

Date of Hearing: July 7, 2021

ASSEMBLY COMMITTEE ON EDUCATION

Patrick O'Donnell, Chair

SB 692 (Cortese) – As Amended April 7, 2021

**SENATE VOTE:** 39-0

**SUBJECT:** Local control and accountability plans: state priorities: least restrictive environment

**SUMMARY:** Adds a measure of least restrictive environment (LRE) for students with disabilities to the local indicators used for purposes of a local educational agency's (LEA) or charter school's Local Control and Accountability Plan (LCAP), requires state evaluation rubrics to include LRE as an indicator; requires special education local plan areas (SELPA) to be invited to all differentiated assistance (DA) meetings related to LRE; prohibits the use of this indicator to identify LEAs and charter schools for DA until the 2025-26 school year; and requires the Superintendent of Public Instruction (SPI) to conduct a related survey on professional development needed for teachers to be prepared to teach students with learning disabilities and the number of LEAs that are expected to meet the criteria for DA. Specifically, **this bill:**

- 1) Adds LRE, as measured by federal Indicator 5A established by the United States Secretary of Education for the State Performance Plan (SPP) and Annual Performance Report (APR), as a local measure of school climate for purposes of a school district's LCAP.
- 2) Requires the standards for the local measure of LRE, to be consistent with the state's targets in the SPP for the federal indicators 5A, 5B, and 5C, via guidelines established by the United States Secretary of Education.
- 3) Prohibits the LRE local measure from doing any of the following:
  - a) Being included for an LEA that does not report federal indicator 5A on the SPP and APR;
  - b) Include pupils who are deaf, hard of hearing, blind, visually impaired, and deaf-blind; and
  - c) Being construed as modifying or otherwise affecting the right of pupils with disabilities to a free and appropriate education (FAPE) pursuant to the federal Individuals with Disabilities Education Act (IDEA).
- 4) Requires the SPI to conduct a report to the Legislature on all of the following subjects by October 1, 2024:
  - a) The minimum professional development needed for existing general education teachers to be prepared to teach students with learning disabilities.
  - b) The number of LEAs that are expected to meet the criteria for DA based on the local measure of LRE.

- c) The estimated funds county offices of education (COEs) and SELPAs would need to provide meaningful technical assistance and DA to LEAs.
- d) The estimated funds COEs and SELPAs need to provide meaningful technical assistance and DA to LEAs.

**EXISTING LAW:**

- 1) Requires the State Board of Education (SBE) to adopt evaluation rubrics, by October 1, 2016, for all of the following purposes:
  - a) To assist a school district, COE or charter school in evaluating its strengths, weaknesses, and areas that require improvement.
  - b) To assist a county superintendent of schools in identifying school districts and charter schools in need of technical assistance, and the specific priorities upon which the technical assistance should be focused.
  - c) To assist the SPI in identifying school districts for which intervention is warranted. (Education Code (EC) 52064.5, 47607.3)
- 2) Requires the evaluation rubrics to reflect a holistic, multidimensional assessment of school districts and individual schoolsite performance and include all of the state priorities. Existing law requires, as part of the evaluation rubrics, the SBE to adopt standards for school district and individual schoolsite performance and expectations for improvement in regard to each of the state priorities. (EC 52064.5, 47607.3)
- 3) Requires LEAs to adopt and annually revise LCAPs, establishing annual goals and identifying specific actions for all pupils and specific subgroups of pupils, in the eight state priority areas.
- 4) Requires the county superintendent of schools or the SPI to provide technical assistance using the evaluation rubrics to any school district, county office of education, or charter school that fails to improve pupil achievement across more than one state priority for one or more pupil subgroups. (EC 52071, 52071.5, 47607.3)
- 5) Authorizes the SPI to identify school districts and COEs in need of intervention if certain conditions are met, including if the California Collaborative for Education Excellence (CCEE) has provided advice and assistance and submits findings to the SPI that the inadequate performance of the school district or COE, based on the evaluation rubrics, is either so persistent or acute as to require intervention by the SPI. (EC 52071, 52071.5, 47607.3)
- 6) Requires LEAs to adopt and annually revise LCAPs, establishing annual goals and identifying specific actions, in the following eight state priority areas:
  - a) The degree to which the teachers of the school district are appropriately assigned and fully credentialed in the subject areas, and, for the pupils they are teaching, every pupil in

the school district has sufficient access to the standards-aligned instructional materials, and school facilities are maintained in good repair;

- b) Implementation of the academic content and performance standards adopted by the SBE, including how the programs and services will enable English learners to access the common core academic content standards and the English language development standards, for purposes of gaining academic content knowledge and English language proficiency;
  - c) Parental involvement, including efforts the school district makes to seek parent input in making decisions for the school district and each individual school site, and including how the school district will promote parental participation in programs for unduplicated pupils and individuals with exceptional needs;
  - d) Pupil achievement, as measured by specified metrics at the state level;
  - e) Pupil engagement, as measured by specified metrics at the state level;
  - f) School climate, as measured by specified metrics at the state level and as developed locally;
  - g) The extent to which pupils have access to, and are enrolled in, a broad course of study, including the programs and services developed and provided to unduplicated pupils and individuals with exceptional needs, and the programs and services that are provided to benefit these pupils as a result of the funding received under the Local Control Funding Formula (LCFF); and
  - h) Pupil outcomes, as measured by specified metrics at the state level. (EC 52060, 47604.33, 47606.5, 52064)
- 7) Requires LEAs to ensure the following to address the LRE:
- a) To the maximum extent appropriate, individuals with exceptional needs, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and
  - b) Special classes, separate schooling, or other removal of individuals with exceptional needs from the regular educational environment occurs only if the nature or severity of the disability is such that education in the regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.
- 8) Requires that, in accordance with federal law, a FAPE be available to individuals with exceptional needs.
- 9) 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.

