

HOUSE BILL REPORT

HB 1454

As Reported by House Committee On: Education

Title: An act relating to designing a coordinated and responsive system for meeting the diverse needs of students with disabilities.

Brief Description: Concerning students with disabilities.

Sponsors: Representatives Pollet, Senn, Slatter, Bergquist, Kloba, Thai, Valdez, Doglio and Tarleton.

Brief History:

Committee Activity:

Education: 2/5/19, 2/18/19 [DPS].

Brief Summary of Substitute Bill

- Directs the Office of the Superintendent of Public Instruction (OSPI) to identify, and report biennially on, meaningful indicators of progress toward eliminating within 10 years the most significant barriers to success, and disparities in outcomes, for students with disabilities or special needs.
- Requires that the OSPI establish, by September 1, 2021, a technical assistance program on inclusive education practices and improving outcomes for students with disabilities.
- Tasks an advisory group with designing a coordinated and responsive system for meeting the needs of students with disabilities, and reporting recommendations to the Legislature.
- Allows five local education agencies to seek temporary waivers from certain laws in order to execute inclusive education implementation plans, and requires quarterly progress reports to the advisory group.

HOUSE COMMITTEE ON EDUCATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 18 members: Representatives Santos, Chair; Dolan, Vice Chair; Paul, Vice Chair; Steele, Ranking Minority Member; McCaslin, Assistant Ranking Minority Member; Volz,

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.

Assistant Ranking Minority Member; Bergquist, Caldier, Callan, Corry, Harris, Kilduff, Ortiz-Self, Rude, Stonier, Thai, Valdez and Ybarra.

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

Staff: Megan Wargacki (786-7194).

Background:

Special education is specially designed instruction and related services that address the unique needs of each student eligible to receive special education services.

Federal Special Education Laws. Two federal laws require local education agencies (LEAs), such as school districts, charter public schools, and state-tribal compact schools, to provide individualized education and support services to children with disabilities. The Individuals with Disabilities Education Improvement Act (IDEA) guarantees a free, appropriate, public education to eligible children with disabilities. Services under the IDEA are provided to eligible students according to an individualized education program in schools or other appropriate settings. Section 504 of the Rehabilitation Act of 1973 requires that the LEAs provide to each qualified student with a disability regular or special education services and related services designed to meet the student's individual educational needs.

Least Restrictive Environment. The IDEA requires that LEAs provide special education services in the least restrictive environment (LRE). The LRE means that, to the maximum extent appropriate, children with disabilities are educated with children who do not have disabilities. Removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Special Education Advisory Council. The Special Education Advisory Council (SEAC) was established through the IDEA to advise the Office of the Superintendent of Public Instruction (OSPI) on matters related to the provision of special education and related services. The SEAC identifies unmet needs in the education of special education students; comments publicly on proposed special education rules; and advises the OSPI on developing and implementing policies relating to the coordination of services for special education students.

Bilingual Education Advisory Committee. The Bilingual Education Advisory Committee serves as an advisory committee to the OSPI on matters related to policy, effective programming, and resource allocations for English learners.

Special Education Program Review. The IDEA requires: (1) the federal Department of Education (ED) to make annual determinations regarding each state's overall compliance with the IDEA; and (2) each state to make annual determinations regarding each LEA's overall compliance with the IDEA. The levels of determination are: meets requirements, needs assistance, needs intervention, and needs substantial intervention. Due to determining that Washington "needs assistance" for two years in a row, the ED directed the OSPI to report, by February 1, 2019, on any technical assistance that the state received and on any

corrective actions that the state took. In November 2019 the OSPI determined that 38 LEAs need assistance, 11 LEAs need interventions, and no LEAs need substantial intervention.

Technical Assistance. The OSPI encourages the LEAs to access technical assistance resources to improve compliance with IDEA. In addition, LEAs may be required to access technical assistance as a part of enforcement actions related their determination status. Technical assistance provides resources appropriate for teachers, administrators, parents, students, related services and other staff, and the general community. These resources may be used for the development of professional learning communities, peer review activities, mentoring for new personnel, staff and parent orientations, and student empowerment.

Summary of Substitute Bill:

Eliminating Barriers to Success. The Office of the Superintendent of Public Instruction (OSPI) must identify meaningful indicators of progress toward eliminating within 10 years the most significant barriers to success, and disparities in outcomes, for students with disabilities or special needs. The indicators must be quantifiable and based on data that are regularly and reliably collected statewide, for example: (1) data on educational opportunity gaps and other outcomes; (2) discipline rates and rates of restraint or isolation; and (3) use of Medicaid-funded school-based services. Beginning September 1, 2020, and by September 1 every even-numbered year thereafter, the OSPI must report to the Legislature on the state's progress toward eliminating the most significant barriers to success, and disparities in outcomes, for students with disabilities or special needs.

Special Education Advisory Group. The OSPI must convene an advisory group, with specified members, to design a coordinated and responsive system for meeting the diverse needs of students with disabilities. The duties of the advisory group are provided, for example: (1) review relevant laws, policies, and research; (2) plan for the realities of implementing inclusive education practices; (3) develop an inclusive education implementation plan template with specified components; (4) develop inclusive education best practices guidance; (5) recommend a technical assistance structure and a professional learning structure to meet the diverse needs of students with disabilities; and (6) review the feedback from the special education demonstration projects (demonstration projects), described below.

