



# Appeal of FFY 2012 Determination



September 15, 2014

**CALIFORNIA DEPARTMENT OF EDUCATION**  
Tom Torlakson, State Superintendent of Public Instruction

# California Department of Education

- Richard Zeiger, Chief Deputy Superintendent
- Fred Balcom, Ph.D., Director of Special Education
- Shiylah Duncan-Becerril, Ph.D., Administrator, Assessment and Evaluation Services Unit
- Amy Bisson Holloway, General Counsel
- Brooks Allen, Deputy Policy Director & Assistant Legal Counsel

# Purpose of Hearing

- **California has been determined by the Office of Special Education Programs (OSEP) to “need intervention.”**
- **California believes that this determination was made based on errors in the selection and application of key criteria and should be changed.**
- **This presentation will outline those specific areas, some of which were presented in our July 7, 2014 letter requesting this hearing, and others that are relevant.**
- **In addition, we will present some general concerns and offer specific recommendations.**

# **Totality of Information**

“This determination is based on the totality of the State’s data and information, including the Federal fiscal year (FFY) 2012 Annual Performance Plan (APR) and revised State Performance Plan (SPP), other State-reported data, and other publicly available information.”

– OSEP

**We respectfully disagree.**

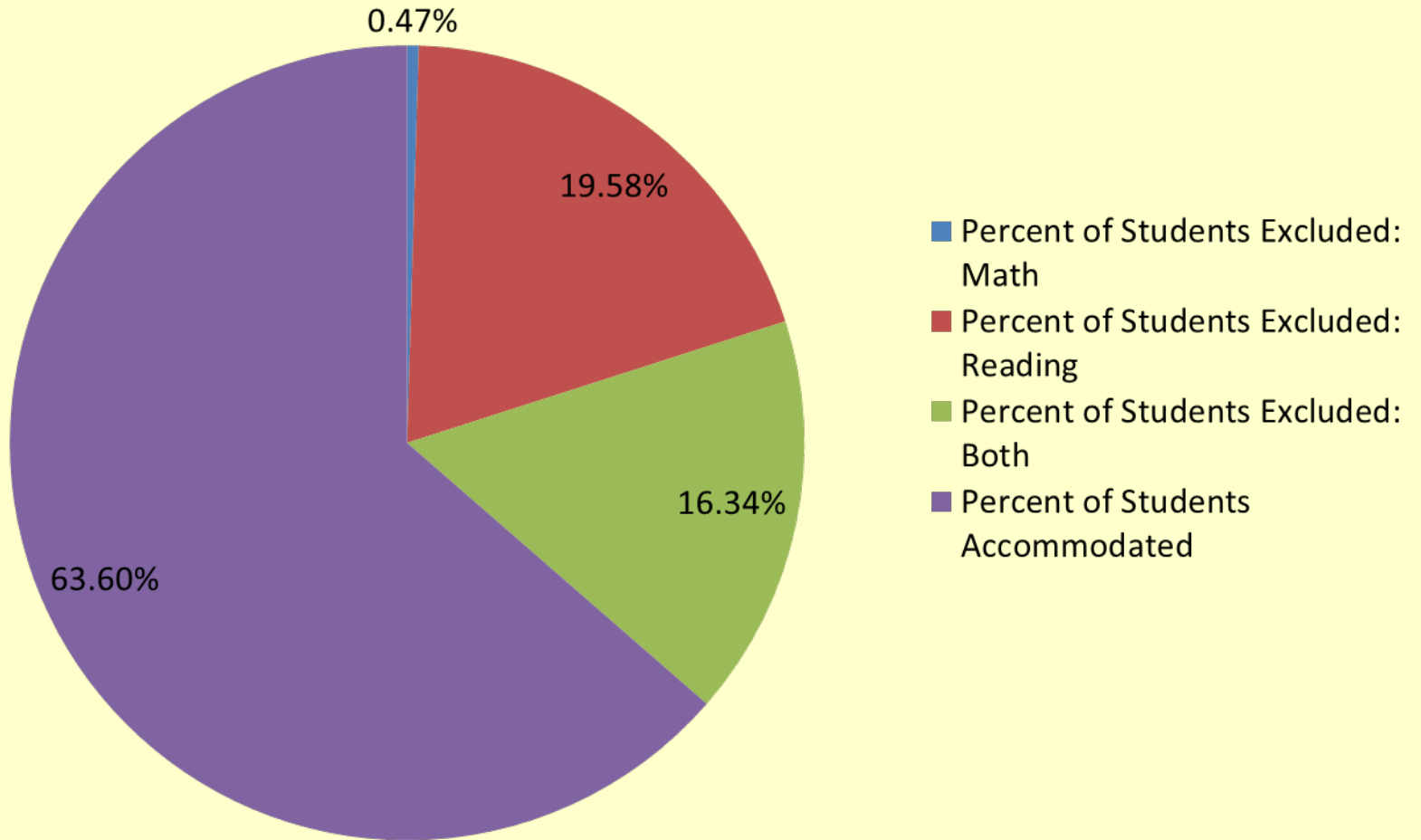
# Other Available Indicators Were Not Used

- The “Results-Driven Accountability” (“RDA”) measures only use participation rates and performance scores for statewide assessments and for the National Assessment of Educational Progress (NAEP).
- There are a substantial number of additional indicators and measures included in the SPP/APR, and in the OSEP Data tables provided as part of the determination documents, which OSEP did not include in its determination.

# NAEP Inclusion Rate

- NAEP: THE NATIONAL CENTER FOR EDUCATION STATISTICS (NCES) STATES IN THEIR GUIDANCE AND DOCUMENTATION THAT THE INCLUSION RATE GOAL FOR NAEP PARTICIPATION IS 85%.
- A NAEP footnote states, “The [California] inclusion rate is higher than or not significantly different from the national assessment governing board goal of 85%.”

# Percentage of NAEP Exclusions for California Students



# NAEP Inclusion Rate Impact

OSEP's oversight of this critical footnote negatively affects only California. The appropriate application of the standard error as indicated in the NCES document would result in California earning a +1 point score for this element. This correction alone would change the CA determination to "Needs Assistance."

