

Date of Hearing: July 15, 2015

ASSEMBLY COMMITTEE ON EDUCATION

Patrick O'Donnell, Chair

SB 210 (Galgiani) – As Amended July 1, 2015

SENATE VOTE: 40-0

SUBJECT: Special education: deaf and hard-of-hearing children: language benchmarks

SUMMARY: Requires the California Department of Education (CDE) to select benchmarks for tracking the progress of deaf and hard of hearing students in language and literacy development, establishes an advisory committee to recommend benchmarks, and requires information from use of the benchmarks to be used locally and to be reported to the CDE. Specifically, **this bill:**

- 1) Requires the CDE's Deaf and Hard of Hearing unit, and the CDE's deaf education resource centers located in Fremont and Riverside to jointly select language benchmarks from existing standardized norms for purposes of monitoring and tracking deaf and hard-of-hearing children's expressive and receptive language acquisition and developmental stages toward English literacy.
- 2) Requires that the language benchmarks be selected from the language benchmarks recommended by an advisory committee created by the bill, and be used by a child's individualized family service plan (IFSP) team or individualized education program (IEP) team to assess the progress of the child's language development using both or one of the languages of American Sign Language (ASL) and English.
- 3) Requires individual data on the progress of each student on these benchmarks be reported to the department by the child's IFSP team or IEP team.
- 4) Requires, by March 1, 2016, the CDE to provide the advisory committee a list of existing language benchmarks from existing standardized norms, along with any relevant information held by the department regarding those language benchmarks.
- 5) Requires, by June 1, 2016, the advisory committee to recommend language benchmarks for selection.
- 6) Requires, by June 30, 2016, the department shall inform the advisory committee of which language benchmarks were selected.
- 7) Requires the CDE to track developmental stages that are equivalent to a child's linguistically age-appropriate peers who are not deaf or hard of hearing, with the goal of assisting children who are deaf or hard of hearing to become kindergarten-ready.
- 8) Defines "English," for purposes of the section created by this bill, includes spoken English, written English, or English with the use of visual supplements.
- 9) Requires a child's IFSP team or IEP team, if a child does not demonstrate progress in expressive and receptive language skills according to the applicable language benchmarks, to explain in detail the reasons why the child is not meeting the benchmarks or progressing

towards the age-appropriate benchmark, and recommend specific strategies, services, and programs that shall be provided to assist the child's success toward English literacy.

- 10) Requires the CDE to disseminate the language benchmarks to IFSP and IEP teams, including parents and guardians of deaf or hard-of-hearing children, and provide materials and training to ensure appropriate language growth as part of the child's existing IFSP or IEP in order to assist deaf or hard-of-hearing children in becoming linguistically ready for kindergarten using both or one of the languages of ASL and English.
- 11) Requires the SPI to establish an ad hoc advisory committee for purposes of soliciting input from experts on the selection of language benchmarks for children who are deaf or hard of hearing that are equivalent to those for children who are not deaf or hard of hearing.
- 12) Requires that the committee consist of 13 volunteers, the majority of whom are deaf or hard of hearing, and all of whom are within the field of education for the deaf and hard of hearing. Requires the committee to consist of:
 - a) one parent of a child who is deaf or hard of hearing who uses the dual languages of ASL and English
 - b) one parent of a child who is deaf or hard of hearing who uses only spoken English, with or without visual supplements
 - c) one credentialed teacher of deaf and hard-of-hearing pupils who use the dual languages of ASL and English
 - d) one credentialed teacher of deaf and hard-of-hearing pupils from a state certified nonpublic, nonsectarian school
 - e) one expert who researches language outcomes for deaf and hard-of-hearing children using ASL and English
 - f) one expert who researches language outcomes for deaf and hard-of-hearing children using spoken English, with or without visual supplements
 - g) one credentialed teacher of deaf and hard-of-hearing pupils whose expertise is in curriculum and instruction in ASL and English
 - h) one credentialed teacher of deaf and hard-of-hearing pupils whose expertise is in curriculum and instruction in spoken English, with or without visual supplements
 - i) one advocate for the teaching and use of the dual languages of ASL and English
 - j) one advocate for the teaching and use of spoken English, with or without visual supplements
 - k) one early intervention specialist who works with deaf and hard-of-hearing infants and toddlers using the dual languages of ASL and English
 - l) one credentialed teacher of deaf and hard-of-hearing pupils whose expertise is in ASL and English language assessment
 - m) one speech pathologist from spoken English, with or without the use of visual supplements
- 13) Requires the CDE to, by January 1, 2018, develop specific action plans and regulations to fully implement the language benchmark assessment protocol and processes.
- 14) States that this section applies only to children from birth to five years of age.

