

SPECIAL EDUCATION PROGRAMS FOR
CHILDREN LIVING IN FOSTER FAMILY HOMES AND LICENSED
CHILDREN'S INSTITUTIONS

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INTRODUCTION

Children in California who need residential care outside the home of their parents are sometimes placed in foster family homes or licensed children's institutions (LCIs). These children, ranging in age from infancy to 18 years, are sent to these facilities for a variety of reasons including parental neglect or abuse, delinquency, mental retardation, behavior problems, learning difficulties and emotional disturbances. In some cases, parents transfer custody of their child to the courts because they are unable to cope with the child's problems. These children receive shelter and board from a foster family home or an LCI.

A foster family home is a family residence which provides care for no more than six children. An LCI is defined as either (1) a family residence that provides care for seven to twelve children or (2) a residential facility that provides care for children in a group. In 1981-82, there were 21,940 children in foster family homes and 6,360 children in LCIs. Of these 28,300 children, 8,713 (31 percent) were enrolled in special education programs operated by public schools.

Chapter 1201, Statutes of 1982 (SB 1345), requires the Legislative Analyst to review the funding of special education programs for children who live in foster family homes and LCIs and make recommendations to the Legislature regarding the restructuring or continuation of the current funding mechanism.

In order to comply with the provisions of Ch 1201, we reviewed the structure and the operational impact of the current funding formula on local education agencies (LEAs) in California. (Local education agencies include both school districts and county offices of education.) We also

met with LEA and State Department of Education (SDE) officials to discuss the theoretical and operational soundness of the current funding mechanism.

Our review sought to develop answers to three questions:

- Is the current funding mechanism theoretically sound?
- Is the current funding mechanism operationally sound?
- Are there ways in which the funding scheme could be improved?

EXECUTIVE SUMMARY

The current funding structure for special education programs serving foster family/LCI children appears to accomplish its intended purpose of reducing disparities in the financial burdens borne by individual LEAs that would otherwise result from the uneven distribution of these children among districts.

Despite the basic soundness of the funding structure, our review identified two problems that tend to reduce program effectiveness:

1. The State Department of Education (SDE) does not require districts and county offices of education to utilize fully their existing special education classes before authorizing additional state-funded instructional units to serve students from foster family homes and licensed children's institutions. Chapter 1094, Statutes of 1981 (SB 769), authorizes LEAs to receive additional state-funded instructional units only if (1) the existing special education classes are filled to certain specified levels, and (2) the new classes will also be filled to certain levels. (An instructional unit is a funding concept which represents one special education class.) The SDE, however, has administratively determined that the Ch 1094/81 requirements do not apply in cases where LEAs are seeking additional instructional units to serve students from foster family homes and LCIs. The act itself, however, does not exempt LEAs from these requirements under such circumstances.

As a result of the SDE's decision, LEAs are eligible to receive additional state funds to support new foster family/LCI instructional units, even though their existing programs could accommodate the new

students. Moreover, some of the new foster family/LCI units have a significantly lower average class size than comparable special education classes serving non-foster family/LCI students. We can find no programmatic justification for this disparity.

Because the 1983 Budget Act provided no funds for growth in special education programs, these provisions currently are moot. The measure, however, did authorize LEAs to designate additional classes as foster family/LCI units provided an equal number of regular special education classes are dropped. This provision, in combination with the lack of a requirement that LEAs fully utilize existing classes, results in a larger share of special education funds being allocated to LEAs which add foster family/LCI units, relative to those which do not do so. This, in turn, lead to an uneven distribution of special education funds among all LEAs which cannot be justified on a programmatic basis. Moreover, should the 1984 Budget Act provide funds for special education growth, the continued existence of underutilized classes would result in an unjustified increase in total state support for special education.