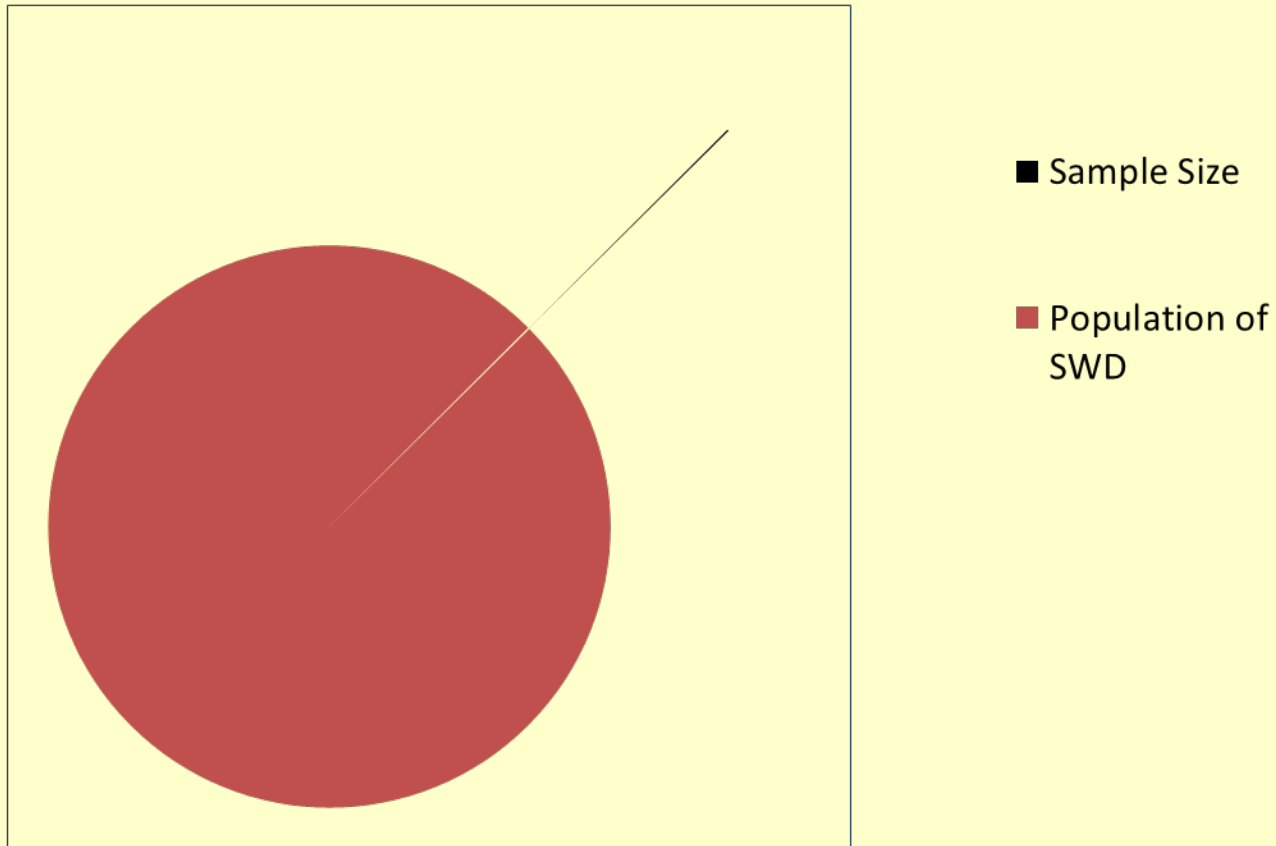


# Participation in NAEP

- CA strives to have full participation of its students in all assessments.
- CA does not exclude students from NAEP testing.
- **Students do not participate in NAEP due in large part to the lack of accommodations offered by NAEP.**
- The NCES does not permit potentially 16 percent of CA SWD and possibly as many as 36 percent of SWD, to take NAEP with the necessary accommodations for participation due to NAEP's accommodation rules. NAEP does not allow 13 of the 23 accommodations needed by CA students as identified by IEP teams to be used during its administration.

# NAEP Sample Size

**Sample Size for NAEP = Less than 1 Percent  
of Students with Disabilities**



# Weight of NAEP

- NAEP Accounts for eight of the 12 results elements. We have already indicated that four of those eight are not representative of all students with disabilities in California.

# Use of NAEP Scores is Prohibited

- The use of assessment items and data on any assessment authorized under this section by an agent or agents of the Federal Government to rank, compare, or otherwise evaluate ... is prohibited.”
  - NAEP Authorization Act
- “There will be no rewards or sanctions to states, local education agencies, or schools based on state NAEP results.”
  - NAEP Web page

