

# SANDABS

## SAN Bernardino County District Advocates for Better Schools

### SANDABS 2012 Federal Legislative Platform

San Bernardino County District Advocates for Better Schools (SANDABS) has adopted this Federal Legislative Platform to provide the basis for reviewing and taking positions on budgetary, legislative and regulatory issues addressed by Congress and the U.S. Department of Education in 2012.

Major school reform and accountability programs have been enacted nationally and statewide for the expressed purpose of increasing student achievement. These programs include professional development opportunities for teachers and administrators, program and fiscal assistance for low-performing schools, increased testing of students, recruitment and retention of teachers and enhanced certification requirements for paraprofessionals.

The school districts of San Bernardino County, California, have embraced these reforms, and student progress in our schools has exceeded statewide averages. It is SANDABS' hope that its advocacy efforts over the coming year with Congress and the Department of Education will result in an increased understanding of the resources and assistance needed to implement these programs and avoid, to the extent possible, actions that would undermine the progress that has been made.

The highest priorities for 2012 fall into five areas, which include:

- Fiscal Year 2013 Education Appropriations
- Elementary and Secondary Education Act
- Special Education funding
- E-Rate
- Charter Schools

SANDABS will monitor these issues, which are detailed below, and the introduction of legislative and administrative actions that would propose reforms for public education. We will also meet directly with Federal legislators and their staffs over the coming year for the purpose of discussing proposed legislation and its impact upon the education community in San Bernardino County.

#### **Fiscal Year 2013 Education Appropriations**

With the Federal budget situation worsening over the next decade, SANDABS is concerned that Congress will further reduce funding for education programs, which are vital to the long-term success of our nation. We strongly believe that increased funding of the education initiatives under the No Child Left Behind Act (NCLB) or the Elementary and Secondary Education Act (ESEA), the Individuals with Disabilities Education Act (IDEA) and the Carl D. Perkins Vocational and Technical Education Act is needed by local educational agencies and school districts to ensure the success of these programs for all students. We support increasing funding in Fiscal Year 2013 for Title I, professional development, Reading First, special education, and vocational and technical education programs. Further, we support reimbursement of Federal mandates when full funding is not provided in any given fiscal year and, in particular, relief from sanctions when the Title I budget is not fully funded.

SANDABS supports funding for the Department of Education Investing in Innovation Fund, also known as the I3 fund. This competitive grant program makes funding available to local education agencies that are creating innovative approaches to school reform and closing the achievement gap.

Despite changes to California law in 2010 to help it become more competitive for grant awards such as *Race to the Top* (RTTT), SANDABS is concerned that federal policy changes, the timing and implementation of Common Core Standards, and ESEA reauthorization may have a combined effect of reducing federal resources for some of California's most needy students.

To this end, SANDABS will work with members of the San Bernardino County delegation, including those that sit on the House and Senate Appropriations Committees, to make them aware of the Federal funding that the county

office and school districts receive from the Federal government. After the release of the President's budget and over the coming year, we will also discuss with the county's delegation and their staffs the adverse impact that certain cuts to Federal programs will have on our students and schools.

## **Elementary and Secondary Education Act**

The No Child Left Behind Act (NCLB) enacted in 2002 brought historic reforms to elementary and secondary education, with a strong emphasis on improving student achievement and imposing consequences for schools and districts that fail to achieve results for all students. Congress failed to reauthorize the Act during President Bush's administration and original provisions of the act carried forward. Under President Obama's administration, Congress has the opportunity to reauthorize the Act under the title "Elementary and Secondary Education Act" (ESEA).

As would be expected with any comprehensive reform effort, several aspects of NCLB implementation have raised questions and concerns. SANDABS is particularly concerned with a number of requirements of the Act, which are detailed below, such as those that prohibit the use of a longitudinal or growth model when measuring student academic achievement and other provisions of the law pertaining to the participation rate, highly qualified teachers, and English learner and special education subgroups. We seek guidance, clarification and, where necessary, resolution of these items as Congress prepares to reauthorize the law in 2012.

SANDABS accepts, as reasonable, that the federal government can target its resources to ensure that student achievement is enhanced as a result of an additional federal investment. Sanctions for failing to achieve results for all students, however, should not remove financial resources from the classroom. Furthermore, there should be reciprocal accountability if the federal government fails to appropriately fund the Elementary and Secondary Education Act or other federal programs.

To accomplish this goal, SANDABS will work with members of the San Bernardino County delegation, including those on the House Education and the Workforce Committee, to ensure that our legislators understand that changes to these provisions will improve academic achievement for all students in the county.

