

Date of Hearing: April 11, 2018

ASSEMBLY COMMITTEE ON EDUCATION

Patrick O'Donnell, Chair

AB 2171 (Frazier) – As Amended April 4, 2018

**[Note: This bill has been double referred to the Committee on Human Services and will be heard by that Committee with regard to issues in its jurisdiction.]**

**SUBJECT:** Individuals with disabilities: special education and related services: interagency agreements

**SUMMARY:** Requires the California Department of Education (CDE), the Director of the Department of Developmental Services (DDS), and the Director of Rehabilitation (DOR) to develop an interagency agreement that ensures the seamless and coordinated delivery of services and supports to eligible individuals with exceptional needs in furtherance of the Employment First Policy. Specifically, **this bill:**

- 1) Requires, consistent with the Competitive Integrated Employment policy of the state, the CDE, the Director of the DDS, and the Director of the DOR to develop an interagency agreement that ensures the seamless and coordinated delivery of services and supports to an individual with exceptional needs who is eligible for services or who is eligible for services provided by those entities for individuals with developmental disabilities.
- 2) Requires that the interagency agreement include all of the following:
  - a) A plan for strengthening the person-centered planning processes across all three departments, to further the Employment First Policy, as delineated in the Welfare and Institutions Code.
  - b) A data collection method that will establish a uniform identifying code for each individual receiving services from one or more of the departments, and that will facilitate data collection and data sharing across the departments to improve coordination and collaboration to achieve competitive integrated employment (CIE). States that the purpose of the uniform identifying code is to effectively track integrated competitive employment outcomes across the departments while protecting individuals' privacy. States that this information shall be provided to the extent permitted under applicable federal statutes and regulations related to privacy.
  - c) A streamlined mechanism that will provide an eligible individual, or the individual's parent, the ability to independently access and review the individual's records that are held by each described in this subdivision. States that the purpose of this mechanism is to promote self-advocacy and enable the individual and the individual's parent to review the individual's records and share those records at their discretion among the departments, for the purpose of facilitating collaboration and coordination in the planning for, and delivery of, services and accommodations. States that this information shall be provided to the extent permitted under applicable federal statutes and regulations related to privacy.

- d) Requires, in furtherance of the goals of the Employment First Policy in Section 4869 of the Welfare and Institutions Code, each of the three departments to create within the plans below a section of the plan that specifies how each department will support the individual in obtaining or retaining competitive integrated employment, including what accommodations each department will provide to the individual, in cooperation and collaboration with the other departments. These plans are:
  - i. The individualized education program (IEP) pursuant to the federal Individuals with Disabilities Education Act (IDEA)
  - ii. The individual program plan (IPP)
  - iii. The individualized plan for employment (IPE)
- e) Requires that on or before January 1, 2020, the SPI, the Director of DDS, and the Director of DOR to submit the interagency agreement to the Legislature.
- f) Requires the California Department of Education (CDE) to adopt the Employment First Policy and apply it to all transition or employment related services and supports an individual with disabilities is entitled to, or may be entitled to, from the department.

**EXISTING LAW:**

- 1) The federal IDEA requires that, beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP team, and updated annually, thereafter, the IEP must include:
  - a) appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills
  - b) the transition services needed to assist the child in reaching those goals.
- 2) Defines transition services to mean a coordinated set of activities for a child with a disability that:
  - a) is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including post-secondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;
  - b) is based on the individual child's needs, taking into account the child's strengths, preferences, and interests; and
  - c) includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

- 3) States that it is the policy of the state that opportunities for integrated, competitive employment shall be given the highest priority for working age individuals with developmental disabilities, regardless of the severity of their disabilities. Establishes this policy as the Employment First Policy.
- 4) Defines competitive employment as to mean work in the competitive labor market that is performed on a full-time or part-time basis in an integrated setting and for which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals who are not disabled. (WIC 4868)
- 5) Defines “Integrated employment” to mean the engagement of an employee with a disability in work in a setting typically found in the community in which individuals interact with individuals without disabilities other than those who are providing services to those individuals, to the same extent that individuals without disabilities in comparable positions interact with other (WIC Section 4851).
- 6) Requires the Superintendent and the directors of the State Department of Health Care Services, the DDS, the State Department of Social Services, the DOR, the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, and the Employment Development Department (EDD) to develop written interagency agreements or adopt joint regulations that include responsibilities for the provision of special education and related services to individuals with exceptional needs in the California.
- 7) Requires DOR to oversee a program, to the extent funds are appropriated in the annual Budget Act for this purpose, to increase paid internship opportunities for individuals with developmental disabilities that produce outcomes consistent with the individual program plan. Requires that payments for internships shall not exceed ten thousand four hundred dollars (\$10,400) per year for each individual placed in an internship, and that placements be made in competitive, integrated work environments.
- 8) Establishes the Project Workability program, which provides instruction and experiences that reinforce core curriculum concepts and skills leading to gainful employment. Authorizes the CDE to award grants to school districts, county offices of education, state special schools, and charter schools, and nonpublic, nonsectarian schools. Requires that Workability project applications include the following elements: recruitment, assessment, counseling, pre-employment skills training, vocational training, student wages for try-out employment, placement in unsubsidized employment, other assistance with transition to a quality adult life, and utilization of an interdisciplinary advisory committee to enhance project goals.
- 9) Requires three different plans for each individual with disabilities who qualifies for services through special education, the DDS, and the DOR: the Individualized Education Program (IEP), the Individualized Program Plan (IPP), and Individualized Plan for Employment (IPE).

