

A HISTORY OF LEGISLATIVE ADVOCACY ON SPECIAL EDUCATION BY THE MARIN COUNTY SCHOOLS

Overview

The school districts of Marin County have been organized to provide legislative advocacy on key issues for more than a decade. As currently organized, every district in Marin County participates in the Marin County Joint Legislative Advisory Committee (JLAC) that meets monthly at the County Office of Education. JLAC consists of both school board members and superintendents and is jointly chaired by Monib Khademi, a school board member from the Mill Valley Elementary School District and Bob Caine, the Superintendent from the Kentfield Elementary School District. The school districts of Marin County work directly with a Sacramento based legislative advocacy firm, Frost Davis & Donnelly, that works directly with the Legislative Advisory Committee. The committee establishes an annual list of legislative priorities and works directly with its local legislators and lobbyist to achieve its priorities.

Special Education Reform A Top Priority

For the last decade, special education issues have been at the top of the JLAC list of priorities. There has been a strong consensus of both board members and superintendents from every district that this should be the main priority of the coalition. Because of this focus, there has been a great deal of research that has been done to analyze special education costs and the trends that have occurred over time. Dr. William Levinson, the Superintendent of the Tamalpais High School District and the Chair of the Marin SELPA Operational Steering Committee is a regular participant of the monthly JLAC meetings and has brought the perspective of the Marin SELPA. Special education is such an important issue in Marin County because of the ever increasing impact on special education expenditures on the general fund of each district. To better track these increases, the Operational Steering Committee has designed a template that every district in the county can use to account for special education expenditures in relation to the overall district budget. Over the last several years, the level of district contribution to special education has increased significantly in spite of increased revenue that has been made available to each district through the state budget. Based on the experiences of districts in Marin County, one of the leading causes of these significant special education increases has been the number of expensive decisions that have been made by independent arbitrators as a part of a special education fair hearing process.

Organized Effort to Bring Awareness to the Problems With Fair Hearing Process

Starting in 1997, Marin's JLAC focused on reform of the fair hearing process as its highest legislative priority. Based on a specific case coming from the Mill Valley School District, then-superintendent, John Harter took the lead on a series of meetings with interested groups from around the state. He and his staff met with the California School Boards Association to make them more aware of the growing concerns in the field related to the fair hearings process. As a result of these meetings with CSBA, JLAC members were given the opportunity to make presentations on special education at CSBA conferences which enabled us to build a network of trustees and superintendents from all over the state in support of special education reforms. This statewide network has enabled JLAC's lobbyists to make the case that dispute resolution reforms have a statewide constituency. Meetings were also held with School Services of California, a Sacramento-based firm that works with districts to calculate special education costs. The firm was very helpful in trying to determine how fair hearings were being conducted throughout the state and to survey other districts to see if similar ruling were occurring. Most importantly, a series of meetings were held with the California Department of Education to make sure that they fully understood the impacts that their dispute resolution process was having throughout the state. Finally, meetings were held with the statewide SELPA Directors in an effort to elicit their support for a review of fair hearing process. Marin's legislative advocate also began meeting with other Sacramento-based lobbyists to begin eliciting their support for reforming the Fair Hearing Process and increasing the funding that is available. In short, efforts were made to begin bringing every educational advocacy organization together in a unified effort to address this growing problem and make the legislature and the Governor aware of its significance.

Formal Review of the Fair Hearing Process

Beginning in 1997 and continuing into 1998, meetings were held between representatives of statewide educational organizations, including the Marin County schools, and the California Department of Education to discuss the fair hearing contract that the Department awards to a bidder every three years. This contract has been held for the last six years by the McGeorge School of Law in Sacramento. Meetings were held with the staff of the Special Education Division over the course of several months. Over time, the CDE began to share our concern that there were a number of concerns with the fair hearing process. During the 1998 legislative session, Marin sought amendments to a Department of Education sponsored bill that would have granted the CDE greater authority to oversee the dispute resolution contract. While these amendments were eventually stripped from the bill at the end of the session due to concerns expressed by the contractor, the issue of special education dispute resolution was finally heard by legislative committees.