### ***Accountability***

NCLB requires every California student to meet Adequate Yearly Progress (AYP) toward becoming proficient in reading, writing, and math by 2014. California and other states should be recognized for making progress toward reaching 100 percent proficiency. SANDABS asserts that meeting a 100 percent threshold is not a sustainable objective in any year due to the changing demographics and enrollment patterns of students.

Under the law, each state is required to set its own proficiency levels. California has set high standards to meet this requirement – high school students must be ready for college-level work. Prior to passage of NCLB, California began its own accountability system, which set high standards for students to meet proficiency, but also gave schools credit for improving student achievement, commonly referred to as the Academic Performance Index (API). The Federal standard required under NCLB gives schools no credit for this growth model and moving their lowest-achieving students from "below basic" to "basic" levels, a goal that is important under California's accountability system. Despite deep funding cuts to California's public schools, test scores continue to improve. Yet, many schools that have met the California measure of success have been labeled failures under NCLB.

### ***Recommendations:***

- The federal government should eliminate policies like Adequate Yearly Progress (AYP) requirements and support state-designed accountability systems that measure individual student achievement over time and from year to year.
- States should be allowed to submit growth plans based on moving students through each level towards "proficiency."
- Give states and communities the flexibility they need to address the unique needs of their students and schools.
- Direct federal resources to turn around chronically struggling schools and those with significant achievement gaps and allow states to take student progress into consideration while rating schools.

### ***Participation Rates***

NCLB requires 95 percent participation of all students in the annual assessment process. SANDABS views this requirement as potentially difficult to achieve for all subgroups and all grade levels, particularly in light of California state law allowing parents to exempt their children from certain tests. We welcomed the guidance issued by the Department in March 2004 allowing States to average participation rates over a three-year period and exempting students who are unable to take the test during the testing and make-up windows because of a medical emergency from counting against the school's participation rate. However, we continue to believe that participation rates should not penalize schools and students when they are meeting academic benchmarks as academic progress and growth are the driving factors behind NCLB.

#### ***Recommendations:***

- California educators strongly recommend testing for all students, but state law requires educators to honor parents' rights to "opt-out" of testing if they feel it is detrimental to their child. The federal government should not count those students against the 95 percent participation rate.
- Allow all students' scores who test with "modifications or accommodations" as allowed by IDEA, to count towards the participation rate.
- Participation rates should not trigger Program Improvement status but instead trigger a "Plan to Improve Participation." Participation rates that drop slightly do not carry the weight of chronic underperformance and therefore should be treated differently under ESEA.

### ***Highly Qualified Teachers***

California has one of the most rigorous teacher credentialing and licensing systems in the country and teacher quality is promoted through teacher assessments aligned to California's content standards as well as through required induction for beginning teachers. SANDABS does not believe the federal government should be involved in credentialing matters as all states deliver curriculum and subject matter in a variety of ways and at various grade levels. We also believe states must have flexibility for their special education and alternative education teachers who teach in unique classroom situations. A more productive role for the federal government would be to create incentives to recruit teachers into "high need" subject areas.

#### ***Recommendations:***

- States are in the best position to determine whether their teachers and paraprofessionals are "highly qualified," should focus on incentives to recruit and retain highly qualified teachers in difficult to serve subjects and schools.
- States should be recognized for making progress towards having 100 percent "highly qualified" teachers. Sanctions or threats of losing funds should not be used as penalties for falling short of the goal. Meeting a 100 percent threshold is not a sustainable objective due to the changing demographics and employment patterns of teachers (e.g. retirements, shortage areas, etc.).
- Lack of "highly qualified" teachers as defined by the federal government, rather than by state credentialing requirements, should not be grounds for litigation.
- Teachers of students with disabilities, who hold special education certification and either a single subject or multiple subject credential, should be considered "highly qualified" to provide instruction in middle schools and high schools.
- Those teachers entering a field identified as "high need" (e.g. math, special education, etc.) who hold a Federal Family Education Loan or Federal Direct Loan should be given a non-taxable reimbursement of up to 20 percent per year for five years if they complete their first five years of service as a "high need" teacher in a public school.
- California should retain the right to grant a history-social science credential that will count as "highly qualified" to teach the subjects of history, social science, economics and geography as they are included within the credential subject area in California.
- Teacher evaluations should be collaborative, locally-driven models that focus on improving teacher effectiveness for all types of students being served.

### ***Special Education Students***

Under NCLB, schools are required to administer the same standardized tests to special education students that they administer to students without disabilities. The law also requires all students, including special education students, to be proficient in reading, writing, and math by 2014. SANDABS believes that, by imposing this requirement,

NCLB is failing to recognize the very unique needs of special education students. For example, the standardized tests taken by mainstream students may not accurately measure a special education student's progress. We believe that ESEA must allow for greater flexibility in assessing special education students.

