

Date of Hearing: March 27, 2019

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
AB 605 (Maienschein) – As Introduced February 14, 2019

SUBJECT: Special education: assistive technology devices

SUMMARY: Requires a local educational agency (LEA) to provide an individual with exceptional needs continuous access to an assisted technology device, until alternative arrangements for providing the device can be made, or until six months after the student ceases to be enrolled at that LEA. Specifically, **this bill:**

- 1) States the intent of the Legislature to enact legislation that would provide individuals with exceptional needs who require an assistive technology device with continuous access to those devices at school, in their homes, or in the community.
- 2) Requires an LEA to provide an individual with exceptional needs who requires the use of an assistive technology device with continuous access to that device while the individual is enrolled in that LEA.
- 3) Establishes that an LEA is responsible for providing an individual with exceptional needs who requires the use of an assistive technology device with continued access to that device, or to a comparable device when that individual, due to graduation or enrollment in another LEA, ceases to be enrolled in that LEA.
- 4) Establishes that this responsibility of the LEA is in force until alternative arrangements for providing the individual with exceptional needs with continuous access to the assistive technology device, or to a comparable device, can be made or until six months have elapsed from the date that the individual ceased to be enrolled in that LEA, whichever occurs first.

EXISTING LAW:

- 1) Requires, through state and federal law, that children with exceptional needs between the ages of three and five be provided with a free and appropriate education. (EC 56026)
- 2) Defines, in state and federal law, “assistive technology device,” as provided in paragraph (1) of Section 1401 of Title 20 of the United States Code, to mean any item, piece of equipment, or product system, whether acquired commercially without the need for modification, modified, or customized, that is used to increase, maintain, or improve functional capabilities of an individual with exceptional needs. The term does not include a medical device that is surgically implanted, or the replacement of that device. (EC 56020.5)
- 3) Requires, in federal regulations, that on a case-by-case basis, the use of school-purchased assistive technology devices in a child’s home or in other settings is required if the child’s Individualized Education Program (IEP) team determines that the child needs access to those devices in order to receive a free and appropriate public education. (34 CFR § 300.105)

- 4) States that LEAs are responsible for providing other specialized equipment for use at school that is needed to implement the individualized education program. States that this does not include medical equipment. (EC 56363.1)
- 5) Requires that, when developing each pupil's IEP, the individualized education program team consider whether the pupil requires assistive technology devices. (EC 56341.1)

FISCAL EFFECT: This bill has been keyed a possible state mandated local program by the Office of Legislative Counsel.

COMMENTS:

Need for the bill. According to the author, "Students who use interactive communication devices have a need for communication inside as well as outside the classroom. When a student is required to leave their assistive technology in the classroom, they are essentially losing their voice when they go home."

Assistive technology devices. As noted above, federal law defines an assistive technology device as any item, piece of equipment, or product system, whether acquired commercially without the need for modification, modified, or customized, that is used to increase, maintain, or improve functional capabilities of an individual with exceptional needs.

The author indicates that the specific concern the bill is intended to address is the use of communication devices by students who have either limited or no verbal communication skills. The Committee may wish to consider that assistive technology is a broad category which includes many different types of equipment. The California Department of Education (CDE) lists numerous examples of assistive technology devices on its website, including:

Writing

- Pencil/pen with adaptive grip
- Adapted paper (e.g., raised line, highlighted lines)
- Slantboard
- Typewriter
- Portable word processor
- Computer

- Switch with scanning
- Voice recognition software
- Word prediction to reduce keystrokes

Composing Written Material

- Word cards/word book/word wall
- Pocket dictionary/thesaurus
- Electronic/talking electronic dictionary/thesaurus/spell checker
- Word processor with spell checker/grammar checker
- Word processor with word prediction to facilitate spelling and sentence construction
- Talking word processor for multisensory typing
- Voice recognition software
- Multimedia software for expression of ideas (assignments)

Alternate Computer Access

- Keyboard with easy access
- Keyguard
- Arm support
- Track ball/track pad/joystick with on screen keyboard
- Alternate keyboard
- Mouth stick/head pointer with standard/alternate keyboard
- Head mouse/head master/tracker with on screen keyboard
- Switch with Morse code

Reading

- Changes in text size, spacing, color, background color
- Use of pictures with text
- Book adapted for page turning (e.g., page fluffers, 3-ring binder)
- Talking electronic device to pronounce challenging words
- Scanner with talking word processor
- Electronic books

Learning/Studying

- Print or picture schedule
- Low tech aids to find materials (e.g., index tabs, color coded folders)
- Highlight text (e.g., markers, highlight tape, ruler, etc.)
- Voice output reminders for assignments, steps of task, etc.
- Software for manipulation of objects/concept development input device (e.g., switch, touch window)
- Software for organization of ideas and studying
- Recorded material (e.g., books on tape, taped lectures with number coded index)

