Date of Hearing: April 11, 2018

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
AB 2704 (O'Donnell) – As Amended March 20, 2018

SUBJECT: Special education programs: Family Empowerment Centers on Disability

SUMMARY: Requires establishment of new Family Empowerment Centers (FECs) with priority given to high need regions, establishes increased funding levels awarded to each center, and establishes new requirements for data collection and reporting to improve coordination between the California Department of Education (CDE) and FECs. Specifically, **this bill**:

1) Expresses the intent of the Legislature to ensure that children and young adults with disabilities are provided a free and appropriate public education in the least restrictive environment (LRE) possible, in accordance with their needs and capabilities.

2) Requires CDE to give priority to new FEC grant applicants from underserved or high-need regions, as determined by the Superintendent of Public Instruction (SPI).

3) Establishes an increase in the minimum base rate awarded to each center, from $150,000, to $223,000, beginning with the 2019-20 fiscal year.

4) Establishes an annual cost-of-living adjustment to funds allocated to each FEC based on school enrollment of the region served, beginning with the 2020-21 fiscal year.

5) Requires CDE to develop a data collection template for use by FECs, and to provide guidance to FECs on how to define and report data, which shall include, but not be limited to:

    a. The number of parent trainings provided by an FEC, including, but not limited to trainings on IEPs and LREs.

    b. The number of IEP meetings attended by FEC personnel.

    c. The disability categories of children and young adults served by an FEC.

    d. Demographic information, including preferred language, of families served by an FEC.

    e. The nature of disagreements between parents and schools, and the manner in which those disagreements were resolved with FEC assistance.

    f. Parental satisfaction with FEC services.

6) As a condition of the receipt of funds, requires FECs to:

    a. Provide training and information to parents on the benefits of inclusion in a least restrictive environment for children with disabilities.

   b. Attend individualized education program (IEP) development meetings, subject to the availability of center resources and upon parental request.

   c. Submit data annually, in accordance with CDE's template, by a deadline specified by the SPI no later than June 30, 2020.

7) Requires the Family Empowerment and Disability Council (FEDC) to ensure that an outside entity performs an annual, independent evaluation of the effectiveness of services provided by FECs, including an evaluation of the metrics listed in CDE's data collection template.

8) Requires CDE, by June 30, 2020, to inform parents of the purpose of FECs in its notice of procedural safeguards, and to include a link to its webpage that lists contact information for each FEC.

EXISTING LAW:

1) Requires establishment of FECs in 32 Early Start regions across the state (EC 56402).

2) Requires a minimum base rate allocation of $150,000 for each FEC and establishes an allocation mechanism that is determined according to school enrollment of the region served (EC 56406).

3) Requires FEC grant applicants to demonstrate that their region has a need for training and information for underserved parents of children and young adults with disabilities (EC 56406).

4) Requires FEC grant applicants to demonstrate how they will accomplish the following: provide services regardless of cultural, linguistic, geographical, socioeconomic, or other barriers; provide services in accordance with a family's linguistic and cultural preferences and needs; coordinate with existing family support organizations in their region; promote collaborative relationships between parents and local educational agencies and special education local plan areas (EC 56406).

5) Requires FEC grant recipients to provide the following services: provide training and information that meets the needs of parents of children and young adults with disabilities in the region served; collaborate with community-based organizations and state and local agencies serving children with disabilities; help parents better understand the nature of their children's disabilities and educational and developmental needs; train parents to communicate effectively with special education providers; participate in the development of individualized education programs; gather information about the range of programs and services available to support children and young adults with disabilities; participate in school improvement and reform activities; and advocate for children's needs while promoting positive interactions between parents and school staff (EC 56408).

6) Requires the FEDC to consist of an executive director from each FEC and allocates $150,000 to support the council's work (EC 56410).

7) Requires the FEDC to accomplish the following: provide central coordination of training and information dissemination for FECs; develop a technical assistance system and activities in accordance with a plan developed by FEDC members; ensure performance of a periodic

assessment of service delivery and management for each FEC; assist FECs as they build their capacity to serve their regions; develop uniform data collection and tracking systems that interface with, and do not duplicate, existing special education data systems; establish outcome-based evaluation procedures for use by CDE; conduct media outreach and other public education efforts to promote the goals of FECs; and support and coordinate system improvement efforts at a local, state, and national level (EC 56410).

8) Requires CDE to include, on the sample procedural safeguards maintained on its website, a link to a webpage that lists FECs (EC 56415).

9) State and federal law require LEAs to take any action necessary to ensure that in an IEP team meeting, the parent or guardian understands the proceedings at a meeting, including arranging for an interpreter for parents or guardians whose native language is a language other than English.

