

Date of Hearing: April 6, 2022

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
AB 2373 (Eduardo Garcia) – As Amended March 28, 2022

SUBJECT: Pupils with exceptional needs: adaptive sports hubs pilot program

SUMMARY: Establishes the Adaptive Sports Hubs Pilot Program (ASHPP) for purposes of funding a 5-year pilot program in Imperial and Riverside Counties for adaptive sports hubs at centralized public schools for pupils in kindergarten and grades 1 to 8, inclusive, in order to increase access to extracurricular sports programs for pupils with exceptional needs.

Specifically, **this bill:**

- 1) Establishes the ASHPP for purposes of funding a five-year pilot program in Imperial and Riverside Counties for adaptive sports hubs at centralized public schools for pupils in kindergarten and grades 1 to 8, inclusive, in order to increase access to extracurricular sports programs for pupils with exceptional needs.
- 2) Appropriates, for the 2022–23 fiscal year, \$600,000 from the General Fund to the California Department of Education (CDE) for purposes of this chapter.
- 3) Requires the Superintendent of Public Instruction (SPI) to allocate funds to selected applicant local educational agencies (LEAs), as specified, on a per pupil basis.
- 4) Authorizes voluntary LEA participation in the pilot program.
- 5) Authorizes the SPI to consult with the appropriate county offices of education (COEs) and special education local plan areas (SELPA) when selecting LEAs for the ASHPP.
- 6) Defines “local educational agencies” to mean school districts, charter schools, or COEs.
- 7) Requires funds appropriated for the ASHPP to be available for encumbrance or expenditure until July 1, 2028.
- 8) Requires funded ASHPPs to do both of the following:
 - a) Operate consistent with the federal “Dear Colleague” letter on “Students with Disabilities in Extracurricular Athletics” issued by the United States Department of Education’s Office for Civil Rights (OCR) on January 25, 2013, as it read on January 1, 2022.
 - b) Include specific strategies to overcome barriers to the participation of pupils with exceptional needs in extracurricular athletics and incorporate a philosophy of personal empowerment for those pupils.
- 9) Authorizes funded ASHPPs to, at a minimum, do all of the following:

- a) Purchase and provide access to adaptive sports equipment, including, but not limited to, sports wheelchairs or cycles, for use by pupils. Authorizes that this equipment may be shared among hubs or LEAs;
 - b) Hire and train staff;
 - c) Provide transportation for pupils and coaches to the hubs, training sessions, and competitions;
 - d) Establish adaptive sports days at participating schools;
 - e) Establish sports teams and provide individual athlete training; and
 - f) Provide disability etiquette training and opportunities for pupils with exceptional needs who are athletes to share their stories.
- 10) Authorizes ASHPPs to be located in one or more local school administrative hubs per LEA.
- 11) Authorizes ASHPPs to contract with third-party entities, including, but not limited to, a nonprofit public benefit corporation, as specified, that are adaptive sports organizations or that offer adaptive sports.
- 12) Requires ASHPPs to remain in effect only until January 1, 2029, and as of that date is repealed.
- 13) States that the Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique needs of pupils with exceptional needs in the Imperial and Riverside Counties in order for those pupils to access extracurricular sports programming in those counties.

EXISTING LAW:

Federal law:

- 1) Through the Individuals with Disabilities Education Act (IDEA), requires that a free appropriate public education (FAPE) be made available to individuals with exceptional needs.
- 2) Requires that every individual with exceptional needs who is eligible to receive special education instruction and related services receive that instruction and those services at no cost to his or her parents or, as appropriate, to him or her.

FISCAL EFFECT: Unknown

COMMENTS:

Need for the bill. According to the author, “There are limited adaptive sports opportunities in Riverside and Imperial Counties. It’s important that we provide our youth with accessible

opportunities to participate in adaptive sports on a K-8 level. This bill would provide students with that opportunity by creating an adaptive sports hub pilot program.”

Adaptive sports. Adaptive sports typically are competitive or recreational sports for individuals with disabilities, including physical and intellectual impairments. Adaptive sports often run parallel to typical sport activities.

