated that they often need to interview a number of aide candidates, in order to find one that is acceptable. One of the factors that appear to contribute to the difficulty in finding qualified classified staff is that some aides are currently offered three hours a day of work, instead of six. Clearly a cost savings issue is involved with the ability to avoid the costs of benefits for staff that are less than half time. However, for many positions, the cost savings may need to be evaluated in light of the inability of the District to identify and hire qualified candidates. In addition, the District reported that currently a Classified Comparability Study was underway that may shed more light on this issue.

Special education administration reported that the District has also experienced great difficulty in recruiting qualified special education teachers. Under the requirements of the federal legislation, NCLB and IDEA, this difficulty is in all likelihood going to increase, rather than become easier. Regulatory provisions require that special education staff are in fact 'qualifiable" within three years, which means that individuals on emergency credentials and waivers would need to demonstrate that they can in fact meet all the credential requirements within a three year period. As a result of the

current difficulties in recruiting qualified staff and the anticipation that this difficulty will increase under federal requirements, the District may need to consider extending incentives to recruit special education teachers. Many districts throughout California are having to consider offering signing bonuses, additional stipends for special education staff, a differential salary schedule, or other means to provide incentive compensation to attract special education staff.

As noted previously interviews with district personnel and teacher panels provided information that working conditions within the District were difficult in how special education staff were made to feel. Although District Administrators in the central office indicated that teacher turn-over and difficulty in hiring was due to the “difficult parents,” this sentiment was clearly not expressed by teachers. Teachers provided information that the District Special Education administration was frequently unfriendly towards teachers and others at the sites and that the meaningful rewards of teaching were frequently not there for special education staff within the District. Some teachers expressed an attitude that they taught what their students needed and were supportive of the parents of their students in spite of the District attitude towards their parents.

Numerous teachers expressed their frustration with the District Office Special Education administration. Several teachers expressed that they did not feel as if they were treated as professionals. Specifically many teachers stated that they were discouraged from speaking freely during IEP meetings especially if they believed a child needed greater services than what the District wanted to provide. Teachers told of others leaving during past school years because of a lack of a supportive environment created by the Special Education Administrators. During one of the teacher panels, a teacher testified that a Special Education Coordinator had used unprofessional language towards the principal at the school. The teacher testified that it not only belittled the principal but put the teacher in an unacceptable position. Other teachers testified that the Special Education Coordinator was rude and disrespectful. The issue of a work environment is cited here because of the importance of this environment to maintaining an adequate teaching staff. Currently the nation is short hundreds of thousands of qualified special education teachers and specialists. Qualified personnel do not have to endure an unsupportive work environment in order to be employed with a special education teaching credential. Today many school districts are pursuing qualified special education staff, and so many staff have choices.

It is important for the Board of Education and the Superintendent to take the issue related to the teaching environment seriously. Issues related to working conditions must be taken as a serious matter and the top level administration must take the working conditions of staff as a major concern. It is imperative that written communications be forthcoming to district staff that the use of unprofessional language and an attitude of an unsupported work environment is not acceptable.

Certificated Staff

A special education teacher shortage is being experienced nationwide. The District likewise is experiencing a shortage of qualified special education teachers. The District's personnel department works diligently to fill certificated staff vacancies. Unfortunately, a great deal of tension exists between the District's staff and some parents within the District. This tension serves to create frustration for many teachers. Staff report that several highly qualified special education teachers have left because of this tension. It was reported that some teachers had requested to be relieved of their duties during the academic school year because of this feeling of hostility.

Earlier in this report information was presented regarding the staffing levels for special education staff, speech and language specialists, psychologists, and administrative staff for special education. The information presented noted that very low ratios were in existence with respect to many of these positions. This information should also be reviewed carefully prior to attempts to fill vacant positions.

Classified Staff

The District provides special education aides for students identified in the IEP process and for special day and resource specialist programs. The District is a merit system District and hires classified employees by means of a Personnel Commission. While the District has a Personnel Department, the Personnel Commission operates very autonomously with a Director of the Commission. Classified staff are hired through the process established by the Commission.

The procedures established by the Commission create a system by which it is extremely difficult to hire qualified staff in a timely fashion. The rules established by the Commission do not facilitate a process that can be expedited nor do they appear to respond to the concerns voiced by almost all of the stakeholders to the system. Administrators, teachers and parents complained about the system. The system calls for hiring from a list of 3 rankings for every position. The list is composed of those who scored highest on a written examination regardless of the person's background, training, areas of interest or location. As an example, one administrator spoke of having to interview people who specifically stated that they would not commute to the school in question or who stated they did not have an adequate background to work with the type of disability for which an aide was required (but were trained for another type of disability). According to the administrator, the people had to be interviewed, thereby wasting everyone's time even though the people would not be hired or would refuse to accept the particular position in question. Administrators and teachers indicated that they perceived that there was little or no effort expended to qualify individuals by previous experience or personality traits which might correspond to the aides' ability to perform the duties. This is a difficult situation for the Santa Monica area and an almost impossible situation for programs operated in the Malibu area.

Conclusions and Recommendations:

The first issue the District must take into consideration is how to retain qualified staff.

The existence of a less than warm working environment needs to be addressed. Responsibility for the development of a board policy regarding an unsupportive work environment needs to be developed with direction to the Superintendent that these policies are to be implemented. Civility and the use of respectful language is the right of every citizen of this nation. Hostility and abuse has to be addressed by the Board and the Superintendent in order to provide an acceptable work environment and thereby provide a system that will maintain a professional staff.

