



school choice

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## DISCUSSION & REVIEW QUESTIONS:

- Towards the beginning of the video, Mr. Olson shares with us that, "...I was born into a family that could afford private school. In California, that's the only way special needs students can be assured a good education... Because in California, and in most states, if you're a special needs student you don't have any choices. If you cannot afford a private school you are stuck in going to the public school that the government chooses for you." Considering that freedom is the most important American value, do you think that the condition of special needs students in most states not having a choice in where to go to school is un-American? Why or why not? Do you think that special needs students, or indeed all students, deserve a choice of schools that best fit their needs? Explain.
- When describing his experience with a school chosen for him by the government, Mr. Olson notes that, "All the special needs students in my district were grouped into one class. Academic ability didn't matter, interest didn't matter... it only mattered that you had a disability. Even if I were to outperform other students, say in Honors Chemistry, I couldn't take the class with them because I was blind." What are some fundamental flaws with the system that Mr. Olson describes here? Do you think that the system Mr. Olson describes here is more helpful or more harmful to students? Explain.
- Later in the video, Mr. Olson explains that, "With school choice, the money follows the student. Every child receives funding that their parents can direct to the school that best fits their needs. Public, private, charter, even homeschool- no one is stuck in a school that doesn't work for them. Twelve states already employ school choice programs for special needs students. And it works." What do you think Mr. Olson means when stating that with school choice no student is 'stuck in a school that doesn't work for them?' Considering that this program already is a proven success in twelve states, why do you think that other states are resistant or even rebellious towards adopting school choice as well?
- Later, Mr. Olson also points out that, "...instead of trying to duplicate this success [of the McKay Scholarship program], teachers unions, and the politicians in their pocket, cling to the old model- which benefits them... not students. In states like California, New York, and even Texas, they have managed to block school choice entirely." What do you think motivates teacher's unions and politicians to stick to the 'old model?' Why do you think that parents and students allow, through their votes and lack of protest, the 'old model' to remain the status quo? Do you think that the 'old model' should still be the norm, considering that it is significantly more so in the best interest of the teachers and politicians instead of the best interest of the students? Why or why not?
- Mr. Olson concludes the video by stating, "It [special needs students getting a quality education] shouldn't depend on whether you are lucky enough to be born into a family that can afford private school, or whether you are lucky enough to be born in the right district, or right state. It shouldn't depend on luck at all." What should a special needs student having access to a quality education depend on? Do you agree with Mr. Olson? Why or why not?

## EXTEND THE LEARNING:

### CASE STUDY: Special Education in California

INSTRUCTIONS: Read the article “Is your district breaking special education law?” then answer the questions that follow.

- Why are districts in California using misleading language and changing job titles? What is happening to special needs students in many of these districts? How are these changes affecting some students? When does reorganization of special education often happen? How much did Fremont Unified School District spend on a ‘consulting firm,’ and what were the firm’s recommendations? What does SAI stand for, and why are some districts using that term? Who is Jane Floethe-Ford, and what does she say about the ‘continuum of services’ for special needs students?
- What do you think is motivating the districts to take such drastic measures? Why do you think that many parents are not protesting and are not fighting to keep these measures from being implemented?
- How does this article support the points made by Mr. Olson in the video?



# QUIZ

## WHY SPECIAL NEEDS STUDENTS WANT SCHOOL CHOICE

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- 1. If you're a special-needs student in California, and in most states, what choices do you have?**
  - a. You can choose which public school you attend.
  - b. You can choose which schools are funded by the state.
  - c. You can choose special-needs class sizes.
  - d. None.
  
- 2. What happened to Jake when he attended his designated public school?**
  - a. He was ostracized by his peers for being disabled.
  - b. He was grouped into one class with all special-needs students.
  - c. He was allowed to take Honors Chemistry.
  - d. He was assigned a tutor.
  
