

SENATE BILL REPORT

SB 5532

As Reported by Senate Committee On:
Early Learning & K-12 Education, February 18, 2019
Ways & Means, February 28, 2019

Title: An act relating to special education.

Brief Description: Concerning special education.

Sponsors: Senators Braun, Rolfes, Fortunato, Wagoner and Zeiger.

Brief History:

Committee Activity: Early Learning & K-12 Education: 2/08/19, 2/18/19 [DPS-WM].
Ways & Means: 2/20/19, 2/28/19 [DPS (EDU)].

Brief Summary of First Substitute Bill

- Requires school districts to provide at least one-half day of professional learning on special education topics.
- Requires educational service districts to contract for independent special education advocates to serve as resources for children with disabilities and their families, subject to appropriations.
- Requires school districts to convene an ongoing special education advisory committee to advise the district of special education needs.
- Provides that a representative from the Division of Vocational Rehabilitation will attend individualized education program (IEP) meetings after a student turns sixteen when requested by a member of the IEP team.
- Establishes an advisory committee to review special education topics and submit a report to the Legislature by 2021.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Majority Report: That Substitute Senate Bill No. 5532 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

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.

Signed by Senators Wellman, Chair; Wilson, C., Vice Chair; Hawkins, Ranking Member; Holy, Hunt, McCoy, Mullet, Padden, Pedersen, Salomon and Wagoner.

Staff: Alex Fairfortune (786-7416)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Operating, Capital Lead; Mullet, Capital Budget Cabinet; Braun, Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking Member, Capital; Bailey, Becker, Billig, Carlyle, Conway, Darneille, Hasegawa, Hunt, Keiser, Liias, Palumbo, Pedersen, Rivers, Schoesler, Van De Wege, Wagoner, Warnick and Wilson, L..

Staff: Jeffrey Naas (786-7708)

Background: Least Restrictive Environment. Approximately 140,000 students in Washington receive special education services. Under federal law, districts are required to provide these services in the least restrictive environment, which is the setting closest to the general education classroom still allowing a student access to an appropriate education from which they can benefit. The continuum of placement options available includes general education classes with or without support services, a combination of general education and special education classes, self-contained special education classes, home instruction, and residential care or treatment facilities.

Special Education Funding. The state allocates funding for a program of special education for students with disabilities. Special education is funded on an excess cost formula for up to 13.5 percent of a district's full-time equivalent students. This formula multiplies the district's base allocation for students enrolled in special education by an excess cost multiplier of 0.9609. Beyond these allocations, the Office of the Superintendent of Public Instruction (OSPI) may provide safety net funding if a district can convincingly demonstrate all legitimate expenditures for special education exceed all available revenues from state funding formulas, and it is maximizing its eligibility for all related state and federal revenues. Districts must expend at least three times the statewide average per-pupil expenditure as a cost threshold prior to being able to receive federal safety net awards.

Transition Planning. A student's special education program is required to begin planning for a student's high school graduation and adulthood beginning when the student turns sixteen years old. Transition planning consists of conducting assessments to identify student interests and needs, developing appropriate postsecondary goals, identifying and coordinating transition services, and writing individualized education program (IEP) goals to support post-secondary plans.

Washington Achieving a Better Life Experience Program. Anyone living in Washington who developed a qualifying disability before the age of 26 is eligible to open a Washington Achieving a Better Life Experience (ABLE) Account. ABLE accounts allow people with disabilities to save and invest up to \$15,000 a year to use towards eligible expenses without affecting Supplemental Security Income and other benefits. The account's growth is tax free.

Summary of Bill (First Substitute): Professional Learning Days and Teacher Preparation. Each school district must provide at least one-half day of professional learning on special education topics using the professional learning allocations currently being phased in by the Legislature. Professional learning days and teacher preparation programs must address topics such as how to recognize students needing services, why students need services, and best practices in special education.

Special Education Advocates. Each educational service district (ESD) must contract for independent special education advocates to serve as a resource for children with disabilities and their families, subject to appropriations for that purpose. Advocates must also advocate on behalf of the child for a free and appropriate public education and assist parents and children with IEP meetings.