“Dear Colleague” letter on students with disabilities in extracurricular athletics. On January 25, 2013, the U.S. Department of Education’s OCR issued a Dear Colleague letter on students with disabilities in extracurricular athletics. The guidance, based on a long-standing disability law, Section 504 of the Rehabilitation Act of 1973 (Section 504), and the U.S. Department of Education’s implementing regulation, was issued at the recommendation of the U.S. Government Accountability Office (GAO). A 2010 GAO report, *Students with Disabilities: More Information and Guidance Could Improve Opportunities in Physical Education and Athletics*, found that students with disabilities participated in athletics at consistently lower rates than students without disabilities, and that schools lacked guidance on their responsibilities. The guidance states that students with disabilities have the right, under Section 504, to an equal opportunity to participate in their schools' extracurricular activities. Ensuring that students with disabilities are given the opportunity to play alongside their peers—both with and without disabilities—is central to the message of the guidance.

The guidance further states that a school district must provide students with disabilities an equal opportunity to participate in its existing extracurricular athletic programs; a school district must not exclude students based on stereotypes and assumptions. Additionally, a school district must make an individualized inquiry to determine if there are reasonable modifications, or necessary aids and services, which would allow a student with a disability the chance to take part in the activity. Provided examples include:

- Using a light along with a starter pistol so that a deaf runner can compete; or
- Providing for, or assisting with, the administration of needed medicine like insulin so that a student with diabetes can take part in an afterschool gymnastics club.

Inclusive sports. In November 2016, the California Interscholastic Federation (CIF) officially partnered with the U.S. Special Olympics, the U.S. Paralympics and the CDE to provide opportunities for students with disabilities to participate in high school athletic programs in two primary ways. The first is with unified sports, which joins people with and without intellectual disabilities on the same team. In unified sports, teams are made up of people of similar age and ability. Second, students with physical disabilities have opportunities to participate in CIF Para-Athlete programs, modeled after U.S. Paralympic sport offerings. Currently there are events for Para-Athletes in the CIF State Championships for Track and Field and Swimming.

Special Olympics. Founded in 1968, Special Olympics is the world’s largest sports organization for people with intellectual disabilities. To be eligible to participate in Special Olympics, an individual must be at least 8 years old and identified by an agency or professional as having one of the following conditions: intellectual disabilities, cognitive delays as measured by formal assessment, or significant learning or vocational problems due to cognitive delay that require or have required specially designed instruction.

The State of California has supported Special Olympics programs in California for the last several years. Funds are allocated via the CDE to the two California chapters: Special Olympics of Northern and Southern California. The Budget Act of 2021 (AB 130 (Chapter 44, Statutes of 2021) appropriated \$6 million non-Proposition 98 funds.

Fiscal Year	Appropriation
2016-17	\$1 million
2018-19	\$2 million
2019-20	\$4 million
2021-22	\$6 million

Paralympics. Originating in England after World War II for veterans with spinal cord-related injuries, the Paralympic Games are held every four years in the same year as the Olympic Games. According to the U.S. Olympic and Paralympic Council, “Classification is a structure for competition and is one of biggest differences between the Olympic and Paralympic Games.” Paralympic athletes have an impairment in body structures and functions that lead to a competitive disadvantage in sport, and include ten eligible impairments: impaired muscle power, impaired passive range of movement, limb deficiency leg length difference, short stature, hypertonia, ataxia, athetosis, vision impairment, and intellectual impairment.