- 15) Makes implementation of this section subject to an appropriation being made for purposes of this section in the annual Budget Act or another statute.

EXISTING LAW:

- 1) Requires that children with disabilities age birth to three years are provided with an IFSP, and that students with disabilities age three to 22 years are provided with an individualized education IEP.
- 2) Requires each student's IEP team to:
 - a) Consider, among other things, the communication needs of the student, and in the case of a student who is deaf or hard of hearing, consider the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode.
 - b) Specifically discuss the communication needs of the student, consistent with "Deaf Students Education Services Policy Guidance" including, among other things, the following:
 1. The student's primary language mode and language, which may include the use of spoken language with or without visual cues, or the use of sign language, or a combination of both
 2. Appropriate, direct, and ongoing language access to special education teachers and other specialists who are proficient in the student's primary language mode and language consistent with existing law regarding teacher training requirements
 3. Services necessary to ensure communication-accessible academic instructions, school services, and extracurricular activities
- 3) Establishes the California School for the Deaf, Northern California (Fremont), and the California School for the Deaf, Southern California (Riverside) and three diagnostic centers, all under the administration of the CDE.
- 4) Establishes the Deaf Student's Bill of Rights which states, among other things, that it is essential that hard-of-hearing and deaf students have an education in which their unique communication mode is respected, utilized, and developed; that students have an education with a sufficient number of language mode peers with whom they can communicate; and that students' parents be involved in determining the extent, content, and purpose of their educational programs.
- 5) Establishes the California Early Intervention Services Act, commonly known as the Early Start Program, to provide various early intervention services for infants and toddlers who have disabilities to enhance their development and to minimize the potential for developmental delays.

FISCAL EFFECT: According to the Senate Appropriations Committee, cost pressure potentially in the low millions to fund new local requirements to implement and report upon the identified language benchmarks; and cost pressures to the CDE in the low hundreds of thousands, and a possible increase in costs related to mediations and due process hearings.

COMMENTS:

Need for the bill. The author's office states, "Children who are deaf and hard of hearing have the same ability and capability to learn language as their peers who are not deaf and hard of hearing. The ability and right to develop one's language is central to the human experience and a necessary prerequisite to any literacy, cognitive, emotional, linguistic, academic, and social growth. Without language, there can be no education.

Current statistics show that many children who are deaf and hard of hearing arrive at Kindergarten with severe language delays and in many cases, language deprivation. These children begin Kindergarten without the necessary language skills to acquire the knowledge and academic competences, which will allow them to be successful in school and life. Currently, there are no requirements to assess the language development of children birth to five who are deaf and hard of hearing or to monitor their progress in the languages most commonly used by individuals who are deaf and hard of hearing in the United States: American Sign Language and English."

Language deprivation among deaf and hard of hearing students in California. According the CDE, in California there are approximately 17,000 students, ages birth to 22, who are deaf or hard of hearing. The CDE notes that historically most deaf and hard of hearing students struggle academically because of their limited access to language. This lack of access to language, sometimes called "language deprivation," can cause language delays, and because language and cognition are closely related, language deprivation may lead to cognitive delays.

However, research has demonstrated that children who are deaf are identified and enrolled in appropriate Early Start services by six months of age can develop language and cognitive skills commensurate with their non-deaf peers.

The largest data set representing the language development of deaf and hard of hearing students on standardized tests comes from a longitudinal study using the Stanford Achievement Test. This study began in 1969 and ran for over thirty years. It measured normative performance of deaf and hard-of-hearing students ages 8 to 18 on reading comprehension tests, and found that, between 1974 and 2003, median performance never exceeded the fourth-grade equivalent for any age cohort. It also noted persistent problems in designing a valid and reliable way to measure the academic performance of deaf and hard of hearing students.

Data from the 2008 administration of the California Standards Tests of English language arts show that less than 10% of deaf and 23% of hard of hearing students scored at the "proficient" or higher levels. 51% of deaf students scored at the "far below basic" level, the lowest category of performance. This is the only publicly available state data disaggregated for these students.

Universal newborn screening creates new opportunity to intervene in critical early years. In numerous policy statements and recommendations relating to the education of deaf and hard of hearing students there is universal recognition that early identification and intervention is critical to language development.

As late as 2000, the average age of identification of deaf and hard of hearing children was 2.5 years. Recognition of the importance of early identification has led to policies increasing newborn screening from 46% in 1999 to 98% in 2011, according to the Centers for Disease Control and Prevention.