2. Financial incentives encourage growth in nonpublic school placements, even when appropriate services for foster family/LCI children are available at a lower cost in public school programs. Both the 1982 and 1983 Budget Acts (1) provided for full funding of special education programs serving foster family/LCI children, even if total LEA entitlements to state reimbursement exceeded the total amount of funds available for these entitlements and (2) "froze" the number of state-funded instructional units except for those added to serve students from nonpublic schools. These provisions appear to create an incentive for LEAs to place foster

family/LCI children in nonpublic schools, even when less-costly programs are available. Data on recent changes in the distribution of special education enrollment show the effect of this incentive. Between 1981-82 and 1982-83, nonpublic school placements of foster family/LCI children increased by 5.4 percent while nonpublic school placements of other children decreased by 22 percent. Because the 1983 Budget Act continued the policies established for the prior year, we expect that this trend will continue.

To address these problems, we recommend that:

1. Before authorizing additional state-funded instructional units for an LEA to accommodate students from foster family homes and LCIs, the Department of Education (1) require the LEA to achieve in its existing units the average class sizes specified in Ch 1094/81 and (2) ensure that the new units will meet the comparable class size standards that Ch 1094/81 establishes for special education programs generally.

This would result in a more rational and effective allocation of state funds in support of the special education program.

2. The Department of Education, as part of its study of foster family/LCI placements, collect and report the following information to the appropriate fiscal committees of the Legislature by March 1984:

- Data on foster family/LCI enrollment in public school special education programs for 1982-83 and 1983-84.
- Data on foster family/LCI enrollment in nonpublic schools in 1982-83 and 1983-84.

- Data on nonpublic school placement procedures for students from foster family/LCI placements.

These data will aid the Legislature in (1) developing a long-term policy on state support for growth in these programs and (2) evaluating the need for changes in the financial incentives with regard to nonpublic school placements.

CHAPTER I

SPECIAL EDUCATION SERVICES FOR CHILDREN PLACED IN RESIDENTIAL SETTINGS

Some children require residential care outside of their own homes for a variety of reasons. For example, they may suffer from a handicap such as mental retardation or severe emotional disturbance or they may be abused or neglected by their parents. In some cases, the children are juvenile delinquents beyond the control of the parents. In this chapter, we discuss the two types of residential settings for such children recognized by the Education Code and the special education services available to them. We also present our findings on the enrollment of foster family/LCI children in special education programs operated by school districts and county offices of education.

TYPES OF RESIDENTIAL SETTINGS

Section 56155.5 of the Education Code recognizes two types of placement options for children requiring protection and care outside of the home. These options involve placement in: (1) foster family homes and (2) licensed children's institutions (LCIs).

Foster Family Homes. The Education Code defines a foster family home as a family residence in which care is provided for six or fewer children, other than members of the licensee's family. The Department of Social Services reports the number of children placed in this type of setting under the title "foster care home."

Licensed Children's Institutions. The Education Code defines two types of licensed children's institutions:

1. "Large family homes"--family residences licensed to provide care and supervision for seven to twelve children, other than members of the licensee's family.

2. "Group homes"--residential homes of any capacity that provide services in a group setting to children who need care and supervision.

The Department of Social Services (DSS) combines the number of children placed in these two settings and reports it under the single category of "group homes." Thus, the Education Code's definition of an LCI corresponds to the definition of a "group home" as used by the DSS.

As shown in Table 1, approximately 28,000 children are cared for in foster family homes and LCIs, with 77 percent to 78 percent of the total residing in foster family homes in recent years.