Local Special Education Advisory Committees. Each school district must convene an ongoing special education advisory committee (committee) to serve as a partner with the school district to provide effective special education programming. The purpose of the committee is to increase parental and family involvement by providing a forum for parents, families, and the community to ask questions, propose solutions, and provide feedback about the special education program at their school.

The committee members must be appointed by the school board of directors, with a majority of members who are individuals with disabilities or parents of children with disabilities. The committee must also include one teacher, and may include school or district personnel serving in a consulting role. Committee meetings must be held at least four times each school year and be open to the public, and committee information must be posted on the school district website.

The committee must fulfill the following duties:

- advise the school district about education needs of children with disabilities;
- develop priorities and strategies to meet those needs;
- facilitate partnerships with community employers to provide transition services;
- facilitate trainings by consultants at least twice each year to teach advocacy skills to families and individuals with disabilities;
- submit reports and recommendations to the district superintendent regarding educating children with disabilities;
- assist the school district in interpreting plans to the community for meeting educational and transitional service needs for students with disabilities; and
- review school district policies and procedures for special education services prior to submission to the district board of directors.

Reporting Requirements. Beginning November 15, 2019, and every year thereafter, each school district must report least restrictive environment data to OSPI for eligible students with disabilities between the ages of three and twenty-one. The report must include data on the percentage of time students spend in general education classrooms and in specialized programs, to align with federal reporting requirements. The data must be published on the OSPI website and submitted to the education committees of the Legislature by December 15th of each year, beginning in 2019.

Any district who exceeds performance goals and measurements for statewide indicators of educational system health for special education students must be recognized in the next published report and receive an award developed by OSPI and the State Board of Education.

Transition Planning. Beginning when a student turns sixteen and continuing until the student is twenty-one or graduates from high school, whichever occurs first, a representative from the Division of Vocational Rehabilitation will attend IEP meetings to assist with transition planning when requested by a member of the student's IEP team. When discussing postschool planning, students with disabilities and their parents must be provided with information about Washington ABLE accounts.

Cooperative Programs. School districts are encouraged to participate in cooperative programs with other school districts or with ESDs to provide special education services to students. Each special education cooperative must apply for program approval from OSPI prior to 2020-21, and every five years after.

Advisory Group. OSPI must contract with the Ruckelshaus Center or another neutral party to facilitate the meetings and discussions of an advisory group. The group must review the outcomes of increased professional learning days, new teacher preparation courses on special education topics, the introduction of special education advocates, and the creation of the special education advisory committee. The group must also investigate special education policies in Washington and other states, and review graduation rates by school district. The advisory group is composed of the following members:

- one member from each of the two largest caucuses in the Senate;
- one member from each of the two largest caucuses in the House;
- five members that are parents or guardians of students participating in special education programs;
- four members who are teachers who provide instruction to students receiving special education services;
- two members who are school principals, one representing a school in a rural area and one representing a school in an urban or suburban area; and
- one member who is a professional independent advocate for students with special education service needs.

OSPI must submit a report summarizing the advisory group's findings and recommendations to the education committees of the Legislature by November 1, 2021, and every three years thereafter.

EFFECT OF CHANGES MADE BY EARLY LEARNING & K-12 EDUCATION COMMITTEE (First Substitute):

- States the Legislature's intent to increase the graduation rate for students receiving special education services to 70 percent by 2025.
- Removes the requirement for school districts to provide professional development days on special education topics.
- Adds a requirement that school districts provide at least one-half day of professional learning on special education topics using the professional learning allocations currently being phased in by the Legislature.

- Requires ESDs to contract with independent special education advocates, subject to appropriations.
- Provides that a representative from the Department of Vocational Rehabilitation will attend IEP meetings after a student turns sixteen when requested by a member of the IEP team, rather than requiring their presence at all IEP meetings.
- Removes the sections eliminating the 13.5 percent funded enrollment cap for small school districts and requiring the safety net to be 5 percent of special education excess costs.
- Requires an advisory group to review the bill outcomes, investigate special education policies in Washington and other states, and review graduation rates for students receiving special education services.
- Requires the advisory group's findings and recommendations be submitted to the Legislature every three years beginning November 2021.