# Participation in Statewide Assessments

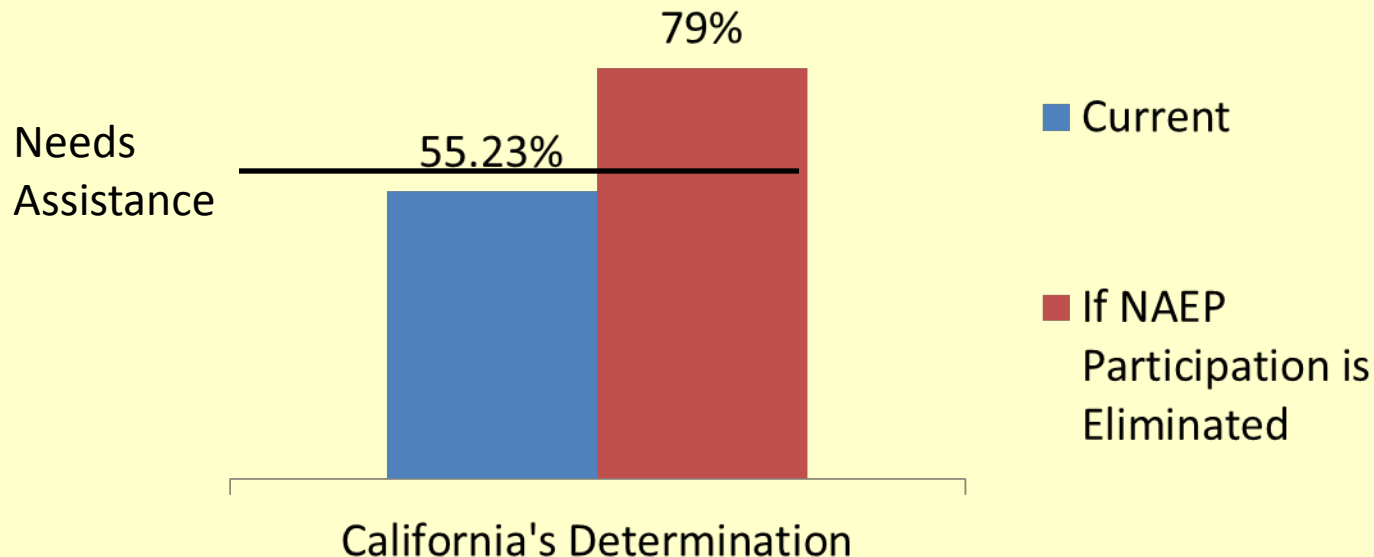
- Historically, OSEP has found CA's participation rate for students with disabilities published in the APR acceptable.
- In the most recent response table specifically, there was no "Required Action" for Indicator 3b.
- Participation on statewide assessments (CST, CMA, CAPA) has consistently been over 97 percent on English/Language Arts and over 98 percent on Math for the past three years.

# Participation In Assessment

- California treats all students equally, those that take the general assessment as well as those that, due to the nature of their disability, take the alternate or modified assessment.
- OSEP's sole reliance on the general assessments, excluding those who take modified or alternate assessments, is inconsistent with IDEA, because it treats these students unequally.
- IDEA authorizes an IEP team to render decisions about appropriate testing accommodations. Imposing a state consequence for those appropriate individual decisions is improper and discriminatory.

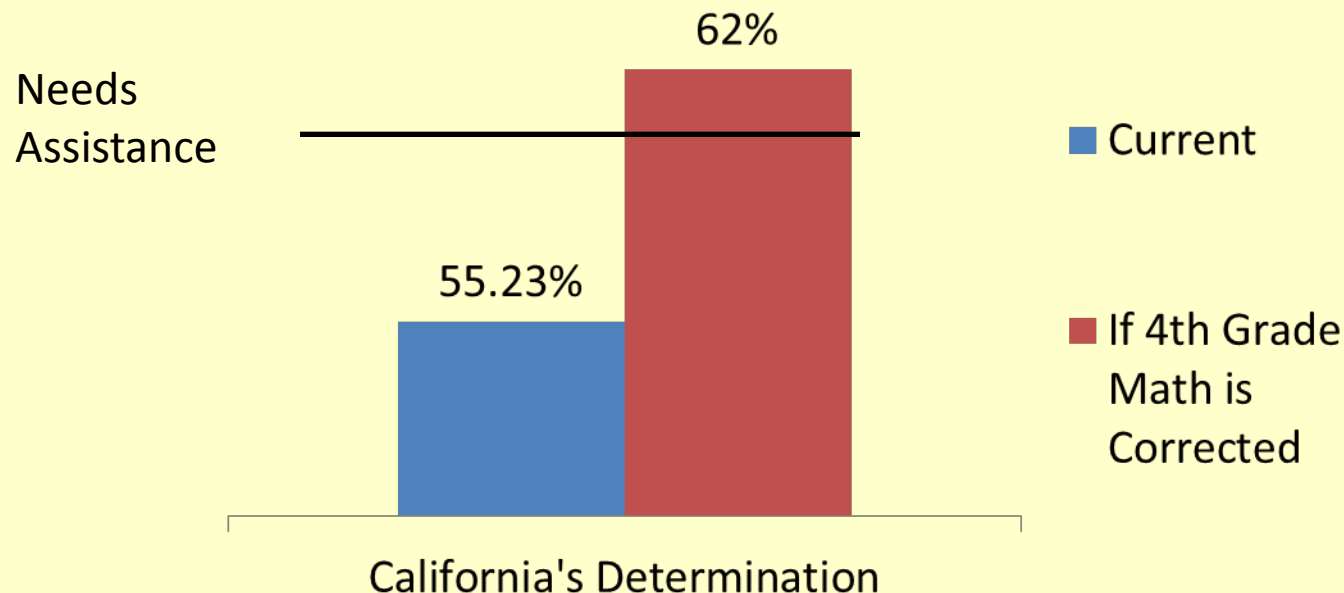
# Requested Action - 1

- Remove the NAEP participation rate calculations from the Results Matrix due to the limited availability of NAEP accommodations. Adjusting the Results Matrix appropriately based on this information would yield a Results Matrix score of six of 12 possible points (50 percent).



