
SECOND SUBSTITUTE SENATE BILL 6117

State of Washington

66th Legislature

2020 Regular Session

By Senate Ways & Means (originally sponsored by Senators Wellman, Dhingra, Hunt, Kuderer, Pedersen, Saldaña, and Wilson, C.; by request of Superintendent of Public Instruction)

READ FIRST TIME 02/11/20.

1 AN ACT Relating to special education; amending RCW 28A.150.390
2 and 28A.150.392; adding a new section to chapter 28A.155 RCW; and
3 adding a new section to chapter 28A.320 RCW.

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

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

7 (1) The superintendent of public instruction shall submit to each
8 regular session of the legislature during an odd-numbered year a
9 programmed budget request for special education programs for students
10 with disabilities. Funding for programs operated by local school
11 districts shall be on an excess cost basis from appropriations
12 provided by the legislature for special education programs for
13 students with disabilities and shall take account of state funds
14 accruing through RCW 28A.150.260 (4)(a), (5), (6), and (8) and
15 28A.150.415.

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

18 (a) A district's annual average headcount enrollment of students
19 ages birth through four and those five year olds not yet enrolled in
20 kindergarten who are eligible for and receiving special education,

1 multiplied by the district's base allocation per full-time equivalent
2 student, multiplied by 1.15;

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

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

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

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

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

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

23 (3) As used in this section:

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

29 (b) "Basic education enrollment" means enrollment of resident
30 students including nonresident students enrolled under RCW
31 28A.225.225 and students from nonhigh districts enrolled under RCW
32 28A.225.210 and excluding students residing in another district
33 enrolled as part of an interdistrict cooperative program under RCW
34 28A.225.250.

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

1 district's annual average full-time equivalent basic education
2 enrollment.

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

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

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

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

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

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

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

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

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

38 (f) Using criteria developed by the committee, the committee
39 shall then consider extraordinary costs associated with communities

1 that draw a larger number of families with children in need of
2 special education services, which may include consideration of
3 proximity to group homes, military bases, and regional hospitals.
4 Safety net awards under this subsection (2)(f) shall be adjusted to
5 reflect amounts awarded under (e) of this subsection.

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

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

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

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

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

1 assistance to school districts in preparing and submitting special
2 education safety net applications.

3 (4) On an annual basis, the superintendent shall survey districts
4 regarding their satisfaction with the safety net process and consider
5 feedback from districts to improve the safety net process. Each year
6 by December 1st, the superintendent shall prepare and submit a report
7 to the office of financial management and the appropriate policy and
8 fiscal committees of the legislature that summarizes the survey
9 results and those changes made to the safety net process as a result
10 of the school district feedback.

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

13 (a) One staff member from the office of the superintendent of
14 public instruction;

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

17 (c) One or more representatives from school districts or
18 educational service districts knowledgeable of special education
19 programs and funding.

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

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

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

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

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

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.155
5 RCW to read as follows:

6 (1) School districts are encouraged to participate in the
7 establishment or continuation of existing cooperative programs
8 between or among school districts, or educational service districts
9 and school districts, to provide special education and services to
10 eligible students with disabilities.

11 (2) Prior to the 2021-22 school year and every five years
12 thereafter, each special education cooperative must apply for
13 approval of the program by the superintendent of public instruction.

14 NEW SECTION. **Sec. 4.** A new section is added to chapter 28A.320
15 RCW to read as follows:

16 (1) Each school district shall convene an ongoing special
17 education advisory committee. The purposes of the committee are to:

18 (a) Increase parental and family involvement by providing a forum
19 for parents, families, and the community to ask questions, propose
20 solutions, and otherwise give feedback on the special education
21 program in their schools; and

22 (b) Be a partner with the school district in its efforts to
23 provide effective special education programming for eligible students
24 with disabilities.

25 (2) The committee must be appointed by the school board of
26 directors and shall advise the school board through the school
27 district superintendent.

28 (3) At a minimum, a majority of the committee members must be
29 parents of children with disabilities or individuals with
30 disabilities. The committee must also include one member who is a
31 teacher. Additional school or school district personnel must serve
32 only as consultants to the committee.

33 (4) The committee has the following duties:

34 (a) Advise the school district of needs in the education of
35 children with disabilities;

36 (b) Participate in the development of priorities and strategies
37 for meeting the identified needs of children with disabilities;

- 1 (c) Facilitate partnerships with community employers to provide
2 appropriate transition services;
- 3 (d) Facilitate trainings, by experienced outside consultants not
4 employed by the school district, at least two times per school year
5 to families of children with disabilities to teach families how to
6 advocate for their child and to teach students with disabilities how
7 to self-advocate;
- 8 (e) Submit periodic reports and recommendations to the school
9 district superintendent for transmission to the school district board
10 of directors regarding the education of children with disabilities;
- 11 (f) Assist the school district in interpreting plans to the
12 community for meeting the special needs of children with disabilities
13 for educational and transition services; and
- 14 (g) Review the school district proposed policies and procedures
15 for the provision of special education and related services prior to
16 submission to the school district board of directors.
- 17 (5) Committee meetings must be held at least four times in a
18 school year and shall be open to the public.
- 19 (6) The school district must post on its web site: The names of
20 the committee members; the committee meeting schedule and agendas;
21 and information on the process for interested parties to express
22 their views to the committee.

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