- 10) Requires that, in accordance with federal law, each public agency ensure the following to address the LRE for individuals with exceptional needs such that:
- a) To the maximum extent appropriate, individuals with exceptional needs, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and
  - b) Special classes, separate schooling, or other removal of individuals with exceptional needs from the regular educational environment occurs only if the nature or severity of the disability is such that education in the regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.
- 11) Establishes the Inclusive Early Education Expansion Program for the purpose of increasing access to inclusive early care and education programs. Authorizes competitive grants to increase access to subsidized inclusive early care and education programs for children up to five years of age, including those defined as “children with exceptional needs” in low-income and high-need communities.

**FISCAL EFFECT:** According to the Senate Appropriations Committee:

- By adding a new state priority area, this bill would provide an additional means to assess a school district’s performance and determine eligibility for differentiated assistance under the state’s System of Support. To the extent that additional school districts are identified as needing differentiated assistance as a result of the new priority area (and the related performance indicators that would be developed), this bill could lead to increased, but unknown Proposition 98 General Fund costs for COEs to provide the individually designed assistance for these districts.
- This bill’s requirement for the SPI to conduct a survey and report to the Legislature is not anticipated to result in additional costs to the state.

**COMMENTS:**

*Need for the bill.* According to the author, “Despite federal law requiring that states include students with disabilities in general education classrooms to the greatest extent possible, California’s current rate of inclusion is 10 points lower the national average (53% versus 63% of students with disabilities are included in general education). In the last decade California has made almost no progress toward greater inclusion of students with disabilities in general education classes.

Thirty years of evidence-based research demonstrates a clear causal relationship between inclusion and academic success of students with disabilities. States that have increased their inclusion rates over the last decade (e.g. Massachusetts, New Jersey, and Florida) have seen parallel increases in academic achievement for these students. Most recently, the Ventura County Office of Education and SELPA partnered with a university to study the academic impact of inclusion on the 90+% of students with disabilities that do not have significant cognitive impairment. This included students identified for speech/language, chronic health, emotional disturbance, specific learning disabilities, and autism. The study found conclusively that students with these disabilities were more successful on state assessments if they spent the

majority of their instruction time in a general education classroom. SB 692 would disincentive districts from inappropriately placing students with disabilities in segregated classrooms by adding an existing federal inclusion (least restrictive environment) indicator to the state accountability dashboard.”

**Two Accountability Systems: the California School Dashboard and the IDEA State Performance Plan.** This bill requires that a measure of LRE used in federal reporting for purposes of the SPP be included as a local measure on the California School Dashboard.

The federal IDEA requires the U.S. Department of Education (USDOE) to monitor states’ implementation of IDEA. Each state is required to develop and submit an SPP. The SPP is a six-year plan that includes 17 measures, or indicators, that are related to either IDEA compliance or student performance. Within the SPP, states must set rigorous and measurable annual targets for each of the 17 indicators. States must report their progress in relation to these targets in an annual update, called the APR. Indicator 5a measures least restrictive environment as the percent of children with disabilities, ages 6-22, served inside the regular classroom for at least 80% of the day. The SPP data is used by the USDOE for purposes of technical assistance and enforcement actions. The SPP is an accountability system that applies only to students with disabilities.

The California School Dashboard (Dashboard) is an online tool that reports school and LEA performance and progress on both state and local measures. State measures apply to LEAs and charter schools, and student groups and are based on data that is collected consistently across the state. Local measures apply at the LEA and charter school level and are based on data collected at the local level. Charter schools are displayed as their own LEA on the Dashboard independent of their authorizer. The state and local measures are drawn from the ten priority areas of the Local Control Funding Formula (LCFF), which was enacted in 2013. The data displayed by the Dashboard is used to determine which LEAs and charter schools receive assistance by COEs (DA). The Dashboard is part of an accountability system that applies to all students, including those with disabilities.

The chart below, developed by the SELPA System Improvement Leads, provides a comparison of the two systems:

	State Performance Plan	California School Dashboard
<b>Description</b>	Federal process required by IDEA , specific to students with disabilities.	An online tool that provides information on multiple measures of school success for all students, not specific to students with disabilities.
<b>Origin of Indicators</b>	17 federal indicators drawn from IDEA Part B.	11 state and local indicators drawn from the ten priority areas of the Local Control Funding Formula (LCFF) and approved by the State Board of Education (SBE).
<b>Indicator Types</b>	Compliance and Performance Indicators (please see the Getting to Know the State Performance Plan Indicators document).	State indicators: based on data collected consistently across the state. Local indicators: based on data collected and reported by LEAs using SBE-approved self-reflection tools.
<b>Results</b>	Results are provided annually to school districts, county offices of education, and charter schools <sup>2</sup> within the local-level APR.  SPP indicators are measured in relation to targets aligned with IDEA and approved by the SBE. For more information on targets, please refer to the individual indicator handouts included in this guide.	Results are updated annually on the Dashboard website.  Dashboard state indicators utilize a color coded system ranging from blue (highest) to red (lowest). The overall performance level reflects a combination of current performance (status) compared to past performance (change). For local indicators, SBE-approved standards are used to support an LEA in both measuring and reporting progress. The LEA will select Met or Not Met based on whether the standard for a local indicator was achieved.