10) State and federal law defines "consent" in special education proceedings as situations in which the parent or guardian has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication. State and federal law also require that proposed assessment plans be provided to parents "in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so."

FISCAL EFFECT: Unknown

COMMENTS:

Need for the bill. The author's office states: "Family Empowerment Centers (FECs) were established by the Legislature in 2001 to help families of children and young adults with disabilities, ages 3-22, navigate the special education system, which for many families is a daunting task. Parents often face this challenge shortly after their children are diagnosed with complex conditions, and after being told that they must obtain services as quickly as possible to maximize the benefits of intervention.

FECs guide parents through this process by offering a wide range of services, including parent-to-parent mentorship programs, consultations on individualized education programs, and trainings that inform parents about their children's disabilities. By supporting family engagement, FECs not only help ensure that children gain access to the educational resources they need; they also help reduce costly legal conflicts between parents and school districts.

The services provided by FECs are valuable in California, where the scope of the need for special education services is great. Nearly 12 percent of students in the state are enrolled in special education, and the proportion of special education students requiring more intensive and complex educational plans has increased over the past decade. A 2015 report released by the Statewide Task Force on Special Education shows that California has struggled to meet these demands: on average, only 60% of students with disabilities graduate from high school and the achievement levels of students with disabilities in California rank among the lowest in the nation.

Because families represent an important source of support for children with disabilities, the Task Force asserts that family engagement must play a key role in statewide efforts to improve special education. Specifically, the report states that California must invest in providing the 'help, guidance, and training that parents and family members need in order to become active and constructive educational partners.'

FECs fulfill this role. However, the availability of FEC services falls short of the need in California. Although the original intent of the law was to establish 32 centers throughout the state, there are currently only 14 centers and many high need areas lack access to FECs. In addition, funding levels have not changed since 2001, resulting in a funding stream that has not kept pace with increasing demand for FEC services or cost-of-living increases.

AB 2704 will support the critical work of FECs and improve their ability to act as a resource for statewide efforts to improve special education. This bill expands the FEC network to high need and underserved regions of the state, provides a one-time adjustment to increase the base grant from $150,000 to $223,000, and improves coordination between California's Department of Education and FECs through the development of a uniform and rigorous data collection, tracking, and reporting system."

Family Empowerment Centers support children with disabilities and their families. FECs were established in 2001 by enactment of SB 511, in an effort to help families of children with disabilities, ages 3-22, navigate the special education system and gain access to accurate information, specialized training, and peer-to-peer support. The centers were also tasked with promoting collaborative relationships between schools and parents of children with disabilities, collaborating with state and local agencies and community-based organizations serving children with disabilities (including Early Start Family Resource Centers, which support families and children with disabilities who are ages 0-3), and advocating for children in a manner that promotes alternative dispute resolution. The centers are nonprofits staffed and run primarily by parents, guardians, and family members of children and young adults with disabilities. An FEDC report on FEC activities for the 2016-17 fiscal year shows that FECs served families of children with a variety of disabilities. The highest reported disability category was ASD (38 percent), followed by speech or language impairment (12 percent) and intellectual disability (12 percent).

Counties Not Served by an FEC as of 2018	
Alameda	Riverside
Contra Costa	Sacramento
Del Norte	San Bernardino
Humboldt	San Joaquin
Lake	San Mateo
Los Angeles*	San Mateo
Marin	Santa Barbara
Mendocino	Stanislaus
Merced	Ventura
Monterey	Yolo

*Currently, only 3 of 7 planned FECs have been funded in LA County

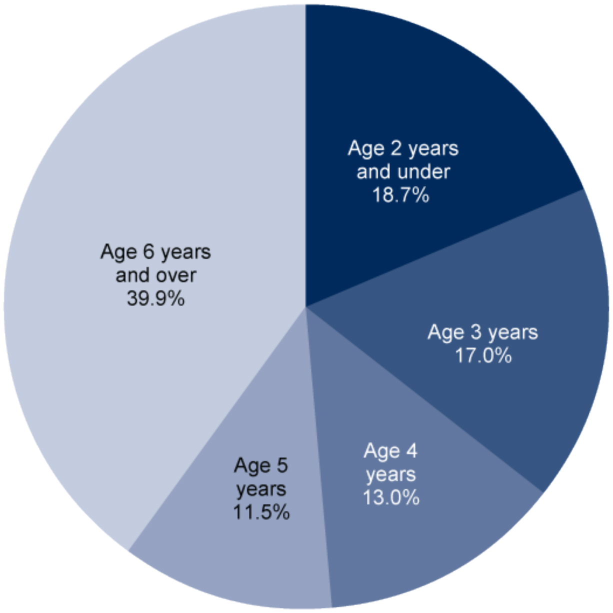
Although SB 511 called for establishment of 32 centers across the state, the last center was added in 2006, leaving the network at its current size of 14 centers. The missing 18 centers leaves families in large regions of the state, including several densely populated areas such as Alameda County and portions of Los Angeles County, without access to the services provided by FECs. The adjacent table lists counties that do not currently have access to an FEC. According to the FEDC, the existing FECs are struggling to meet demand for their services, in part because they are serving parents not only from their regions, but from surrounding regions that currently lack a center. All twelve FECs responding to a survey about challenges they face indicated that limited funding prevents them from providing critical services to families, including parent trainings, sibling support, outreach, and peer-to-peer mentorship programs. In particular, more than half of respondents indicated that limited funding makes it difficult for them to hire and retain long-term, experienced employees because they cannot offer benefits or competitive pay.