Math

- Abacus/math line
- Calculator/calculator with print out
- Talking calculator
- Calculator with large keys and/or large LCD print out
- On screen calculator
- Software with templates for math computation (may use adapted input methods)
- Tactile/voice output measuring devices (e.g., clock, ruler)

Communication

- Communication board/book with pictures/objects/letters/words
- Eye gaze board (eye gaze communication)
- Simple voice output device
- Voice output device with levels
- Device with speech synthesis for typing

Activities of Daily Living (ADL)

- Adaptive eating devices (e.g., foam handle on utensil)
- Adaptive drinking devices (e.g., cup with cut out rim)
- Adaptive dressing equipment (e.g., button hook, reacher)

Mobility

- Walker
- Grab rails
- Manual wheelchair
- Powered mobility toy
- Powered wheelchair with joystick, head switch or sip/puff control

Environmental Control

- Light switch extension
- Use of universal link and switch to turn on electrical appliances (e.g., radio, fan, blender)
- Radio/ultra sound/remote controlled appliances

Recreation and Leisure

- Adapted toys and games (e.g., toy with adaptive handle)
- Use of battery interrupter and switch to operate a toy
- Adaptive sporting equipment (e.g., lighted/bell ball, velcro mitt)
- Universal cuff to hold crayons, markers, paint brush
- Modified utensils (e.g., rollers, stampers, scissors)
- Arm rest to support arm for drawing/painting
- Drawing/graphic program on computer
- Playing games on the computer
- Music software on computer

Vision

- Eye glasses
- Magnifier
- Large print books
- Screen magnifier (mounted over screen)
- Screen color cornets

- Screen magnification software
- CCTV (closed-circuit television)
- Screen reader
- Braille keyboard and note taker
- Braille translation software
- Braille printer

- TDD/TTY for phone access
- Screen flash for alert signals on computer

Hearing

- Hearing aid
- Classroom amplification
- Captioning
- Signaling device (e.g., vibrating pager)

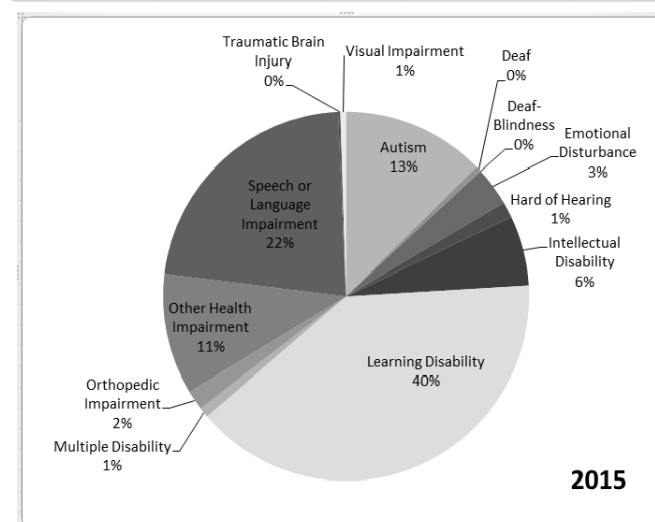
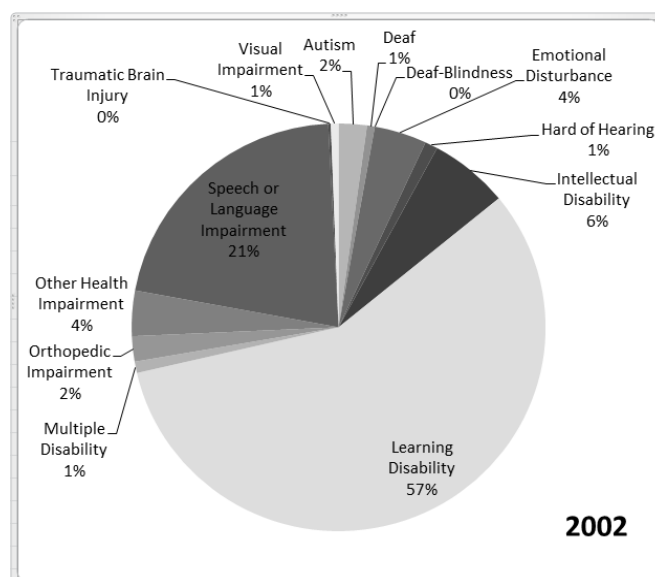
Positioning and Seating

- Non-slip surface on chair to prevent slipping
- Bolster, rolled towel, blocks for feet
- Adapted/alternate chair, side lyer, stander
- Custom fitted wheelchair or insert

No data presented to establish the size of this problem. This bill proposes to change policy regarding the use of assistive technology devices for all schools in the state. The sponsor reports anecdotal information indicating that several school districts do not allow students to keep assistive communication devices over school breaks. There are no published reports or data, however, to determine whether this is a widespread practice is in California.