***Special education governance and accountability under review.*** The Budget Act of 2020 provided funding for a report to the Legislature and Department of Finance on special education governance and accountability, and required that the report include recommendations for improvements of these systems, including the alignment of state and federal accountability systems, and delivering services in the LRE. The final report is required to be provided to the Legislature and Department of Finance by October 1, 2021.

***What is LRE/inclusion?*** The terms LRE, inclusion, and mainstreaming are often used interchangeably. LRE is defined in federal law to mean “to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled,” and that the use of “special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.”

There are multiple definitions of “inclusion,” but most include the following elements:

- students with disabilities are educated in general education settings with appropriate supports
- students with disabilities participate in other school programs as full members of the school community
- school staff support universal access to education
- school staff are provided the knowledge, resources, and support to effectively teach all pupils

Mainstreaming generally refers to the practice of placing students with disabilities, who otherwise are educated in separate settings, in the general education setting for specified periods of time or for specific activities.

***Research on the effect of inclusion on students with and without disabilities.*** Research over the last thirty years has found numerous benefits for students with disabilities and students without disabilities. When students with disabilities are included, they have more access to the general curriculum and effective instruction, and as a result they achieve:

- higher rates of academic performance in language arts and mathematics
- fewer absences from school
- fewer referrals for disruptive behavior
- higher likelihood of attending college
- better employment and independent living outcomes after high school
- improved communication
- improved expressive language and literacy skills
- more satisfying and diverse friendships
- higher levels of social engagement with peers without disabilities
- less disruptive behavior
- more social competence

Although students with extensive support needs (i.e., students with intellectual disabilities, multiple disabilities, autism) have higher rates of segregated schooling, research shows that these

students actually acquire more academic benefits when included in general education instruction, particularly increases in literacy skills.

One recent analysis, conducted by Ventura County Office of Education, of the effect of inclusion on 4<sup>th</sup>, 6<sup>th</sup>, and 8<sup>th</sup> grade mathematics scores estimates that 72%, 64%, and 67% of students in those grades, respectively, would have scored higher on the statewide assessment of mathematics had they been included in the general education environment 80% or more of the instructional day.

Research has found that the inclusion of students with disabilities has either a positive effect or no negative effect on the academic, social, and personal development of students without disabilities when they are educated with peers who had intellectual, learning, or other disabilities. Research has found that inclusion benefits students without disabilities, through:

- positive effect, or no negative effect, on academic, social, and personal development
- reduced fear of human differences
- increased comfort and awareness of differences
- growth in social cognition
- improvements in self concept
- growth of ethical principles

***History of efforts to include students with disabilities in general education.*** Efforts to include students with disabilities in the general education system has a long history:

***Exclusion from public education, institutionalization.*** According to the National Center on Disability (NCD), as late as the 1960's it was standard practice for students with disabilities to be completely excluded from the public education system. In the 1974-75 school year, the U.S. Bureau for the Education of the Handicapped reported that of the 8 million students with disabilities, 2.5 million were receiving an inappropriate education, and 1.75 million were receiving no education at all. According to the NCD, "many states had laws excluding certain students, including those who were blind, deaf, or labeled emotionally disturbed' or 'mentally retarded.'"

According to the USDOE, "inaccurate tests led to inappropriately labeling and ineffectively educating most children with disabilities. Further, most families were not afforded the opportunity to be involved in planning or placement decisions regarding their child, and resources were not available to enable children with significant disabilities to live at home and receive an education at neighborhood schools in their community."

According to the NCD, "almost 200,000 school-age children with mental retardation or emotional disabilities were institutionalized. The likelihood of exclusion was greater for children with disabilities living in low-income, ethnic and racial minority, or rural communities." Many institutional settings provided only minimal food, clothing, and shelter, and children could be subjected to abuse, experimentation, and severe neglect.

***Brown vs. Board of Education.*** In 1954, the U. S. Supreme Court issued the landmark civil rights decision *Brown v. Board of Education of Topeka, Kansas*, in which it found that segregation on the basis of race in public education was a violation of the equal protection clause of the U.S. Constitution. The Court wrote, "The opportunity of an education...where

the state has undertaken to provide it, is a right that must be made available to all on equal terms.” The decision in *Brown*, as well as the Civil Rights Act of 1964, provided the legal foundation for efforts to end the exclusion and segregation of students with disabilities in public education as a discriminatory practice under the Constitution.

***PARC and Mills court decisions.*** Two 1971 court decisions established the rights of students to be educated in public schools. In the *Pennsylvania Association for Retarded Children (PARC) v. Commonwealth of Pennsylvania* ruling, and the *Mills v. Board of Education of the District of Columbia* cases, the courts found that the exclusion from public education of students with disabilities was a violation of the equal protection clause of the Constitution.