Special education in California. Federal law mandates that states provide students with disabilities with access to special education services, and organizes disabilities into thirteen classifications that cover a broad range of conditions: specific learning disabilities; speech or language impairments; autism; other health impairments (includes students with chronic or acute health problems, such as heart conditions or diabetes); intellectual disability; emotional disturbance; orthopedic impairment; hard of hearing; multiple disabilities; visual impairments; deaf; traumatic brain injuries; and deaf and blind.

When children are three years of age and older, they may enter the special education system when local education agencies (LEAs) determine that their needs cannot be met in general education programs. In this case, 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. 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.

According to CDE, in 2015-16 there were 734,000 children in California with disabilities, of whom 662,000 were enrolled in grades K-12, representing roughly 11% of K-12 enrollment. A 2016 report from the Public Policy Institute of California (PPIC) states that the composition of this student population has changed in recent years. Specifically, although the most common disabilities in 2015 were specific learning disabilities, speech and language impairments, and other health impairments—which together constituted about 73% of all students with disabilities—the number of students diagnosed with Autism Spectrum Disorder (ASD) has increased substantially over the last decade. According to the Legislative Analyst's Office (LAO), in 2011-12, children with ASD accounted for approximately 10 percent of students with disabilities. Although the increase in ASD prevalence reflects national trends, the increase in California has outpaced the national average: from 2001-02 to 2013-14, the number of ASD cases in California increased 5.4 times, whereas nationally, the number of cases increased 4.2 times.

Navigating services and programs presents challenges: ASD as an example. Particularly in the case of disabilities that affect a wide range of physical and/or cognitive functions, students with disabilities may require highly individualized, coordinated systems of support, both within and outside the classroom. For example, according to Autism Speaks (the nation's largest advocacy organization for persons with ASD), adequate intervention for children with ASD often involves varying degrees of support from numerous providers, including occupational therapists, speech therapists, special education teachers, paraprofessionals, neurologists, pediatricians, and psychologists. Autism Speaks also states that for many parents, the complexity of coordinating among multiple programs, which may be managed through different agencies and organizations, presents a daunting challenge that many find overwhelming.



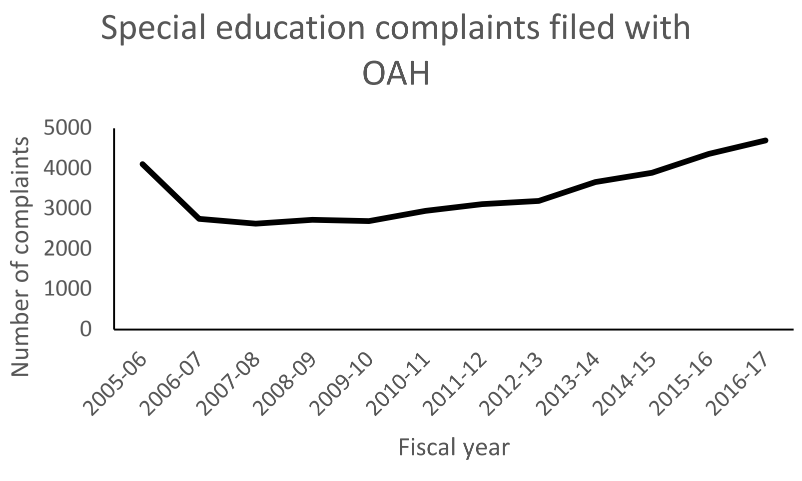
Child's age when parent or guardian was first told that child had ASD.
SOURCE: CDC/NCHS, Survey of Pathways to Diagnosis and Services, 2011

