

COMMUNITY EDUCATION OF CHILDREN
RESIDING IN STATE HOSPITALS

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INTRODUCTION

The Departments of Developmental Services (DDS) and Mental Health (DMH) administer programs for developmentally and mentally disabled persons at 11 state hospitals. The State Department of Education (SDE) and local education agencies (county offices of education and school districts) are responsible for providing community-based education and related services to children with special needs.

Chapter 1191, Statutes of 1980 (AB 1202), clarifies the responsibility of state hospitals and local education agencies (LEAs) to educate children residing in state hospitals. The act also requires the Legislative Analyst to report to the Legislature annually for three consecutive years on (1) the implementation of the law, (2) the costs of local contracts, (3) the adequacy of education and related services, (4) the adequacy of fiscal support for education services, and (5) recommendations for legislative action. Our first report, "Community Education of State Hospital Residents," was issued in April 1981 (report #81-9). This is the second report in the series.

In this report, we discuss how the major provisions of Chapter 1191 are being implemented. Specifically, the report discusses (1) the development of "individualized education programs" for each state hospital resident, (2) the development of new LEA special education programs, (3) the placement of state hospital residents in special education, and (4) the adequacy of education services. The report also analyzes state fiscal support for the LEA programs, including the method of reimbursing LEAs, the

cost of the programs, and the adequacy of the 1982 Budget Act appropriation. Finally, the report discusses the likely effects of recent legislation on these programs.

Information used in this report was gathered through review of management and budget documents used by the Departments of Developmental Services and Education and through interviews with staff in the Departments of Developmental Services, Mental Health, and Education; state hospitals; and LEAs. We also consulted with the Organization of Area Boards on Developmental Disabilities and the State Council on Developmental Disabilities.

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SUMMARY OF FINDINGS

Chapter 1191, Statutes of 1980 (AB 1202), requires state hospitals to contract with local education agencies (county offices of education and school districts) to provide services to developmentally and mentally disabled state hospital residents under the age of 22 for whom education in a community program is appropriate. In addition, the act requires local education agencies (LEAs) to make special education services available to state hospital residents who are recommended for placement in community programs.

Chapter 1191 also requires state hospitals and representatives of LEAs to develop and review, at least annually, an individualized education program for each student residing in a state hospital.

Our major findings regarding the implementation of Chapter 1191 are summarized below.

STATUS OF PROGRAM IMPLEMENTATION

We examined the development of individualized education programs for state hospital residents, the development of new LEA special education programs, the placement of state hospital residents in special education, and the adequacy of the education services provided to these residents. We found that:

- Local education agency representatives participate in developing individualized education programs, as required by Chapter 1191. The State Department of Education has developed procedures for preparing individualized education programs (IEPs) and has reviewed preparation of the IEPs for all children residing in state hospitals.

- The number of state hospital residents enrolled in programs operated by LEAs has increased significantly. In April 1980, 385 residents were enrolled in LEA programs. Of these, 80 were served in community schools located off state hospital grounds, and 305 were served in programs located on state hospital grounds. In March 1982, 559 residents were enrolled in LEA programs. Of these, 308 were served in community schools, and 251 were served on state hospital grounds. Of the 308, 150 were being taught at schools attended by nondisabled students.
- Nearly all children residing in state hospitals are being educated in the setting indicated as most appropriate in their individualized education program. Nevertheless, in 1981-82, 51 children whose individualized education programs recommend a community education program were in fact educated in programs operated on state hospital grounds. Additionally, some children educated in community programs were placed in programs more restrictive than what was recommended by their individualized education programs.

FISCAL SUPPORT OF COMMUNITY EDUCATION PROGRAMS

In reviewing the adequacy of state fiscal support for LEA programs provided through contracts with state hospitals, we found that:

- The policies established for reimbursing LEAs for services provided to state hospital residents generally assure that LEAs are fully reimbursed for the costs they incur in providing these services. This reimbursement method, however, in some cases

covers LEA costs in part by diverting resources away from education programs operated by state hospitals. The staff reductions that have resulted from these funding diversions are not fully offset by workload reductions in several state hospitals. This practice of diverting resources away from hospital-operated programs violates legislative intent expressed in Chapter 1191.