***Education for All Handicapped Children Act.*** Following years of activism, litigation, a Congressional investigation, and media attention on deplorable conditions in a state children’s institution, in 1975, the Education for All Handicapped Children Act (EHA) was enacted. This law entitled every student with a disability to a free, appropriate public education in the least restrictive environment, designed to meet their unique needs. The law sought to ensure that the rights of children were protected, and also authorized some funding to states. The law was amended in 1976 to expand requirements to serve children from birth to 3 years of age, and in 1990 to require an individualized plan for the transition to post-secondary life.

***Individuals with Disabilities Education Act (IDEA).*** In 1997, congress reauthorized the EHA as the IDEA and made further changes in 2004. The 1997 amendments emphasized providing all students with access to the same curriculum. The 2004 amendments emphasized early intervention for students, greater accountability, and improved educational outcomes, and raised the standards for instructors who teach special education classes. It also mandated states to require that local school districts shift up to 15% of their special education funds toward general education if it were determined that a disproportionate number of students from minority groups were placed in special education for reasons other than disability.

***Case law sets standards for LRE.*** In numerous decisions since the enactment of the EHA, federal courts have attempted to set standards for compliance with the requirement to provide instruction to students with disabilities in the LRE. In one case, *Sacramento City Unified School District vs. Rachel H.*, (1994), the court set a three part standard for LRE decisions, ruling that 1) in determining the appropriate placement the educational benefits of the general education classroom with supplemental aids and services must be compared to the educational benefits of the special classroom, 2) the nonacademic benefits of interaction with nondisabled students also must be considered, and 3) the effect of the student's presence on the teacher and on other students must be evaluated.

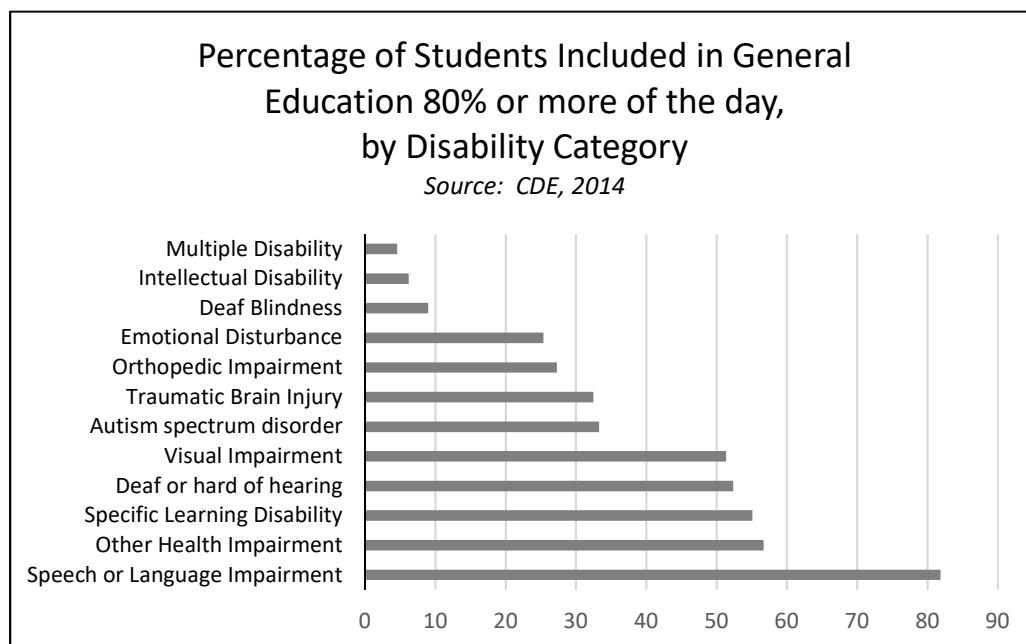
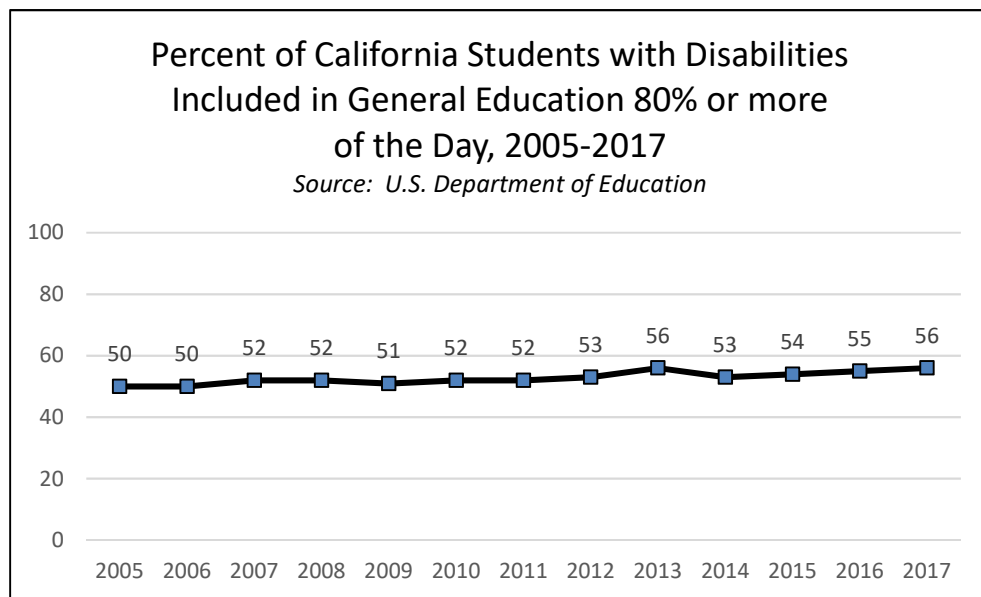
***How inclusive are California schools?*** As noted above, the IDEA requires each state to develop an SPP and an APR that evaluates the state’s efforts to comply with federal law, and how the state will improve its implementation.

