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An Analysis of Court School Cost Pressures

LEGISLATIVE ANALYST'S OFFICE



EXECUTIVE SUMMARY

In 2010-11, several County Offices of Education (COEs) reported difficulties balancing their court school budgets. Partly due to the concerns they raised, the *Supplemental Report of the 2010-11 Budget Act* directed our office to (1) assess whether county court schools have access to an appropriate array of categorical funds and (2) compare court school funding with funding rates for other alternative programs. Given the limited statewide data available to answer these questions, we sent a court school funding survey to all COEs in the state. Of the state's 58 COEs, roughly half (30) completed the survey.

Our review indicates that COEs, which allot funding to county court schools, generally have access to an appropriate array of categorical funds. Although access to categorical funds does not appear to be a problem, we did find two cost pressures that could explain why some COEs are having difficulty balancing their court school budgets. Specifically, class size issues are likely to be adversely affecting some court school budgets. This is because county probation departments can require smaller classes for safety reasons without having to bear any of the associated higher costs. Additionally, court schools tend to have high special education needs yet can lack the leverage to negotiate higher special education pass throughs. While the state's options for affecting these local decisions are limited, the state could consider establishing some cost-sharing between county court schools and county probation departments. It also could examine if providing supplemental funding for court schools from within the state's existing special education appropriation is warranted. Lastly, if the state were willing to undertake broader alternative education reform, it could consider redistributing certain existing supplemental longer school day funding in a manner that spread it more evenly among all programs serving mandatorily expelled or incarcerated students.

INTRODUCTION

During legislative testimony in 2010-11, several COEs reported difficulties balancing their court school budgets. Due in part to the concerns they raised, the Legislature made COEs, on behalf of their court schools, eligible to receive Economic Impact Aid funding—one of the state's largest categorical programs for which COEs were previously ineligible to participate. In a related action, the *Supplemental Report of the 2010-11 Budget Act* directed our office to (1) assess whether county court schools have access to an appropriate array of categorical funds and (2) compare court school funding with funding rates for other alternative education settings. Given the limited statewide data available to answer these questions, we sent a court school funding survey to all COEs in the state. Of the state's 58 COEs, roughly half (30) completed the survey. In this report, we provide some background on California's alternative education programs, discuss categorical funding issues affecting court schools, highlight various other cost pressures facing court schools, and compare alternative education funding rates.

BACKGROUND

While the vast majority of California's students are served in traditional public schools, some at-risk students with extra educational, social, and emotional needs are served in "alternative" settings. These alternative settings are meant to give students facing unique challenges the environment, curriculum, and support systems needed to achieve their academic potential. In some cases, these students face relatively minor educational challenges, such as being behind in school and needing to recover course credits to graduate. In other cases, the challenges are quite significant. For example, court schools are responsible for educating students in the criminal justice system who are either awaiting trial or sentenced for certain types of crimes.

California Has Five Alternative Education Settings Serving Specific Student Populations. As shown in Figure 1, the alternative education system is designed to create a continuum of placements and services that match the severity of students' needs. Given these differences in students' needs, each alternative education setting is governed by unique requirements. Continuation high schools, for example, generally provide students who are behind in their coursework and at risk of not graduating with opportunities to recover course credits. By comparison, county community schools and community day schools primarily serve students who have been expelled from their

Figure 1

Five Alternative Education Settings

Programs	Eligible Operators	Minimum Day (Hours)	Grades Served	Student Placement Criteria
Continuation High School	Districts	3	10-12	1. Volunteer 2. Habitually truant or irregular attendance 3. Suspended or expelled
Community Day School	Districts and COEs	6	K-12	1. Expelled 2. Referred by the School Attendance Review Board (SARB) 3. Probation referred
Community School	COEs	4	K-12	1. Volunteer 2. Expelled 3. Referred by a SARB 4. Probation referred 5. On probation 6. Homeless
Juvenile Court School	COEs	4	K-12	1. Mandatorily expelled 2. Awaiting trial 3. Serving a prison sentence for certain crimes
Division of Juvenile Justice	State	4	Ages 12-25	1. Serving a prison sentence for a more serious crime

COEs = County Offices of Education.

traditional schools for offenses such as bringing a firearm or narcotics to school. Finally, court schools and the Division of Juvenile Justice (DJJ) serve students directly involved in the criminal justice system. Whereas court schools are run by COEs and serve students awaiting trial or sentenced for non-violent crimes, DJJ provides education for students already sentenced for violent crimes. Figure 2 shows average daily attendance (ADA) in each of the five settings. The majority of the state's alternative education students are served in continuation high schools, with much smaller populations served in other settings.