- The cost of the contracts between state hospitals and LEAs in 1981-82 was approximately \$7.19 million. These costs consisted of education and related service costs (\$3.56 million), support service costs (\$2.34 million), the cost of LEA participation in the individualized education program review process (\$363,000), and transportation costs (\$923,000). These costs were covered by an appropriation made by the Budget Act of 1981 (\$4.60 million), state hospital in-kind services (\$2.28 million), and federal compensatory education funds (\$306,000).
- The average cost per pupil of providing these services was \$11,186, including \$4,191 per pupil for support services (classroom costs, materials, and administrative overhead). Costs varied considerably between counties, ranging from \$9,119 in Sonoma County to \$13,322 in Orange County. Much of this variation is explained by variations among counties in the cost of support services.
- The Budget Act of 1982 provides \$4,480,000 for cash payments to LEAs in 1982-83. This amount, plus available state hospital in-kind services, will make a total of \$6,761,000 available for funding state hospital contracts with LEAs in 1982-83. We

estimate that the cost of continuing 1981-82 services in 1982-83 will be \$6,502,000, if there is no enrollment growth and no loss of purchasing power due to inflation. The proposed appropriation, therefore, will be sufficient if contract costs do not increase during the current year by more than 4 percent. Our analysis indicates that enrollment growth in 1982-83 is likely to be small.

EFFECT OF CHAPTER 1201, STATUTES OF 1982

Chapter 1201, Statutes of 1982 (SB 1345), was enacted on September 22, 1982. This act will affect LEA programs serving state hospital residents in three ways:

- The act requires that state hospital in-kind services cover at least 10 percent of contract costs. Costs in excess of 10 percent, however, can only be covered by in-kind services if mutually agreed to by the parties to a contract. This provision may reduce in-kind contributions and, hence, increase the cash cost of contracts. These costs are not supported with increased appropriations.
- The act prohibits the state from contracting with private schools to provide services to state hospital residents, unless appropriate services are not available from local public schools. This provision may limit the state's ability to reduce the cost of services by contracting with lower-cost private schools instead of with local public schools.
- The act requires LEAs to transfer students who would be appropriately served in community schools from LEA programs on

state hospital grounds to community schools by 1983-84. This provision may increase the number of students served in community schools and also may result in increased costs to the state.

In sum, Chapter 1201 may result in increased costs to the state for providing community education services to state hospital residents.

CHAPTER I
BACKGROUND

FEDERAL REQUIREMENTS

The federal Education for All Handicapped Children Act of 1975 (Public Law 94-142) requires states to provide free and appropriate special education and related services¹ to children under the age of 22 who need such services. Public Law (PL) 94-142 also requires that individualized education programs (IEPs) be developed for each student and be reviewed and updated at least annually. In addition, the law requires that each student be educated in the "least restrictive" setting.

In February 1979, the Office of Civil Rights of the U.S. Department of Health, Education, and Welfare notified the California Department of Developmental Services that the department's education programs in two state hospitals for the developmentally disabled violated PL 94-142 and directed the state to submit a plan of correction. Specifically, the Office of Civil Rights found that (1) education programs in Camarillo and Stockton State Hospitals violated state Education Code standards for class size, length of school day, and teacher credentialing; (2) the two hospitals had not developed IEPs based on the unique needs of each state hospital resident; and (3) many state hospital residents who could have benefited from special education and related services provided by the local public schools were receiving instruction in inappropriate settings.

1. Related services include speech therapy, physical therapy, or other services necessary for a student to benefit from special education.

PROVISIONS OF CHAPTER 1191, STATUTES OF 1980 (ASSEMBLY BILL 1202)

At the time of the Office of Civil Rights' findings, state law did not explicitly address state and local responsibilities for providing special education and related services to children residing in state hospitals. In response to the federal findings and other concerns about the quality of special education programs in state hospitals, the Legislature enacted Ch 1191/80 (AB 1202). Chapter 1191, which became effective September 29, 1980, assigns specific responsibilities to state hospitals and local education agencies (LEAs) for providing special education and related services to state hospital residents.

Legislative Intent

Chapter 1191 expresses legislative intent that state hospital residents be granted the same access to education programs as students residing in the community and that a full range of educational programs be available to those children. The act directs that these services may not be provided in such a way as to reduce or limit access to education programs for state hospital residents over the age of 22.

Individualized Education Programs

Chapter 1191 requires that an individualized education program be developed for each state hospital resident by an interdisciplinary team consisting of an LEA representative, a teacher, the student's parent or guardian, and, where appropriate, the student. It also requires the interdisciplinary team to determine the appropriate educational placement for each resident. Under the act, the State Department of Education must review the criteria used by interdisciplinary teams in determining appropriate placements.

Provision of and Reimbursement for Education Services

Chapter 1191 requires that (1) county offices of education or other LEAs assure that appropriate special education and related services are available to eligible state hospital residents best served by LEA programs and (2) the Departments of Developmental Services (DDS) and Mental Health (DMH) contract with LEAs such as counties, school districts, or private nonsectarian schools to secure the required services.