There is a major concern that the District needs to revise its recruiting efforts in relation to the hiring of special education staff. This concern applies to both classified and certificated staff. Merit system procedures should be examined to determine where practices can be changed to expedite the system and to ensure that qualified candidates are included within the pools. It may be important for the Superintendent to meet with members of the Personnel Commission to convey the sense of urgency that is needed in the hiring process for classified staff. Teachers should be involved in the interview team process for the creation of such lists. The District may also want to review what other districts and county offices with merit systems have done to be able to expedite their processes. In addition, the District may need to reevaluate the cost savings realized from creating some three hour positions, with the ability of the District to fill classroom assistant positions with qualified staff.

As noted previously in this report, the District should first examine the staffing ratios for each of their special education programs, including administrators, psychologists, speech and language specialists, as well as the resource specialist and special day class programs. Pre-school should also be reviewed within this staffing review. After a determination is made with respect to pupil teacher ratios to be maintained, and a determination of where additional staff is in fact needed, the District should undertake a review of incentives that could be expanded that would further attract qualified staff in the area of special education.

10. Are staff provided with relevant research based professional development on an ongoing basis?

Interviews with staff and parents, as well as a review of documents were completed in order to respond to the areas of Professional staff development activities for the District.

Information gathered indicated that the current Director of Special Education was in part selected for the position because of her expertise in staff development. Under her leadership inservice activities appear to have increased and the need for programmatic staff development such as Autism have increased.

Currently most districts within the State determine the need for staff development activities based upon a needs assessment instrument which is generally designed in collaboration with teachers and others. The purpose of the needs assessment is to

bring together information from teachers and others regarding their perceived needs for increased staff training.

Information gathered from input sessions and from interviews during site visitations indicated that the District has just recently begun the process of using a needs assessment to determine what professional development should be provided. A review of past inservice activities provided by the District, listed a number of trainings staff had attended outside of the District, as well as trainings provided within the District. In the 2005-06 school year, the District indicated that they had provided seventeen Special Education Development Opportunities. The majority of these were offered after the school day, but three were all day trainings over multiple days. No information was provided as to the number of participants. Content for the professional development often included language, reading, writing, and behavior curriculum and strategies.

In the 2006-07 school year, the District reported offering the following professional development opportunities:

Training	Number of Participants
SEIS Training	20
Teacher Orientation	All new Teachers
Integration and Application of Social Skills	14
SEIS Training	17
Preschool: Behavior and Social Skills	16
Administrative Designee Training	Assistant Principals/Advisors
Facilitated Communication	26
Floor Time Workshop	Unidentified Number
Autism	17
Preschool Panel	5
CPI Training – Crisis Prevention/Intervention	28
Behavior Relaxation	18

The 2006-07 offerings did not include a focus on core content areas, but rather appeared to address more of the behavioral, communication and social skill areas.

An extensive listing of professional development offerings was reported by the District for 2007-08. The District reported a total of 29 offerings. However, fifteen of the trainings noted were workshops offered outside of the District. Attendance at these sessions appeared to be often limited to one to five individuals attending. Special education administration described the intent for a training of trainers model, where the staff that attended the session would return and share the information with others. Interviews with teachers and others indicated that attendees at professional

development activities would share the information gathered at Department meetings, however this did not appear to be a practice that was consistently implemented.

The District has attempted to build internal capacity through employment and training of Behavioral Intervention Assistants. District special education administration reported that training is provided every Wednesday to the Behavioral Intervention Assistants under the direction of a Behavior Intervention Specialist. The District has experienced cost savings through this model and should be commended for their efforts to provide consistent, quality support services through this model.

The District also noted that they were attempting to emulate the process of building internal capacity with Assistive Technology. Currently services are contracted with a non-public agency for assessments, training, and technical support. This is an area that the District should continue to pursue in providing training and staff support in order that District employees can provide these services.

The content for all of the offerings identified for 2007-08 appeared appropriate and trainers identified appeared to be well qualified for the content area. However, given the information provided by staff members, it would be important for greater follow up to be exercised to ensure that training areas attended were being shared with other staff. It may also be important to note that professional development research suggests that providing mentors or coaches are important if behavior change is a goal of the training. It may be helpful for the District to identify in collaboration with teaching staff the specific areas that they are going to focus upon for the year and to design a training program that includes follow through activities and strategies to support the training content. Of equal importance to the content of the training, would be to assess staff for internal expertise and to determine when internal staff can be utilized to provide needed professional development. A number of teachers reported expertise in areas that they did not believe administration was utilizing in providing training for other members of the staff.

Information collected indicated that there is a need for additional training to be provided special and general education staff and administrative personnel. For example, almost no staff members questioned about RtI had adequate information concerning the concept and how interventions should be implemented. One teacher commented when a question regarding RtI was asked that, "We have been told we are not doing that here." There appears to be little coordination between general and special education trainings. Site administrators indicated that they had not been queried about their needs for staff development. This would appear to be significant, as there appears to be a significant gap between the role of the principal and the need for current information regarding interventions. Almost all input gathered indicated that all significant decisions made regarding the education of students with disabilities was made at the district administrative level and not at the site. For the District to successfully implement RtI and to ensure that sites are able to positively respond to student needs, this needs to be

corrected and cannot be done without significant staff development activities for site administrators, ancillary personnel and general education teachers.