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. 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



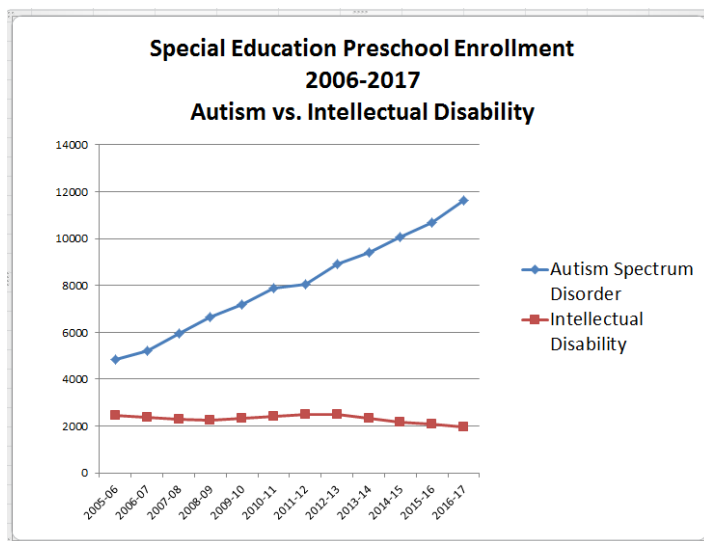
meet those goals. For students requiring other special accommodations to facilitate their participation in school activities (e.g., wheelchair ramps or blood sugar monitoring), Section 504 plans may be added to, or replace, an IEP.

According to the CDE, in 2016 there were 754,000 children, aged birth to 22, who were identified as having exceptional needs. 680,000 of these children were enrolled in grades K-12, representing roughly 11% of K-12 enrollment. A 2016 report from the Public Policy Institute of California 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 proportion of students with these disabilities has declined, and the proportion of students identified with autism spectrum disorder has increased.

The most common disabilities among students are specific learning disabilities, speech and language impairments, and other health impairments, which together constituted about 73% of all students with exceptional needs in 2015. Viewed as a whole, there is a significant achievement gap between students with disabilities and their peers. The 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 with disabilities still fail to meet state and federal achievement expectations, and that 60 percent of these students graduate on time with a high school diploma and about two-thirds of 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).

Growth in students on the autism spectrum. The author’s statement indicates that the specific concern he is attempting to address is related to communication devices for students who have either limited or no verbal communication skills. Students on the autism spectrum are more likely to require assistive communication devices.

The number of students on the autism spectrum has increased substantially over the last decade. According to the Legislative Analyst’s Office (LAO), in 2011-12, children on the autism



spectrum 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 children on in California increased 5.4 times, whereas nationally, the number of cases increased 4.2 times.

While the prevalence of students with ASD is relatively rare (affecting about 1.5 percent of California students), the number of students diagnosed with ASD has increased notably over the last decade, from 2% of all disabilities in 2002 to 13% in 2015 (see charts above).

Between 2005-06 and 2015-16 the number of preschool age children identified with Autism Spectrum Disability (ASD) increased from 4,845 to 10,688 – an increase of 121%. The next highest increase in that time period was among students identified as having Other Health Impairments, who increased from 1,270 to 1,913, a 51% increase. In 2005-06 children identified with ASD comprised 13% of preschool enrollment; in 2015-16 children with ASD represented nearly 23% of all preschoolers with exceptional needs.

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

- 1) Replace the requirement that an LEA provide a student continuous access to an assistive technology device with the requirement in federal regulations which requires that, on a case-by-case basis, the use of school-purchased assistive technology devices in a child's home or in other settings is required if the child's IEP team determines that the child needs access to those devices in order to receive a free and appropriate public education.
- 2) Extend the requirements of the bill to charter schools.

Prior and related legislation. AB 236 (Eduardo Garcia) of this Session would require the establishment of additional 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 CDE and FECs.

AB 2704 (O'Donnell) of the 2017-18 Session would have required the establishment of additional 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 CDE and FECs. This bill was held in the Senate Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Educate. Advocate. (co-sponsor)
 Empower Family California (co-sponsor)
 Alta Loma Little League Challenger Division
 The Arc Of California
 Autism Society Of California
 Cal-Tash
 California Association For Parent-Child Advocacy
 California In-Home Supportive Services Consumer Alliance
 Coalition Of California Welfare Rights Organizations
 Disability Rights California
 Early Start Family Resource Network
 Families for Early Autism Treatment
 Food Bank of Contra Costa And Solano
 Los Angeles Learning Disabilities Association
 Newport Beach Developmental Optometry Group
 Port View Preparatory

San Francisco Senior and Disability Action
Service Center for Independent Life
United Cerebral Palsy, California

Opposition

None on file

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