# Requested Action - 2

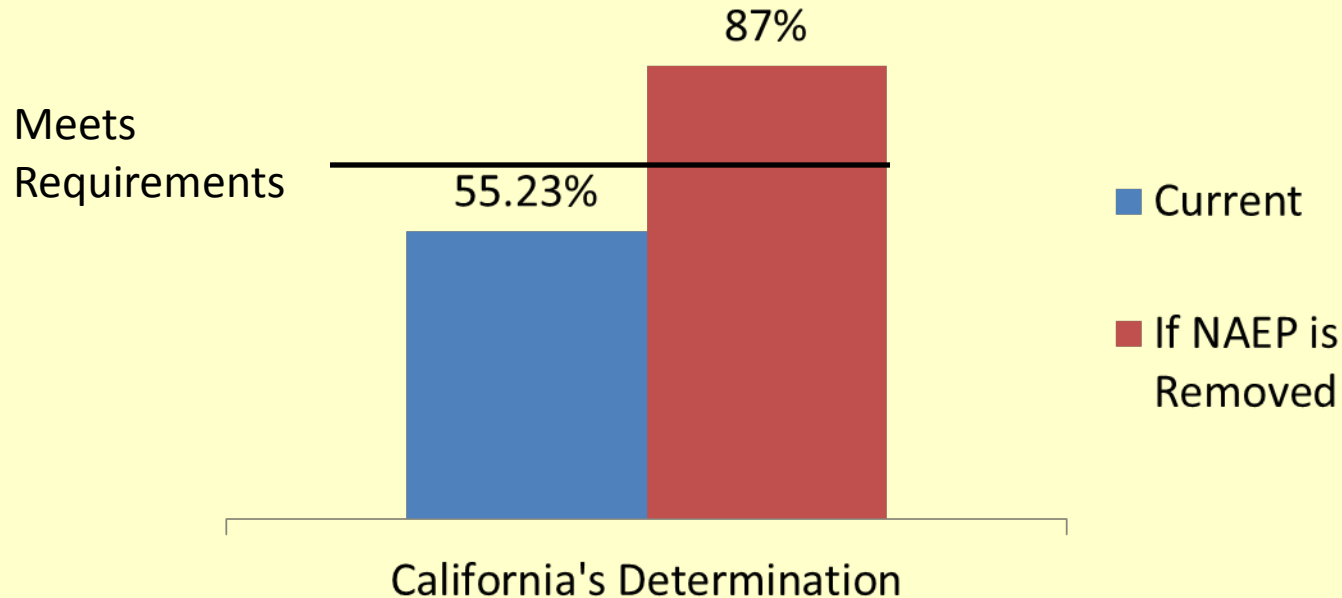
- Correct the scoring of NAEP participation rate in 4<sup>th</sup> grade math consistent NCEs's own assertion. This would change the Results Matrix score from three of 20 possible points (15 percent) to five of twenty possible points (25 percent).





# Requested Action - 3

- Eliminate the NAEP component of the Results Matrix. This would change the scoring for the results section from three of 20 possible points (15 percent) to five of eight possible points (63 percent).



**Concerns**

# **Accountability Redesign Core Principle #1:**

***The RDA system is being developed in partnership with our stakeholders.***

Yet,

- The NCEO Core team recommendation concerning the use of NAEP data was ignored.
- Input from NASDE and other stakeholders appears not to have been considered.
- The untimely notice of the new accountability measures denied states the opportunity to engage with stakeholders and obtain input or to deliberate in any way with OSEP.

## **Accountability Redesign Core Principle #2:**

***The RDA system is transparent and understandable to States and the general public, especially individuals with disabilities and their families.***

Yet,

- OSEP failed to clearly articulate whether and how NAEP data were being considered for use in accountability findings prior to states being notified of their accountability status.
- By denying States the opportunity to engage with stakeholders concerning new proposed accountability measures, OSEP limited States' ability to inform their stakeholders and explain how the new measures would be used.

## **Accountability Redesign Core Principle #3:**

***The RDA system drives improved outcomes for all children and youth with disabilities regardless of their age, disability, race/ethnicity, language, gender, socioeconomic status, or location.***

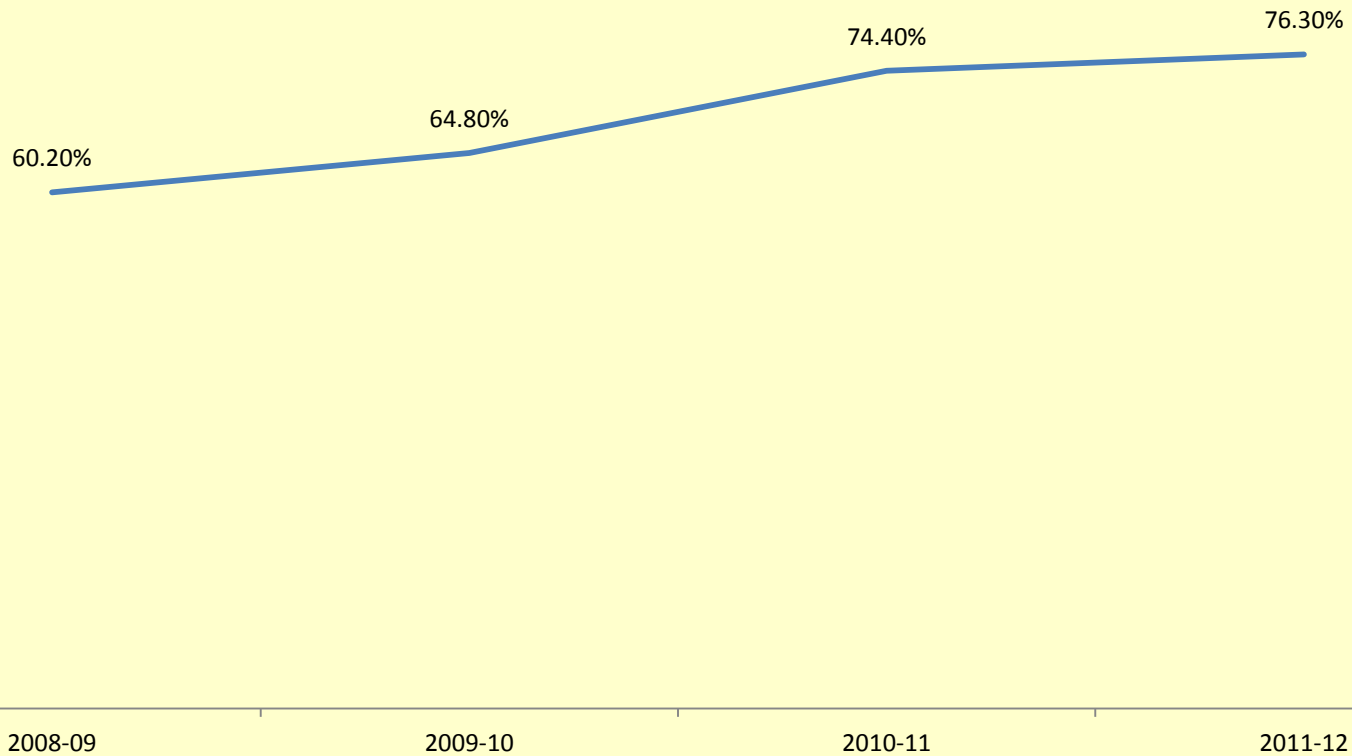
Yet,

- NAEP data do not include the substantial population of SWDs who require testing accommodations which are not available for NAEP assessments.
- The lack of information concerning current OSEP accountability measures, and lack of clarity concerning future measures, limits their effectiveness in driving improvement because stakeholders do not have clear targets to pursue.