An additional area of content that should be examined for professional development would be alternative dispute resolution training. Further in this report, information is presented regarding the number of due process hearings and settlement agreements that are being executed. Data in both of these areas would support the need for training of staff in alternative dispute resolution, including dealing with conflict, anger and difficult situations in constructive ways. Content could also include using effective communication skills in time of crisis and extreme stress. Research has shown that implementation of strategies through alternative dispute resolution can reduce the number of hearings a district experiences.

A review of the needs assessment instrument that the District has utilized to query special education staff, psychologists, preschool staff, speech and language specialists, elementary staff, and secondary staff indicated that there was no topical listings regarding RtI nor alternative dispute resolution. Space was provided on the form for staff to identify other areas, but these are areas that the District may want to prioritize in the listing.

Interviews with teaching staff and classroom assistants noted that training is needed for the classroom assistants. Difficulty in recruiting staff for class assistant positions was noted previously. However, particular attention was reported on the need for classroom assistants to be better prepared for the various assignments.

Staff indicated that the decisions regarding inservice topics were made from a top-down perspective. They noted that there was little or no input into the decision making process. However, evidence was provided regarding a professional development needs assessment that was completed by staff to identify priority areas. There would appear to be a disconnect between asking staff for input and their awareness that their input is being reflected in further staff development activities. In addition, staff and parents both indicated that parents were not involved in the process of determining inservice activities that would be offered.

Conclusions and Recommendations:

The District should conduct a thorough needs-assessment, covering all areas of the District, to determine what staff needs with respect to training and inservice. The staff development needs assessment should include both special and general education staff and parents. In addition, the needs assessment should query staff on areas of internal expertise that the District can utilize in building their own capacity in providing staff development. In accordance, with Education Code provisions the staff development plan should be developed by teachers and other staff, as well as with parent participation.

The staff development plan for the District needs to provide inservice for special education, general education and administrative personnel. Training for classroom assistants should also be addressed. In addition, training areas prioritized should include a coaching, mentoring, or follow through component to ensure support for implementation of the material. The District should be commended for the increased emphasis that they have placed on inservice offerings, and particularly utilization of training opportunities offered outside of the District. However, if the District intends to utilize a training of trainers model, greater attention should be directed to ensure that information is shared among staff following the training on a consistent basis. In addition, the District should be commended for their implementation of training for Behavior Intervention Assistants on a regular basis and for their efforts to build internal capacity with respect to Assistive Technology.

Content areas that specifically should be reviewed for inclusion in a Professional Development plan would include RtI training and alternative dispute resolution training. Both areas are critical to changing the culture within the District and to begin a process of collaboration and an inclusionary environment to address concerns within the District.

11. Are School District special education written policies consistent with Federal and State laws and regulations?

A review of the Local Plan for the Tri-Cities SELPA, on-line Policies for the District, the Procedural Guide for the District, interviews with District Administrative staff, a review of the State Department of Education corrective action requirements from 2004, and a review of the Self Study Corrective Actions for the District provided evidence that the District has developed policies and procedures for special education programs and services. In addition, the District has posted their policies on their website. However, it is important to note that staff at schools, as well as staff from the District Office could not provide copies of written policies that were specifically addressing special education. The Local Plan includes a variety of policies in accordance with state and federal laws and regulations. The Local Plan has been approved by CDE as documented by correspondence from the State Director, Mary Hudler on January 23, 2008. However, no one in the District could provide the consultants with a copy of the Local Plan. Instead, the Local Plan was only able to be accessed through contact with the SELPA Director from Culver City.

In addition, the District has done an exceptional job of documenting their policies by providing them on their website and providing for a search function that allows for the identification of policies that address special education. A query of "special education" on the website specifically identifies 78 policies. A query of "students with disabilities" specifically identifies 17 policies. A review of the District's total number of 389 policies indicates that the policies have been updated throughout the years, with some being updated throughout 2007. While the policies of the District would appear to be accessible to all staff, many staff indicated that they did not know where the policies

were located and indicated that they did not have an awareness of how to utilize the tools that are on the District's website.

The District has a Special Education Procedural Manual that is dated 2004 – 2005. The Procedural Manual includes chapters on Supporting All Students, Assessment, Eligibility, Individualized Education Program, Programs, Designated Instruction Services and Related Services, Procedural Safeguards, and Behavioral Interventions. Forms and Standards are included as appendices in the document. Special education administrative staff indicated that the Procedural Manual is currently being updated. Copies of the Procedural Manual could not be located at the schools visited. In addition, site level staff reported in interviews that they did not have a procedural manual.

The Special Education District Advisory Committee has recently prepared a draft Special Education Parent Handbook 2008. The document appears comprehensive and is written in easy to understand language.

The Coordinated Compliance Review from November, 2004 was provided to the Consultants. A corrective action plan was required at that time, which included twenty-eight areas of non-compliance. Non-compliance was noted particularly in areas of assessment and IEPs. Special education administrative staff indicated that a self review was currently underway. A copy of the Self-Study Corrective Actions dated for the 2007-2008 year referenced 18 areas of non-compliance. Within the Self-Study Corrective Actions six of the non-compliance areas noted are due to policy and procedure non-compliance, particularly in areas related to parental placements in private schools, providing a summary of a student's academic achievement and functional performance including recommendations on how to assist the student in meeting their post secondary goals for students who have graduated or have exceeded their age eligibility, and the local interagency agreement with regional center inclusion of dispute resolution procedures.

