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# Special Ed Costs Uniting Schools

By Joel Rubin

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Orange County school districts are joining ranks to fight the rising costs of educating disabled students.

By month's end, more than two dozen school districts are expected to join the new Orange County Special Education Alliance. It will pool hundreds of thousands of dollars from the districts each year to fund lobbying and training efforts on their behalf in the contentious arena of special education. But much of the money may be spent in courtrooms fighting parents over how far districts must go in serving disabled students.

The alliance, believed to be the first of its kind in the state, will address what district superintendents and special education administrators say is one of the most pressing dilemmas facing school districts: how to fairly serve students with special needs while keeping costs in check.

"It is a brotherhood formed around what is a major problem that has the potential to severely damage many districts," said Cypress School District Supt. William Eller.

Under the agreement, school districts will contribute 50 cents to the alliance fund for each student enrolled in their schools. If, as expected, all 27 districts in the county vote to join, the alliance will raise more than \$250,000 each year.

Federal law on special education, which many education experts say is cumbersome and vague, requires districts to provide every child diagnosed as learning disabled with a "free and appropriate" education. Children with a variety of disabilities – including reading problems and severe cerebral palsy – are entitled to special education services. If districts cannot provide the appropriate care, they are often required to pay for students to attend specialized private institutions.

When parents and district officials cannot agree on what services a student requires, either side can request a hearing before an administrative judge, whose decisions are binding.

Since 1997, the number of requests for such hearings in California has nearly doubled – to 3,000 last year, according to state figures. And although the vast majority of those are resolved before they reach a hearing, superintendents say the hundreds that do proceed each year often result in districts being ordered to pay for expensive services and reimburse parents for legal fees that often exceed \$10,000.

"We're getting clobbered. It's just out of control," said Jerry Gross, superintendent of the Saddleback Unified district.

Such extreme cases, Gross said, are part of the reason that special ed puts such a strain on district budgets. In the Saddleback district last year, special ed spending outpaced federal and state special ed funding by more than \$7 million, requiring Gross to cover the shortfall from the district's general fund.

Orange County districts spend 16% to 24% of their operating budgets on special education costs.

Superintendents say that even when parents make excessive demands, administrators frequently concede the services rather than risk being overturned at an arbitration hearing.

"Some parents see us as the goose laying the golden egg, and they feel they can tap us for whatever they want," Gross said. "We cave in, because it is so costly to pursue cases when we lose."

Nonsense, say attorneys and advocates for special education students. "That's a cop-out," said Kathleen Loyer, an Orange County attorney who handles scores of special education cases each year. "The same risks hold true for every parent." Loyer pointed to state figures indicating that hearing decisions were not lopsided toward parents and added that parents can demand reimbursement from districts for legal fees only when the district loses a hearing.

The alliance fund, superintendents said, would be used in part to appeal decisions they believed fell outside the scope of special education law and set dangerous precedents concerning a district's responsibilities. The money pool will also cover costs of lobbying state and federal lawmakers for legislation that would, for example, place a cap on legal fees. Superintendents also plan to spend alliance money training teachers and staff to better manage the dozens of deadlines and procedural requirements under the law, to avoid mistakes that can trigger rulings against districts.

Loyer dismissed the districts' claims and questioned the idea of the alliance.

"How do they think taking taxpayer money out of the classroom and putting it into litigation and consultants is going to be helpful?" she said.

Superintendents expect the alliance to become active in coming months. Its bylaws require participation by districts serving a total of at least two-thirds of the county's students. Trustees for 10 districts have approved membership in the alliance, and the superintendents in the remaining districts indicated during a recent countywide meeting that they would recommend in the coming weeks that their boards allow them to join.

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