Research has demonstrated that identification of hearing difficulty prior to six months is associated with significantly better language scores than identification after 6 months of age. For children with normal cognitive abilities, this advantage holds true across ages, communication modes, degrees of hearing loss, socioeconomic status, gender, race, and the presence or absence of additional disabilities.

One longitudinal study found that the age of intervention accounted for over 55% of the difference in language ability at age five. Other research found that parental involvement accounts for 35% of language ability differences at age five. An estimated 96% of deaf and hard of hearing children are born to hearing parents, who often lack information and skill which could help them promote language and literacy development in the critical early years.

Recognizing the importance of early intervention, as well as the vital role of parents, this bill is intended to provide parents, educators, and policy makers tools for addressing language deprivation among deaf and hard of hearing children during the children's early years. *The Committee may wish to consider* what progress could be in promoting language development now that earlier identification has been realized and early intervention is so clearly indicated.

No publicly available state data on deaf and hard of hearing language outcomes. While the CDE collects data on the progress of students with disabilities in English language arts in grades 3 - 8 and 11, this data is reported as the performance of all students with disabilities, with no disaggregation by disability. And while the state collects data on language development of children with disabilities ages birth to five at state funded child care/development and preschool programs for purposes of reporting to the federal government, it is also not disaggregated by disability.

As a result it is not possible to examine the language development of deaf and hard of hearing students, or view trends over time to measure the impact of policy and programmatic changes. The proponents of this bill support such reporting, and a reporting requirement is included in the staff recommended amendments listed at the end of this analysis.

Desired Results Developmental Profile provides information useful for both individual children and state policy. To meet federal requirements to monitor the educational and developmental progress of children with disabilities, the CDE has developed the Desired Results Developmental Profile instrument (DRDP). The DRDP is an assessment instrument based on a developmental continuum from early infancy to kindergarten entry. The DRDP is administered twice every year to children in state funded child care/development and preschool programs, and provides an individual profile of a child's developmental and school readiness skills in eight domains, including language and literacy, math and science, social-emotional development, and English language development. Children's development is presented along a continuum using levels labeled responding, exploring, building, and integrating.

The CDE uses the results of the DRDP assessment to meet federal accountability requirements under the individuals with Disabilities Education Act (IDEA) (known in this context as DRDP Access), and it is used with children who deaf and hard of hearing. The DRDP was developed

according to the principles of universal design, and allows children the opportunity to demonstrate their knowledge and skills in a variety of ways. Each child's DRDP data is used to provide an overall summary of progress, determined by comparing each child's level of functioning and individual progress to a sample of same-aged peers. Special Education Local Plan Areas (SELPA's) are required to report DRDP assessment data to the CDE through the California Special Education Management Information System (CASEMIS). The DRDP is aligned to the Common Core state standards for kindergarten.

The DRDP is an evidence-based, valid and reliable assessment. DRDP statewide data can be disaggregated by disability and, as required by this bill, reports can be created for deaf and hard of hearing students' performance relative to their non-deaf and hard of hearing peers. *The Committee may wish to consider that* the proponents of this bill express concern that this assessment does not adequately measure the language development of deaf and hard of hearing children. For that reason, this bill, as proposed to be amended (see Recommended Amendments) would require that the advisory committee created by the bill provide recommendations on the design and administration of the DRDP for deaf and hard of hearing children, and also require that a version of the DRDP be developed to meet the needs of these children.

Infant/Toddler and Preschool Learning Foundations. The California Infant/Toddler Learning and Development Foundations were developed by the CDE, in collaboration with many researchers and stakeholders. The Infant/Toddler foundations were released in 2009. The California Preschool Learning Foundations were developed by the California Department of Education, in collaboration with many researchers and stakeholders. These foundations include three volumes. Volume 1, released on January 22, 2008, includes language and literacy, and English language development. The Learning Foundations are aligned to the Common Core state standards for kindergarten.

Best Practices for Early Start for Infants and Toddlers who are Deaf and Hard of Hearing. To help ensure that families of infants with hearing loss in California received appropriate services, the CDE established a Deaf and Hard of Hearing Early Start Workgroup. The Workgroup was tasked with developing a document to provide guidance to Early Start providers, parents, and others in the appropriate provision of early intervention services. In 2005, the Workgroup published "Best Practices for Early Start for Infants and Toddlers who are Deaf and Hard of Hearing."

Resource Guide for Parents of Infants and Toddlers Who are Deaf or Hard of Hearing. In 2011, a panel of parents convened with the CDE to create a guide for parents that contains information to help parents understand the services that may be provided through an IFSP and IEP, with a focus on language development. The purpose of the Resource Guide for Parents of Infants and Toddlers Who are Deaf or Hard of Hearing, released by the CDE in 2013, is to provide parents with an introduction to the benefits of both signed and spoken language, as well as to various communication tools and educational approaches.