According to a 2015 report by the Statewide Task Force on Special Education, providing services at the youngest age possible maximizes the long-term benefits of intervention for children with disabilities, whether they have ASD, general developmental delays, hearing impairments, or a variety of other disabilities. The report states that "many potential disabilities, previously undetected disabilities, and mental health issues can be identified, prevented, corrected, or resolved…through early intervening services when those services are provided at very early ages." However, the complex steps involved in identifying, diagnosing, and obtaining services for a child's disabilities can delay the timing of interventions. In the case of ASD, findings from a 2016 study in the *Journal of Developmental and Behavioral Pediatrics* suggest that families struggle to obtain early diagnoses and coordinate early interventions for their children. The authors report that ASD identification is 30% lower among 4-year-olds than among 8-year-olds, prompting them to suggest that opportunities to diagnose are being missed in younger age groups. National data provided by the Centers for Disease Control (CDC) support this conclusion: in 2011, more than a third of parents reported that their children were not diagnosed with ASD until they were 6 years of age or older.

Student performance metrics highlight problems with the special education system. Significant achievement gaps exist between students with disabilities and their general education peers. LAO notes that while performance on standardized tests (including those specifically designed for students with disabilities) has improved over the past several years, a majority of students still fail to meet state and federal achievement expectations. Specifically, only 60 percent of these students graduate on time with a high school diploma, and about two–thirds are engaged productively after high school (with about half enrolled in an institute of higher education and 15 percent competitively employed within one year after high school). In addition, in 2018, the recently-implemented California School Dashboard revealed that most school districts categorized as requiring state support for improvement—more than 150 districts, or nearly 18 percent of all districts in California—were identified on the basis of underperformance of students with disabilities.

Thousands of complaints made against schools each year. The federal Individuals with Disabilities Education Act (IDEA) requires states to make the following dispute resolution options available to consumers of federally-funded special education services: mediation (which does not require a decision by a judge and is also referred to as "alternative dispute resolution"), written state complaint, and due process complaint. When parents and districts disagree on matters relating to special education, including student eligibility for services or the design of a student's IEP, parents have the right to resolve their disagreements with the district using a system called "due process," which is intended to allow both parties to reach resolution without the need for legal representation. This system provides parents with a progressive series of options for resolving their complaints. At the least intensive end of the spectrum, parents and districts settle their disagreements using a resolution session, which typically involves only parents and the district and may result in the production of a settlement that does not become binding until three days post-session. If parents do not feel that their complaints can be resolved with a resolution session, they may request mediation, mediation and a hearing, or a hearing without mediation. In mediations, a mediator from the Office of Administrative Hearings (OAH) will try to help both parties reach a binding agreement. If parents and districts cannot reach an agreement via mediation, or if the filing party does not wish to go to mediation, the case will go to hearing. In this scenario, an OAH judge specializing in special education law will decide the outcome of the case. According to OAH, parents most commonly request mediation and a hearing, while "hearing only" is the least common type of due process request.

Data from OAH indicates that the total number of special education cases filed due to disputes between families and schools has increased over the past decade, from 2,748 complaints in the 2006-07 fiscal year to 4,694 complaints in the 2016-17 fiscal year. In 2017, the Center for Appropriate Dispute Resolution in Special Education reported that between 2004-05 and 2014-15, California was among seven states that accounted for 82 percent of all special education due process complaints filed in the nation.



The 2016-17 FEDC report states that two-thirds of 232 parent respondents indicated that they had a disagreement with a school or a district about their child's IEP, 80 percent of whom believed that their FEC's involvement helped them resolve the disagreement. Nearly 60 percent of respondents indicated that they used alternative dispute resolution.

Standardization of FEC data needed. With enactment of the Local Control Funding Formula (LCFF), which placed greater control for education spending at the local level, Local Control and Accountability Plans (LCAP) were put in place to create a mechanism for assessing effective expenditure of funds. The importance of parent involvement in efforts to improve local educational systems was formally recognized by inclusion of parent and community engagement as one of eight state priorities that must be addressed as local educational agencies (LEAs) develop their their LCAPs. Specifically, LEAs are required to establish parent advisory committees and English learner parent advisory committees that will provide input during LCAP development. According to CDE and the Statewide Task Force report on special education, efforts to improve special education similarly require input from parents and families, but formal, state-mandated mechanisms similar to those implemented for general education do not exist.