- 3. What happened to Jake when he attended private school?**
  - a. He was able to get funding from the government.
  - b. He was given the same opportunities as any other student.
  - c. He was only allowed to enroll in classes for special-needs students.
  - d. His grades suffered because the classes were too difficult.
  
- 4. With school choice, where can parents direct the funding for their child?**
  - a. Public schools.
  - b. Private schools.
  - c. Homeschool.
  - d. All of the above.
  
- 5. Forty states already employ school choice programs for special-needs students.**
  - a. True
  - b. False



# QUIZ - ANSWER KEY

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## Volume 16 Issue 8 May 2012

# Is your district breaking special education law?

By Sherry Posnick-Goodwin



Carol Siddle with Arabella Estes

Imagine seeing programs and services for students with disabilities disappearing to save money, because the district suddenly has a “new way” of doing business.

Imagine someone arbitrarily changing a student’s IEP (Individualized Education Program) without notifying members of the IEP team.

These disturbing scenes are occurring statewide as districts are using misleading language and changing job titles to save money delivering one-size-fits-all special education programs, according to a new report available to CTA members called “Special Education in California.” In many cases, what is happening violates the state’s Education Code, say CTA staff experts.

As much as special educators want students with disabilities to be mainstreamed into regular classrooms, it must be done correctly and for the right reason. Saving money is

not the right reason.

Educators say students with disabilities are forced into general education classes because other options have been removed. Districts are changing job titles of those who work in special day class (SDC) and resource specialist program (RSP) categories, which circumvents Education Code requirements around funding requirements and caps on students. Based on administrative dictates, all IEPs look the same.

Schools are saving money, but at what cost to general and special education students?

Jennifer Moon worries that special education students in general education classes are not having their needs met. IEPs are written to fit the system, rather than having the system fit the child, she said.

“I have always believed in inclusion when it’s appropriate, but inclusion is a philosophy and not a program. It’s not good for every single kid,” said Moon, who teaches at Hidden Valley Middle School in Escondido.

“Unfortunately, students with special needs don’t know the difference. Some have just shut down. They don’t want to participate and they are embarrassed to ask for help. It’s hard enough to have disabilities; it’s a double whammy when you are being pushed beyond what you can handle.”

### **Beware of outside firms that ignore student needs**

Reorganization of special education often happens after a school district hires an outside firm to evaluate special education programs or after administrators attend conferences on cutting costs in special education. Districts experiencing this type of reorganization include San Francisco, San Bernardino, Cajon Valley, Fullerton, Sacramento, Pomona, Escondido, San Diego, Madera, Covina, Salinas, Beaumont and El Monte.

“They called it an ‘opportunity report,’” says special educator Joni Clark of a consultant’s recommendations to eliminate special education services in Fremont Unified School District. “They sugarcoat it as a great opportunity when it *really* means they will no longer offer individualized services.”

Teachers were astounded when Fremont Unified spent \$44,000 in Jobs Bill funding to hire the services of a company called School Innovations and Advocacy to review the district’s special education programs. They were even more thunderstruck at the recommendations.

“Basically, they said save money and blend your programs,” says Clark, a resource specialist and member of the Fremont Unified District Teachers Association (FUDTA). “It was a cookie-cutter approach.”

Recommendations included blending special day classes with resource classes, reducing certificated and classified staff, and removing students from special education, if

possible. The school board has not yet acted on the recommendations.

“It’s not right. It’s scary. We are pushing back,” says Clark. FUDTA has developed a special education liaison team and submitted its own recommendations to the school board and superintendent.

“We were blindsided when they did this over the summer,” says Clark. “My advice is to be aware and organize early. Be proactive. That way you will be better prepared when things hit the fan.”

Districts believe it will save them money to eliminate services and resource programs, says Stacy Begin, a special education expert with CTA’s Instruction and Professional Development (IPD) Department. A former special education teacher, she warns CTA members to be extremely wary if their district calls in a consultant to evaluate special education services.