The act requires DDS and DMH to reimburse LEAs for the cost of services provided to hospital residents, according to guidelines developed by the State Department of Education (SDE) and DDS. The act further allows DDS and DMH to meet their contractual obligations in part by providing in-kind services, such as staff, classroom space, and equipment, in lieu of cash payments to LEAs.

Funding

Chapter 1191 appropriated \$926,000 to DDS to fund the state hospitals' contracts with LEAs covering the provision of services to those children being educated in LEA programs for the first time in 1980-81. In addition, Chapter 1191 authorized the transfer of \$2,600,000 from county offices of education to DDS to cover the cost of services provided to those pupils who were being educated in LEA programs in 1979-80 and who would continue to be educated in LEA programs in 1980-81. Finally, Chapter 1191 appropriated \$750,000 for acquisition or renovation of classroom space. Funding in subsequent years is to be provided from appropriations made in the annual Budget Act.

Chapter 1201, Statutes of 1982

Chapter 1201, Statutes of 1982, which became effective on September 22, 1982, changed state policy regarding the provision and funding of special

education for state hospital residents. Because Ch 1201/82 was not in effect during 1981-82, this report necessarily is limited to an examination of the program as it operated under Ch 1191/80. Chapter IV of this report summarizes the provisions of Ch 1201/82 and discusses its likely effects on the education of state hospital residents.

PROFILE OF CHILDREN RESIDING IN STATE HOSPITALS

Of the 13,500 individuals residing in the state's 11 state hospitals in 1981-82, approximately 2,700 are under the age of 22 and, hence, are eligible for special education services under PL 94-142. Approximately 350 of these children are mentally disabled and 2,350 are developmentally disabled.

Mentally Disabled Children

The Department of Mental Health operates treatment programs for children and adolescents at Napa and Camarillo State Hospitals. These two programs serve approximately 300 clients. In addition, approximately 50 mentally disabled clients between the ages of 18 and 22 reside in adult treatment programs at Atascadero, Metropolitan, and Patton State Hospitals.

Developmentally Disabled Children

Most of the 2,350 developmentally disabled children residing in state hospitals are adolescents--fewer than 200 are under the age of 12. The children reside in all eight hospitals operated by DDS and receive treatment in a wide variety of programs. Most of the children reside in one of the following programs:

1. Autism. Located at Napa and Camarillo, these programs serve clients with autism, a condition characterized by delays in development of speech and language and ritualistic, assaultive, and self-abusive behavior.

2. Behavior Adjustment. Located at all eight hospitals, these programs serve moderately and severely retarded clients with aggressive, self-abusive, and otherwise maladaptive behavior.

3. Child Development. Located at Agnews, Lanterman, Porterville, and Sonoma Hospitals, these programs serve severely and profoundly retarded children and adolescents.

4. Continuing Medical Care. These programs are operated at Agnews, Fairview, Lanterman, and Sonoma Hospitals. They serve profoundly retarded clients who are medically fragile or who otherwise require continuous skilled nursing care.

5. Sensory Development. These programs are located at Camarillo, Lanterman, Napa, Porterville, and Sonoma Hospitals. They serve severely and profoundly retarded clients who are deaf, blind, or have other sensory disabilities.

CHAPTER II

STATUS OF PROGRAM IMPLEMENTATION

Chapter 1191 became effective September 29, 1980 at the beginning of the regular 1980-81 school year. The Departments of Education, Mental Health, and Developmental Services spent much of the first year preparing for implementation of the program. Specifically, during 1980-81, these departments negotiated an interagency agreement governing the administration of Chapter 1191, developed a contract format and guidelines for reimbursing local education agencies (LEAs), and began developing and reviewing state hospital residents' individual education programs. Although LEAs provided some of the services specified in Chapter 1191 under contracts with state hospitals during 1980-81, 1981-82 was the first full year in which the program called for by the act was implemented.

In this chapter, we report on how Chapter 1191 is being implemented. Specifically, we discuss (1) the development of individual education programs for state hospital residents, (2) the development of new LEA special education programs and the placement of state hospital residents, and (3) the adequacy of education services.

DEVELOPMENT OF INDIVIDUALIZED EDUCATION PROGRAMS

Prior to the enactment of Chapter 1191, a large number of children residing in state hospitals did not have an adequate individualized education program, as defined in federal law. Furthermore, representatives of LEAs did not participate in the development or review of individualized education programs, except in those cases where the student was already placed in an LEA program or was being considered for such a placement.

Since the enactment of Chapter 1191, LEA representatives have participated in the development and review of individualized education programs for all state hospital residents. LEA participation in this process is provided for in contracts between the LEAs and the state hospitals. At most state hospitals, a full-time employee of the LEA is involved in the process.