In 1999, representatives of JLAC worked with the CDE to draft Budget control language that would extend the existing contract for fair hearings for one additional year and would authorize the Department of Education to conduct a study of the current fair hearing and mediation process system, develop a new request for proposal and execute a contract by June 30, 2000. The budget language also stipulated that "in studying the current mediation and due process hearing systems, the department shall seek ways of realizing cost efficiencies and containing cost increases." In securing this budget language, JLAC had accomplished its first priority - completing an

independent analysis of the fair hearing and mediation process. In February 2000, Gail Imoberstag, an attorney with significant special education experience completed "Evaluation Study of Special Education Dispute Resolution Issues in California."

The major finding in the report was that the dispute resolution system is significantly underfunded. The current contract is funded at approximately \$3.1 million per year. After careful review, it is clear that this funding level does not allow the current contractor to hire experienced hearing officers. Instead, inexperienced attorneys with no background in education law or special education experience are hired for the positions. In addition, the contract does not provide adequate funding to hire enough hearing officers to meet the demand. As a result, hearings are delayed and rulings are made that more experienced hearing officers may not have made. The report suggests that an increase from \$3.1 million to over \$6 million was needed to fully implement the reforms outlined in the report. To achieve this goal, the Marin JLAC worked directly with Senator John Burton, the President Pro Tempore of the Senate. Senator Burton did support the suggested increase and it was made a part of the 2000-2001 State Budget.

JLAC Sponsors AB 2321 (Mazzoni)

Many of the JLAC supported reforms were embodied in the Imoberstag Report. However, based on the experiences of several districts in the county, there were reforms that still needed to be investigated. In an effort to address these issues in the form of a pilot program, the Marin County schools, with the support and assistance of the state SELPA directors, sponsored legislation that was carried by Assembly Member Mazzoni.

AB 2311 (Mazzoni) would establish a pilot program to implement and then evaluate two structural changes to the manner in which special education fair hearings are now conducted. First, the bill would establish a simplified nonattorney alternative process based on a "small claims" process that would streamline the current fair hearing process for cases that are not complicated. Second, the bill provides access to legal counsel for parents without the means to hire an attorney to represent their child in the fair hearing process. These changes would be established on a countywide basis in three counties throughout the state and the effectiveness of these reforms will be studied and compared to those of other counties relative to the timeliness and cost of fair hearings. These reforms would be implemented in three special education local plan areas (SELPAs) throughout the state. The effectiveness of these reforms would be studied by the state's Legislative Analyst. A final report would be filed with the Department of Education, the Legislature and the Governor before March 31, 2003. The pilot programs in this bill will serve as an opportunity to review the effect of these two proposed reforms to see if they lead to more timely, fairer and less costly hearings. In September of 2000, Governor Davis signed AB 2321 into law.

The Lessons JLAC Has Learned

Educators often talk about the "teachable moment" where everything comes together to provide the proper learning environment. There are three keys that have enabled the Marin schools to be successful on this important issue:

Educate: The members of the Marin Joint Legislative Advisory Committee felt that if it was to be successful in reforming the dispute resolution process it must first create a teachable moment within the political process. In order to best educate policy leaders on this issue, we needed to be focused almost exclusively on our highest priority issues. Over the course of the last decade, special education has been JLAC's top priority and we have worked diligently to educate all of the key groups in the state.

Do Not Give Up: Making changes in the dispute resolution process did not come easily or quickly. It took years to organize the various groups throughout the state and have them prioritize this as one of their key issues. It also took several meetings with the California Department of Education before they were able to fully understand the problem with its dispute resolution contract. Rarely can critical reforms be accomplished in one year. Continue to come to Sacramento, meet with your legislators and network with other educational organizations. Do not lose hope or focus while you pursue your goals.

Do Not Take NO For An Answer: Remember that there are an unlimited number of problems that educators face. Organizations prioritize these issues based on a variety of inputs and factors. For an organization the size of Marin's JLAC, reforming the dispute resolution process could not be done alone. Issues of this type need broad consensus and support from the education community if legislators are going to take them seriously. Identify key actions and points of leverage that you might have with legislators, decision makers and organizations with which you have access. Keep working to gain agreement among all statewide groups on the issues that you care about.