Indicator 5a, on LRE, is defined as the percent of students with disabilities, ages 6-22, served inside the regular class 80% or more of the day. Under California’s current SPP, the state’s target for Indicator 5a is 53.2% for 2019.



On this measure, in 2017 56% of California students with disabilities spend 80% or more of the day in general education classes, compared to 64% nationally (National Center for Education Statistics, 2019). According to Policy Analysis for California Education (PACE), California has one of the lowest rates of inclusion in the country.

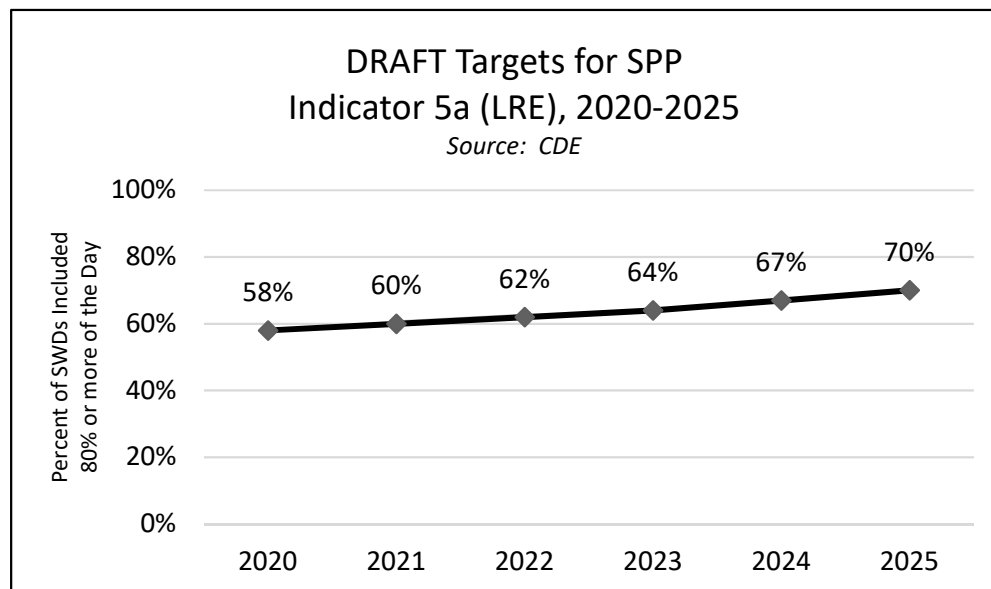
As shown in the adjacent chart, California’s rate of inclusion of students with disabilities 80% or more of the day remained relatively constant in the period from 2005 to 2017, rising from only 6% over this period. Nationally, this rate increased by 10%.



As noted in the adjacent chart, the rate of inclusion varies significantly by disability, with students with speech or language impairments included at rate of 82%, and students with multiple disabilities included at the rate of 4%.

As type of disability is highly correlated with the rate of inclusion, the enrollment of students with different disabilities may affect inclusion rates, and this in turn may be reflected in the proposed LRE Dashboard indicator. One 2019 analysis by the California Teachers Association and United Teachers Los Angeles of the enrollment of students with disabilities in three large California school districts found that some charter schools were significantly less likely to enroll students with severe disabilities than the school districts in which they were located. In some small school districts or charter schools changes in small numbers of students may have outsize effects on a school’s rate of LRE. There are many factors which contribute to these kinds of enrollment disparities. **The Committee may wish to consider** that these contextual factors may not be clear from a simple presentation of performance on a “met/not met” standard on the Dashboard, that

this may be difficult for the public to understand, and that it may lead to different treatment for accountability purposes.



***Inclusion targets likely to increase significantly in next SPP.***

California’s current targets for Indicator 5a, for the years 2013-19 establish modest goals for growth in LRE, from 49% in 2013 to 53% in 2019, a 4% percent increase over six years. As shown

above, increases in LRE were minor between 2005 and 2016, with only 5 percentage point increase over that ten year period. While as a whole California has exceeded the 53% target (as of 2017 the statewide rate was 56%), data from the CDE show that a significant number of LEAs and charter schools have not yet met this target.

California is currently developing a new SPP for 2020-2025, including revised targets for Indicator 5a. The CDE began this process in 2019 and has provided many opportunities for stakeholder engagement and input. Currently in draft form, the proposed revised set of targets for all indicators is expected to be adopted by the SBE and submitted to the USDOE later this year. Changes to the indicators at the federal level has caused delays in states setting their targets for the next six year cycle, which is already underway. As a result, the new set of targets will cover at least one year that has already ended.

The draft targets for the upcoming SPP cycle would require an increase from 58% in 2020 to 70% in 2025 (12% growth over six years), with a two percentage point increase in each of the first three years (two of which will have largely passed by the time the new targets are adopted) and a three percentage point increase in the final two years of the cycle ***The Committee may wish to consider*** whether LEAs and charter schools will achieve this more rapid rate of growth by 2025, when, under this measure, failure to meet the target would have consequences under the state’s accountability system.