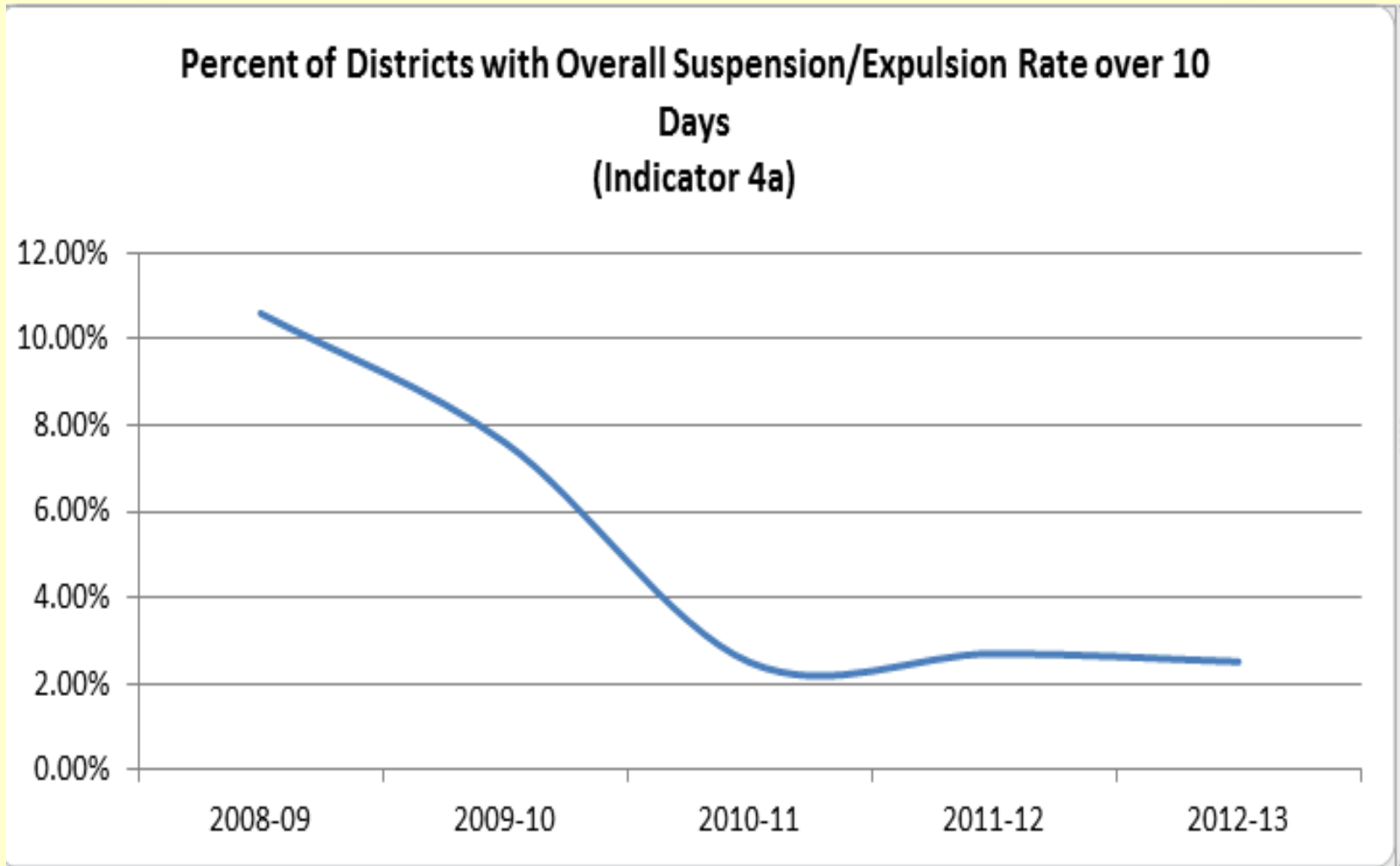
The OSEP determination does not accurately represent the progress of students with disabilities in California.