As parent-staffed centers with strong ties to their local special education agencies, FECs are ideally structured to facilitate parental engagement in efforts to identify and resolve local challenges in special education. However, the Statewide Task Force report highlights challenges in data collection and analysis that need to be addressed before FECs can fulfill this role. Although SB 511 implemented accountability measures—namely the development of a uniform data collection system—to ensure that FEC services could be monitored across the network of centers, it did not specify what would happen to these data once they were reported to CDE, or what the utility of these data would or should be, outside of providing a general assessment of FEC function. Furthermore, the FEDC, comprised primarily of executive directors from each of the 14 FECs, states that in many cases, centers are unable to allocate sufficient resources from their limited funding to pay for the software and staff time needed to accomplish intensive data collection. The council also states that specific guidance from CDE would help centers identify the types of measures needed to assess statewide and local issues in special education. This bill addresses these issues by increasing the base grant from $150,000 to $223,000, and by requiring CDE to generate a data collection template for use by FECs.

Related legislation. AB 2878 (Chavez) of this Session, which is pending before this committee, adds family engagement to the list of state priorities under local control and accountability plans. The bill defines "family engagement" to include efforts, made by school districts and schools, to engage families in two-way communication and empower families to advocate for educational equity and access.

AB 3136 (O'Donnell) of this Session, which is pending before this committee, requires that special education funding rates be equalized to the 95th percentile after the Local Control Funding Formula (LCFF) is fully funded, creates a funding mechanism for state support of special education preschool, establishes a high cost service allowance to provide supplemental funding on the basis of the number of students with severe disabilities, and changes the calculation of the declining enrollment adjustment so that it is based on school district, rather than Special Education Local Plan Area (SELPA), enrollment.

Previous legislation. AB 312 (O'Donnell) of this Session would have required that special education funding rates be equalized to the 90th percentile and created a funding mechanism for state support of special education preschool, after the LCFF is fully funded.

SB 884 (Beall), Chapter 835, Statutes of 2016, requires CDE to include in its sample procedural safeguards, maintained on its website, a link to the CDE webpage that lists Family Empowerment Centers.

SB 354 (Portantino) of this Session would have required LEAs to communicate in the native language of a parent during the planning process for an IEP, and provide a student's parent with a copy of the completed IEP and other related documents in the native language of the parent within 30 days of the IEP team meeting.

SB 511 (Alpert) of the 2000-01 Session required CDE to establish FECs in each of 32 Early Start regions in the state, established the FEDC, allocated a base grant of $150,000 to each FEC, established an allocation mechanism that is determined according to school enrollment of the region served, required FECs to collect specified types of data, and specified certain responsibilities for the FEDC.

Argument in support. Family Resource Navigators, an agency in San Leandro that supports families of young children with medically complex conditions, states: "Alameda is a densely populated, physically large, highly diverse and multi-lingual county, and there is a desperate need to have multilingual and multi-cultural support on the IEP process for families. Families (especially those who are recent immigrants or who don't speak English as a first language) are confused and frustrated in navigating the special education system. They don't know their child's rights, or even how to start the evaluation process for their child. Parents are often overwhelmed by the IEP process, and don't know how to partner effectively with their school district. An FEC would provide peer support and mentoring to help families understand, connect to, and advocate for special education services. This is a vital need in our county. Our agency currently offers this kind of multi-lingual, multi-cultural support to families of younger children and medically complex children through grants from Early Start, Alameda County California Children's Services, and Alameda County First Five/Help Me Grow. However, we still receive 80 to 120 calls per month from families looking for trainings, workshops, and peer assistance on the IEP process. They come to our agency because there is no place else to go. Right now, we can don't have the funds to serve these families, and we have no place to send them to get this service. An FEC would fill this huge gap and help families partner more effectively with their districts to educate their children."

REGISTERED SUPPORT / OPPOSITION:

Support

Family Empowerment and Disability Council (sponsor)
Alpha Resource Center of Santa Barbara
The Arc/United Cerebral Palsy California Collaboration
Bakersfield ARC
Center for Early Intervention
Challenged Family Resource Center
Children's Choice for Hearing and Talking Center - Sacramento
Disability Rights California
Disability Rights Education and Defense Fund
Early Start Family Resource Network
FACT-Family, Adult, and Child Therapies

Families for Children
Family Resource Centers Network of California
Family Resource Center Network of Los Angeles County
Family Resource Navigators
First 5 Alameda County
Independent Living Center of Kern County
Inland Regional Center
John Tracy Clinic
Lassen Union High School District
Napa County SELPA
Plumas Rural Services
Solano County SELPA
Special Kids Crusade
Spectrum Center Schools and Programs
WarmLine Family Resource Center
Weingarten Children's Center
Yolo County SELPA
Yuba County SELPA
Yuba Sutter Diabetes Support and Resource Center
Multiple individuals

Opposition

None on file

Analysis Prepared by: Naomi Ondrasek / ED. / (916) 319-2087