As a result of Chapter 1191's implementation, all children residing at state hospitals other than those recently admitted have had an individualized education program prepared by an interdisciplinary team at the hospital.

SPECIAL EDUCATION PROGRAMS AND PLACEMENT OF CHILDREN

Instructional Settings

Three educational settings are available to state hospital residents recommended for placement in LEA programs pursuant to Chapter 1191--Designated Instruction and Services (DIS), Resource Specialist Programs (RSP), and Special Day Classes (SDC). Table 1 describes these settings and provides information on the average class size, the type of instruction and supervision provided, and the degree of interaction with nondisabled students, for each setting.

Table 1

EDUCATIONAL SETTINGS FOR STATE HOSPITAL RESIDENTS

<u>Program</u>	<u>Educational Setting</u>	<u>Description</u>	<u>Instruction and Supervision</u>	<u>Class Size</u>	<u>Interaction with Nondisabled Students</u>
1. Designated Instruction and Services (DIS)	Regular classroom located in community school	Special services provided on a "pull-out" basis from regular class instruction. Services may include language/speech assessment, mobility instruction, physical therapy, and counseling.	Regular education teacher plus a special education teacher.	20 to 28 students	Considerable interaction in regular classroom.
2. Resource Specialist Program (RSP)	Regular classroom located in community school	Combined special and regular education program.	Regular education teacher plus a special education teacher. Instructional aides in some settings.	20 to 28 students	Considerable interaction in regular classroom.
3. Special Day Class					
a. School Site	Special classroom located in community school	Special education instruction only.	Special education teacher with assistance from instructional aides.	10 students or fewer	Limited interaction during noninstructional periods (recess, assemblies).
b. Special Education Center	Classroom located on state hospital grounds or on special school sites	Special education instruction only. Both community and state hospital students receive educational services.	Special education teacher with assistance from instructional aides.	10 students or fewer	No interaction with nondisabled students. Considerable interaction with disabled students residing in the community.
c. State Hospital	Classroom located in state hospital residential unit	Highly structured special education instruction only.	Special education teacher with assistance from instructional aides. Medical supervision may be required for some students.	10 students or fewer	No interaction with nondisabled students. Some interaction with disabled students residing in the community.

Students receiving RSP and DIS services generally have less severe disabilities than students in SDC programs. Consequently, RSP and DIS classes are larger than SDC classes and have less instructional and medical supervision. Three types of special day classes are available to state hospital residents. These classes differ in terms of the degree to which they educate students in the "least restrictive environment." SDC programs offered on hospital grounds and in special education centers provide no opportunity for disabled students to interact with nondisabled students, while SDC programs on a regular school site allow for such interaction. In some schools, regular students act as noninstructional aides in SDC programs, thereby increasing the interaction between disabled and non-disabled students.

Placement of Children

The number of state hospital residents enrolled in special education programs operated by LEAs has increased significantly since the enactment of Chapter 1191. Table 2 shows that in April 1980, prior to the enactment of Chapter 1191, 385, or 12 percent, of the 3,205 state hospital residents under the age of 22 were enrolled in LEA programs. By March 1982, the number of children enrolled in LEA programs had increased to 559, or 21 percent, of the 2,683 children residing in state hospitals.

Table 2

Enrollment of State Hospital Residents

	<u>April 1980</u>	<u>December 1980</u>	<u>December 1981</u>	<u>March 1982</u>
A. Number of State Hospital Residents Under Age 22	3,205	3,090	2,683	2,683
B. Enrolled in State Hospital-Operated Programs				
Number	2,820	2,626	2,183	2,124
Percent	88.0%	85.0%	81.4%	79.2%
C. Enrolled in LEA Programs				
Number	385	464	500	559
Percent	12.0%	15.0%	18.6%	20.8%
D. LEA Program Location				
1. On State Hospital Grounds				
Number	305	365	269	251
Percent	9.5%	11.8%	10.0%	9.4%
2. Off State Hospital Grounds				
Number	80	99	231	308
Percent	2.5%	3.2%	8.6%	11.5%
a. Special School Sites				
Number	N/A	N/A	N/A	158
Percent	N/A	N/A	N/A	5.9%
b. Regular School Sites				
Number	N/A	N/A	N/A	150
Percent	N/A	N/A	N/A	5.6%

Not only has the number of children educated in LEA programs increased, but the proportion of children educated in classrooms located off of state hospital grounds has increased as well. In April 1980, 80 pupils, or 2.5 percent of the residents, were educated in LEA programs located off of state hospital grounds. By March 1982, this number had increased to 308, or nearly 12 percent, of the residents. Of the latter group, 158 were receiving services at school sites serving only disabled students. The remaining 150, representing 5.6 percent of the children residing in state hospitals, were receiving services at regular school sites, along with nondisabled students.