Table 1

Children Residing in Foster Family Homes
and Licensed Children's Institutions for Selected Years

	<u>Actual 1981-82</u>	<u>Estimated 1982-83</u>	<u>Estimated 1983-84</u>
Foster family homes (foster care homes)	21,940	21,648	21,678
Licensed children's institutions (group homes)	<u>6,360</u>	<u>6,497</u>	<u>6,522</u>
Totals	28,300	28,145	28,200

SPECIAL EDUCATION SERVICES

For many years the state has provided special education programs for those children who, because of mental or physical disabilities, are not adequately or appropriately served by regular school programs. Currently, special education programs serve approximately 363,000 students with learning and/or physical disabilities, through four instructional settings:

- Designated Instruction and Services (DIS)--an instructional setting that provides special services such as speech therapy, guidance, and counseling to students in conjunction with their regular classes.
- Resource Specialist Program (RSP)--a program that utilizes school-based personnel to help integrate special education students into regular education programs when appropriate.
- Special Class or Center (SC)--a classroom or facility designed to meet the needs of severely handicapped students who cannot be served in regular education programs.
- Nonpublic Schools (NPS)--schools serving special education students whose needs cannot be met in public school settings.

FUNDING FOR SPECIAL EDUCATION

In 1982-83, the cost of special education services provided to children in California was \$1.2 billion. Approximately \$750 million, or 60 percent of the total, came from state sources. The estimated total cost of special education programs serving foster family/LCI children in 1982-83 was \$33 million.

To obtain state reimbursement for special education programs, local education agencies (LEAs) must stay within the following enrollment limits:

- The number of pupils served in special education programs (both public and nonpublic) may not exceed 10 percent of total enrollment in grades K-12.
- No more than 2.8 percent of the K-12 enrollment may be served in special classes and centers (SC).
- No more than 4.0 percent of the K-12 enrollment may be served by resource specialist programs (RSP).
- No more than 4.2 percent of the K-12 enrollment may be served in designated instruction and services (DIS).

Although special education providers are allowed to exceed these enrollment levels, the state will not reimburse their costs (with exceptions noted below) unless the Superintendent of Public Instruction grants a waiver.

School districts and county offices of education receive support for their special education programs based on the number of classes they offer. The classes administered by the public schools, which are referred to in the Education Code as "instructional personnel service units," are divided into three instructional settings, each of which provides different educational services.

The LEAs are expected to maintain certain average class sizes under their special education programs as follows:

- 10 pupils for special classes (SC).
- 24 pupils for resource specialist programs (RSP).
- 24 pupils for designated instruction and services (DIS).

The law requires that these averages be achieved if the district is applying for additional state-funded instructional units.

In addition to reimbursing each of the LEAs for a portion of the costs they incur in the three public school instructional settings, the state pays for 70 percent of the LEAs' costs of contracting with nonpublic, nonsectarian schools for services to handicapped children. Under certain conditions, the state will pay 100 percent of a student's tuition in a nonpublic school setting. For example, the state will pay the full cost when a child is placed in a district other than the district of residence or when a child's parents do not retain legal responsibility for the child.

For the 1982-83 and 1983-84 school years, LEAs were not allowed to increase the number of public school instructional units for which state reimbursement was claimed above the corresponding number for 1981-82. This "freeze" was imposed in order to control state costs for special education programs. It did not apply, however, to reimbursements for nonpublic school placements.

There are two exceptions to the limit on public school units: (1) units may be transferred between LEAs with the approval of the Superintendent of Public Instruction and (2) units may be added to accommodate students who previously were served in nonpublic schools, provided there is no net increase in state costs. The latter situation (no net increase in state cost) arises where the district's state entitlement

is equal to or less than the tuition paid to the nonpublic school by the state in the preceding year. The district will also benefit from transferring a student to a public school program if the marginal cost of providing services to a child in the program is less than the additional state aid received. This is the reason why many students previously served in nonpublic schools have returned to public school programs.

ENROLLMENT

The Department of Education combines enrollment (headcount) data on foster family home and LCI children in public school special education programs. It does not undertake a separate count of the children in each category because it has no administrative need for the more detailed information. The department also collects data on the number of foster family home and LCI children in nonpublic schools, but only on an average daily attendance (ADA) basis--not on an enrollment basis. Enrollment refers to the number of students registered to attend a particular program while ADA refers to the actual attendance of the enrolled students. On average, total K-12 ADA statewide falls short of enrollment by approximately 3 percent because of unexcused absences.