Alternative Education Funding Model Similar for COEs and School Districts, But COE Rates Higher. The state provides funding for alternative education via (1) revenue limits (general purpose funding provided per ADA), (2) restricted categorical programs (funding designed to achieve specific educational purposes and allocated based on certain associated rules), and (3) “flexed” categorical programs (previously restricted funding associated

with roughly 40 programs that, as of 2008-09, can now be used for any educational purpose). Generally, COE revenue limit rates are higher than school district rates (roughly \$9,000 per ADA compared to \$5,000 per ADA) because the students served by COEs are more at-risk and therefore require additional services. Categorical funding is allotted to COEs for alternative education students just as it is for school districts—if a student is eligible to participate in a given categorical program, the COE may apply to the state to receive that categorical program funding. Some of the state's largest restricted categorical programs include special education, Economic Impact Aid, and after school programs. For flexed categorical programs, COEs, as school districts, receive whatever amount they were receiving for each of the flexed programs as of 2008-09 (or 2007-08 for some participation-based programs). Flexed programs include professional development, instructional materials, supplemental instruction, and Regional Occupational Centers and Programs (ROC/P).

Figure 2

Average Daily Attendance (ADA) Differs Significantly by Setting

Setting	ADA
Continuation High Schools	57,185
Community Day Schools	
District-run	7,643
COE-run	2,141
Community Schools	
Mandatorily Expelled Students	16,315
Other Students	6,502
Juvenile Court Schools	13,405
Division of Juvenile Justice	739
Total	103,930

COE = County Office of Education.

CATEGORICAL FUNDING IN COURT SCHOOLS

In this section, we (1) assess whether COEs have access to an appropriate array of categorical funds and (2) examine whether categorical flexibility has helped or hurt court school budgets.

Analysis Suggests Court Schools Have Access to Appropriate Array of Categorical Funds. As shown in Figure 3, of the state’s restricted categorical programs, court schools have access to all but three of them. Of the three programs for which COEs are ineligible, none is a good fit for court schools. Most significantly, COEs do not receive funding for K-3 class-size reduction because they serve few students who are that young. Our research also suggests that COEs had access to the majority of the 40 flexed programs in 2007-08 (prior to the state removing the associated program requirements). In short, COEs, on behalf of their court schools (and other alternative schools), appear to be able to access an appropriate array of categorical funds.

Figure 3 County Offices of Education Able to Access Most Categorical Funding	
Programs	Allotted to Counties
Categorical Flex Item^a	Yes
Stand-Alone Categorical Programs:^b	
After School	Yes
Apprentice Programs	Yes
Child Nutrition	Yes
Economic Impact Aid (EIA) ^c	Yes
Foster Youth Programs	Yes
Home-to-School Transportation	Yes
Special Education	Yes
Student Assessments	Yes
Agricultural Vocational Education	Yes
K-3 Class Size Reduction	No
Partnership Academies	No
Year-Round Schools	No
^a Includes approximately 40 categorical programs for which funding may be used for any educational purpose. ^b Does not include programs that: do not apply to K-12 students (adults in correctional facilities); are only allotted to a single agency or vendor (County Office Oversight–FCMAT and K-12 Internet Access); apply only to charter schools (Charter School EIA, Charter School Block Grant, and Charter School Facility Grants); or certain low-performing schools (Quality Education Investment Act). ^c Now includes English Learner Assistance Program (ELAP) funds. Funding is only allotted to court schools at the county level.	