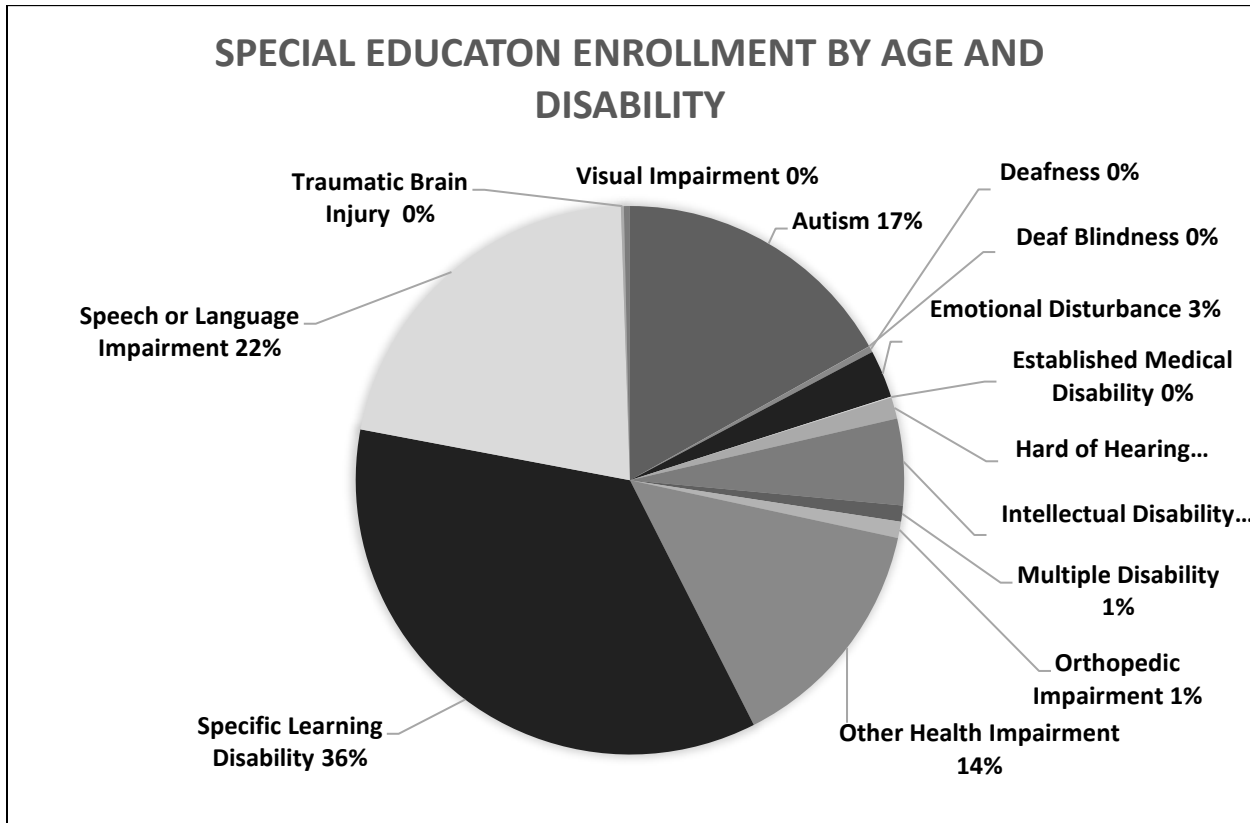
Physical activity and athletics for people with disabilities. Numerous research studies confirm that physical activity plays an important role in maintaining health, well-being, and quality of life. The Centers for Disease Control and Prevention (CDC) recommends that all adults, with or without disabilities, get at least 150 minutes of aerobic physical activity per week. The CDC’s *Physical Activity Guidelines for Americans, 2nd edition*, reports that physical activity can help control weight, improve mental health, and lower the risk for early death, heart disease, type 2 diabetes, and some cancers. For people with disabilities, physical activity can help support daily living activities and independence.

According to a 2011 Disability and Health Journal research paper, *Health disparities among adults with physical disabilities or cognitive limitations compared to individuals with no disabilities in the United States*, individuals with physical disabilities or cognitive limitations had significantly higher prevalence rates for seven chronic diseases than persons with no disabilities, and suggest that adults with disabilities and chronic conditions receive significantly fewer preventive services and have poorer health status than individuals without disabilities who have the same health conditions.

The 2010 GAO report highlighted that access to, and participation in, extracurricular athletic opportunities provide important health and social benefits to all students particularly those with disabilities. Reported benefits include socialization, improved leadership skills, and fitness. The 2010 report also found that students with disabilities are not being offered an equal opportunity to participate in extracurricular athletics in public schools. If students with disabilities are not granted equal access while in school, the likelihood of their participation in sports or other fitness programs is diminished. The author of the bill suggests that by providing early access to athletic

extracurricular activities at an early age, students with disabilities will have a greater chance of engaging in physical activity later in life and experiencing greater health outcomes.

Applicable laws for serving students with disabilities. IDEA authorizes federal funding for the needs of school-age children with a range of disabilities, such as specific learning disabilities, speech and language impairments, or intellectual disabilities, who need special education services, see chart below. In the 2020-21 school year students with disabilities composed 12.5% of California’s public prekindergarten through 12th grade school enrollment.



When children are three years of age and older, they may enter the special education system when LEAs determine that their needs cannot be met in general education programs. When this occurs, LEAs refer students for professional evaluation to determine if they qualify for special education. If the evaluation indicates that a student has a disability, and that the disability interferes with his or her education, the LEA is legally obligated to provide the student with special education services. Students identified as qualifying for special education receive an IEP—a written legal document developed by a team of stakeholders, including a student’s family—that outlines the students’ educational goals and the services that will be provided to meet those goals. Regarding physical education (PE), IDEA regulations specify that schools must generally provide opportunities for students to participate in regular or general PE classes or, in some cases, specially designed PE if determined by the IEP team. Regarding extracurricular athletics, districts and schools must take steps to provide services to give students with disabilities an opportunity to participate in extracurricular activities, which may include athletics, equal to that of other students.