Table 2 shows that in 1981-82, 8,713 children who lived in foster family homes or LCIs were enrolled in public school special education programs. This amounts to 31 percent of the children who resided in foster family and LCI settings during that year. In addition, the department reports that in 1981-82, foster family/LCI children accounted for 714.51 ADA units in nonpublic schools.

Table 2

Children Residing in Foster Family/LCI Settings
Enrolled in Public School Special Education Programs
for Selected Years^a

<u>Foster Family/LCI Children</u>	<u>1980-81</u>	<u>1981-82</u>	<u>1982-83</u>
1. Number of children in:			
A. Foster family homes (foster care homes)	21,940	21,648	21,678
B. Licensed children's institutions (group homes)	<u>6,360</u>	<u>6,497</u>	<u>6,522</u>
Totals	28,300	28,145	28,200
2. Number enrolled in public school special education programs	8,024	8,713	Unknown ^b
3. Percentage enrolled in public school special education programs	29.0%	30.8%	Unknown ^b

a. See text for comment on nonpublic school enrollments.

b. The Department of Education determined that, because of the unit freeze, this data did not have to be collected in 1982-83.

While we were preparing this report, the Department of Education initiated a federally-supported study of foster family homes and licensed children's institutions. The department has set aside \$30,000 to complete the one-year study. The researcher is expected to survey a sample of foster family homes and LCIs and report on the following:

- The roles, responsibilities, and pupil placement procedures of these institutions.
- The types of children placed in foster family homes and LCIs and the individuals representing them (i.e., parent, surrogate, or other persons).

- The costs of providing educational and related services to these children in the public schools and the problems encountered in securing these services.

The report also is expected to discuss alternative methods for providing an appropriate education for these children. Preliminary data from this study should be available by March 1984.

CHAPTER II

FUNDING MECHANISM FOR SPECIAL EDUCATION PROGRAMS SERVING FOSTER FAMILY/LCI CHILDREN

In this chapter, we discuss the impact which a foster family home or an LCI may have on a special education program operated by a school district or county office of education. We also examine the provisions of the Education Code that seek to equalize the financial burden associated with serving special education students from these institutions and the Department of Education's interpretation of these laws.

RATIONALE FOR SEPARATE FUNDING PROVISIONS

Two considerations account for the state's willingness to assume a greater share of the costs incurred by LEAs in providing special education to students residing in foster family/LCI settings. First, the distribution of California's foster family/LCI population is uneven. Second, there is a relatively higher incidence of disabilities requiring special education services among foster family/LCI children.

Uneven Distribution. In order to determine the distribution of foster care/LCI children within the state, we compared the number of public school special education children from foster family/LCI living situations in each county to the public school population in the county. Table 3 shows the distribution, by county, of foster family/LCI children being served in public school special education programs during the 1981-82 school year. (Data for 1982-83 were not collected by the Department of Education because of the "freeze" on instructional units.)

The first column in Table 3 shows the total public school population for each county, the second column shows the number of foster family/LCI children enrolled in public school special education programs, and the third column shows the number of foster family/LCI students enrolled in special education per 10,000 students. Table 3 shows that:

- Per 10,000 public school student enrollment, foster family/LCI special education enrollments ranged from 0 to 133.8, with an average of 21.5. Mendocino County had the largest enrollment per 10,000 students while 14 counties that enroll a total of 153,686 students reported no foster family/LCI public school special education students in 1981-82.
- Enrollments of foster family/LCI children per 10,000 public school students were relatively higher in rural areas than in urban areas. For example, enrollments in the counties of Mendocino (133.8), Butte (83.9), Napa (78.7), Santa Barbara (62.6), Marin (57.4), and Santa Cruz (52.4) were high, whereas enrollments in San Mateo (1.4), Alameda (14.4), San Francisco (17.8), Santa Clara (13.8), and Los Angeles (14.9) were relatively low.