Categorical Flexibility Has Not Had Notable Impact on Court Schools. Theoretically, one might be concerned that categorical flexibility would result in flex funds being shifted away from court schools (presumably to help mitigate reductions to COEs’ administration/technical support budget or ROC/Ps, another big program which many COEs administer directly). To the extent such redirections were occurring, any potential court school budget shortfalls might be exacerbated. This concern, however, appears to be unsubstantiated. Based upon our survey responses, most COEs report not redirecting flex funds away from court schools. On the other hand, most COEs also report not shifting flex funds (most notably, ROC/P funds) to court schools. That is, most COEs report intense internal pressure to continue using flex funds that previously went to court schools for court schools (while continuing to use now flexible ROC/P funds for ROC/P purposes).

BUDGET CHALLENGES FOR COURT SCHOOLS

Our survey results suggest that inadequate access to categorical funds is not the primary reason court schools are reporting budget shortfalls. Based upon our survey responses, other court school budget pressures appear to be much more significant factors in explaining why some COEs are having difficulty balancing their court school budgets. Though the supplemental report language did not task us with exploring issues other than categorical funding, we think court school budgets cannot be fully understood without addressing these other issues. In particular, at the local level, two major decisions that directly impact court school budgets are largely beyond the court school's control—decisions about class sizes and special education funding allocations.

Probation Departments Dictate Smaller Class Sizes Without Providing Funding to Cover Associated Costs. In general, COEs work very closely with county probation departments to operate their court schools. Whereas COEs are responsible for educating students incarcerated at the county, probation departments are responsible for most other aspects of serving incarcerated youth, including their safety. In areas where the two missions overlap, probation departments often have authority to make associated programmatic decisions. Specifically, class sizes in court schools are largely driven by safety considerations, which are handled by probation departments. If a particular student is prone to violence, or if students from rival gangs are at the same facility, those students must be separated, which in turn results in the need for smaller classes. Likely as a result, our survey shows that class sizes vary considerably among court schools. Whereas some court schools have average class sizes of over twenty, one court school reported an average class size of nine students. Despite these widely different class sizes, court schools are reimbursed at exactly the same rate per student, leading to significant extra cost pressures in some court schools. Though probation departments often set court school class sizes, they are not required to contribute to the additional costs generated by their class-size determinations, creating a disconnect between programmatic and budgetary control. Though this budget issue is largely driven by local decision making, the state could consider options to better align fiscal and programmatic incentives. For example, the state could require COEs and probation departments to develop a cost-sharing mechanism if class sizes drop below a certain predetermined level.

Special Education Funding Not Always Passed Through at Appropriate Rates. Our survey also suggests that local budget decisions related to special education often prevent court schools from receiving a proportion of funding that matches their special education needs. Results from our survey indicate court schools may be serving three times as many students with disabilities. In such cases, receiving a smaller proportion of special education funding could have major budget implications for court schools. Currently, special education funding is allocated to Special Education Local Planning Areas (SELPA), which consist of local districts and COEs within the SELPA. To ensure the state does not create incentives to over-identify students with disabilities, it provides funding to SELPAs assuming 10 percent of the students served have a disability. In theory, SELPAs are supposed to take their allocation and divide it up among COEs and districts according to concentrations and needs of special education students. According

to the results of our survey, however, only one-third of SELPAs adjust local special education allocations to court schools to address their higher concentrations of special education students. That is, many court schools may be receiving funding assuming 10 percent of their students have a disability when their special education rate likely is closer to 20 percent (one COE reported a rate as high as 37 percent). Given this budget problem is, like the others we discuss, driven by local decision making, the state's options to address it are limited. However, if the state wanted to investigate further, it could collect data on the actual concentration of special education students served in court schools, as well as the types of disabilities most often encountered. Depending on the results, the state might then consider various solutions, ranging from strengthening legislative intent that SELPAs adjust pass throughs to account for the higher needs of certain schools to instituting a supplemental special education allocation from within the state's existing appropriation directly for court schools.