The advisory group must meet at least quarterly. The advisory group must submit four annual reports to the Legislature summarizing the advisory group's activities and the progress of the demonstration projects. The reports must recommend any changes to state laws or policies necessary to support the improvement of instructional practices and systems to meet the diverse needs of students with disabilities.

Special Education Demonstration Projects. By September 1, 2019, the OSPI must publicize a process for local education agencies (LEAs) to apply to have one or more schools designated as a demonstration project. The application deadline and minimum contents are described, for example the application must: define the scope of the demonstration project and describe why designation would support the school's ability to improve its instructional

practices and systems to meet the diverse needs of students with disabilities; justify each request for waiver of state statutes or administrative rules; and include written statements of support from various leaders and partners.

The OSPI, in collaboration with its Special Education Advisory Council, must develop criteria for reviewing the applications and for evaluating the need for waivers. Up to five LEAs, diverse in geography and size, must be selected, with one having a school or program that removes students receiving special education from regular classes for 80 percent or more of the school day.

Beginning in the 2020-21 school year and for two school years thereafter, the demonstration projects must perform specified activities, such as: (1) executing an approved inclusive education implementation plan; (2) forming collaborative learning teams; (3) gathering and reporting feedback from stakeholders on the progress of the demonstration project; and (4) participating in the advisory group.

The OSPI and the State Board of Education may grant waivers of state statutes and administrative rules for the demonstration projects. Waiver requests may be denied if the waiver: is likely to result in a decrease in academic achievement; would jeopardize the receipt of state or federal funds; or would violate state or federal laws or rules that are not authorized to be waived (such as those related to public health, safety, and civil rights).

Technical Assistance. Beginning September 1, 2021, the OSPI must establish a technical assistance program to provide resources and best practice guidance on inclusive education practices and improving outcomes for students with disabilities. The components of the technical assistance program must be informed by the advisory group.

Substitute Bill Compared to Original Bill:

The substitute bill makes the following changes to the original bill:

- adds the following members to the advisory group: a representative of the Bilingual Education Advisory Council at the Office of the Superintendent of Public Instruction; and a general education teacher and a special education teacher, both nominated by an association of educators;
- modifies the description of the co-chairs to require that one be an individual with a disability or a parent of a student with a disability, and the other be an educator (rather than specifying that one co-chair provide the perspectives of an individual with disabilities and the other the perspective of educators);
- changes the date of the advisory group's reports to the Legislature from December 1 to November 1; and
- corrects the term "local education associations" to "local education agencies."

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 4, relating to the establishment of a technical assistance program, which takes effect September 1, 2021.

Staff Summary of Public Testimony:

(In support) Only 55 percent of special education students graduate from high school in Washington. There is a 22 percent opportunity gap for students with disabilities. Many other states exceed an 85 percent graduation rate for students receiving special education. There is also a large disparity in disciplinary rates between students who receive special education and other students. In order to tackle these opportunity gaps, the state must look at the educational success of special education students.

The design of the state education system drives special education students to have poor academic outcomes. To change the outcomes, the state needs to look at the siloing and segregation that happens in the system. The system is built around a culture of low expectations for students with disabilities, and there is poor compliance with state and federal laws. The system is not responsive to unique individual student needs. Many districts are trying to be inclusive, but those districts have to hire outside help. Student access to what they need should not depend on the luck of being in the right school or the luck of having a parent or educator who is a strong advocate and able to navigate the system.

The biggest barriers to the educational success of special education students are the lack of inclusion of these students in general education classrooms, the lack of using best practices, and the lack of training of educators in how to lead an inclusive classroom. This bill is a long-overdue step to building the guidance, technical assistance, and supports for school districts to implement inclusive practices. It is good that the advisory group must develop an inclusive education implementation template and inclusive education best practice guidance. This bill creates demonstration projects to use best practices. These pilots may be able to show that inclusion works for students who were spending 80 percent or more of their time outside the general education classroom. The application process for the demonstration projects sets up the projects to be successful in improving outcomes for students with disabilities.

The current special education model reaches many students, but not all. While working to add overall funding to the special education system, allowing the demonstration projects to focus on an inclusive education model will provide meaningful data and identify ways to eliminate the most significant barriers for students with disabilities and special needs. The Office of the Superintendent of Public Instruction created a task force to look at the special education safety net and the multiplier. There is legislation that implements the recommendations of the task force. This bill is about looking at how to do things better. Most practitioners agree about the policy and funding changes needed to improve outcomes for students with disabilities. The problem is bridging the gap between practitioners and legislators who make the policy and state funding decisions.

There should be a special education teacher, a general education teacher, and a school psychologist on the advisory group. There should be legislators on the advisory group. There is a technical amendment needed to change "local education association" to "agency."

One of the co-chairs should be an educator, and the other should be a student or parent of a student with a disability. There is concern around language access, so one of the members of the advisory committee should be from the Bilingual Education Advisory Council. The timeline in the bill needs to be thoughtful but provide a clear sense of urgency.

(Opposed) None.

Persons Testifying: Representative Pollet, prime sponsor; Sarah Butcher; Simone Boe, Washington Education Association; and Dave Mastin, Office of the Superintendent of Public Instruction.

Persons Signed In To Testify But Not Testifying: None.