The proportion of state hospital residents who are being educated in LEA programs varies considerably among different hospitals. Table 3 identifies, for each hospital, the number of hospital residents under age 22 who are enrolled in LEA programs. The table shows that 3 of the 11 hospitals--Atascadero, Metropolitan, and Patton--have not referred any of the 48 children residing in their facilities to LEA programs. It also shows that while Lanterman State Hospital has referred 9.9 percent of its clients to LEA programs, all of these pupils are served on state hospital grounds. At the remaining 7 hospitals, the proportion of children referred to LEA programs operated away from state hospital grounds ranges from 2.2 percent at Porterville to 74 percent at Stockton. Of the 308 state hospital residents who are enrolled in community schools off of state hospital grounds, nearly one-half (47 percent) reside at Stockton State Hospital and are enrolled in education programs operated by San Joaquin County and the Stockton Unified School District.

Table 3

Estimated Average Enrollment in LEA Education Programs
By Hospital/County
1981-82

State Hospital/ County	Residents Under Age 22	Enrolled in LEA Programs		Classroom Location			
				On State Hospital Grounds		Off State Hospital Grounds	
		Number	Percent	Number	Percent	Number	Percent
Stockton/San Joaquin	197	145	73.6%	--	--	145	73.6%
Sonoma/Sonoma	360	140	38.9	92	25.6	48	13.3
Napa/Napa	291	89	30.6	69	23.7	20	6.9
Fairview/Orange	448	60	13.4	--	--	60	13.4
Camarillo/Ventura	265	36	13.6	29	10.9	7	3.7
Lanterman/Los Angeles	483	48	9.9	48	9.9	--	--
Agnews/Santa Clara	233	20	8.6	--	--	20	8.6
Porterville/ Tulare	358	21	5.9	13	3.6	8	2.2
Metropolitan/ Los Angeles	6	--	--	--	--	--	--
Patton/San Bernardino	7	--	--	--	--	--	--
Atascadero/San Luis Obispo	35	--	--	--	--	--	--
Totals	2,683	559	20.8%	251	9.4%	308	11.5%

Although the number of referrals to LEA special education programs has increased since the enactment of Chapter 1191, fewer referrals have been made than were initially anticipated. In July 1981, DDS estimated that an average of 819 state hospital residents would be enrolled in LEA programs during 1981-82. The 1981-82 contracts between DDS and LEAs assumed that an average of 644 students would be enrolled in LEA programs. Actual average enrollment, however, was 559.

Contract Negotiations

Contract negotiations between LEAs and state hospitals covering the provision of special education services to state hospital residents in 1981-82 were protracted and resulted in significant program delays. For example, on April 1, 1982, six of the eight counties contracting with the state pursuant to Chapter 1191 were providing services without having a signed contract for the 1981-82 school year. At that time, the contract between Ventura County and Camarillo State Hospital calling for the provision of services to residents of the hospital had been signed by all parties, including the Departments of Finance and General Services. Meanwhile, the contract between Sonoma County and Sonoma State Hospital had been signed by all parties except the Department of General Services. The contracts between the remaining six hospitals and the counties in which they are located were awaiting approval of the county boards of education and, in one case, the Department of Developmental Services.

Three factors delayed the signing of these contracts: (1) determining the amount of local support services costs to be reimbursed by the state proved to be time-consuming, (2) DDS and the school districts could not agree to procedures for providing cash advances, and (3) it was difficult in many cases to determine the value of in-kind services provided by state hospitals to LEAs. Representatives of county education offices indicated to us that in some cases, delays in negotiating and processing contracts and in receiving cash advances reduced the willingness of counties to commit resources to the development of new services for state hospital residents.

ADEQUACY OF EDUCATION SERVICES

No consensus exists regarding what constitutes high-quality special education services and appropriate settings for providing those services. The process for developing individualized education programs recognizes that professional judgments alone are not sufficient, by themselves, to determine what education services should be provided to children with special needs. These judgments must be supplemented by subjective judgments on the part of parents, teachers, and (where possible) the students themselves.

Because we lack the technical expertise and resources needed to conduct intensive research on the quality of education services provided to state hospital residents pursuant to Chapter 1191, we have not attempted to address this issue directly. We have, however, examined two dimensions of the educational services provided to state hospital residents that are closely related to educational quality: (1) the extent to which the actual placements in special education programs are congruent with the placements recommended in students' individualized education programs and (2) the extent to which students are being educated at schools attended by non-disabled students. We selected these two dimensions because both federal and state law emphasize the importance of the individualized education program process and the placement of developmentally disabled children in "least restrictive" and "normalizing" education settings.