Section 504 of the Rehabilitation Act of 1973 prohibits entities that receive federal financial assistance, including K-12 schools, from discriminating against otherwise qualified individuals

with disabilities. The Americans with Disabilities Act (ADA) of 1990, as amended, is also a broad anti-discriminatory law protecting individuals with disabilities. The U.S. Department of Education interprets the ADA and Section 504 in a similar manner. While IDEA students are covered under Section 504, other students who are not covered under IDEA may still have a disability as defined under Section 504. For students requiring other special accommodations to facilitate their participation in school activities (e.g., wheelchair ramps or blood sugar monitoring), Section 504 plans may be added to, or replace, an IEP. Several of the most common disabilities of students included under Section 504, but not always covered under IDEA, are attention deficit hyperactivity disorder, diabetes, and asthma. Similar to IDEA, the U.S. Department of Education's Section 504 regulations require that students with disabilities be provided a free appropriate public education and learn alongside students without disabilities to the maximum extent appropriate. These Section 504 regulations also require that students with disabilities must be provided equal opportunities to participate in PE courses and extracurricular athletics. Unlike IDEA, however, Section 504 does not authorize any federal funding to schools to provide services to students.

Academic and other outcomes for students with disabilities in California. According to data from the CDE, California's students with disabilities have among the lowest academic and behavioral outcomes of all student groups:

- English language arts: In 2018-19, 16% of students with disabilities met or exceeded standard, compared to 56% for students without disabilities.
- Mathematics: In 2018-19, 13% of students with disabilities met or exceeded standard, compared to 43% for students without disabilities.
- Science: In 2018-19, 8% of students with disabilities met or exceeded standard, compared to 33% for students without disabilities.
- Graduation: In 2018-19, the four year adjusted cohort graduation rate for students with disabilities was 67.7%, vs. 84.5% for all students. The five year adjusted cohort graduation rate for students with disabilities was 71.2% compared to 85.5% for all students. These rates are among the lowest for all subgroups for which the state tracks data.
- Suspension and expulsion: In 2018-19, the suspension rate for students with disabilities was 6.4%, compared to 3.5% for students overall. Students with disabilities had a rate of multiple suspensions of 40%, compared with 30% for all students. The expulsion rate for students with disabilities was 0.8%, the same as the statewide average.
- Attendance: In 2018-19, the chronic absenteeism rate for students with disabilities was 19.5%, compared to 12.1% for students overall.
- College attendance: In 2017-18, 45.4% of students with disabilities who completed high school were enrolled in college, compared to 64.4% for all students. Students with disabilities also had the lowest rate of enrollment at the University of California and the California State University.

- On the 2017 National Assessment of Educational Progress (NAEP) assessment, California students with disabilities scored among the lowest in the country in 4th and 8th grade mathematics and in 8th grade reading.

Recommended Committee Amendments. Staff recommends that the bill be amended as follows:

- Add an evaluation of the ASHPP in order to determine the effectiveness of the program, and to inform future support of similar initiatives.
- Clarify that adaptive sports hubs are not required to be located at every schoolsite in the local educational agency.

Related legislation. SB 1349 (Jackson) Chapter 258, Statutes of 2014, requires public schools, including charter schools, to make public specific information regarding pupil participation in competitive athletics, beginning with the 2015-16 school year and annually thereafter. This bill also makes legislative findings and declarations relative to gender equity in athletics.

AB 200 (Hayashi) of the 2011-12 Session would have established the Health and Fitness Award Program for the purpose of recognizing schools that have standards-aligned physical education courses and increase the numbers of pupils that meet the minimum standards on the physical performance test. This bill was vetoed by the Governor, with the following message:

This bill would require the State Board of Education (SBE) to establish a health and fitness award program to honor a school in each of the 120 legislative districts. Health and fitness are important but let's allow our schools to design their own awards programs and leave the state out of it.

AB 2298 (Torlakson) of the 2009-10 Session would have required the CDE to periodically update rules and regulations in physical education (PE), compile a manual in PE for distribution teachers that is consistent with statute and with the content standards adopted by the SBE, and would have also required high school PE instruction to be consistent with the PE model content standards. This bill was held in the Senate Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

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