
SUBSTITUTE SENATE BILL 6117

State of Washington

66th Legislature

2020 Regular Session

By Senate Early Learning & K-12 Education (originally sponsored by Senators Wellman, Dhingra, Hunt, Kuderer, Pedersen, Saldaña, and Wilson, C.; by request of Superintendent of Public Instruction)

READ FIRST TIME 02/05/20.

1 AN ACT Relating to appropriations for special education programs;
2 and amending RCW 28A.150.390 and 28A.150.392.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 28A.150.390 and 2019 c 387 s 4 are each amended to
5 read as follows:

6 (1) The superintendent of public instruction shall submit to each
7 regular session of the legislature during an odd-numbered year a
8 programmed budget request for special education programs for students
9 with disabilities. Funding for programs operated by local school
10 districts shall be on an excess cost basis from appropriations
11 provided by the legislature for special education programs for
12 students with disabilities and shall take account of state funds
13 accruing through RCW 28A.150.260 (4)(a), (5), (6), and (8) and
14 28A.150.415.

15 (2) The excess cost allocation to school districts shall be based
16 on the following:

17 (a) A district's annual average headcount enrollment of students
18 ages birth through four and those five year olds not yet enrolled in
19 kindergarten who are eligible for and receiving special education,
20 multiplied by the district's base allocation per full-time equivalent
21 student, multiplied by 1.15;

1 (b)(i) Subject to the limitation in (b)(ii) of this subsection
2 (2), a district's annual average enrollment of resident students who
3 are eligible for and receiving special education, excluding students
4 ages birth through four and those five year olds not yet enrolled in
5 kindergarten, multiplied by the district's base allocation per full-
6 time equivalent student, multiplied by the special education cost
7 multiplier rate of:

8 (A) In the 2019-20 school year, 0.995 for students eligible for
9 and receiving special education.

10 (B) Beginning in the 2020-21 school year, either:

11 (I) (~~1.0075~~) 1.0251 for students eligible for and receiving
12 special education and reported to be in the general education setting
13 for eighty percent or more of the school day; or

14 (II) 0.995 for students eligible for and receiving special
15 education and reported to be in the general education setting for
16 less than eighty percent of the school day.

17 (ii) If the enrollment percent exceeds thirteen and five-tenths
18 percent, the excess cost allocation calculated under (b)(i) of this
19 subsection must be adjusted by multiplying the allocation by thirteen
20 and five-tenths percent divided by the enrollment percent.

21 (3) As used in this section:

22 (a) "Base allocation" means the total state allocation to all
23 schools in the district generated by the distribution formula under
24 RCW 28A.150.260 (4)(a), (5), (6), and (8) and the allocation under
25 RCW 28A.150.415, to be divided by the district's full-time equivalent
26 enrollment.

27 (b) "Basic education enrollment" means enrollment of resident
28 students including nonresident students enrolled under RCW
29 28A.225.225 and students from nonhigh districts enrolled under RCW
30 28A.225.210 and excluding students residing in another district
31 enrolled as part of an interdistrict cooperative program under RCW
32 28A.225.250.

33 (c) "Enrollment percent" means the district's resident annual
34 average enrollment of students who are eligible for and receiving
35 special education, excluding students ages birth through four and
36 those five year olds not yet enrolled in kindergarten and students
37 enrolled in institutional education programs, as a percent of the
38 district's annual average full-time equivalent basic education
39 enrollment.

1 **Sec. 2.** RCW 28A.150.392 and 2019 c 387 s 2 are each amended to
2 read as follows:

3 (1) (a) To the extent necessary, funds shall be made available for
4 safety net awards for districts with demonstrated needs for special
5 education funding beyond the amounts provided through the special
6 education funding formula under RCW 28A.150.390.

7 (b) If the federal safety net awards based on the federal
8 eligibility threshold exceed the federal appropriation in any fiscal
9 year, then the superintendent shall expend all available federal
10 discretionary funds necessary to meet this need.

11 (2) Safety net funds shall be awarded by the state safety net
12 oversight committee subject to the following conditions and
13 limitations:

14 (a) The committee shall award additional funds for districts that
15 can convincingly demonstrate that all legitimate expenditures for
16 special education exceed all available revenues from state funding
17 formulas.

18 (b) In the determination of need, the committee shall consider
19 additional available revenues from federal sources.

20 (c) Differences in program costs attributable to district
21 philosophy, service delivery choice, or accounting practices are not
22 a legitimate basis for safety net awards.