***Barriers to inclusion.*** The 2015 report by the Statewide Special Education Task Force on Special Education, jointly published by the SBE, the Commission on Teacher Credentialing, and the CDE, titled *One System: Reforming Education to Serve All Students*, noted that “a structural, institutional, philosophical, and habitual divide currently exists in California between general and special education, even though special education has always been defined as part of general education. This divide obstructs the state’s ability to create [an] effective, coordinated, coherent system of education.”

The NCD's 2018 report, *The Segregation of Students with Disabilities*, identifies several barriers to inclusion of students with disabilities:

- **Organizational Traditions:** “Once school districts have made financial and personnel investments in creating or maintaining segregated settings and allocating teachers and other staff in small teacher-student ratios, there is an organizational tendency to maintain the status quo.”
- **Organizational and Workforce Capacity:** “When schools have a clear vision for including all students with disabilities, they work to develop schoolwide structures that support educators and empower them to succeed in instructing students with disabilities through collaboration.”
- **Attitudes and Beliefs:** “The driving force behind a student’s educational experience might be an understanding of roles and the attitudes that educators have about adult responsibilities and expectations for student outcomes.”
- **“Readiness” for inclusion:** “Decisions to move students to less restrictive placements are often based on the perceived readiness of the student to learn grade level material.”
- **The “LRE Continuum:”** “The LRE continuum places a burden of fitting in or being able to access the classroom on the student who is seen as having deficits, rather than encouraging schools to create systems designed to benefit all students in the community and make access by those with disabilities more seamless.”

Other barriers commonly identified by participants in the CDE’s Supporting Inclusive Practices project include misconceptions about staffing of inclusive classrooms, lack of appropriate instructional materials for use in inclusive classrooms, and licensing and fiscal barriers in early education settings.

***Districts “beating the odds” have inclusion, teacher collaboration, and support in common.***

The 2015 Statewide Task Force on Special Education report highlighted research showing that school districts “beating the odds” regarding the performance of students with disabilities had several elements in common:

“In 2010, researchers from the American Institutes for Research analyzed the academic performance of California students with disabilities and discovered that some districts were far more successful than others. They identified eight California school districts in which the academic performance of students with disabilities was unusually strong over a period of four years and looked in depth at four of them to identify policies and practices that contributed to their relative success. Here is what they found:

- All four districts were committed to including students with disabilities in general education classrooms and ensuring access to the content in the core curriculum.
- All four stressed collaboration between general education and special education teachers.
- Three districts practiced continuous assessment and the use of Response to Intervention (RtI) strategies to address students’ needs and monitor their progress.
- Three districts provided targeted professional learning opportunities for their teachers and administrators.

- Two districts utilized explicit direct instruction teaching methods.”

***Other states invest in targeted support, other systems to improve outcomes for students with disabilities.*** A 2020 brief published by PACE, *Promising Policies to Address the Needs of Students with Disabilities: Lessons from Other States*, highlights successful efforts by three states to improve inclusion rates and academic performance of students with disabilities:

- Massachusetts established a data system called Resource Allocation and District Action Reports (RADAR), which allows districts to compare their overall performance and resource allocation, and identify 5-year trends for enrollment of students with disabilities; staffing; identification rates for services; in- and out-of-district placements; and placement trajectories.
- New Jersey, prompted by litigation, engaged in a targeted approach to improve the inclusion rates in 76 of its 673 districts. The New Jersey Department of Education provided those 76 districts with needs assessment, technical assistance, and regular monitoring, as well as annual reports to locally convened stakeholder groups. The result of this targeted effort is notable improvements in inclusion rates in the targeted districts.
- Florida passed legislation in 2013 that codified the definition of inclusion and required each school and district to conduct self-assessments of best practices for inclusive education (BPIE). The BPIE process is supported by a statewide infrastructure of inclusion facilitators. Florida has dramatically increased its inclusion rate along with its National Assessment of Educational Progress scores. Florida’s achievement gap between SWDs and general education students is also narrower than the achievement gap in California.

Based on the experience of these states, the PACE report recommends that California 1) invest in a RADAR-like data system; 2) provide targeted support for schools and districts most in need of improving the education of SWDs; 3) implement a BPIE-like system at the school and district levels; and 4) draw on the experience and expertise of officials and advocates from other states.

***Workforce capacity for inclusion.*** This bill requires the SPI to conduct a survey, by 2024, to determine the minimum professional development needed for existing general education teachers to be prepared to teach students with learning disabilities.

In a 2019 report titled *Forward Together*, the National Center for Learning Disabilities and Understood note that “inclusion alone...does not equate to increased access to and equitable opportunity to learn the general education curriculum.” They point to the need for teachers to have the knowledge, skills, and mindset necessary to meet the needs of students with disabilities, and note that only 17% of surveyed teachers feel well-prepared to teach students with mild/moderate disabilities.

A 2020 brief published by PACE, *California’s Special Education Teacher Shortage*, highlights significant challenges for special education teachers and the role they in the high rate of attrition among these teachers. The brief reports that high caseloads, extensive paperwork and coordination responsibilities, lack of resources and professional support, and insufficient knowledge of special education among administrators, are key challenges facing special education teachers. Among other strategies, the report recommends that the state and districts

consider how to revise caseload expectations and provide additional administrative supports to help alleviate overwhelming workloads for special education teachers so that they have time to comply with mandates and work effectively with their 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 4<sup>th</sup> and 8<sup>th</sup> grade mathematics and in 8<sup>th</sup> grade reading.