Information provided by the Law Office of Mary Kellogg indicated that the District had 26 due process filings for the 2006-07 fiscal year, while 28 hearings were requested in the 2005-06 fiscal year. All hearings were initiated by parents, with the exception of one case where the District initiated the case regarding the appropriateness of an independent educational evaluation. The number of due process hearing requests appears high in comparison to other districts. For the 2007-08 fiscal year, Mary Kellogg reports that there are ten current cases. In the 2006-07 fiscal year, only eight districts in the state had a higher reported number of filings, as noted on the following listing:

Chart 28 – Due Process Filings

District	Number of Filings	Approximate ADA
Los Angeles USD	940	707,700
San Diego City USD	95	131,000
Newport-Mesa USD	50	21,400
Capistrano USD	42	51,400
San Francisco USD	38	56,200
Poway USD	37	33,000
Irvine USD	34	25,800
Long Beach USD	27	90,700

Mary Kellogg also noted the following, “Interestingly, most school districts with less due process filings did not come close to the District’s 26 filings.”

Information provided by the District also noted that 27 complaints had been filed for the 2007-08 fiscal year from different parents. A few parents had filed more than one complaint. The majority of the compliance investigations resulted in the case either being resolved or dismissed. Three cases had findings of the District being out of compliance with corrective action required, and ten cases did not reflect a disposition at this time.

The information on CCR, due process hearings and compliance investigations is helpful in determining the degree of compliance with state and federal laws and regulations.

Conclusions and Recommendations:

Evidence was provided that indicated that the District has well developed written policies that are consistent with federal and state laws and regulations. Policies are evident within the Local Plan and for the District as posted on their website. The District is to be commended for providing access to their policies through their website and for providing tools for enabling an easy and user friendly method for searching for specific information relative to the policies. However, further communication needs to be provided to District staff to ensure that they are aware of the existence of the policies and how to access them. In addition, the District needs to maintain a copy of the Local Plan and ensure that the policies contained within the document are synthesized and

communicated with staff.

The District reports that they are currently updating the Procedural Manual. However, interviews with staff and observations at school sites indicated that the current Procedural Manual has not been distributed at school sites and is not being used throughout the District.

The SEDAC is commended for putting a Parent Handbook document together and it should be distributed in accordance with provisions set forth in the document.

Information reviewed from the historical coordinated compliance review, the more recent Self-Study, as well as the number of due process hearings and complaints filed, provides evidence that the District needs to correct specific policies noted, but more importantly needs to ensure that those policies are distributed throughout the District and that training is provided on consistent implementation of the policies.

12. Are School District written policies shared in an efficient and comprehensive manner with site administrators and special education teachers?

Board policies are available on the District website, however there does not appear to be a general awareness of the availability of the policies in this manner, nor is there evidence of any other method of communicating those policies with staff. Several administrators indicated they knew that the board policies were on the website, however most teachers expressed that they did not have any awareness regarding the existence of the policies. There was also no evidence that procedures had been shared with school site level staff and that they were being relied upon in the area of special education. Special education forms were evident at school sites, and as such may assist in directing how and when procedures are being implemented. Information from interviews suggested that any issues that arose outside of the ordinary processing of a referral required discussion and disposition at the district office level.

Conclusions and Recommendations:

The District should be commended for the availability of their policies on the website and for the tools that allow for them to be utilized. However, additional information needs to be provided to staff regarding this resource and training provided to ensure appropriate implementation of the policies.

13. Are special education written policies implemented consistently throughout the school district?

Information presented in the prior two inquiries would appear to respond to this question. However, it may be important to note that any consistency of practice appears to emanate from the Special Education Administrators. Principals, and teaching staff at the site level, appear to be dependent upon the Special Education

Administrators, rather than being trained and empowered to address the special education issues that arise. It is clearly understandable that a protocol would be implemented of having Special Education Administrators participate in any IEP meeting that would have a consideration for a NPS or NPA placement or service. However, this dependence on the Special Education Administrators appears to be much broader in scope.

Conclusions and Recommendations:

As noted previously, the District in almost all areas has up to date comprehensive policies that if implemented would assist in ensuring compliance with state and federal laws and regulations. The policies and procedures needs to be disseminated throughout the District and training provided at all levels to ensure consistent implementation.

14. Are settlement agreements produced and implemented within the guidelines of the law?

During the past three years the District reports having over 140 settlement agreements. The number of settlement agreements utilized by the district raises legal concern. Although the use of settlement agreements is legal, the large number of settlement agreements raises concern whether there is compliance with the intent of IDEA. The intent of IDEA is to have a team knowledgeable about the student determine the student's needs. IDEA specifies who should be part of the IEP team and lists among others as parents, teachers and..

- (iv) a representative of the local educational agency who -
 - (I) is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
 - (II) is knowledgeable about the general curriculum; and
 - (III) is knowledgeable about the availability of resources of the local educational agency;

- (v) an individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in clauses (ii) through (vi);

- (vi) at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate;¹

¹ USC TITLE 20 §1414(d)(1)(B)

As such, services for students with disabilities must be determined by a team knowledgeable about the resources available and who can interpret the assessments, as well as being knowledgeable about the student. During a settlement agreement in the District, the parents and often an attorney representing the parents meet with the Deputy Superintendent. There is no “team” present knowledgeable about the student or the student’s deficits. Although it is widely accepted that settlement agreements are a legal manner to resolve conflict, a concern arises in SMMUSD when services for so many students are being determined in this manner.

