



# CALIFORNIA STATE AUDITOR

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## FACT SHEET

Date: December 16, 2008

Report: 2008-109

The California State Auditor released the following report today:

### California Department of Education

*Although It Generally Provides Appropriate Oversight of the Special Education Hearings and Mediations Process, a Few Areas Could Be Improved*

#### BACKGROUND

The special education programs within California schools serve nearly 680,000 children, between the ages from birth to 22 years old, who have disabilities that include speech or language impairments, autism, and specific learning disabilities. To ensure that these children receive a free appropriate public education as required by federal and state laws, the California Department of Education (Education) established procedures by which a school district, the parents of such a student, or—in certain cases—a person assigned as a surrogate for such parents can present a complaint related to the disabled student's education. Education, through a June 2005 interagency agreement, currently uses the Office of Administrative Hearings (Administrative Hearings) in the Department of General Services to administer the hearings and mediations process for special education cases. Between 1989 and December 2005, the University of the Pacific's McGeorge School of Law (McGeorge) administered this process.

#### KEY FINDINGS

Our review of Education's oversight of the special education hearings and mediations process from fiscal years 2002–03 through 2007–08 revealed the following:

- ◆ Administrative Hearings spent an average of \$3,272 per special education case while McGeorge spent an average of \$2,867 on each case, yet on average, took less time to close a case in the special education hearings and mediations process—McGeorge averaged 185 days to close cases while Administrative Hearings averaged 118 days.
- ◆ Neither Education nor any other entity consistently tracks the number and cost of special education appeals, and the law does not require them to do so.
- ◆ Education could tighten its oversight of Administrative Hearings. We found that Administrative Hearings:
  - Did not consistently include all information in its quarterly reports to Education as required by its interagency agreement and state law—some of which is needed for annual reporting to the federal government.
  - Could not demonstrate that its administrative judges were receiving all the required training. We reviewed training records for 15 administrative judges for two classes and could only verify that five administrative judges had attended both required courses.
  - Has not always issued hearing decisions within the legally required time frame. It reported that it issued only 29 percent and 57 percent of its hearing decisions on time in the third and fourth quarters of fiscal year 2005–06, respectively, and 72 percent in the first quarter of fiscal year 2006–07. Untimely hearing decisions could lead to sanctions by the federal government.

#### KEY RECOMMENDATIONS

To ensure Administrative Hearings complies with state and federal laws and the interagency agreement, we recommended that Education provide stronger oversight and ensure Administrative Hearings submits all the required information in its reports, require training information to be maintained and periodically review the information, and continue to monitor Administrative Hearings to ensure decisions are timely.