Appropriateness of Education Placements

The majority of children residing in state hospitals have received education services in the setting indicated as most appropriate by their individualized education programs.

Our review indicates that some children, however, are receiving services in inappropriate settings. On December 31, 1981, for example, 51 state hospital residents whose individualized education programs indicated that they could benefit from special education services provided in a community program off hospital grounds were being educated on hospital grounds. These students comprised 1.9 percent of the children residing in state hospitals in 1981-82. In addition, DDS staff have informed us that some state hospital residents have been educated in overly restrictive settings in programs operated by LEAs. Specifically, they maintain that some students have been educated by county staff in special education centers, even though their IEPs indicated that placement in less restrictive special day classes would have been more appropriate.

As noted earlier, the proportion of students who are being placed in education programs located off state hospital grounds varies considerably among state hospitals. Stockton State Hospital has placed the highest proportion of students--197, or 74 percent--in community programs located off of hospital grounds. In contrast, Lanterman State Hospital has placed none of its 483 students in community schools. Most of this difference is explained by the fact that many more residents of Stockton State Hospital were referred to community programs by the individualized education program process than were residents at other state hospitals. The fact that such variation exists and that few children are placed in settings other than those indicated by the individualized education programs indicates to us that representatives of state hospitals, LEAs, and parents throughout the state differ considerably in their opinions regarding what constitutes the most appropriate educational setting for developmentally disabled children.

Extent of Integration With Nondisabled Students

Few of the children residing in state hospitals are receiving services at schools attended by nondisabled students. Of the 559 children residing in state hospitals and enrolled in LEA programs in 1981-82, 251 attended classes off state hospital grounds, 150 attended special day classes at regular school sites, and the remaining 158 children attended special day classes at special school sites attended only by disabled students. Some of these sites, however, are adjacent to regular school sites.

It is difficult to make an assessment, based on this data, of the extent to which state hospitals have maximized opportunities for disabled students to attend school with nondisabled students. While the absolute number of children attending special day classes at regular school sites is small, the number of children who could be served approximately in such a setting may not be much larger than the number actually enrolled. In addition, there is considerable disagreement among educators and parents regarding which disabled students appropriately are served in special day classes or other classroom settings.

CHAPTER III

FISCAL SUPPORT OF COMMUNITY EDUCATION PROGRAMS

REIMBURSEMENT PROCEDURES

The Department of Developmental Services established a policy of reimbursing LEAs for 60 percent of the actual costs they incur in providing education and related services, representatives for interdisciplinary teams, and support services (classroom space, instructional materials, and administrative overhead). The remaining 40 percent of LEA program costs is supported by in-kind services provided by each state hospital. In-kind services include the provision of teachers, instructional aides, therapists, facilities, supplies, administrative support, and food preparation. Both the cash payments and in-kind services are supported by annual Budget Act appropriations to the DDS.

LEAs in three counties maintain that the value of in-kind services provided by Fairview, Napa, and Sonoma State Hospitals has been substantially less than 40 percent of contract costs. As a result, these hospitals are required to make supplemental cash payments to the LEAs so that each hospital's total contribution (in-kind services plus cash) equal 40 percent of the cost incurred by LEAs pursuant to their contract with the hospital. Because state hospitals are not budgeted to make these payments, they have had to redirect funds away from other programs. Generally, they have done so by holding teaching positions in their own education programs vacant. These staffing reductions, however, have not been offset by workload reductions resulting from the enrollment of state hospital residents in LEA programs.

In sum, the existing contracting and reimbursement procedures generally assure that LEAs are fully reimbursed for the actual cost they incur in providing education services to state hospital residents. Those state hospitals required to make supplementary payments to LEAs, however, support LEA services in part by diverting resources away from the education programs they operate. The primary effect of these diversions is to increase class sizes and student-teacher ratios in state hospital education programs serving residents who remain in state hospital education programs or who are not eligible for special education services under PL 94-142.

These practices violate Education Code Section 56850, which expresses legislative intent that education services provided in the community should not be provided at the expense of education services for those state hospital residents that are not eligible for services under PL 94-142.

COST OF LOCAL EDUCATION AGENCY PROGRAMS

A portion of the cost of education and related services provided by LEAs, "support services" (primarily classroom space and administrative overhead), and LEA representation in the IEP process in 1981-82 was covered entirely by appropriations made to the Department of Developmental Services in the 1981 Budget Act. Transportation costs were supported in part by surplus federal Elementary and Secondary Education Act (ESEA) Title I (compensatory education) funds and in part by 1981 Budget Act appropriations. In 1982-83, all four cost components are being supported by appropriations made in the 1982 Budget Act.

