

HOUSE BILL REPORT

HB 2409

As Reported by House Committee On:
Education

Title: An act relating to supporting special needs students.

Brief Description: Increasing supports for special needs students.

Sponsors: Representatives Orwall, Santos, Gregerson, Johnson, Reykdal, Magendanz, Pollet, Ortiz-Self, S. Hunt, Moscoso, Fitzgibbon, Bergquist, Rossetti, Tarleton, Zeiger, Stanford, Muri, Farrell, McBride and Ormsby.

Brief History:

Committee Activity:

Education: 1/25/16, 1/28/16 [DPS].

Brief Summary of Substitute Bill

- Specifies that school districts have a duty to provide a free appropriate public education (FAPE) to students with disabilities under the requirements of the federal Rehabilitation Act of 1973, section 504 (Section 504).
- Provides that districts must notify the parent or guardian of each enrolling student of the procedural safeguards used by the district to identify, evaluate, and place a child who needs, or is believed to need, accommodations or related services.
- Requires that districts convene at least one meeting per year, more at the request of the parent or guardian, with Section 504-eligible students, their parents or guardians, and the members of their Section 504 team to reevaluate their Section 504 plan.
- Requires that postsecondary transition plans be developed, in conjunction with High School and Beyond Plans, when the Section 504 teams determines that the student needs transition services to receive a FAPE.
- Requires districts to take whatever action is necessary to ensure that the parent or guardian of a Section 504-eligible student understands the proceedings of the Section 504 team meeting, including arranging for an interpreter for parents or guardians with deafness or whose native language is other than English.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

HOUSE COMMITTEE ON EDUCATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 16 members: Representatives Santos, Chair; Ortiz-Self, Vice Chair; Magendanz, Ranking Minority Member; Muri, Assistant Ranking Minority Member; Stambaugh, Assistant Ranking Minority Member; Bergquist, Caldier, Griffey, S. Hunt, Kilduff, Klippert, Kuderer, Orwall, Pollet, Rossetti and Springer.

Minority Report: Do not pass. Signed by 2 members: Representatives Hargrove and Hayes.

Minority Report: Without recommendation. Signed by 1 member: Representative McCaslin.

Staff: Megan Wargacki (786-7194).

Background:

Special Education.

Under federal and state laws, school districts must provide a free appropriate public education (FAPE) to children with disabilities. An appropriate education is specially designed instruction or related services to address the unique needs, abilities, and limitations of a student with a disability. The federal Individuals with Disabilities Education Improvement Act requires that districts provide to each public school child who receives special education an Individualized Education Program (IEP). An IEP guides a student's learning while in a special education program. It describes the amount of time the student will spend receiving special education, any related services the student will receive, and the academic/behavioral goals and expectations for the year. The IEP is developed and revised annually by an IEP team.

Section 504 of the Rehabilitation Act of 1973 (Section 504) is a federal civil rights law that prohibits discrimination against individuals with disabilities. It applies to any school that receives federal funds. A Section 504 plan details the accommodations that will be made to ensure a student with disabilities has equal access to educational programs, services, and activities. The Section 504 plan is reevaluated periodically and prior to a significant change of placement.

High School and Beyond Plan.

The Legislature authorized the State Board of Education (SBE) to establish the minimum state requirements for high school graduation, within certain parameters established by the Legislature. The SBE's rules require each student to have a High School and Beyond Plan (HSBP) that describes what the student expects to do the year following graduation.

Postsecondary Transition Plans.

Transition planning is not a required component of Section 504 plans. In contrast, legislation adopted in 2015 (*i.e.*, Substitute Senate Bill 5679, enacted as chapter 217, Laws of 2015) added requirements to transition planning for students with disabilities who are on IEPs:

- Transition planning must be based on educationally and developmentally appropriate transition assessments that outline the student's needs, strengths, preferences, and interests.
- Transition services, including activities to assist the student in reaching postsecondary goals and courses of study to support the goals, must be addressed in the transition plan.
- Transition activities may include instruction, related services, community experience, employment and other adult living objectives, daily living skills, and functional vocational evaluation.
- As a student gets older, changes in the transition plan may be noted at the annual update of the student's IEP. A student with disabilities who has a HSBP may use that plan as the required transition plan.

Parent and Guardian Participation.

Students and families whose primary language is not English may need an interpreter or document translation in order to have meaningful access to programs and services. In 2000 the federal Civil Rights Act of 1964 was amended to require schools that receive federal funds to develop and implement a system that allows individuals with limited English proficiency meaningful access to the programs and services of the school in a way that is not unduly burdensome. State rule requires that school districts take whatever action is necessary to ensure that the parent of a student with an IEP understands the proceedings of the IEP team meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English.

Summary of Substitute Bill:

School districts must provide FAPE to Section 504-eligible students. At the time of enrollment, school districts must notify the parent or guardian of each enrolling student of the procedural safeguards used by the district to identify, evaluate, and place a child who needs, or is believed to need, accommodations or related services.

For Section 504-eligible students, districts must convene at least one meeting per year with the student, the student's parent or guardian, and the members of the student's Section 504 team to reevaluate the student's Section 504 plan. At the parent or guardian's request, districts must convene additional meetings to evaluate the success of the plan. At the initial placement meeting, districts must provide the parents or guardians with the district's Section 504 procedural safeguards and make them aware of the related aids or services that their Section 504-eligible student is entitled to in order to receive a FAPE. Such aids and services may include: school health services; counseling; environmental, instructional, and behavioral accommodations; postsecondary transition planning and services; and transportation.