COMPARING COURT SCHOOL FUNDING TO OTHER ALTERNATIVE PROGRAMS

In this section, we compare court school funding rates to those for other alternative programs. Due to extremely limited data, however, we were largely unable to draw meaningful conclusions about the appropriateness of the various programs' funding rates. Despite issuing a COE survey, consulting California Department of Education experts, and examining available COE expenditure data, we were unable to piece together a clear estimate of how much COEs and districts actually spend on their various alternative education programs. Nonetheless, in this section, we provide a broad sketch of different funding rates across alternative education settings and raise issues for further legislative consideration.

Data on Actual Amounts Spent by Setting Extremely Limited. As indicated above, comparing revenue limit rates across alternative education settings is fairly straightforward. Each alternative education setting receives either the higher county revenue limit rate or the standard school district revenue limit rate. Similarly, the targeted supplemental funding to offer an extended day in community day schools is provided at a consistent rate per extra hour per student. As already described in our discussion on categorical funding for court schools, the state has extremely limited data on how much categorical funding districts and COEs actually spend on their alternative schools. Without this information, comparing total funding rates is nearly impossible. For example, one type of alternative school might have a higher revenue limit rate than another type of alternative school, but the difference could be made up entirely by categorical funding.

Available Data Suggest Funding Generally Increases With Student Need. Despite the significant data limitations, state spending by setting generally appears to increase as the needs of the students served increases. For example, continuation schools spent less per pupil in 2009-10 than community schools, which in turn spent less than court schools and DJJ. By comparison, community day school spending did not follow this trend. Even when adjusted for the length of the school day, spending was higher for community

day schools compared to county community schools, which serve similar students, and compared to juvenile court schools, which serve even more at-risk students.

Community Day Schools Receive More Funding to Extend the School Day Than Other Programs Serving Students With Comparable or Even Greater Needs. Based on our review, we question the logic of providing supplemental funding to extend the school day in community day schools but not in certain other alternative educational settings. Especially given research suggests a longer school day can improve academic outcomes for at-risk students, there is no clear reason why county community and county court schools would not benefit from such funding. Court schools in particular could benefit from a longer school day given their students are often more at-risk than in community day schools. Court schools also provide a ready-made setting for a longer school day given students are incarcerated and must be supervised regardless of whether they are in school.

Consider Options for Standardizing Funding Across Programs. Rather than provide supplemental longer school-day funding only to community day schools, the state could consider providing financial incentives to lengthen the school day across all alternative education programs serving similarly at-risk students. For example, were supplemental community day school funding to be divided among community, community day, and court schools, each would receive incentive funding of over \$1,000 per pupil to extend the school day beyond the minimum required four hours. Alternatively, the state could use the funding to incentivize other best practices shown to improve outcomes for alternative education students. This approach is generally consistent with the finance system detailed in our office's 2007 report, *Improving Alternative Education in California*, which recommended creating an alternative education block grant that standardizes per-pupil allotments dependent on the needs of the pupils being served.

CONCLUSION

Despite some concerns raised by the Legislature last year, we find little evidence that suggests court schools are systematically denied access to state categorical funding. Our review of court school budgets, however, did reveal two notable cost pressures that, when coupled with recent state budget reductions, could explain why some court schools are reporting budget shortfalls. In particular, we found that county probation departments can require court schools to reduce class sizes for safety reasons without being required to bear any of the associated higher costs. We also found that special education rates reported in court schools can be two to three times higher than the statewide average special education rate. Despite these higher rates, court schools often have little leverage within their SELPA to negotiate higher pass throughs. Exploring these two issues further could lead to solutions that relieve budget pressure for at least some of the state's court schools.

Broader reforms to the alternative education finance system also could help provide budgetary relief for court schools and make the system more equitable across programs. Specifically, rethinking the community day school supplement and exploring ways to

spread those dollars across alternative education programs could help court schools moving forward. If the Legislature, however, did not want to pursue any of the above policy changes in 2011-12, it instead could consider providing court schools with at least some budgetary relief by insulating them from further reductions or reducing them less than other areas of K-12 education.