The second area of concern is the failure to incorporate services identified in settlement agreements into IEPs. The failure to incorporate the services identified in the settlement agreement into the IEP is problematic for several reasons. First, the student does not maintain an accurate record of his/her educational history. Second, “stay-put provisions” which ensure that a student’s placement will not change absent a signed IEP, no longer guarantees a child’s actual placement because the child’s actual service and perhaps placement are not identified on the IEP. This becomes even more problematic should a child move out of the district. Third, failure to identify services on the IEP results in teachers having incomplete information about the services a student is receiving. A parent commented: “the teacher does not know that my child has a deficit in math, because it is only identified in the settlement agreement.” Further, this lack of information results in a lack of a coordinated approach to teaching a child. One teacher summed up the concerns well: “I have a student I am working with in reading. I did not know that for the last year the child was receiving outside reading support, nor did I have access to the assessments being completed by the outside agency. What a shame that we could not have worked together.”

Conclusions and Recommendations:

The use of settlement agreements as a means to resolve conflicts between parents and the District is a legal procedure. However, the number of the settlement agreements is of great concern and appears to have become a common practice for the District, rather than only being used on rare occasions. The District must limit their use of settlement agreements by empowering school sites to resolve issues. In the limited cases when settlement agreements are absolutely necessary, the information from the settlement agreements should be communicated in an appropriate manner to school staff responsible for providing the educational services to the student. This should be done most appropriately through inclusion or addition to the IEP.

15. Is the current practice of settlement agreements in the school district similar or different from other school districts within the region?

Fifteen school districts in the region were contacted in order to determine how settlement agreements are utilized by other districts. Most Districts reported some usage of settlement agreements over the past five years. Those districts that had not entered into settlement agreements did indicate that they would use settlement

agreements if absolutely necessary. The following three areas were identified as areas for comparison with the Santa Monica-Malibu Unified School District: 1) the number of settlement agreements; 2) the timing of settlement agreements; and 3) the incorporation of settlement agreements into the IEP.

Number of Settlement Agreements:

The number of settlement agreements entered into by SMMUSD is greatly different from other school districts in the region. The SMMUSD utilized settlement agreements to a much greater extent than school districts in the region. Most districts interviewed were reluctant to provide concrete numbers as to how many settlement agreements were entered into each year, however all districts indicated that settlement agreements are used on a very limited basis. Several districts reported that they had not entered into any settlement agreements in the last several years while the remaining districts estimated less than 10-15 would be used during the school year. Southwest SELPA, which includes 12 school district and approximately 13,000 special education students, stated that approximately 20 settlement agreements have been used to date this school year. As noted previously, the Santa Monica- Malibu School District generated over 140 settlement agreements over the past three years. Based upon the data provided, it is clear that SMMUSD utilizes settlement agreements much more than other districts in the region.

Timing of Settlement Agreements:

Interviews with surrounding districts indicate that there is no clear pattern as to when settlement agreements are entered into. The SMMUSD enters into settlement agreements when there is an impasse at an IEP meeting. Although some settlement agreements may not be entered into until after a Due Process filing, the District indicated that settlement agreements are an option that they will utilize at anytime necessary when an impasse is reached. As was reported repeatedly from District staff and parents, disagreements at an IEP are directed to District staff in the central office, whereby a settlement agreement is attempted. Although some districts stated that they generally did not enter into settlement agreements until after a due process filing, most districts maintained that settlement agreements are a tool that they keep available when necessary. The difference however between SMMUSD and surrounding districts, does not appear to be in the timing but in the readiness of SMMUSD to utilize settlement agreements.

Incorporation of Settlement Agreements into the IEP:

The third issue is whether or not settlement agreements are incorporated into the IEP. The SMMUSD does not incorporate the contents of their settlement agreements into the student's IEP. This is neither consistent nor inconsistent with surrounding districts. Of the districts contacted, there was no consistent answer. Most districts indicated that this determination is made on a case-by-case basis. One District indicated a very clear mechanism for determining what is incorporated into the IEP: "Anything pertaining to services the child will receive is put into the IEP." For that District, only issues such as

reimbursement to parents or issues that clearly are not tied to the student's services are left out. For Districts that did not incorporate the contents of the settlement agreement into an IEP, the majority of the administrators and attorneys agreed that the districts must maintain great diligence to ensure that the settlement agreement is implemented.

Conclusions and Recommendations:

The SMMUSD utilizes settlement agreements to a much greater extent than other districts in the area. This has become an established practice that is initiated almost immediately upon a disagreement at the IEP Team level. The District must significantly decrease the usage of settlement agreements. This can be accomplished continuing to build program capacity to address the needs of students and by empowering school site staff to resolve issues during the IEP meeting as opposed to referring conflicts almost immediately to the District Administrators. In addition, the District should incorporate any services identified in the settlement agreements into the student's IEP.