Table 3

Distribution of Foster Family/LCI Students Enrolled in Public School Special Education Programs in 1981-82, By County

<u>County</u>	<u>Public School Student Enrollment</u>	<u>Foster Family/LCI Special Education Student Enrollment</u>	<u>Foster Family/LCI Special Education Students Per 10,000 Student Enrollment</u>
Alameda	172,681	249	14.4
Butte	22,774	191	83.9
Calaveras	13,495	36	26.7
Contra Costa	118,476	253	21.4
El Dorado	17,119	6	3.5
Fresno	104,254	121	11.6
Kern	82,859	76	9.2
Lassen	4,498	12	26.7
Los Angeles	1,216,222	1,817	14.9
Madera	16,129	53	32.9
Marin	29,466	169	57.4
Mendocino	13,454	180	133.8
Merced	29,503	7	2.4
Modoc	2,133	10	46.9
Napa	14,610	115	78.7
Orange	343,352	479	14.0
Placer	33,040	130	39.3
Riverside	129,812	586	45.1
Sacramento	139,426	391	28.0
San Bernardino	171,911	756	44.0
San Diego	308,401	1,060	34.4
San Francisco	58,432	104	17.8
San Joaquin	67,484	230	34.1
San Luis Obispo	22,309	33	14.8
San Mateo	80,311	11	1.4
Santa Barbara	45,875	287	62.6
Santa Clara	231,374	319	13.8
Santa Cruz	34,335	180	52.4
Shasta	23,161	110	47.5
Siskiyou	8,224	6	7.3
Solano	45,398	107	23.6
Sonoma	50,070	186	37.1
Stanislaus	52,819	33	6.2
Tulare	55,262	206	37.3
Ventura	112,865	126	11.7
Yolo	17,856	40	22.4
Yuba	10,164	38	37.4
Subtotal	3,899,554	8,713	22.3
Counties with no reported foster family/LCI children ^a	153,686	0	0
State Totals	4,053,240	8,713	21.5

a. The following 14 counties reported no foster family/LCI students in public school special education programs in the 1981-82 school year: Colusa, Glenn, Humboldt, Imperial, Inyo, Kings, Lake, Mono, Monterey, Plumas, Sierra, Sutter, Tehama and Trinity. In addition, the following seven counties operate programs in cooperative agreements with other counties and, therefore, are also not listed in this table: Alpine, Amador, Del Norte, Mariposa, Nevada, San Benito, and Tuolumne.

Need for Special Education Services. As shown earlier in Table 2, 31 percent of the children who resided in foster family/LCI settings during 1981-82 were enrolled in public school special education programs. This is 3.5 times more than the percentage of the K-12 school population identified as being in need of and receiving special education services (4.6 percent). In addition, an unknown number of foster family/LCI children were enrolled in nonpublic schools. Since both of these factors are beyond the control of an individual LEA, a larger state share of program costs is warranted.

STATUTORY PROVISIONS FAVORING FOSTER FAMILY/LCI PROGRAMS

As noted earlier, neither the 1982 nor the 1983 Budget Acts contained any funds to provide for growth in public school special education programs. Chapter 1201, Statutes of 1982 (SB 1345), however, recognized some of the unique problems faced by those LEAs which serve a greater-than-average number of students from foster family homes and LCIs. In recognition of these special circumstances, the Legislature in Ch 1201/82 exempted foster family/LCI units from three provisions of the Education Code that apply to special education programs generally.

First, students who reside in LCIs or foster family homes and are served by an LEA's special education program--including nonpublic school placements--are not counted for the purpose of determining an LEA's service proportions. In other words, these students do not count toward the 10 percent enrollment cap which applies to each LEA's state-funded special education program. Nor do they count toward the subcaps for the three instructional settings--special classes, resource specialist programs, and designated instruction and services.

Second, instructional units which were granted to serve the foster family/LCI students are fully funded, even when there is a funding deficit in the overall special education program. Thus, when the total amount of funds available for special education is not sufficient to cover total entitlements statewide, the deficit is prorated among all special education claims other than those associated with foster family/LCI students which are funded in full.

