

Date of Hearing: June 29, 2022

ASSEMBLY COMMITTEE ON EDUCATION

Patrick O'Donnell, Chair

SB 692 (Cortese) – As Amended June 20, 2022

SENATE VOTE: 39-0

SUBJECT: Special education: pupils with disabilities: least restrictive environment

SUMMARY: Requires that the California Department of Education (CDE) publish local educational agency (LEA) data related to federal measures of least restrictive environment (LRE) for pupils with disabilities on its website, and include it as a resource on the California School Dashboard (Dashboard). Specifically, **this bill:**

- 1) Requires that, on or before March 31, 2023, the CDE publish data related to federal measures of LRE for pupils with disabilities on its website and include it as a resource on the Dashboard.
- 2) Requires that this data be disaggregated by race or ethnicity and LEA.
- 3) Makes the following findings and declarations:
 - a) All pupils are general education pupils first, including pupils with disabilities.
 - b) Comprehensive LEA and school-level fiscal and programmatic planning, including planning related to the Local Control and Accountability Plan (LCAP), must reflect the needs of all pupils, including pupils with disabilities.
 - c) Inclusion in general education classrooms and programs should be considered the first setting for all pupils, unless the individualized education program (IEP) for a pupil with a disability determines that another setting is more suitable to guarantee a free and appropriate public education (FAPE).
 - d) Data transparency and analysis are essential to understanding the needs of pupils. LEAs should use all available data sources on pupils with disabilities, with a particular focus on LRE data, to inform continuous improvement efforts.

EXISTING LAW:

- 1) Requires that, in accordance with federal law, a FAPE be available to individuals with exceptional needs, in the LRE.
- 2) 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.
- 3) In federal law, requires states to have in place a state performance plan (SPP) that evaluates that state's efforts to implement the requirements of the law and describes how the state will improve such implementation, and requires states to:
 - 1) Establish measurable and rigorous targets for the specified indicators;
 - 2) Review the SPP at least every six years;
 - 3) Report annually to the federal government on state's performance under the SPP; and
 - 4) Report annually to the public on the performance of each LEA on the targets in the SPP.
 - 4) Requires LEAs to adopt and annually revise LCAPs, establishing annual goals and identifying specific actions, in eight state priority areas.
 - 5) Requires the State Board of Education (SBE) to adopt evaluation rubrics 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 Superintendent of Public Instruction (SPI) in identifying school districts for which intervention is warranted. (Education Code (EC) 52064.5, 47607.3)
 - 6) 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)
 - 7) Requires the county superintendent of schools or the SPI to provide technical assistance using the evaluation rubrics to any school district, COE, 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)
 - 8) Authorizes the SPI to identify school districts, charter schools, 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, charter school, 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)

FISCAL EFFECT: Unknown

COMMENTS:

Requirements of this bill. This bill requires the CDE to publish on its website, by March 31, 2023, data related to federal measures of LRE for pupils with disabilities, disaggregated by race or ethnicity and by LEA, and to also include it as a resource on the Dashboard. This means that the CDE will be required to post data on the following SPP indicators:

- SPP Indicator 5a: In Regular Class more than 80%
- SPP Indicator 5b: In Regular Class less than 40%
- SPP Indicator 5c: Separate Schools
- SPP Indicator 6a: Regular Program
- SPP Indicator 6b: Separate Class

As LEA performance on the LRE measures (and all other SPP indicators) is already published on the CDE website by LEA (as required by federal law), the effect of this bill is to require that the LRE data posted be disaggregated by race/ethnicity, and that the Dashboard include this information in some form.

Need for the bill. According to the author, “Data on inclusion, graduation rates, and academic performance of students with disabilities clearly shows that California is leaving our most vulnerable students behind. While SB 692 does not go as far as the author and stakeholders had originally envisioned, the needs of students with disabilities are urgent and cannot wait any longer to be addressed. We believe that this bill is an important first step to starting the conversation about how we can meaningfully reform our state and federal accountability systems that have allowed students with disabilities to be ignored and excluded.

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. This bill would clarify the intent that all students with disabilities should be included with their peers (unless their IEP indicates otherwise) and that LEAs should plan and budget in the LCAP process to increase the number and quality of inclusive learning opportunities for students with disabilities.”

Key data and accountability systems discussed in this analysis. The following accountability systems are discussed in this analysis:

- LCAP. The LCAP is a three-year plan that describes the goals, actions, services, and expenditures to support positive student outcomes that address state and local priorities. The LCAP provides an opportunity for LEAs to share their stories of how, what, and why programs and services are selected to meet their local needs. LEAs must include in their LCAPs a description of the annual goals, for all students and for each Local Control Funding Formula (LCFF) identified group of students, to be achieved for each state priority as applicable to type of LEA. Further, LEAs must also include a description of the specific

planned actions they will take to meet the identified goals, and a description of the expenditures required to implement the specific actions. Each state priority is measured by state and local indicators, and each state indicator is displayed with colors representing the performance levels of districts, students and schools on the Dashboard. LEAs are also required to complete addenda to the LCAP related to federal funding they receive. The Dashboard is part of a state accountability system that applies to all students.