# California Graduation Rates for SWD are Up

## Single Year Graduation Rate for Students with Disabilities

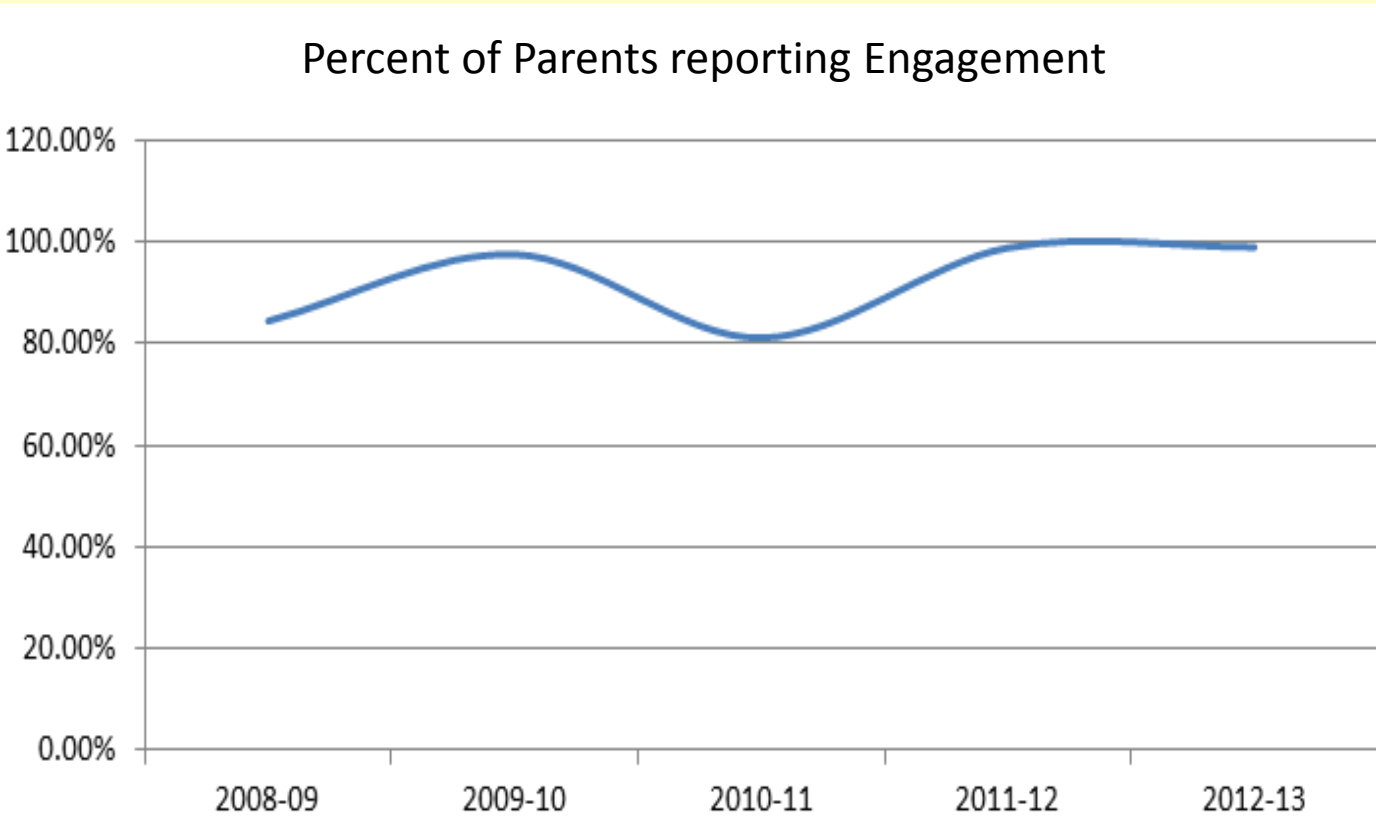


# California Suspension Rates for SWD Are Down



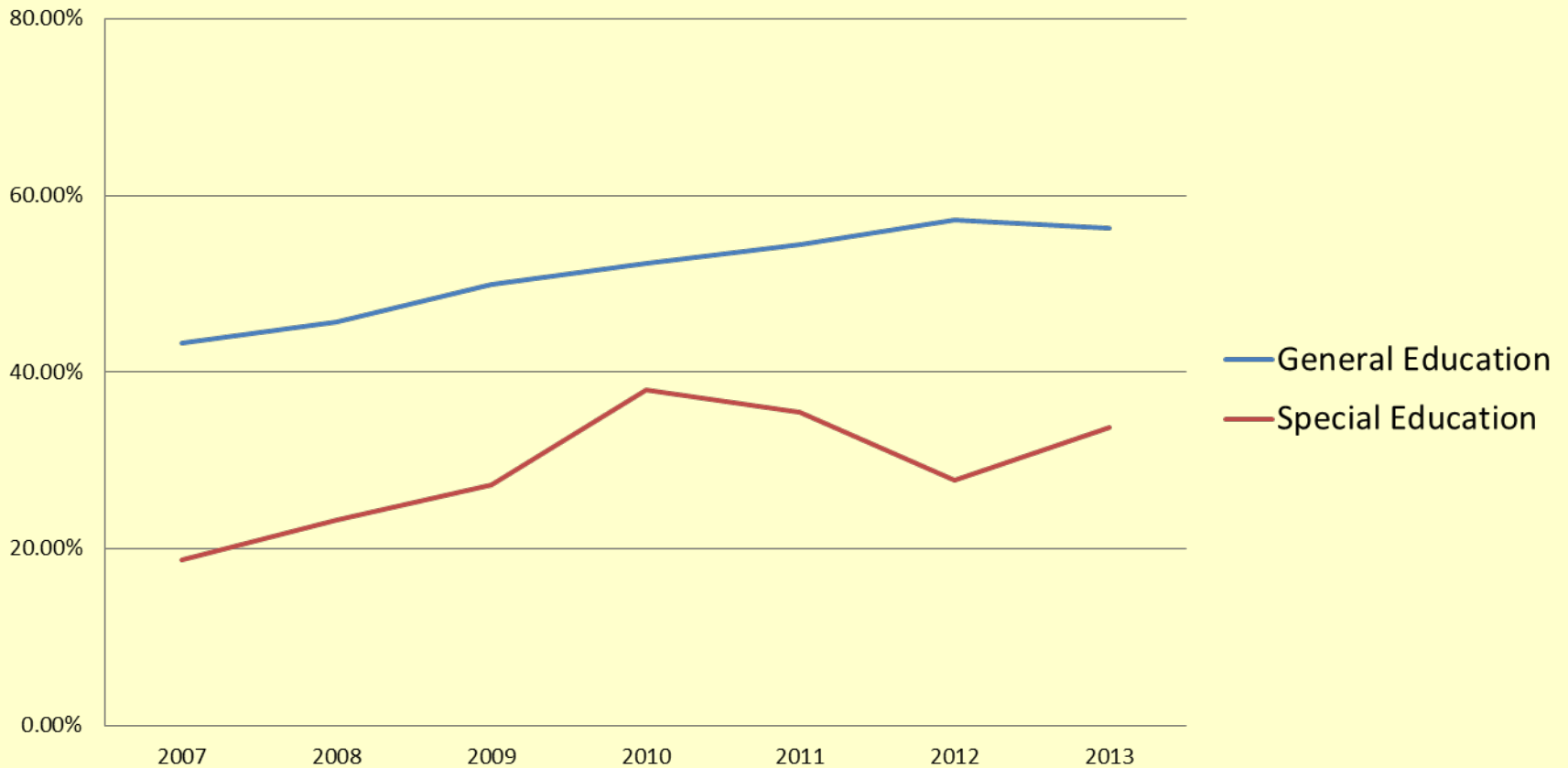


# California Parent Participation Rates for SWD are Up



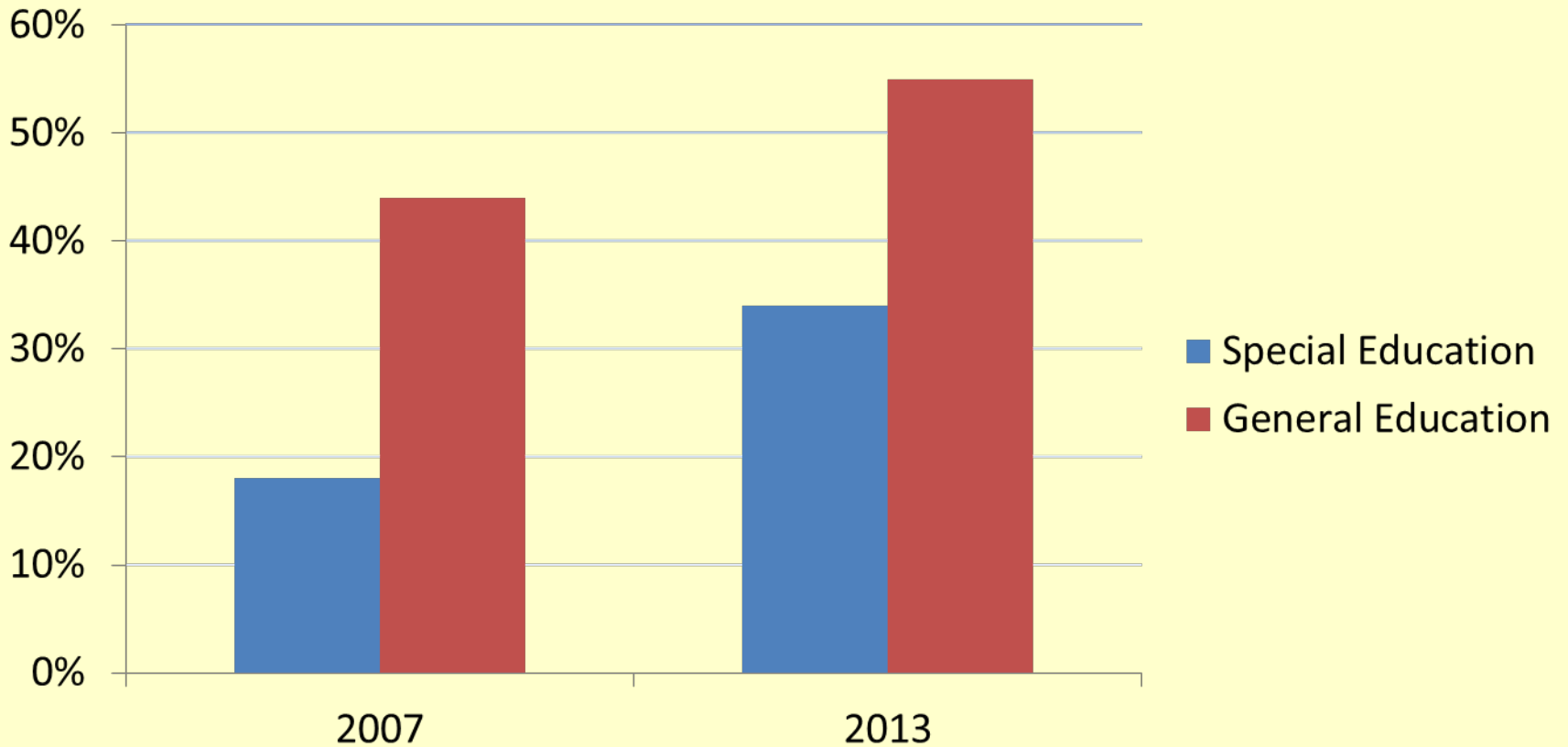
# ELA Proficiency Rates are Up

Proficiency Rate of Students - English Language Arts