“Teachers should attend meetings held to reveal the report and ask for a copy of the full report,” says Begin. “Often the changes being made and timelines recommended are not in the best interest of students. Some recommendations include reducing designated services like speech, adapted physical education and occupation therapy to a ‘consult-only’ model regardless of what each students needs to be successful. By law, the power to make these decisions continues to remain with the IEP team.”

What are districts substituting for service and resource programs? Something called SAI.

### **Specialized Academic Instruction was “hijacked”**

By changing the name of a special education program to Specialized Academic Instruction, districts can circumvent requirements regarding services, resources and limits on student numbers. Educators say districts “hijacked” the term to replace programs like resource specialist programs, which are more expensive.

SAI is a catch-all to describe a variety of instructional services on a student’s IEP. Districts are cutting programs, moving most special education students to general education classes and labeling it SAI — as if SAI were really a program.

The end result: General education teachers are assigned students with disabilities without receiving the proper training, a manageable class size or supports like paraprofessionals to help them succeed. Special education teachers say they can no longer recommend the best options for their students and they are seeing caseloads of more than 75 students and may have 50 students in a classroom.

Annette Wiederholt has four to six special education students in her general education algebra classes at Rosemead High School. In one class, there is only one instructional aide to assist students. Despite her best efforts, most students with disabilities are flunking algebra.



“My pacing guide doesn’t fit these students, and it’s almost inhumane to do it this way,” says the El Monte Union Educators Association (EMUEA) member. “The rigor is really too much for these kids.”

Her high school eliminated services and resource programs for students with “mild to moderate” disabilities. General education teachers were told to collaborate with special education teachers to learn strategies for teaching students with special needs, which they were glad to do. But they were not given common planning periods, so collaboration between general and special education teachers has been spotty.

“What’s happened has hurt the students and frustrated teachers,” says Winetta Belt-Vargas, a Rosemead High School special education teacher who serves on the CTA Special Education Committee. “We have 100 students with disabilities in general education settings, and we simply don’t have enough instructional aides.”

EMUEA formed a special education committee to organize around issues impacting the district. “We need input from general education and special education teachers to do what is best for students,” says Belt-Vargas.

### **Are districts circumventing the law?**

The federal Individuals with Disabilities Education Act (IDEA) requires that a local education agency provide a “full continuum” of options in the “least restrictive environment” (LRE) whenever possible to meet a student’s individual needs.

The full continuum might include inclusion or “mainstreaming” with appropriate supports in place; classes where students are in self-contained classrooms all day or just for certain subjects; resource specialist programs where students are pulled out for small-group or individualized instruction in certain subjects; or general education and special education teachers working as co-teachers.

Administrators claim they are “forced” to mainstream nearly all students with disabilities to comply with federal requirements and therefore disband other programs, but that is untrue, according to CTA experts. In many cases, districts just want to save money.

To escape the “full continuum” requirement, some districts are changing specific job titles to education specialist, the designation of an advanced credential held by special educators, as a way to “reorganize” special education. This allows placement of students with disabilities into general education classrooms without the services, support, training and additional personnel it takes to have successful inclusion, says Begin.

Changing a job title in no way justifies cutting services, she added. In this case, changing job titles increases workloads. When districts change a mandated job to “specialized academic instructor,” the limit of 28 students with special needs no longer applies. Plus, special education teachers are assigned general education students who are struggling.

The California Department of Education (CDE) Special Education Division has not

eliminated resource specialist programs and specialized classes, which are the best options for many students with disabilities. Considered part of the “full continuum” of services to be provided, the CDE told districts: “Any changes to services provided to students with IEPs must be determined by the IEP team, agreed to by the parent and documented in the IEP.”