Table 4 displays our estimate of the cost of LEA programs in 1981-82. We estimate that the cost of education and related services was

approximately \$3.56 million, the cost of support services was \$2.34 million, the cost of IEP representation was \$363,000, and the cost of transportation was \$923,000, for a total cost of approximately \$7,191,000.

Table 4
Estimated Cost of Community Education Services
1981-82

<u>State Hospital/ County</u>	<u>Education and Related Services</u>	<u>Support Services</u>	<u>IEP Represent- ation</u>	<u>Transportation</u>	<u>Totals</u>
Agnews/Santa Clara	\$112,080	\$87,710	\$42,000	\$46,500	\$288,290
Camarillo/Ventura	250,570	154,780	30,514	18,090	453,954
Fairview/Orange	409,700	320,630	69,018	213,954	1,013,302
Lanterman/Los Angeles	279,280	195,500	66,910	41,056	582,746
Napa/Napa	712,626	391,944	35,733	28,290	1,168,593
Porterville/Tulare	122,890	96,170	29,622	22,966	271,648
Sonoma/Sonoma	798,254	439,040	39,422	197,120	1,473,836
Stockton/San Joaquin	876,250	657,190	35,000	355,127	1,923,567
Other State Hospitals	--	--	15,000	--	15,000
Totals	\$3,561,650	\$2,342,964	\$363,219	\$923,103	\$7,190,936

Table 5 shows the sources of funding for these services. The cost of education and related services, support services, and IEP representation were supported by 1981 Budget Act appropriations for the contracts (\$3,987,000) and for in-kind support from state hospitals (\$2,281,000). Transportation costs in 1981-82 consisted primarily of one-time expenditures for the acquisition of buses and equipment and training for drivers. These costs were supported by ESEA Title I funds (\$306,000) and General Fund appropriations (\$617,000) made by the 1981 Budget Act.

Table 5
Funding Sources for Community Education Services
1981-82

Budget Act of 1981	\$4,604,042 ^a
In-kind services	2,280,791
ESEA Title I	<u>306,103</u>
 Total	 \$7,190,936

a. This is the current estimate of the costs funded from the Budget Act appropriation. The total appropriation was \$4,766,000.

The cost of services provided under Chapter 1191 varied considerably among LEAs. Table 6 shows contract cost per pupil, support services cost per pupil, and support services cost as a proportion of total contract cost, for each contract. The contract cost per pupil varied from \$9,119 (Sonoma) to \$13,322 (Fairview/Orange), a variation of 46 percent. Much of this variation is attributable to variations in the average cost of support services, which ranged from \$3,136 (Sonoma) to \$5,344 (Fairview/Orange), a variation of 70 percent. We note, however, that while the average total cost of San Joaquin County's contract was lower than all other counties except Sonoma, its support services costs were relatively high, exceeded only by Orange and Tulare Counties.

Table 6

Variation in Costs of LEA Programs
1981-82

<u>State Hospital/ County</u>	<u>Contract Costs^a</u>	<u>Estimated Average Number of Pupils</u>	<u>Contract Cost Per Pupil</u>	<u>Support Services Cost Per Pupil</u>	<u>Support Services As a Percent of Total Cost</u>
Fairview/Orange	\$799,348	60	\$13,322	\$5,344	40.1%
Napa/Napa	1,140,303	89	12,812	4,404	34.4
Camarillo/ Ventura	435,864	36	12,107	4,299	35.5
Angews/Santa Clara	241,790	20	12,090	4,386	36.3
Porterville/ Tulare	248,682	21	11,842	4,580	38.7
Lanterman/Los Angeles	541,690	48	11,285	4,073	36.1
Stockton/San Joaquin	1,568,440	145	10,817	4,532	41.9
Sonoma/Sonoma	<u>1,276,716</u>	<u>140</u>	<u>9,119</u>	<u>3,136</u>	<u>34.4</u>
Totals	\$6,252,833	559	\$11,186	\$4,191	37.5%

a. Excludes transportation costs.

ADEQUACY OF 1982 BUDGET ACT APPROPRIATION

The Budget Act of 1982 appropriates \$4,480,000 from the General Fund to the state hospitals for cash payments to LEAs in 1982-83. This is a decrease of \$286,000, or 6 percent, below the 1981-82 appropriation and a decrease of \$124,000, or 2.7 percent, below estimated 1981-82 expenditures. The 1982-83 appropriation is equal to the 1981-82 appropriation, less one-time transportation expenditures (\$286,000). The budget assumes that there

will be no enrollment growth in LEA programs between 1981-82 and 1982-83, and provides no additional funds to offset the effect of inflation on the purchasing power of the 1981-82 funding level.