Finally, Ch 1201/82 provided for 100 percent state funding of nonpublic school placements if (1) a court or other public agency places the child in a foster family home or LCI in a district other than the child's district of residence or (2) the parents do not retain legal responsibility for the child. In most other cases, the cost for nonpublic school placements is divided between the state and the district, with the state paying 70 percent of the excess costs of tuition and the district paying the remaining 30 percent.

Thus, while any growth in foster family/LCI enrollments must be accommodated within the total enrollment restrictions imposed by the "freeze," the exceptions granted by Ch 1201/82 provided LEAs some flexibility in accommodating additional enrollments of these students. For example, if a district operates 10 special classes instructional units, it may, under the limitations imposed by the 1983 Budget Act, convert one or more of these units to a foster family/LCI unit to serve foster family/LCI students. If the district exercises this option, it receives a larger share of state funds than other providers in the event of a statewide funding deficit. This is because the foster family/LCI units are fully funded before the deficit is prorated among the other instructional units.

In 1983-84, however, the district may not increase the net number of state-funded instructional units to accommodate an influx of foster family/LCI students because of the overall freeze imposed by the 1983 Budget Act. Consequently, in our example, the district would continue to operate 10 units. It is important to note that these calculations are made for purposes of determining state entitlements only and are not intended to result in a programmatic distinction between foster family/LCI students and the rest of the special education population.

ADMINISTRATIVE PROVISIONS FAVORING FOSTER FAMILY/LCI PROGRAMS

As noted earlier, existing law (Ch 1094/81) requires LEAs to meet certain class size standards in order to qualify for additional state-funded instructional units. This requirement is intended to limit the state's financial obligation toward special education programs. To be eligible for additional state funding, each LEA must pass two tests designed to assure maximum utilization of special education classes.

First, the LEA's existing classes must have the following average enrollments:

- Special Classes--9 students.
- Resource Specialist Programs--22 students.
- Designated Instruction and Services--22 students.

As a result, a school district or county office cannot receive state funding to support additional special education classes until its existing classes are fully utilized.

Second, the new classes must also be enrolled to specified average levels. These levels are as follows:

- Special Classes--6 students.
- Resource Specialist Programs--16 students.
- Designated Instruction and Services--16 students.

Together, these tests ensure that the limited funds available to the special education program are allocated to LEAs which have a genuine need for additional instructional units.

The State Department of Education (SDE) has decided not to apply these tests to those LEAs seeking additional instructional units to serve students from foster family homes and LCIs. This policy is not specifically authorized in the Education Code. The consequences of the department's decision are discussed in the next chapter.

In sum, the state recognizes the unique situation created by the uneven distribution of foster family/LCI children with greater needs for special education services, and has excluded these children from: (1) the overall enrollment cap (the 10 percent limitation on number of students served), and the educational setting subcaps, (2) the deficit provisions, and (3) the required local effort (30 percent cost share) for nonpublic school placement. While these provisions seek to equalize the financial burden associated with the uneven distribution of foster family/LCI children in the state, they also create a financial incentive for districts to place these children in costly, nonpublic school settings--even when they could be served appropriately in public school settings. In addition, the Department of Education has made the administrative decision not to apply the Ch 1094/81 requirements to LEAs seeking instructional units to serve students from foster family homes and LCIs. These issues are discussed at greater length in the next chapter.

CHAPTER III

EVALUATION OF THE FUNDING MECHANISM

Our review of the special education funding structure for foster family/LCI children revealed no major problems with the basic system. Foster family/LCI children have the same program options and program support available to them as other students. In addition, the state has acted to equalize the financial burden among LEAs that results from the uneven distribution of foster family/LCI children. Thus, we found the current funding system to be basically sound.

We did, however, identify two problems with the current funding system that tend to reduce program effectiveness.