23 (d) In the determination of need, the committee shall require
24 that districts demonstrate that they are maximizing their eligibility
25 for all state revenues related to services for students eligible for
26 special education and all federal revenues from federal impact aid,
27 medicaid, and the individuals with disabilities education act-Part B
28 and appropriate special projects. Awards associated with (e) and (f)
29 of this subsection shall not exceed the total of a district's
30 specific determination of need.

31 (e) The committee shall then consider the extraordinary high cost
32 needs of one or more individual students eligible for and receiving
33 special education. Differences in costs attributable to district
34 philosophy, service delivery choice, or accounting practices are not
35 a legitimate basis for safety net awards.

36 (f) Using criteria developed by the committee, the committee
37 shall then consider extraordinary costs associated with communities
38 that draw a larger number of families with children in need of
39 special education services, which may include consideration of
40 proximity to group homes, military bases, and regional hospitals.

1 Safety net awards under this subsection (2)(f) shall be adjusted to
2 reflect amounts awarded under (e) of this subsection.

3 (g) The committee shall then consider the extraordinary high cost
4 needs of one or more individual students eligible for and receiving
5 special education served in residential schools as defined in RCW
6 28A.190.020, programs for juveniles under the department of
7 corrections, and programs for juveniles operated by city and county
8 jails to the extent they are providing a secondary program of
9 education.

10 (h) The maximum allowable indirect cost for calculating safety
11 net eligibility may not exceed the federal restricted indirect cost
12 rate for the district plus one percent.

13 (i) Safety net awards shall be adjusted based on the percent of
14 potential medicaid eligible students billed as calculated by the
15 superintendent of public instruction in accordance with chapter 318,
16 Laws of 1999.

17 (j) Safety net awards must be adjusted for any audit findings or
18 exceptions related to special education funding.

19 (3) The superintendent of public instruction shall adopt such
20 rules and procedures as are necessary to administer the special
21 education funding and safety net award process. By December 1, 2018,
22 the superintendent shall review and revise the rules to achieve full
23 and complete implementation of the requirements of this subsection
24 and subsection (4) of this section including revisions to rules that
25 provide additional flexibility to access community impact awards.
26 Before revising any standards, procedures, or rules, the
27 superintendent shall consult with the office of financial management
28 and the fiscal committees of the legislature. In adopting and
29 revising the rules, the superintendent shall ensure the application
30 process to access safety net funding is streamlined, timelines for
31 submission are not in conflict, feedback to school districts is
32 timely and provides sufficient information to allow school districts
33 to understand how to correct any deficiencies in a safety net
34 application, and that there is consistency between awards approved by
35 school district and by application period. The office of the
36 superintendent of public instruction shall also provide technical
37 assistance to school districts in preparing and submitting special
38 education safety net applications.

39 (4) On an annual basis, the superintendent shall survey districts
40 regarding their satisfaction with the safety net process and consider

1 feedback from districts to improve the safety net process. Each year
2 by December 1st, the superintendent shall prepare and submit a report
3 to the office of financial management and the appropriate policy and
4 fiscal committees of the legislature that summarizes the survey
5 results and those changes made to the safety net process as a result
6 of the school district feedback.

7 (5) The safety net oversight committee appointed by the
8 superintendent of public instruction shall consist of:

9 (a) One staff member from the office of the superintendent of
10 public instruction;

11 (b) Staff of the office of the state auditor who shall be
12 nonvoting members of the committee; and

13 (c) One or more representatives from school districts or
14 educational service districts knowledgeable of special education
15 programs and funding.

16 (6) (a) Beginning in the 2019-20 school year, a high-need student
17 is eligible for safety net awards from state funding under subsection
18 (2)(e) and (g) of this section if the student's individualized
19 education program costs exceed two and three-tenths times the average
20 per-pupil expenditure (~~(as defined in Title 20 U.S.C. Sec. 7801, the~~
21 ~~every student succeeds act of 2015)~~).

22 (b) Beginning in the 2020-21 school year, the average per pupil
23 expenditure used to determine safety net award eligibility for a
24 high-need student is the lesser of:

25 (i) The average per-pupil expenditure calculated using the
26 methodology defined in 20 U.S.C. Sec. 7801, the every student
27 succeeds act of 2015; or

28 (ii) The average per-pupil expenditure calculated using the
29 methodology defined in 20 U.S.C. Sec. 7801, the every student
30 succeeds act of 2015, using only the expenditure and average daily
31 attendance data for the subset of districts receiving the same salary
32 regionalization factor as the high-need student's district, as
33 determined under RCW 28A.150.412 and the omnibus operating
34 appropriations act.

35 (c) When calculating the average per pupil expenditure for safety
36 net eligibility purposes, safety net funding provided in this section
37 must be excluded.

--- END ---