If the value of in-kind services provided by the state hospitals does not change in 1982-83, a total of \$6,761,000 will be available for LEA services in 1982-83 (\$4,480,000 Budget Act appropriation plus \$2,281,000 in state hospital in-kind services). The amount needed to continue prior-year services in 1982-83 is \$6,502,000, assuming no enrollment growth, deletion of one-time expenditures for transportation, and no cost-of-living adjustment. The 1982-83 appropriation, therefore, will be adequate to fund contracts in the current year, if the cost of the contracts does not increase by more than \$259,000 (\$6,761,000 - \$6,502,000), or 4 percent, on account of enrollment growth, inflation, or other factors.

Because the program is relatively new, it is difficult to predict precisely what the cost of services will be in 1982-83. These costs will be determined by actual enrollment in LEA programs and by the actual cost of instruction, support, IEP representation, and transportation. Our analysis indicates, however, that enrollment growth in 1982-83 is not likely to be large. This is because the total number of children residing in state hospitals and eligible for special education under PL 94-142 is declining steadily.

Two factors are contributing to the decline in the number of children residing in state hospitals. First, a significant number of the students will attain age 22 in 1982-83 and no longer will be eligible for services under PL 94-142. Second, based on recent enrollment trends, the number of children discharged from the state hospitals will most likely

exceed the number admitted. This is true especially for those higher-functioning clients who are most likely to be referred to community education programs by the IEP process.

CHAPTER IV

EFFECT OF CHAPTER 1201, STATUTES OF 1982

Chapter 1201, Statutes of 1982 (SB 1345), became effective on September 22, 1982. This act makes numerous changes in the provision and funding of services available under the Master Plan for Special Education. Several of these changes will affect services provided to children residing in state hospitals. Specifically, the act (1) establishes a new method of reimbursing LEAs, (2) restricts the state's flexibility in selecting contractors for services, and (3) requires the phase-out of LEA programs operated on state hospital grounds. A detailed discussion of each of these provisions follows.

CHANGES IN REIMBURSEMENT OF LOCAL EDUCATION AGENCIES

Chapter 1201 changes provisions of existing law governing the payment of cash advances to LEAs and procedures used to identify the proportion of program cost to be covered by in-kind services provided by state hospitals to LEAs. Under prior law, DDS was permitted to make cash advances to LEAs for up to 90 days, based on a per-diem rate. Chapter 1201 instead requires monthly cash advances to LEAs based on actual expenditures and enrollment in the prior year.

Prior law was silent regarding the proportion of LEA program costs that must be covered by state hospital in-kind services. Chapter 1201, however, requires that at least 10 percent of contract costs be covered by in-kind services. Amounts in excess of 10 percent must be mutually agreed to by the contracting parties. In 1981-82, 32 percent of contract costs

were covered by in-kind services. Under Chapter 1201, if one of the parties to a contract refuses to agree to in-kind services exceeding 10 percent of the contract costs, these costs increasingly will have to be covered by cash payments from DDS and state hospitals to LEAs. The act, however, does not appropriate additional funds to DDS to cover increased cash payments that may result from this provision.

RESTRICTIONS IN CONTRACT FLEXIBILITY

Under prior law, state hospitals are permitted to contract with public or private schools for education services. Chapter 1201 restricts the contracting process by prohibiting state hospital from contracting with private schools unless appropriate services are not available from public schools.

While this provision has no direct cost, it may prevent the state from reducing the cost of services to state hospital residents in the future. Under Chapter 1201, the state may no longer accept bids from private schools to provide education services that are lower than the bids received from public schools, unless the latter are unable to provide the appropriate services.

TRANSFER OF STUDENTS TO COMMUNITY SCHOOLS

Chapter 1201 requires that commencing in 1982-83, LEAs operating special education programs on state hospital grounds must transfer students to community schools if appropriate. These transfers must be completed by the beginning of the 1983-84 school year. In 1981-82, LEAs operated programs on the grounds of Sonoma, Napa, Camarillo, Lanterman, and Porterville State Hospitals. These programs served 251 students, or 9.4 percent, of the children residing in state hospitals and 45 percent of the state hospital residents served by LEAs.

If a significant number of students are transferred to community schools as a result of this provision, the cost to the state of providing services might increase. This is because the increased enrollment in community schools might require the acquisition and operation of new classroom facilities in place of existing classrooms located on state hospital grounds.

CONCLUSION

In sum, Chapter 1201 may result in increased state costs for community education services to state hospital residents. The state would incur additional costs to the extent the act (1) results in greater reliance on cash payments, instead of in-kind services, for reimbursing LEAs, (2) reduces the state's options for contracting with lower-cost private schools, and (3) results in community schools having to acquire additional classroom space due to an increase in the number of community placements. These space costs would not be offset by reduced state hospital expenditures.