1. The Department of Education fails to ensure that special education classes are fully utilized before approving additional instructional units requested to serve students from foster family homes and LCIs.

2. The fiscal incentives built into the current system encourage the placement of students from foster family homes and LCIs in nonpublic schools, even when appropriate services are available to these students in public school programs at less cost.

UTILIZATION OF SPECIAL EDUCATION CLASSES

As noted above, neither the 1982 nor the 1983 Budget Acts provided any funds for an increase in the size of California's special education program. Both measures, however, did allow LEAs to add classes to serve students previously placed in nonpublic schools.

Our review indicates that in approving additional units to serve students from foster family homes and LCIs, SDE does not require that existing units be fully utilized. The department's policy authorizes additional state-funded instructional units to accommodate the foster family/LCI students even when there is space available within the LEA's existing program. We can find no legal or programmatic justification for this policy.

All students who are deemed in need of special education services, including those who reside in foster family homes and LCIs, should be served in the appropriate educational setting. In most cases, foster family/LCI students can be served in the district's existing special education program. Where the district's existing classes are "full," additional instructional units will be needed to accommodate an increase in the number of these students. In those cases, however, where a district operates a special education program with average class sizes below the levels specified in Ch 1094/81 (SC--9 students, RSP--22 students, and DIS--22 students), new students from foster family homes and LCIs can and should be educated along with the district's other special education students. Additional instructional units should not be authorized for state funding until the existing classes are filled to the appropriate averages.

By permitting additional state-funded instructional units in cases where special education classes will not be fully utilized, the department is not utilizing funds available for special education in an effective manner. In fact, our review identified one LEA that applied for and received funding for an instructional unit to serve only one LCI student.

In other cases, we found that districts had received funding to support LCI instructional units in which there were, on average, six students in each class for the three instructional settings, combined.

Because the department does not apply the Ch 1094/81 tests to determine eligibility for additional foster family/LCI units, the funds available to the special education program are not allocated in an effective manner. Districts that could accommodate additional foster family/LCI students within their existing programs receive increased support, thus reducing the amount of funding available for other districts' special education programs.

In some cases, the department's failure to apply the Ch 1094/81 tests may have undesirable programmatic effects, as well. Specifically, foster family/LCI students may be segregated from other special education students because special, exempt instructional units have been provided to serve them. We can find no compelling programmatic reason for segregating students in this manner.

NONPUBLIC SCHOOL PLACEMENTS

As noted earlier, the 1982 Budget Act allows an increase in public school instructional units if the increase results from the return of students previously attending a nonpublic school to a public school program. This provision was intended to give LEAs an incentive to reduce nonpublic school placements. By reducing nonpublic school placements, the LEA avoids its share (30 percent) of the excess cost of tuition, while increasing the number of units eligible for state support.

The provision of Ch 1201/82 which exempts foster family/LCI children from the cost-sharing requirement, however, tends to work at cross purposes by creating an incentive for LEAs to place these students in nonpublic schools. Because the state reimburses LEAs for the full cost of tuition for these students, there is both a programmatic and a fiscal incentive favoring nonpublic schools placements. First, by directing foster family/LCI students to nonpublic schools, districts can avoid crowding their existing special education classes. Second, for foster family/LCI children, districts avoid the 30 percent excess cost-sharing requirement imposed for other nonpublic school placements.

Statistics on average daily attendance for 1982-83 reflect the consequences of these incentives. Table 4 shows that the nonpublic school average daily attendance (ADA) of students other than those from foster family/LCI settings declined by 22 percent between 1981-82 and 1982-83, while foster family/LCI nonpublic school ADA increased by 5.4 percent.

