



## MENTAL HEALTH SERVICES FOR SPECIAL EDUCATION PUPILS MUST BE FULLY FUNDED AND THE AB 3632 MANDATE MUST BE MAINTAINED



March 31, 2005



California Council of Community  
Mental Health Agencies

**Issue:** The 2005 Governor's January Budget does not fully fund the federally mandated mental health services for special education pupils, proposes to suspend the AB 3632 mandate, and thereby eliminates the ability of counties to receive full reimbursement for provided services via the SB 90 claims process.



**Recommendation:** Families, child advocates, educators, and mental health professionals believe that the program should be fully funded, and the AB 3632 mandate should continue.

**Position:** Youth are entitled to and in need of mental health services when the education system, in conjunction with the youths' families, determines that they are necessary for a child to receive a free appropriate public education (FAPE). Funding this program helps the most vulnerable children succeed in school, remain united with their families, and have a good chance of succeeding in life. The Governor's proposals would jeopardize children's ability to access federally mandated mental health services, which could result in increased costs to the State, jeopardize children's education and health status, and increase out-of-home placements and contacts with the juvenile justice system.



Mental Health Association  
Of California

**Mandate Issues. The State must maintain the AB 3632 mandate to ensure children receive needed services and the State continues to draw down all appropriate federal funds.**



- Prior to 1984, local education agencies were responsible for providing mental health services to children with special education needs. Many advocates and legislators believed that this service delivery program did not provide sufficient access to federally entitled mental health services for California's youth, and was unnecessarily causing families to surrender their children to the custody and control of the State to access these services. Therefore, in 1984, the Legislature passed AB 3632 to authorize county mental health agencies to provide these services.

The Governor's January 2005 Budget proposes to suspend the AB 3632 mandate. Such a suspension would move responsibility for the authorization and provision of mental health services to eligible children from county mental health back to local education agencies.

- As currently constructed, the AB 3632 program prevents unnecessary, painful, and inappropriate severance of parental control, and in doing so, it spares the State and counties substantial juvenile dependency system resources. It reduces needless suffering and long-term damage to the health and well being of many children and their families by meeting the needs of pupils for counseling, day treatment, and residential mental health services which were previously ignored.
- Child advocates and educators are concerned about returning programmatic control of these services to local education agencies, as our schools do not have the organizational infrastructure, personnel, expertise, or resources to provide required services. Mental health services are medical services and schools are not funded or staffed to provide the nature of services required.
- Furthermore, suspending the AB 3632 mandate will not save the State money. The services currently provided by county mental health through AB 3632 are an entitlement under federal law and will continue to be needed. Suspending AB 3632 will only transfer this unfunded federal entitlement program to the schools, without providing the schools with the additional funding to pay for the services. It is not appropriate to shift additional responsibilities and costs to education without also providing them with the additional funding to pay for it.



The State's Voice on Mental Illness



United Advocates for  
Children of California



**K-12  
Education  
Management Group**

- Currently, the total cost of all services for approximately half of the children receiving AB 3632 funded services is defrayed by county mental health's ability to draw down federal Medicaid EPSDT funding. This federal funding might not be accessible if the AB 3632 mandate is suspended. County mental health programs have access to funding that schools cannot access, including higher MediCal reimbursement rates, Title IV-E funds, and private insurance. If the mandate is returned to the schools, these funding sources may no longer be accessed to support these children, which would result in greater expense to the State and local governments.
- The AB 3632 mandate should be upheld. This would ensure that county mental health agencies retain their leadership in providing the necessary mental health services to California's qualified special education youth, and the State continues to draw down all appropriate federal Medicaid funds to serve this population of youth.

**Funding Issues. The State must fully fund the AB 3632 program to ensure that access to federally mandated mental health services for special education pupils is maintained.**

- Since July 1, 2002, California counties have received inadequate funding to pay for the mental health services they provide to more than 31,000 special education pupils. In fact, to date, none of the \$69 million in federal IDEA funds allocated to county mental health in the 2004-2005 Budget for this program has been distributed to the county mental health agencies either providing or contracting to provide these services. It is our understanding that the State Department of Education is working on the distribution of funds, but this process has been substantially delayed and may have damaged the collaborative efforts between county education systems and mental health systems to provide quality services to youth.
- The Legislative Analyst estimated that the program costs approximately \$143 million per year. The State Department of Mental Health is in the process of collecting the data to report to the Legislature the full cost of this program.
- The Governor's January 2005 Budget proposal allocates only \$100 million in federal IDEA funds in the education budget to provide mental health services to this group of youth. Only \$69 million of that is allocated to counties for providing mandated AB 3632 services; the remaining \$31 million goes to local education agencies for providing "pre-referral" services. In addition, the proposal also eliminates the counties' ability to seek reimbursement for costs of service provision beyond their share of the \$69 million via the SB 90 mandate reimbursement claims process.
- Underfunding the program and eliminating the counties' ability to seek full reimbursement for costs threatens the educational rights of children and their families who are entitled to these services under federal law.
- The State must ensure full funding to counties for all mental health services provided under AB 3632, and the revenue source for this federally mandated service must grow along with the number of needy children and the costs of treatment.

**Conclusion:** Families, advocates, educators, and mental health professionals want: (1) access to federally entitled mental health services for all children when needed to benefit from their education, (2) strength-based, individualized mental health services of high quality that can be provided most effectively by mental health agencies with trained staff to provide these services, (3) access to the broad array of services provided by a County Mental Health System, (4) continued collaborative relationships between mental health and education that have developed as a result of the AB 3632 model, and (5) reduced fragmentation in the mental health service delivery system.

**In order to achieve these goals, the AB 3632 program must be fully funded, and the mandate must be continued.**