16. Is the use of confidentiality clauses in settlement agreements legal and considered a common practice?

In discussions with school attorneys from three legal firms, it was concluded that confidentiality clauses are legal and common practices. In addition, through surveying school districts in the surrounding area it was determined that confidentiality clauses are commonplace among school districts utilizing settlement agreements. District special education administration also provided a listing of 19 school districts within Los Angeles County that utilize settlement agreements and include confidentiality clauses. In fact every school district contacted indicated that their settlement agreement includes a confidentiality clause. The specific confidentiality clause utilized by the SMMUSD states:

To the extent permitted by the state, and/or federal law, this Agreement shall remain confidential and its terms shall not be disclosed by either party to any person except District employees, service providers or advocates or legal counsel retained by either party or for purposes of enforcement

This clause differs from many of the confidentiality clauses utilized by other districts in that many other districts add a statement indicating that failure to abide by the confidentiality clause deems the agreement null and void.

However, it is unclear as to why the settlement agreement is not shared with staff since all the settlement agreements reviewed within SMMUSD stated that the agreement can be shared with district employees. During the study, the consultants were told repeatedly, by parents and staff that settlement agreements cannot and are not shared with district staff because they are confidential. Yet the confidentiality clause in the

settlement agreements reviewed clearly states that exception for District staff. As a result, it would appear that the wording of the confidentiality clause does not preclude the agreement from being added to the IEP or the terms related to services being inserted into the IEP document.

As noted previously, a significant concern exists with the extensive use of settlement agreements with confidentiality clauses which extenuates the concerns with transparency. Although confidentiality clauses are legal and common practice, the extensive use of settlement agreements with confidentiality clauses raises a concern as to the transparency of the district programs and services. Parents and staff reported a concern that there appeared to be a secretive deal process that affects the credibility of the District. These are not new concerns, but rather the testimony offered to the SMMUSD Board of Education on June 15, 2006 by the District Advisory Committee on Special Education cited these same concerns.

A final concern with the use of confidentiality statements is that parents are therefore discouraged from speaking with each other. Best practices shows that districts with quality programs generally have a strong parent component. As is often the case, parents of students with disabilities are best able to train and support other parents. In SMMUSD the extensive use of settlement agreements with confidentiality clauses further alienates parents from each other. At a time when parents should be working together and supporting each other, many parents feel they, by virtue of their confidentiality clause are excluded from talking and working with other parents.

Conclusions and Recommendations:

Attorneys and data from other school districts in the area substantiate that the use of confidentiality clauses in settlement agreements are legal and considered a common practice. A review of the specific confidentiality clause utilized by the District indicates that the SMMUSD confidentiality clause is not as "harsh" as other districts in that it does not include wording about the settlement agreement being null and void. Other confidentiality clauses reviewed had such language. However, it is strongly recommended that the District establish a means by which information pertinent to a student's services be incorporated from a settlement agreement into the student's IEP either their adding the document or including information related to the programs and/or services into the IEP document. It is also recommended that the Board of Education and the Superintendent provide clear direction that the use of settlement agreements are to be used only on rare occasions. The District needs to undertake immediate training on alternative dispute resolution, particularly for special education administration and then for site level administration.

17. With regard to settlement agreements, are there "industry standards" best practices that would benefit the School District?

Determination as to whether settlement agreements are best practices requires an

analysis of two primary issues: 1) the general principle of the settlement agreements and 2) the District's usage of settlement agreements.

General Principle of Settlement Agreements:

As a whole the usage of settlement agreements can be very beneficial to the school district and the student and the family. Districts interviewed all indicated some usage of settlement agreements, although several districts did report that they had not used settlement agreements for several years. Nonetheless, most districts would agree that settlement agreements when used on a limited basis provide the district a mechanism to resolve conflicts prior to a due process hearing. This usage benefits the district in that the district has the ability to settle issues prior to due process hearings thereby minimizing legal costs and expediting services to students. As such, settlement agreements when used on a limited basis as a mechanism to resolve conflict are "industry standard" best practices.

The District's usage of settlement agreements:

The District's usage of settlement agreements seems to stem from a fundamental conflict in philosophy between parents and the District. Interviews with District Administrators indicate that the District believes that a Free Appropriate Public Education (FAPE) has been offered to students through the students' IEP and that a settlement agreement is required because the parent is requesting services beyond what FAPE would dictate. From the District's vantage point, it is deemed cost effective to agree to additional services and avoid legal and court costs.

Parents with settlement agreements interviewed would disagree. Parents did not believe that FAPE had been provided. Parents felt forced to sign a settlement agreement that stated the District had provided FAPE, because they felt this was the only way to ensure their child received the services the parent thought necessary. Many parents reported feeling physically ill because they felt forced to sign a document that they did not agree with but "had to sign to get their child services." Further, most parents indicated great concern that whatever services were in the settlement agreement one year would be "whittled" away during subsequent settlement agreements

As it did not appear to parents that services offered through settlement agreements were based upon assessments, parents expressed great concern over program stability for their children again feeling that services to be offered would be based upon negotiating skills not upon student needs. This concern was exasperated each year, as the parent felt no ability to challenge the services offered through due process, since "stay put" would not apply to services from the settlement agreement. As one parent put it: "I'm backed up against a wall since the services in the settlement agreement end on a certain date. I don't want my child to go without and I can't afford to pay for the services privately."