**FISCAL EFFECT:** Unknown

**COMMENTS:**

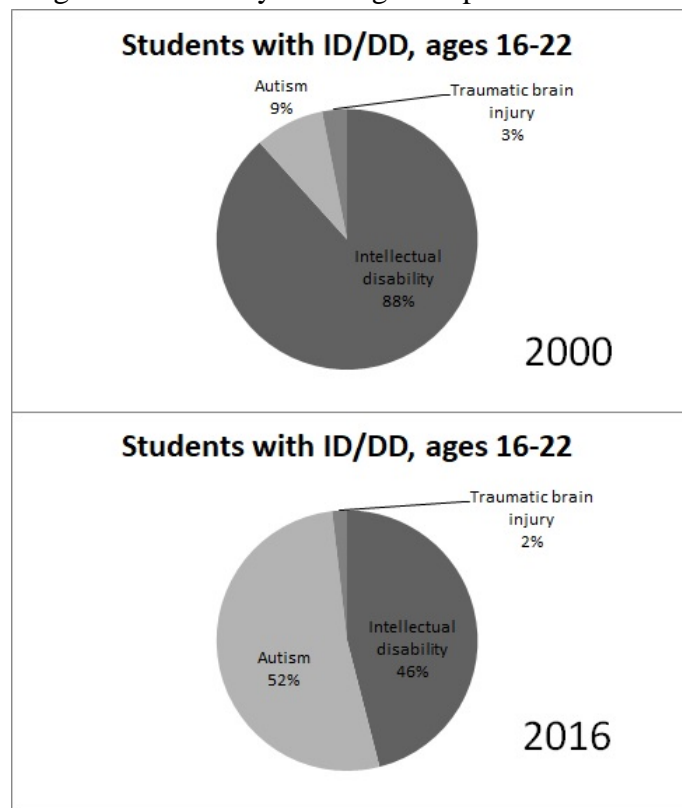
**Need for the bill.** The author’s office states, “AB 2171 looks to further the state’s commitment to Employment First for persons with developmental disabilities. In 2013, California took the first step to address the low employment rate, and low placement of people with developmental disabilities into integrated employment when it passed AB 1041 (Chesbro). AB 1041 states “it is the policy of the state that opportunities for integrated, competitive employment shall be given the highest priority for working age individuals with developmental disabilities, regardless of the severity of their disabilities. This policy shall be known as the Employment First Policy.” The Employment First Policy is a shift in California from seeing competitive, integrated employment as a fundable service to a measurable outcome.

AB 2171 will build on California’s progress in increasing opportunities for individuals with developmental disabilities through the Employment First Policy and the implementing the Competitive Integrated Employment Blueprint to prepare for and engage in competitive, integrated employment. For the first time in California, the Blueprint establishes benchmarks and expectations for competitive, integrated employment, delineates roles and responsibilities, and outlines how individuals with developmental disabilities will be informed of the opportunities available for competitive, integrated employment. People with developmental disabilities are often served by the Department of Education, the Department of Rehabilitation, and/or the Department of Developmental Services. All have responsibilities toward the preparation, placement and long term employment supports for individuals with developmental disabilities. Interagency collaboration and coordination is well-established as key predictor of employment outcomes.

California has a unique opportunity with all three agencies currently working to implement the Blueprint to take a series of significant proactive steps to move to competitive, integrated employment. AB 2171 advances efforts by these departments to coordinate and collaborate so that one person experiences working toward one goal: competitive, integrated employment.”

**Transition-age students with developmental disabilities.** In 2016, California schools enrolled 734,000 students with one of 13 disabilities identified by the federal Individuals with Disabilities Education Act, representing 11.8% of total enrollment.