Appropriation: The bill contains a section or sections to limit implementation to the availability of amounts appropriated for that specific purpose.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: Yes.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill (Early Learning & K-12 Education): *The committee recommended a different version of the bill than what was heard.* PRO: This has been worked on with help from special education parents throughout the interim. Washington does not do well compared to other states around the country when it comes to special education. Inclusion is in the bottom ten and graduation rates are the third lowest. The most important parts to address are not the fiscal parts but rather the policy parts. Advocates are important for parents who can not attend or do not feel comfortable. Advisory committees are relatively inexpensive but give special education parents and children a voice within the district and provide a healthy feedback mechanism. The reporting requirements are duplicative of what districts already do but it is important to have measure we can look at to see where efforts are making a difference. In small schools one or two kids can make a big difference in special education spending costs, so waiving the 13.5 percent funding cap will help. The 5 percent safety net requirement can be dialed as needed, but if the safety net grows with the budget it will have a better chance of not falling short.

OTHER: General education prep programs already address special education. Embedded professional development costs lots of money and takes lots of time. The advisory committee is a good idea but there are concerns about how they will be staffed and where they will be held. Requiring educational service districts to employ or contract for special education advocates potentially brings forth issues like unauthorized practice of law, and it reduces the capacity for families to develop their own advocacy skills. The Department of Vocational Rehabilitation does not have the capacity to attend all IEP meetings. Hopefully the 13.5 percent cap removal will apply to all districts some day.

Persons Testifying (Early Learning & K-12 Education): PRO: Senator John Braun, Prime Sponsor; Beth Sigall, citizen; Susan Cobb, citizen; Virginia Barry, Stand for Children; Jana Parker, Equal Right to Representation in Education.

OTHER: Lucinda Young, Washington Education Association; Jim Kowalkowski, Davae Nport School District, Superintendent; Bob Cooper, Washington Association of Colleges for Teacher Education; Jen Cole, Director, Parent Training and Information PAVE.

Persons Signed In To Testify But Not Testifying (Early Learning & K-12 Education): OTHER: Jessica Vavrus, Washington State School Directors' Association.

Staff Summary of Public Testimony on First Substitute (Ways & Means): PRO: Some of this bill certainly has to do with funding and some of it is about empowering and advocating for these children. Please support increased funding for teacher training and, to be honest, I do not think that half a day is enough. At any point in time over the past five years had trained, non-biased independent advocates been available maybe we would not have needed to withdraw my children from school and draw down my retirement funds in order to support them. This bill gives families and students a real voice and a seat at the table and local decision making around the education of students with disabilities. The removal of the 13.5 percent cap for the small schools under 1000 student enrollment was removed in the policy committee and we would like to encourage this committee to reconsider this issue. There are many families who do not have the financial means or outside placement for evaluations or the needed explicit instruction for kids with Dyslexia Dyspraxia. Access to an advocate would be a godsend to many special needs families. Our district is in desperate need of more training and support for teachers and the families in our district are in desperate need for more trained state appointed advocates.

OTHER: We strongly support using one of the existing professional development days for special education training in an ongoing manner. Some of the ESDs actually have special ed co-ops and provide those direct advocate services so to have the Ruckelshaus Center also be the advocate, there could be a conflict of interest.

Persons Testifying (Ways & Means): PRO: Senator John Braun, Prime Sponsor; Nathan Sebe, citizen; Beth Sigall, citizen; Dianna Connelly, citizen; Ammerine Dellenbaugh, citizen; Susan Cobb, citizen; Michelle Ross, citizen; Julia Warth, League of Education Voters.

OTHER: Lucinda Young, Washington Education Association; Melissa Gombosky, Association of Education Service Districts.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.