The District's usage of settlement agreements has created two significant conflicts: 1) Resentment from many parents; and 2) Disempowerment of school sites. The District's over usage of settlement agreements has led to a tremendous distrust between many parents and the District. Parents refer to the settlement agreements as "secret deals" and there is a feeling among many parents that the deal they get is inexplicitly linked, not to their child's needs, but to the parent's (and their attorney's) ability to play "Let's Make a Deal". Concern was expressed by many parents that vocal parents get better deals and that underprivileged students without the means to bring lawyers to meetings, are left under served. Whether this perceived discrepancy is valid in the district or not is not the issue here; the issue is that the manner in which settlement agreements are being utilized has created an atmosphere of distrust and resentment. "Best practices" occurs when school districts work collaboratively with parents and when parents believe that this is occurring. The bad will between many parents and the district is significant and must be addressed by the District.

Secondly the District's excessive use of settlement agreements has led to the centralization of power to resolve special education issues. Numerous teachers reported that at IEP meetings they are empowered only to recommend a small list of services offered at the school site. Most staff indicated that if a child needs anything additional they are not encouraged to offer it and they are not authorized to provide it. As such, if a parent requests any services beyond that which is obviously available at the school site, a disagreement will result over that issue during an IEP meeting. The school staff is not empowered to seek any creative solutions and instead have been directed to refer the issue and the parent to the central office. Site staff do not have the authority to resolve issues or to provide anything other than "standard" services on an IEP.

It may also be important to note that this issue, regarding the practice of turning to the central office to resolve any concerns, is not a new challenge. The issue was detailed in Frederick Weintraub's report from 2000, with a recommendation that "broader authority needs to be granted to site personnel, or additional coordinators and/or support staff will have to be provided." At that time the District employed five coordinators. "Best Practices" for providing special education services occurs when school sites take ownership of their students with disabilities and take ownership over providing them with services. This cannot occur when all conflicts are sent to the central office.

Conclusions and Recommendations:

As noted previously, the District's use of settlement agreements, including confidentiality clauses is not a question from a legal perspective. The concern arises as to the culture that has developed in creating a sense of secret deals and unequal treatment of students and families. The District needs to create a culture of much more transparency and openness in dealing with all stakeholders.

The other concern has been a centralization of the authority to resolve any issues, rather than empowering school sites to take responsibility for all students and to develop creative and innovative resolutions to issues that arise. The use of settlement agreements needs to diminish sharply, and site level staff need to be given the opportunity to resolve the majority of the issues that arise. Training in alternative dispute resolution needs to be a part of this solution.

V. COMMENDATIONS

This section contains the commendations set forth throughout the document:

1. The District is commended for undertaking this study and seeking to ensure that the special education program is compliant and quality driven.
2. The Santa Monica-Malibu Unified School District is commended for operating a full continuum of placement options for students with disabilities.
3. The District is commended for the wide distribution of programs and services in schools across the District.
4. The District is commended for their recent efforts to share professional development activities among the districts participating in the SELPA.
5. The District is commended for providing students with disabilities access to the same books and materials and curriculum as general education students.
6. The SELPA is commended for the fair distribution of special education funds to the participating LEAs.
7. The Assistant Superintendent of Business Services is commended for her understanding and knowledge regarding special education funding.
8. The District is commended for beginning to collect information on the number of students with disabilities that are being served in the District that come from

outside the District's boundaries.

9. The District is commended for minimizing the contracting out with other public and non-public entities, particularly their efforts to build internal capacity through behavior intervention services and assistive technology.
10. The District is to be commended for their high performing schools as demonstrated on the API scores, including the performance of students with disabilities.
11. The community and the City of Santa Monica are to be commended for their support of public education by providing additional resources, and as evidenced by the passage of prior parcel tax initiatives.
12. The priority that the District has placed on providing resource specialist services to students, rather than more restrictive settings is to be commended.
13. The District is commended for undertaking a compensation comparability study in the area of classified staffing.
14. The District is commended for the expansion of staff development activities that have been provided during the current school year and for conducting a needs assessment among special education staff, psychologists, preschool staff, speech and language specialists, elementary and secondary staff members.
15. The District is commended for their implementation of training for Behavior Intervention Assistants on a regular basis and for their efforts to build internal capacity with respect to assistive technology.
16. The written policies developed within the District appear comprehensive and up to date. The District is to be commended for their efforts in this area and particularly for the accessibility demonstrated by posting their policies on their website with user friendly tools which allow for a search of content areas.
17. The District is commended for their efforts that are currently underway in updating the Procedural Manual for Special Education.
18. The SEDAC is commended for publishing a Parent Handbook for Special Education.

VI. RECOMMENDATIONS

This chapter is concerned with recommendations resulting from the study. The

following recommendations are offered for the District's consideration:

1. District personnel may explore the option of initiating a preschool program in the Malibu area.
2. The District should pursue the development and implementation of curriculum content that is robust and strong enough to support the success of students with disabilities, especially for students in English Language Arts and Mathematics.
3. The District needs to expand the use of Response to Interventions (Rtl) for students showing signs of academic failure at all schools within the District. In addition the District needs to develop a comprehensive plan that will move the District toward implementation of Rtl , including professional development, policy and procedure development, with a timeline for implementation.
4. The District should ensure that there are regular meetings held with the Superintendents' Committee and the Chief Business Officials among the three districts participating in the Tri-Cities SELPA, for the purposes of maximizing the effectiveness of the SELPA.
5. District personnel should also engage in discussions with staff from the other two districts to move the three districts to a stronger collaborative role. In addition, it would be important that regular updates and review of the allocation plan take place including the provision of written documentation which details the specific distribution of funds.
6. School based personnel should continue to provide students in special day classes and resource programs with appropriate grade level text books and instructional materials, including students being served through home and hospital services.
7. Non-public school costs should be reviewed for the 2007-08 fiscal year to determine if the trend of decreasing costs is continuing for the current year consistent with the prior two years.
8. Regular meetings need to be scheduled between the business and the special education department top administrators to review income and expenditure budgets, including monitoring actual costs on an ongoing basis. Mid-year budget meetings should be held with review of income and expenditure assumptions, against actual revenue and expenditures to date.
9. Staffing levels appear higher than statewide averages in a number of staffing areas, including psychologists, special education administrators, elementary SDC