Of those students, 6% were identified as having an intellectual disability, 13.2% as being on the autism spectrum, and 0.2% as being disabled due to a traumatic brain injury. These are the disabilities which most commonly qualify an individual as having a developmental disability for purposes of services through DDS and DOR, though other qualifying conditions may make an individual eligible for services.



In 2016, of the transition-age students aged 16 to 22 years, 14,432 were identified as having an intellectual disability, 16,359 as being on the autism spectrum, and 580 as being disabled due to a traumatic brain injury. As the charts to the right show, the percentage of students on the autism spectrum increased from 9% to 52% of the total population with intellectual or developmental disabilities between 2000 and 2016.

***Competitive, integrated employment: “Real work for real pay in the real world.”*** Current law establishes the Employment First Policy, which states that it is the policy of the state that opportunities for competitive, integrated employment shall be given the highest priority for working age individuals with developmental disabilities, regardless of the severity of their disabilities. Current law defines CIE to mean work done in the competitive labor market in an integrated setting for which an individual is paid at or above the minimum wage, but not less than the customary wage for employees doing the same work who are not disabled. The author’s intent is that AB 2171 will make CIE the default in the development of individualized education plans for people with developmental disabilities.

***California Competitive Integrated Employment Blueprint.*** According to materials provided by the author, the need for state-level coordination and collaboration is widely accepted as an important factor in improving employment outcomes for students with disabilities. The federal Office of Disability Employment Policy has highlighted “coordinated, seamless, and sustainable” systems as an important strategy for improving CIE outcomes.

In May, 2017, the CDE, DDS, and DOR issued a plan for CIE entitled the “California Competitive Integrated Employment Blueprint.”

The CIE Blueprint is a five-year plan to assist more people with ID/DD to get CIE jobs. Specifically, the plan is intended to result in more people with ID/DD prepare for and get a job earning at least minimum wage working in the community with people without disabilities. The goals of the Blueprint are to:

1. Help the three departments work together to better support people with ID/DD who want a CIE job.
2. Create more options for people with ID/DD to get ready for and get a CIE job.
3. Help people with ID/DD to make their own choices about working in the community.

The Blueprint establishes specific targets for increasing the number of people who enter CIE annually. For example, the departments aim to increase the number from 780 people per year by an additional 300 people by June 30, 2018.

With respect to the first goal of the Blueprint, the departments agreed to the following objectives:

- Improve information sharing between the three departments.
- Work together to use current resources better.
- Work together more on planning, implementation, and evaluation of CIE.

The departments identified the following strategies to achieve those objectives:

- Develop and communicate written guidance.
- Encourage local level relationships among agencies to support CIE.
- Improve data collection and sharing.

*The Committee may wish to consider* how the interagency agreement required by this bill differs from the interagency work outlined the Blueprint. The author states that to date these relationships have been voluntary, and sees a need to formalize and expand upon this collaboration in the form of an interagency agreement. Such agreements can take a year or more to develop and be approved, which could slow down the work that is already occurring. *Staff recommends that the bill be amended* to change the requirement that the three departments adopt an interagency agreement to a statement recognizing that an agreement already exists, and change the sections specifying the content of the agreement to statements of intent.

***Transition planning and CIE for students in special education.*** IDEA requires that students ages 16 to 22 receive transition services as part of their IEP. Transition planning is intended to be a coordinated, results-oriented process that is focused on improving the academic and functional achievement of the student to facilitate the child's movement from school to post-school activities. Like all parts of the IEP, transition planning is intended to be based on the individual student's needs, taking into account the child's strengths, preferences, and interests.

Post-school activities can include post-secondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. Services may include instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

In California's 2015 Annual Performance Report, submitted to the federal government, the state indicated that in 2014 99% of eligible students had an IEP that includes appropriate measurable postsecondary goals that were annually updated and based upon an age appropriate transition assessment, transition services, including courses of study, that would reasonably enable the student to meet those postsecondary goals, and annual IEP goals related to the student's transition service needs. That number has increased in recent years, from 45% in 2010-11.

This bill proposes to add a section to each student's IEP which that specifies how each department will support the individual in obtaining or retaining competitive integrated employment, including what accommodations each department will provide to the individual, in cooperation and collaboration with the other departments. The effect of this requirement is to make CIE a default part of transition planning. However, the bill is drafted to require this of all students' IEPs (not limited to those with developmental disabilities), and implies that the state, rather than local educational agencies, would provide services. *Staff recommends that the bill be amended* to address these issues (see recommended amendments below).