Table 4

Special Education
Nonpublic School Average Daily Attendance (ADA)
for 1981-82 and 1982-83

	<u>1981-82</u>	<u>1982-83</u>	<u>Change</u>	
			<u>Number</u>	<u>Percent</u>
Non-foster family/LCI	4,360.08	3,401.94	-958.14	-22.0%
Foster family/LCI (100 percent) ^a	<u>714.51</u>	<u>752.88</u>	<u>38.37</u>	<u>5.4%</u>
Totals	5,074.59	4,154.82	919.77	-18.1%

a. Foster family/LCI counts are for ADA reimbursed at 100 percent of tuition costs.

Because the 1983 Budget Act continued the policies established during the prior year, we expect there to be a further decrease in nonpublic school ADA, but an increase in foster family/LCI nonpublic school ADA during 1983-84. However, we believe that an additional year of data is needed to corroborate our analysis of the current incentive effects. If the data for 1983-84 indicates a continued increase in the placement of foster family/LCI students into nonpublic schools, the Legislature may wish to consider requiring LEAs to contribute some portion of the tuition for foster family/LCI students attending nonpublic schools as a means of moderating the incentive effects.

CHAPTER IV

CONCLUSIONS AND RECOMMENDATIONS

Based on our review, we conclude that the funding structure for special education programs serving children in foster family/LCI settings is generally sound. The same range of programs is available to both foster family/LCI children and non-foster family/LCI children. Furthermore, the Legislature has sought to compensate for the uneven distribution of foster family/LCI children with special needs by assigning to the state a greater share of program costs attributable to these children.

Despite the basic soundness of the funding structure, our review identified two problems that tend to reduce program effectiveness. First, we found that the Department of Education does not require that special education classes be fully utilized before authorizing additional state-funded instructional units to serve students from foster family homes and LCIs. As a result, some local education agencies (LEAs) receive increased state funding for their special education programs, even though their existing classes may be underutilized and therefore able to accommodate additional students. Moreover, because the new foster family/LCI units are not required to meet certain minimum class size averages, the new classes may be significantly smaller than the LEA's other special education classes or comparable classes administered by other LEAs. This results in an uneven distribution of special education funds among all LEAs that cannot be justified on a programmatic basis.

Second, we found that current law appears to have created an incentive for LEAs to send more foster family/LCI children to nonpublic school programs, even though appropriate services may be available for these children in public school programs at a lower cost.

The Department of Education has initiated a federally-supported study of foster family homes and LCIs. The study will examine the roles, responsibilities, and placement procedures of these residential institutions and the types of children who reside there. The report is also expected to determine the costs of providing educational services to foster family/LCI children and the impediments to securing these services. Finally, the report will offer alternative means of meeting the educational needs of these children. Preliminary data from this study should be available by March 1984.

Based on our review, we recommend that:

1. The Department of Education, before authorizing additional state-funded instructional units for an LEA to accommodate students from foster family homes and LCIs, (1) require the LEA to achieve in its existing units the average class sizes specified in Ch 1094/81 and (2) ensure that the new units will meet the comparable class size standards established by Ch 1094/81 for special education programs generally.

2. The Department of Education, as part of its study of foster family/LCI placements, collect and report the following information to the appropriate fiscal committees of the Legislature by March 1984:

- Data on foster family/LCI enrollment in public school special education programs for 1982-83 and 1983-84.
- Data on foster family/LCI enrollment in nonpublic schools in 1982-83 and 1983-84.
- Data on nonpublic school placement procedures for students from foster family/LCI placements.

Application of the Ch 1094/81 average class size tests for both foster family/LCI instructional units and regular special education instructional units will help to ensure the most effective use of state dollars available for these programs. The requested data will aid the Legislature in (1) developing a long-term policy on state support for growth in these programs and (2) evaluating the need for changes in the financial incentives with regard to nonpublic school placements.

Finally, we have not recommended specific action to remedy what appears to be a fiscal incentive to place foster family/LCI children in nonpublic schools. We believe that additional data should be collected and analyzed before legislation is adopted which would change the current funding provisions. If data from 1983-84 supports the analysis presented in this report, a cost sharing arrangement may be warranted to moderate the incentives to place these students in nonpublic schools.