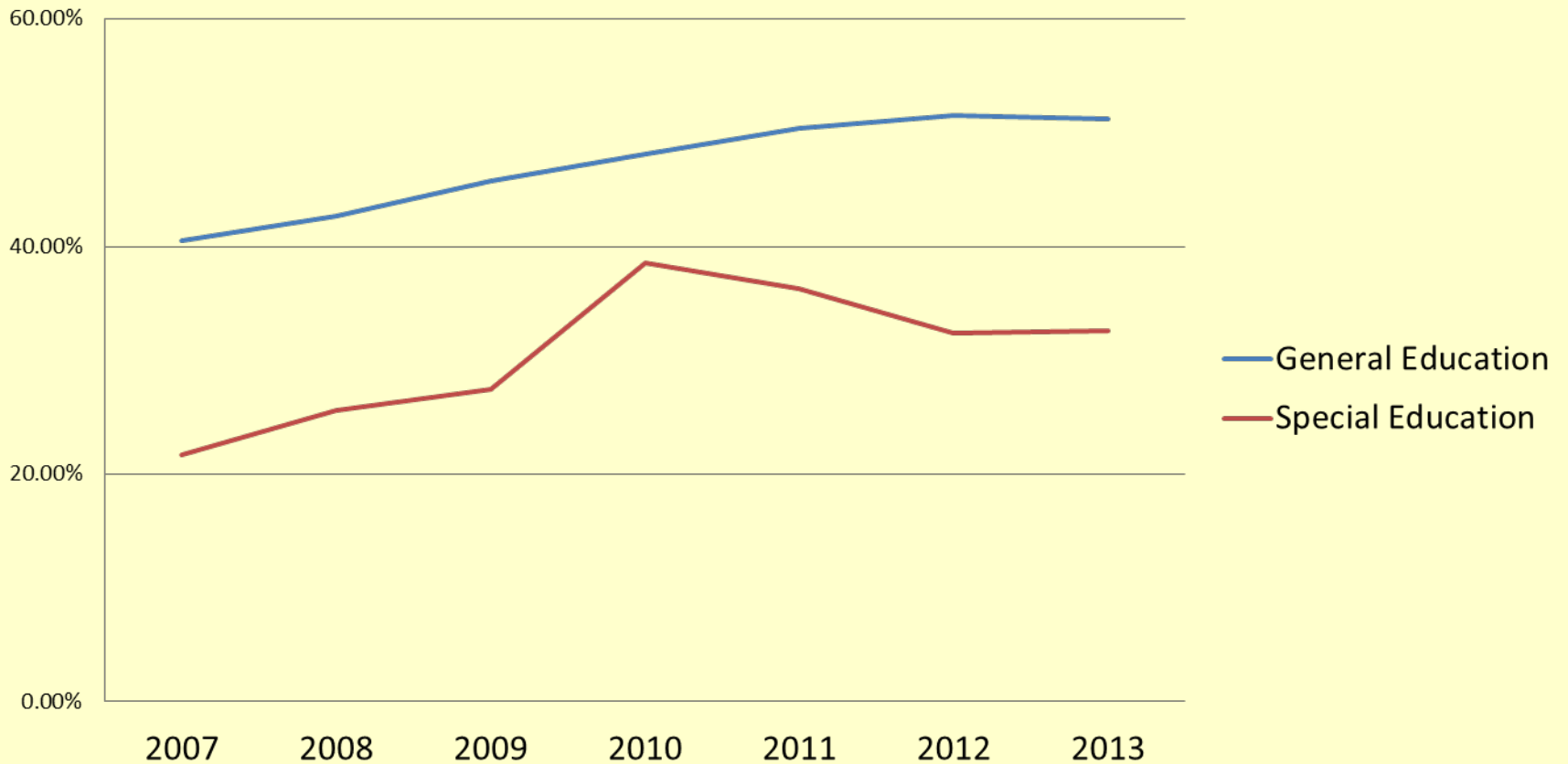
# The ELA Achievement Gap is Down

Proficiency Rate of Students-English Language Arts



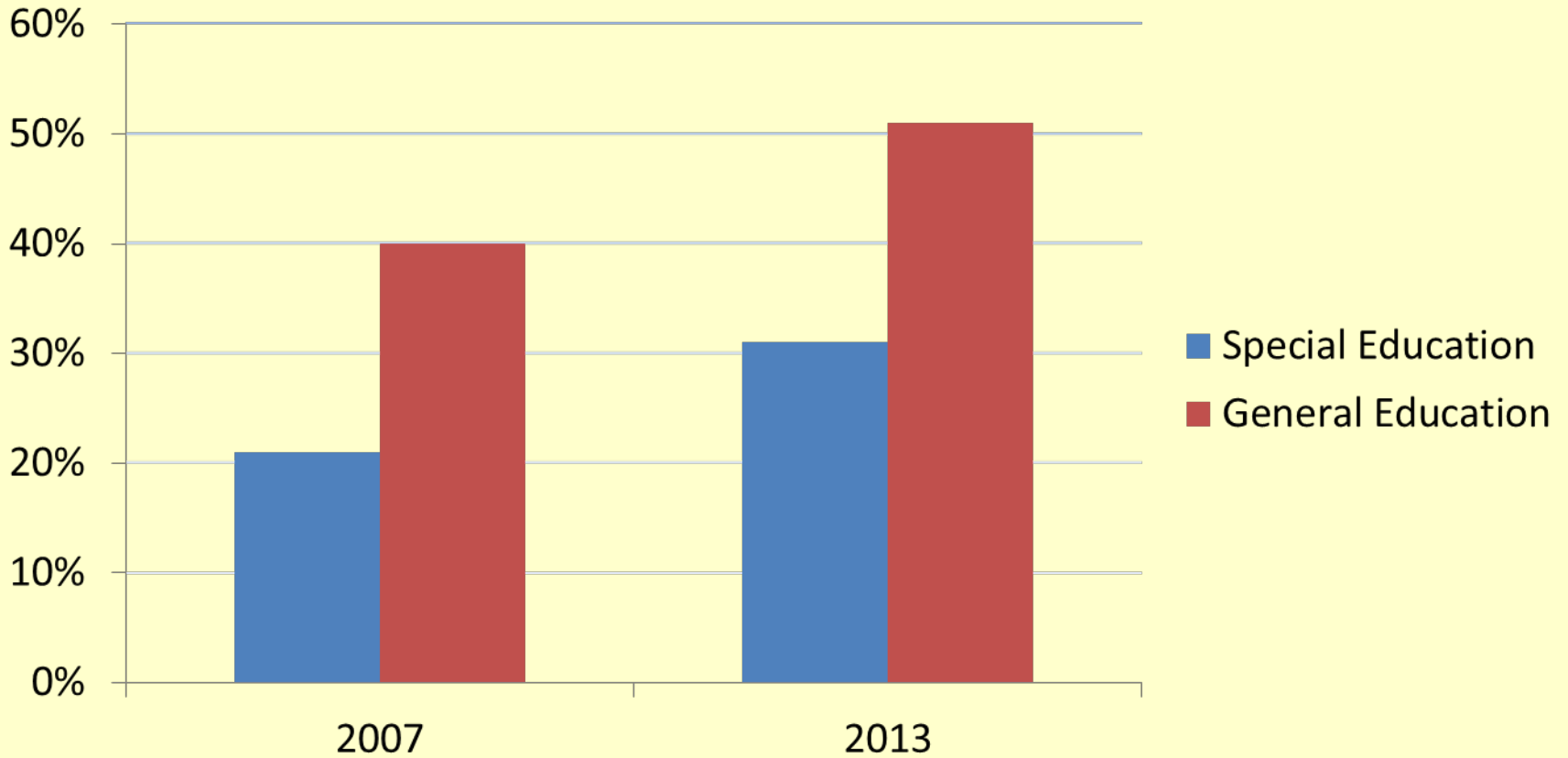
# Math Proficiency Rates Are Up

Proficiency Rate of Students - Mathematics



# The Math Achievement Gap is Down

Proficiency Rate of Students-Mathematics



# Summary of California's Appeal

- Details of NAEP report were not considered
- NAEP excludes as many as 36% of students with disabilities
- NAEP sample size is inadequate
- NAEP is not a valid measure for this purpose
- Participation in statewide assessments should include all statewide assessments and all students with disabilities
- Other measures are needed to include the “totality of information” about California