teachers, elementary RSP, and speech and language specialists. These areas should be reviewed in detail to determine if reductions and/or merging of programs is possible to reduce the general fund contribution to special education. Secondary RSP services should also be reviewed, although the staffing level is much closer to what one might expect. Specifically the District should also review all contracting out for speech and language services to determine what steps can be taken to build internal capacity for existing staff to deliver the services required.

10. The preschool program staffing levels should be examined with a consideration to offering a split shift to accommodate more students, as additional children are identified in need to services, rather than only considering adding staff.
11. The cost containment plan being developed should specifically review the information presented on staffing levels to determine if specific goals and a timeline can be developed to address each area.
12. District special education administrative staff should ensure that written material is prepared and disseminated to IEP Teams to ensure that the protocol regarding the provision of related services includes information that details related services are only provided to students when it is necessary for the student to benefit from their primary educational program and it is not feasible for the primary provider to deliver the service. Particular areas of focus in this area should be the provision of occupational therapy and adapted physical education.
13. Prospective interdistrict attendance agreements should be reviewed to determine if the transfer will result in additional costs for the District beyond that which is provided by state aid. In addition, interdistrict attendance forms should be reviewed to determine that they include specific references to E.C. Section 48204(b)(3) regarding the provisions that a transfer can be denied.
14. The budget development process for the District needs to incorporate a process whereby all existing resources are re-examined, including current student populations and staffing levels, rather than beginning the process at current levels.
15. The District may want to consider how they can present information to parents to showcase existing services and the quality of services being provided by existing staff in meeting the needs of all students.
16. The District should review their practices to ensure that full special education ADA is being captured and that the District has pursued Medi-Cal LEA billing and MAA billing opportunities as allowed by state and federal regulations.

17. The District must directly address the issue of creating a supportive environment for students with disabilities throughout the District. The attitudes of some site administrators and some general education teaching staff must be addressed, where they are not currently contributing to a welcoming and positive environment for students with disabilities. Training needs to be provided with respect to this area and special education, as well as district wide policies and procedures need to be developed in order to move forward on this agenda.
18. Special education administrators need to be trained to ensure that all staff and parents are treated with civility and respect. Special education administrators need to be held accountable for the manner in which they address other staff. Board policy needs to be reviewed in this area, and the Superintendent needs to ensure that policy provisions are fully implemented to ensure that a positive and professional working environment is established.
19. The District needs to ensure that special education is seen as an integral part of the total educational system and not as a separate entity, that has been marginalized. The infrastructure of the District needs to be inclusionary for all areas of education. One example of this concept is for site administrators to take responsibility for all students on their campuses, including students with disabilities and their educational program.
20. Merit system procedures should be examined to determine where practices can be changed to expedite the system and to ensure that qualified candidates are included within the hiring pools. The Superintendent may want to meet with members of the Personnel Commission to convey the sense of urgency in this area. In addition, the Director of the Personnel Commission should review practices from other districts and/or county offices with merit systems to determine best practices. Teachers should be involved in the interview team process in the creation of lists for the classroom assistants.
21. After a review of where additional staff is in fact needed based on the data presented within the report, and if the District continues to experience difficulty in recruiting qualified staff in some areas of special education, a review of incentives should be undertaken to determine what measures could be implemented in order to attract and retain qualified special education staff.
22. The District should conduct a thorough needs assessment covering all areas of the District to determine what staff needs are with respect to professional development. The needs assessment should also seek to identify internal expertise that staff has in particular content areas. Training for parents and classroom assistants should also be included within this process.

23. Staff development within the District should specifically address the content areas of Response to Interventions (RtI) and alternative dispute resolution (ADR).
24. Information regarding the Local Plan, policies and the Procedural Manual need to be specifically distributed to all staff, including how to access these documents, and requirements for compliance with the policies and procedures set forth within each of these areas. Training should be provided to administrators and certificated staff that have any responsibility for case management to ensure the consistent implementation of policies and procedures.
25. The use of settlement agreements with confidentiality clauses needs to be reduced dramatically. In the rare instances where a settlement agreement is utilized, there needs to be an appropriate manner established for the communication to school staff of the education services that are to be provided to the student. Information needs to be included which is pertinent to a student's services. This information should be incorporated into the student's IEP either by adding the settlement agreement as an appendix to the IEP or including the information related to the programs and/or services into the IEP document.
26. The authority to address special education issues needs to be decentralized and site level staff need to be empowered to resolve issues that arise during the course of IEP meetings. As noted previously, training on alternative dispute resolution, as well as building program capacity, would both assist in meeting this objective.
27. The District needs to create a culture of transparency and openness in dealing with all stakeholders.

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