When Section 504 teams determine that postsecondary transition services are needed by the students in order to receive a FAPE, then, when educationally and developmentally appropriate, the team must prepare a transition plan that includes:

- the student's postsecondary goals, which must be based on appropriate transition assessments related to training, education, employment, and independent living skills, as necessary, and based on the student's needs, while considering his or her strengths, preferences, and interests;
- the appropriate accommodations, services, and supports needed by the student to achieve his or her postsecondary goals; and
- ways the student can connect with the community, government, and educational resources needed by the student to achieve his or her postsecondary goals.

A required postsecondary transition plan must be developed in conjunction with the HSPB, or similar postsecondary transition plan required by the SBE for high school graduation.

School districts must take whatever action is necessary to ensure that the parents or guardians of Section 504-eligible students understand the proceedings of the Section 504 team meeting, including arranging for an interpreter for parents or guardians with deafness or whose native language is other than English. Districts are encouraged to contract with multilingual interpretation and translation services to facilitate access to these services and lower costs.

Districts must make their policies and procedures for complying with Section 504 readily available to community members through the districts' websites.

Substitute Bill Compared to Original Bill:

The substitute bill:

- strikes the language of the underlying bill;
- specifies that school districts have a duty to provide FAPE to Section 504-eligible students;
- provides that districts notify the parent or guardian of each enrolling student of the procedural safeguards used by the district to identify, evaluate, and place a child who needs, or is believed to need, accommodations or related services;
- requires that districts convene at least one meeting per year, more at the request of the parent or guardian, with Section 504-eligible students, their parents or guardians, and the members of their Section 504 team to reevaluate the students Section 504 plan;
- requires that districts provide parents or guardians with the procedural safeguards and make them aware of the related aids or services that their Section 504-eligible student is entitled to in order to receive a FAPE, at the initial meeting;
- specifies that a postsecondary transition plan is only required for Section 504-eligible students if the Section 504 team determines that transition services are needed for the student to receive a FAPE;
- provides that, in those cases, and when educationally and developmentally appropriate, the team must prepare a plan that includes specific elements (which are substantially similar to the elements in the original bill);
- requires that the plan be developed in conjunction with the HSBP (the original bill allowed such plan to be included in the HSBP);
- requires districts to take whatever action is necessary to ensure that the parent or guardian of a Section 504-eligible student understands the proceedings of the Section 504 team meeting, including arranging for an interpreter for parents or guardians with deafness or whose native language is other than English;

- encourages districts to contract with multilingual interpretation and translation services to facilitate access to these services and lower costs; and
 - provides that the act takes effect August 1, 2016.
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Appropriation: None.

Fiscal Note: Available. New fiscal note requested on January 28, 2016.

Effective Date of Substitute Bill: The bill takes effect August 1, 2016

Staff Summary of Public Testimony:

(In support) Transitions can be difficult for students with disabilities. We want every student to be successful. The National Center of Learning Disabilities reports that 17 percent of adults with learning disabilities received accommodations in postsecondary institutions compared to 94 percent in high schools. Students with disabilities graduate at a lower rate from colleges and are more likely to drop classes. This bill does something similar to what was done last year with IEPs. Aligning Section 504 planning with the HSPB should not create new meeting requirements. This bill should allow students to tap into resources available on college campuses, so they can make a smoother transition.

This bill adds transparency and intentionality for planning for Section 504-eligible students. The language merging this with the HSBP is great. Some parents are concerned that their Section 504-eligible students will not get the services they need in college. Even in college, it is important to update these Section 504 plans annually after discussion with the student, families, and postsecondary education institution. This bill protects students with disabilities who need extra support to get on the pathway to higher education, and will boost equity and access to higher education.

This committee has been hearing bills about transition services since 2013. There have been changes to the federal Workforce and Innovation Opportunity Act that require the Division of Vocational Rehabilitation to give 15 percent of their budget to pre-employment transition services, which includes services to Section 504-eligible students.

The other part of the bill helps the families of students who are on Section 504 plans. When the families do not understand English, it is very difficult for them to understand the plans and they do not feel like they can participate in the planning process. More support should be provided to these families. Interpreter technologies could be used to help with this.

Some families of students who would qualify for Section 504 are not made aware of the services that are available. Some schools do not know how to work with students with learning disabilities. It is important to provide interpreters to families who do not understand English to ensure that IEPs and Section 504 plans are fully implemented. Families cannot support their families if there is a language barrier. Often these families do not understand the documents that they are signing, so it is critical that translated documents are available. This bill will make it possible for students to have a higher quality education

(Opposed) None.

(Other) Some people support the intent of the bill, but want to strengthen the bill and work on concerns about additional staff workload. Section 504 plans do not come with extra federal support, so it is important to make information about what school districts are already required, under federal law, to provide to disabled students more clear and readily available. There should be specific references to postsecondary transition services, as deemed necessary by an eligible student's Section 504 team to ensure a FAPE. In addition, the transition planning should be done in coordination with, or as part of, the HSBP. This should make it so that there is no need for additional staff, but the students who need the services will get them.

Some Section 504-eligible students do not require a postsecondary transition plan, for example students with low vision or low hearing, and students with food allergies or diabetes. The scope of who needs the transition planning should be narrowed in the bill.

Persons Testifying: (In support) Representative Orwall, prime sponsor; Joe Cunningham and Patty Gonzalez, Arc of King County; and Marcie Taylor, Community Employment Alliance.

(Other) Jerry Bender, Association of Washington School Principals; and Wendy Rader-Konofalski, Washington Education Association.

Persons Signed In To Testify But Not Testifying: None.