***Recommendations:***

- Identified students with disabilities who complete high school with a state approved exit document should have through age 21 to be counted as graduates, as defined by IDEA.
- Dropping students out of a subgroup when they attain academic proficiency mitigates against schools and school districts reaching the 100 percent proficiency goal. Students who have been identified as English learners or in need of special education services should remain in the subgroup for ESEA accountability purposes "only," even after they have reached proficiency achievement levels.
- The percentage of students taking alternative assessments who have severe cognitive disabilities (determined by appropriate documentation) should be based on the percentage of students with those disabilities who need to be served by the school or district rather than the current arbitrary limit set by the U.S. DOE (e.g. 2 percent).

## **SPECIAL EDUCATION FUNDING**

Title I grants for disadvantaged students (the main source of federal funding for NCLB) and special education funding under the Individuals with Disabilities Education Act (IDEA) are the two largest sources of federal funding to school districts. They also operate as federal mandates. While the mandates operate at full strength, federal funding for these programs is diluted. The federal portion of special education costs was to have been 40 percent. Most districts receive only about one-third of what was promised, thereby shifting a greater portion of the cost of compliance to local school districts and states.

Increased federal funding for special education is urgently needed. California and other states are experiencing sharp declines in revenue. Dwindling state resources translate into deep cuts to public schools placing a double burden on them of maintaining federal mandates. SANDABS supports efforts to ensure that federal resources match federal mandates. Additionally, SANDABS would advocate for federal legislation that would cap private attorney fees for special education litigation and settlements that are adversely affecting LEA budgets nationwide.

## **E-RATE**

The E-rate program provides discounts to assist most schools and libraries to obtain affordable telecommunications and Internet access. The program was established as part of the Telecommunications Act of 1996, which represented the first comprehensive revision of the nation's communications laws in more than 60 years. The law expanded the universal service system, which was originally designed to make local telephone service available to all Americans at reasonable rates, to help schools and libraries obtain access to state-of-the-art services and technologies at discounted rates. It specifically states that individual telecommunications carriers must provide service to schools and libraries at *affordable* rates.

SANDABS supports Congressional efforts to preserve and even explore expanding the universal service program and, by extension, the E-rate program through the upcoming reauthorization of the Telecommunications Act of 1996. While we oppose efforts to fundamentally restructure the program, we do endorse legislation that includes accountability requirements to ensure that waste and fraud in the program are eliminated. We also support efforts of some in Congress to explore ways to ensure that Voice-over-Internet providers are paying their fair share into the Universal Service Fund. In the coming era of Internet phoning, there is a growing concern that these providers are not contributing to the program fund and that this destabilization will negatively impact the long-term viability of the fund.

SANDABS recognizes that electronic mobile devices will play an increasing role in student learning and assessment. SANDABS supports E-rate policies and regulations that are reasonable and flexible to accommodate access to learning that takes place outside the walls of the traditional classroom.

## **Charter Schools**

SANDABS acknowledges that charter schools are a recognized educational alternative to traditional public schools. SANDABS supports charter schools that offer quality programs that are innovative and uniquely different from traditional public schools. A strong collaborative partnership should exist between the authorizing entity and the charter. SANDABS asserts that charters should be held accountable for improved student achievement and

sound business practices with fiscal transparency. SANDABS supports the following issues related to charter schools:

- Require charter schools to comply with the same conflict of interest and open meeting laws that public schools and school districts must follow;
- Prohibit blanket submission of the same charter petition to multiple districts and multiple counties;
- Ensure charter oversight reimbursements to authorizing agencies cover the actual and necessary costs of oversight;
- Require charter schools to publicly disclose all contracts with management companies and make the records of the management company subject to the Public Records Act and subject to state education codes requirements to produce records when requested by the chartering authority or by a county, regional, or state public education agency;
- Require charter school board members and management employees to publicly disclose potential conflicts of interest to the chartering authority and file with the charter authorizing entity;
- Require charter schools to annually report to the chartering authority the total compensation of all officers and management employees, and all large payments to vendors and independent contractors over a specified amount;
- Require charter schools to report to the chartering authority the purchase of all real property;
- Require charter schools to provide the chartering authority with a report of all vehicles purchased or leased;
- Prohibit a school district from approving a petition for a new independent charter school if the average daily attendance of the charter school in the first year of operation is projected to be larger than that of the chartering authority; and
- Provide a mechanism to lessen the programmatic and financial impact on school districts that provide facilities to charter schools.

2012 Platform Draft reviewed on: November 9 and December 14, 2011

Adopted on: January 3, 2012

SANDABS Executive Committee