Can the educator tool required by this bill function as intended? The recommended amendments below (2) require the creation of a version of the DRDP for use with deaf and hard of hearing children to measure language and literacy development. This proposal raises several questions which *the Committee may wish to consider*:

- 1) Is the DRDP sufficient for use with deaf and hard of hearing students to measure language and literacy development? The CDE states that it is, but proponents of this bill are concerned

that it does not adequately measure language development for deaf and hard of hearing students. The CDE's DRDP contractor has expressed interest in receiving input from the deaf and hard of hearing advisory committee created by this bill. Amendments proposed below specifically authorize the committee to make such recommendations.

- 2) Can a version of the DRDP which meets the requirements of this bill remain a valid and reliable instrument capable of accurately measuring the language development of these children compared to typically developing children? CDE's contractor has indicated that they are considering developing a "readiness zone" model of the existing assessment, but also note that any changes to the assessment must be made on the basis of empirical evidence, recognized standards of test construction, and remain consistent with principles of authentic assessment.
- 3) Is it an appropriate precedent to require the development of a version of an assessment designed for all pupils for a specific group of students? Proponents of the bill argue that it is, because deaf and hard of hearing children's communication requires assessment modifications, and because language deprivation is such a serious, pervasive, and long-standing issue. However this bill might create pressure for the CDE to develop other versions of the DRDP – an assessment designed to be administered to all students.

Recommended amendments. Staff recommends the following amendments:

- 1) Require the development of a resource for parents for the purpose of monitoring deaf and hard-of-hearing children's (ages 0-5) language and literacy development. The resource would be appropriate for use with deaf and hard of hearing children, present milestones in terms of typical development of all children, be aligned to existing state standards and assessments, be written for ease of use and clarity for parents, make clear that it is not a formal assessment, and that parents can bring the resource to an IEP or IFSP meeting for the purpose of sharing their observations about their children's development.
- 2) Require the development of a version of an existing tool for educators which can be used to assess the language and literacy development of children who are deaf and hard of hearing. The tool would be in a standardized format that shows stages of language development and outcomes, present language and literacy development in terms of age-referenced readiness zones, be appropriate, in both content and administration, for use with deaf and hard of hearing children. It could be used in the development and modification of IEPs and IFSPs, and could reflect the recommendations of the advisory committee established by the bill.
- 3) Require the CDE to disseminate the parent resource and educator tool to parents and local educational agencies respectively, and provide materials and training on its use.
- 4) Require the advisory committee to recommend language development milestones for inclusion in the parent resource, and authorize it to make recommendations on the design and administration of the educator tool.
- 5) Authorize the advisory to committee to also advise the department or its contractor on the content and administration of the existing instrument used to assess the development of children with disabilities pursuant to federal law to ensure its appropriate use with those

children, and to make recommendations regarding future research to improve the measurement of progress of deaf and hard of hearing children in language and literacy.

- 6) Require the CDE, beginning in 2017, to annually produce a report, using existing data reported in compliance with the federal state performance plan on pupils with disabilities, on the language and literacy development of deaf and hard of hearing children (including those who have other disabilities), relative to their peers who are not deaf or hard of hearing, and post this report on the department's website.
- 7) Require that all activities conducted to implement the act be in consistent with federal law on students with disabilities and privacy of student information.
- 8) Define language milestones to mean milestones of development used in existing state instruments used to meet the requirements of federal law.
- 9) Remove the requirement for the CDE to adopt regulations to implement the requirements of the bill.

Prior legislation. AB 455 (Medina) of the 2013-2014 Session would have required the Superintendent of Public Instruction to develop standards in Braille and American Sign Language that are aligned to the common core standards. AB 455 was held in the Senate.

AB 2072 (Mendoza) of the 2009-10 Session would have required the Department of Health Care Services to develop an unbiased, comprehensive, evidence-based informational pamphlet for newborns and infants identified as deaf or hard of hearing about visual and auditory communication and language options that is sufficient to allow a parent to make an informed decision on which options to choose for his or her child. AB 2072 was vetoed by the Governor.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of the Deaf (sponsor)
 California Coalition of Options Schools (sponsor)
 Center for Early Intervention on Deafness (sponsor)
 California Coalition of Agencies Serving the Deaf and Hard of Hearing
 California Educators of the Deaf and Hard of Hearing
 California Hands and Voices
 Center for Early Intervention on Deafness
 Deaf and Hard of Hearing Service Center
 NorCal Services for Deaf and Hard of Hearing

Opposition

None on file

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