***Educational and post-secondary outcomes for students with intellectual/developmental disabilities.*** The State Council on Developmental Disabilities' data dashboard reports the following information on education and employment for individuals with developmental disabilities:

- According to the CDE, of students with intellectual/developmental disabilities, as of 2016, the 7,071 students with these disabilities left K-12 education, and that of those, 35.9% graduated, 19.8% received a certificate of completion, and 44.3% either dropped out or aged out.

- According to the US Census Bureau, in 2014, 74.7% of the California working age population worked full-time. This compares with EDD data of 13.1% for working age regional center clients who received wages, most of them working part-time and many earning sub-minimum wage.
- In 2015, EDD reports that 20,169 regional center clients received wages. This represents 13.6% of the total number of working age people served by the regional centers. The SCDD reports that since the passage of the Employment First Policy in 2013, many more people have had earnings.
- According to data from the EDD, the average monthly earnings for regional center clients has increased in the last few years. However, in 2015, average wages were \$604/month.

**Data sharing.** This bill proposes to require, through an interagency agreement, a data collection method that will provide the individual, or the individual's parent, the ability to independently access records of the individual that are held by all three departments. As noted above, data sharing is one of the goals outlined in the Blueprint. CDE reports that weekly discussions between the three departments have begun.

The CDE maintains two databases related to students with disabilities. The California Longitudinal Pupil Achievement Data System (CalPADS) maintains student demographic, program participation, grade level, enrollment, course enrollment and completion, discipline, and statewide assessment data. The system also allows for longitudinal analysis of student achievement. The California Special Education Management Information System (CASEMIS) system manages information on special education students.

CDE is in the process of merging the two systems, in order to reduce data-related workload, increase data quality, and support programmatic efforts to include students with disabilities in the general education environment. The 2018-19 will be a test year for the integrated system, with full implementation expected in the 2019-20 school year.

**WorkAbility program not funded to serve all students in the state.** The WorkAbility program, begun in 1982, provides a work-based transition service to students with disabilities. The program helps students become aware of their career possibilities and potential, complete their high school education, learn employment skills, and accrue direct work experience (both paid and unpaid), and ultimately job placement.

WorkAbility is widely viewed as a successful program, and participation in the program could be used as a "career readiness" indicator for students with disabilities in the state's accountability system. However, the program is not available to all students. In 2015 the Statewide Special Education Task Force, a joint effort of the State Board of Education, the CDE, and the Commission on Teacher Credentialing, noted in their report that some SELPAs receive funds for WorkAbility while others do not, and recommended allocating WorkAbility grants to all SELPAs to ensure equitable access for all students with disabilities between the ages of 16-22.

**Transition Partnership Programs.** The Transition Partnership Program (TPP) builds partnerships between LEAs and the DOR for the purposes of successfully transitioning high school students with disabilities into meaningful employment and/or post-secondary education. From July 1, 2014 through May 31, 2015, there were 17,629 individuals in the TPP. Of those,

994 were individuals with developmental disabilities. There are more than 100 TPPs administered through contractual agreements with school districts and county offices of education. Under these agreements, the DOR assigns vocational rehabilitation counselors to be actively involved with the students and LEAs. The DOR counselor determines eligibility and provides enhanced vocational rehabilitation services for at least one year prior to the student's graduation. The LEA provides training and enhanced vocational programming to enable students to achieve employment utilizing community-based instruction, vocational and work-site training, job placement, and follow-up services upon graduation. According to the DOR, 40% of the department's transition-aged students-consumers are currently served by Transition Partnership Programs, and half of the Transition Partnership Program consumers are successfully employed.

***Recommended amendments.*** *Staff recommends* that this bill be amended as follows:

1. Require that the State Board of Education, not the CDE, adopt the Employment First Policy, and require that the CDE apply the policy to their activities related to its transition related services and supports. Clarify that the Employment First Policy is intended to apply to students who qualify, or are expected to qualify, for services from DDS or DOR. Include a statement of intent that recognizes that the Employment First Policy includes postsecondary education, technical or vocational training, and internship programs may be considered as a means to achieve integrated competitive employment or career advancement.
2. Change the requirement that the three departments adopt an interagency agreement to a statement recognizing that an agreement already exists, and change the sections specifying the content of the agreement to statements of intent.
3. Move the requirement that IEPs include a section on CIE to a separate section, make it apply to LEAs (not CDE), specify that it applies to students who qualify, or are expected to qualify, for services from DDS or DOR, and include the same statement of intent as in #1.
4. Require the establishment of a stakeholder group to regularly advise the three departments on the implementation of the Blueprint.
5. Move the sections requiring CIE in the IPP or IPE to the Welfare and Institutions Code.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

State Council on Developmental Disabilities (sponsor)  
California School Boards Association  
Disability Rights California

**Opposition**

None on file

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