***The California School Dashboard.*** The LCFF, which passed in 2013, established 10 priority areas. Each priority is measured by an indicator, adopted by the SBE, to measure LEA and schoolsite performance as a part of the evaluation rubrics of the priority areas. Each indicator establishes metrics for performance and progress, summarized in the table below. The Dashboard is the data visualization online tool that reports school and LEA performance and progress on the state and local indicators of the priority areas.

**State and Local Measures for Each Local Control Funding Formula Priority Areas**

<b>Priority Areas</b>	<b>State Indicator</b>	<b>Local Indicator</b>
<b>Priority 1:</b> Basic Services and Conditions at schools	N/A	Text books availability, adequate facilities, and correctly assigned teachers.
<b>Priority 2:</b> Implementation of State Academic Standards	N/A	Annually report on progress in implementing the standards for all content areas.
<b>Priority 3:</b> Parental Involvement and Family Engagement	N/A	Annually report progress toward: (1) seeking input from parents/guardians in decision making; and (2) promoting parental participation in programs.
<b>Priority 4:</b> Student Achievement	<ul style="list-style-type: none"> <li>Academic Performance (Grades 3–8 and Grade 11)</li> <li>English Learner Progress</li> </ul>	N/A
<b>Priority 5:</b> Student Engagement	<ul style="list-style-type: none"> <li>Graduation Rate</li> <li>Chronic Absenteeism</li> </ul>	N/A
<b>Priority 6:</b> School Climate	Suspension Rate	Administer a Local Climate Survey every other year.
<b>Priority 7:</b> Access to a Broad Course of Study	N/A	Annually report progress on the extent students have access to, and are enrolled in, a broad course of study.
<b>Priority 8:</b> Outcomes in a Broad Course of Study	College/Career	N/A
<b>Priority 9: (COEs Only)</b> Coordination of Services for Expelled Students	N/A	Annual measure of progress in coordinating instruction for expelled students.
<b>Priority 10: (COEs Only)</b> Coordination of Services for Foster Youth	N/A	Annual measure of progress in coordinating instruction for foster youth.

State measures apply to all LEAs, schools, and student groups and are based on data that is collected consistently across the state. Local measures apply at the LEA and charter school level and are based on data collected at the local level. The SBE approved standards for the local indicators that support an LEA in measuring and reporting progress within the appropriate priority area. The approved performance standards require an LEA to:

- Annually measure its progress in meeting the requirements of the specific LCFF priority.
- Report the results as part of a non-consent item at a regularly scheduled public meeting of the local governing board/body in conjunction with the adoption of the LCAP.
- Report results to the public through the Dashboard utilizing the SBE-adopted self-reflection tools for each local indicator.

This bill adds LRE as a local measure to School Climate (LCFF Priority 6), in addition to existing measures. The indicators for Priority 6 currently include a state indicator measured by suspension rates, and a local indicator measured by local climate surveys. For the School Climate local indicator, LEAs administer a local climate survey at least every other year that provides a valid measure of perceptions of school safety and connectedness, such as the California Healthy Kids Survey, to students in at least one grade within the grade span(s) that the LEA serves (e.g., K-5, 6-8, 9-12), and reports the results to its local governing board at a regularly scheduled meeting of the local governing board and to stakeholders and the public through the Dashboard. As demonstrated in the table above, each of the 10 priorities includes only one local indicator. *The Committee may wish to consider*, that this bill would set new precedent for local indicators in two ways: 1) it would include data sets on different topics, in this case school climate and LRE, and 2) it would use statewide data normally used in state indicators. *Staff recommends the bill be amended to* clarify that the proposed addition to School Climate (LCFF Priority 6) be added as a new local indicator for LRE, separate and distinct from the existing local indicator for School Climate.

***Differentiated Assistance.*** California’s public school accountability system is designed to reinforce the expectation that everyone can improve, while also ensuring additional support is provided to LEAs that are struggling. It also includes an intentional focus on providing assistance in a manner that builds capacity of the LEA receiving assistance. State law required the SBE to adopt “evaluation rubrics” (which have been implemented as the California Schools Dashboard). One purpose of the evaluation rubrics is to determine whether LEAs are in need of additional assistance: a) COEs must offer differentiated assistance to a school district if any student group meets the criteria for two or more LCFF priorities, and b) the CDE must offer differentiated assistance to a COE if any student group meets the criteria for two or more LCFF priorities.

Differentiated assistance is intended not only to help the LEA address the underlying causes that led to its eligibility for assistance, but also to strengthen the LEA’s overall ability to evaluate the effectiveness of strategies and programs and make adjustments as appropriate. This approach equips the LEA to improve in areas that were not the focus of differentiated assistance and increases the likelihood that improvements will be sustained when the differentiated assistance ends. County superintendents, charter authorizers, the CDE, and the CCEE provide differentiated assistance for eligible LEAs, in the form of individually designed assistance, to address identified performance issues, including significant disparities in performance among student groups.

Under LCFF statutes, school districts are eligible for differentiated assistance based on:

- 1) Student group performance in two or more LCFF state priority areas (Method 1), or, beginning in 2018,
- 2) Performance on local indicators in two or more priority areas (Method 2), or,
- 3) A combination of student group and local indicator performance in two or more priority areas (Method 3).