### **Districts alter IEPs**

Educators say students with disabilities are forced into general education classes because other options have been removed from IEP paperwork. In fact, when IEP team members are asked to check the resources they believe would be best for students, the special day class (SDC) and resource specialist program (RSP) classifications have been removed from forms in many districts. Thus, they cannot choose from a “full continuum” of service as required by law, explains Barbara Schulman, a special education teacher in Saddleback Valley.

CTA research indicates districts are “directing” educators and IEP teams to change a student’s IEP.

“In some districts, IEPs are being unilaterally altered by administrators to place students in a less costly setting,” says Schulman. “This is unacceptable and, when identified, should be reported and stopped. Any changes to services must be determined by the IEP team, agreed to by the parent and documented in the IEP. The law does not provide for another individual, including district or school administrators, to overrule decisions made by the IEP team.”

The Folsom Cordova Unified School District made changes to students’ IEPs without going through the IEP process, and students were transferred to different schools without much prior notification to parents. The district made changes and special education teachers were titled “case managers” for 28 students with special needs. Plus they now have daily contact with many other students who need extra help but do not have an IEP.

Members of the Folsom Cordova Education Association filed a complaint with the state over the IEP violation and won.

“We were lucky,” says Michael Itkoff, FCEA president. “I have talked to other CTA chapters, and what happened with us was not the norm when the state conducts an investigation. Many others were not taken seriously or were outright ignored.”

### **Eliminating the “I” in IEP?**

Both teachers and parents have said they felt “blindsided” when they were informed about the “new way” their district would provide special education services.

Parents are just concerned about school districts eliminating the “continuum of services” at many sites, says Jane Floethe-Ford, education director of the nonprofit Parents Helping Parents, which provides training for families of children with special needs so they can be effectively involved in the IEP process.

A continuum of services is important because one size does not fit all, she says. “That’s why it is called an IEP, because the intent is to individualize. I understand that we are in a fiscal crisis, but the law still needs to be implemented.”

Parents concerned about the educational needs of their child can be allies to make sure special education supports are in place. CTA advises educators to encourage parents to keep good records of all communication in connection with their child, to become informed about the law and their rights, and suggests they visit websites for the U.S. Department of Education as well as the California Department of Education.

“If your classroom lacks essential support staff, let parents know that the law allows them to request services be provided to a child with a disability to help teachers work more effectively with that student,” Begin said. “Refer them to the CTA website for resources.”

### **Whistle-blowers have legal protections**

School employees who file reports concerning violations of Special Education laws are legally protected against retaliation for having done so, but they need to follow appropriate procedures to make sure their activities will be protected. CTA members who are investigated or subjected to adverse actions related to filing such reports should immediately contact CTA staff to determine how best to respond and whether CTA Legal assistance may be needed.

Last year Yolanda Rodriguez taught 32 students in a third- and fourth-grade combination class. Five of her students were fully included special education students. A general education teacher, Rodriguez received training for students with disabilities in a two-hour presentation after Pomona Unified School District collapsed services and resource programs, leaving no option but full inclusion at nine school sites.

“I had no support,” says Rodriguez, Associated Pomona Teachers. “I had a classroom aide only three hours a week and had to yell to get that. I had no planning time. Finally, I received assistance from a special education teacher for one hour per day.”

During an IEP meeting, Rodriguez told the parents of one student that she did not feel that child’s needs were being met. The principal wrote a letter of reprimand, which was later rescinded thanks to CTA.

Philip Ramos filed a complaint with the California Department of Education about his district’s new style of delivering special education services. Without even visiting Pomona, the state sided with his administration.

“How can you conduct an investigation with one phone call to administration?” asks Ramos. “It’s like calling the fox guarding the hen house and asking if the chickens are OK.”

CTA is working to change this.

Meanwhile, a Supreme Court case (*Susan Barker v. Riverside County Office of Education*), the Education Code and CTA resources protect teachers who file complaints. The Barker case provided strength to whistle-blower laws. Ed Code Section 56046 protects educators who advocate for children with disabilities. CTA advises teachers to file complaints through the local association and CTA field staff.