The student groups used to identify LEAs for differentiated assistance include:

- English learners
- Socioeconomically disadvantaged
- Foster youth
- Homeless youth
- Students with disabilities
- Racial/ethnic groups

***Most districts identified by the state as underperforming were on the basis of performance of students with disabilities.*** Based on the results of the 2019 Dashboard, 333 districts and COEs are eligible for differentiated assistance. Approximately 179 districts and COEs that were eligible for differentiated assistance in 2018 are no longer eligible for assistance in 2019. An additional 125 new districts and COEs are eligible for assistance in 2019. In this first year of differentiated assistance eligibility for charter schools, 23 charter schools are eligible. Due to the COVID-19 pandemic, LEAs were not identified for differentiated assistance in 2020.

Of the 333 districts identified for DA in 2019, 187 (56%) were identified because of low performance of students with disabilities on at least two of these metrics. Of those 187 districts, 114 were eligible based on additional student groups, while 73 were eligible based solely on the outcomes for students with disabilities.

According to a 2020 analysis by PACE, “*Students with Disabilities and Differentiated Assistance*,” the most common indicators making identifying districts on the basis of the performance of students with disabilities were suspensions (67% of districts), ELA and math performance (63% of districts), and chronic absenteeism (54% of districts). ***The Committee may wish to consider*** whether, after 2025-26 many more LEAs might be identified for DA on the basis of the performance of students with disabilities, under the provisions of this bill.

***Arguments in support.*** The Santa Clara County Office of Education writes, “Although the federal Individuals with Disabilities Act (IDEA) requires schools to prioritize inclusion and monitors LRE on the special education accountability tool, California has made almost no progress toward the inclusion of students with disabilities in the last decade. The state’s average rate of inclusion is a full 10 points lower than the national average (53% versus 63%). The failure to prioritize inclusion and inclusive practices likely also accounts for the state’s poor academic scores: In 2019, students with disabilities scored on average 88 points and 119 points below standard on English and math assessments, respectively. We believe that students with disabilities are important and essential members of the general education community and are deserving of equal dignity and inclusion with their peers.”



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

- 1) Clarify that the school climate state priority will have two distinct local priorities displayed on the Dashboard: 1) maintain the existing school climate indicator, measured by surveys of pupils, parents, and teachers on the sense of safety and connectedness, and 2) the LRE local indicator as established by this bill. Clarify that the SBE must update the LCAP template and evaluation rubrics to include the change to the state priorities required by the bill, by January 31, 2023, which will ensure that school district and charter school LCAPs include the new local measure of LRE and that the Dashboard shows whether the metric has been met.
- 2) Use California's SPP Indicator 5a target for 2020, as adopted by the SBE, for purposes of the Dashboard indicator.
- 3) Require that the narrative summary for this indicator display, for each school district and charter school, the percentage enrollment of students with mild/moderate disabilities and those with moderate/severe disabilities, as defined by the SBE, compared to the statewide average, and require the CDE to populate the required data on behalf of each school district and charter school for the narrative summary.
- 4) Remove the potential consequence of triggering DA from Section 52064.5 (g).
- 5) Technical and conforming changes.

**Related legislation.** AB 1914 (O'Donnell) of the 2019-20 Session would have established the Supporting Inclusive Practices project, to be administered by the CDE; required the CDE and the CTC to issue guidance on clarifying the ways in which inclusive classrooms and placements may be staffed under current law; required that one member of the Instructional Quality Commission (IQC) have expertise in Universal Design for Learning (UDL), and required the CDE to issue guidance clarifying the ways in which early education inclusive placements may be established and expanded under current law. This bill is was held in the Assembly Education Committee.

AB 1808 (Assembly Committee on Budget), Chapter 32, Statutes of 2018, established the Inclusive Early Education Expansion Program and appropriated \$167 million for the purpose of increasing access to inclusive early care and education programs.

SB 217 (Portantino and Roth) of the 2019-20 Session would have established the Special Education Early Intervention Grant Program, through which \$4,000 would have been allocated to LEAs for each 3 and 4 year old child with exceptional needs who is enrolled in transitional kindergarten, a California State Preschool Program, a federal Head Start program, or any other early education preschool program. This bill was amended to address a topic outside of education.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

Santa Clara County Office of Education (sponsor)  
California Concerned Parents Association

Cal-Tash  
California Charter Schools Association  
California Charter Schools Association  
California Council on Teacher Education  
California County Superintendents Educational Services Association  
California State PTA  
City of San Jose  
Club 21 Learning and Resource Center  
Coalition for Students With Disabilities  
Disability Rights California  
El Dorado County Office of Education  
El Dorado County Superintendent of Schools  
Eureka! Inclusive  
Greater Sacramento Dyslexia Support Group  
Marin County Office of Education  
Monterey County Office of Education  
Riverside County Office of Education  
San Benito County Office of Education  
San Mateo County Office of Education  
San Mateo County Office of Education  
Santa Cruz County Office of Education  
State Council on Developmental Disabilities  
Teach Plus  
Thompson Policy Institute At Chapman University  
Thrive Conejo  
Several individuals

**Opposition**

None on file

**Analysis Prepared by:** Tanya Lieberman and Marguerite Ries / ED. / (916) 319-2087