- **California Schools Dashboard:** The 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 LCFF. The data displayed on the Dashboard is used to determine which LEAs and charter schools receive Differentiated Assistance (DA) by COEs. The Dashboard is part of an accountability system that applies to all students.
- **State Performance Plan (SPP):** The federal IDEA requires each state 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. The State Board of Education (SBE) sets rigorous and measurable annual targets for each of the 17 indicators, on a six year cycle. States must report their progress in relation to these targets in an annual update, called the Annual Performance Report (APR). Indicator 5a is one of the measures of LRE, and represents 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 federal government for purposes of technical assistance and enforcement actions. The SPP is an accountability system that applies only to students with disabilities.

“One system.” In 2015 the CDE, the Commission on Teacher Credentialing (CTC), and SBE issued a comprehensive special education policy report titled *ONE SYSTEM: Reforming Education to Serve ALL Students*.

In it, the state noted that “too many educational systems and services remain uncoordinated, contributing in particular to a special education system that is isolated in much of its implementation and less effective as a result.” The report also presented a vision for the alignment of these systems:

In a coherent system of education, all children and students with disabilities are considered general education students first; and all educators, regardless of which students they are assigned to serve, have a collective responsibility to see that all children receive the education and the supports they need to maximize their development and potential, allowing them to participate meaningfully in the nation’s economy and democracy.

Separate and overlapping accountability systems. The *California Special Education Governance and Accountability (SEGA) Study*, published by WestEd in 2021, pursuant to SB 75 Chapter 6, Statutes of 2020 found that “although students with an IEP are included in and addressed through the general education governance and accountability structures — for example, as a specific student group on the Dashboard and for eligibility for differentiated

assistance — California also has both separate and overlapping special education governance and accountability structures. The chart below provides a comparison of the two systems:

	State Performance Plan	California School Dashboard
Description	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.
Origin of Indicators	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).
Indicator Types	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.
Results	Results are provided annually to school districts, county offices of education, and charter schools ² 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.

Source: SELPA System Improvement Leads

While some of the indicators used in these systems are similar, they are often not identical. For example, the Dashboard and the SPP use different metrics (in the case of the SPP indicators, determined by the federal government) and use different calculations to determine student graduation rates.

Related recommendation on data transparency. The bill is related to a recommendation made in a report required by the SEGA study (2021). That report recommended that the state streamline and increase access to publicly reported SPP/APR data by publishing the data for each LEA on CDE’s DataQuest website, and by linking to each LEA’s report from its page on the Dashboard.

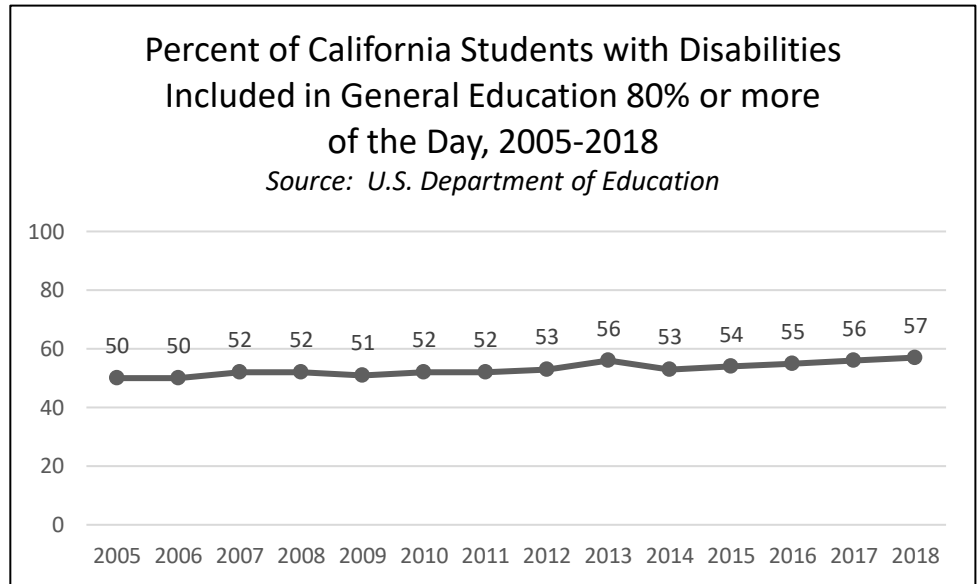
The report noted that the state currently publishes LEAs’ APR data in files that members of the public often do not know about, and that those data are not linked to other accountability data. The report argued that linking special education data to the Dashboard would communicate to LEAs and the public the importance of those data and that the state is using it for decision-making and program evaluation.

It also noted that “although it would provide parents and other stakeholders with needed data to support their engagement in local decision-making, it may not represent the data that could be used to change local practice.” The report recommended that, to increase transparency, the report could include a note explaining that some data have similar labels (e.g., graduation rate, proficiency on statewide assessments), but are different due to the differing measures established by the state and the federal government.

How inclusive are California schools? This bill requires that the CDE publish data related to federal measures of LRE for pupils with disabilities, disaggregated by race or ethnicity and by LEA, on its website, and include it as a resource on the California School Dashboard.

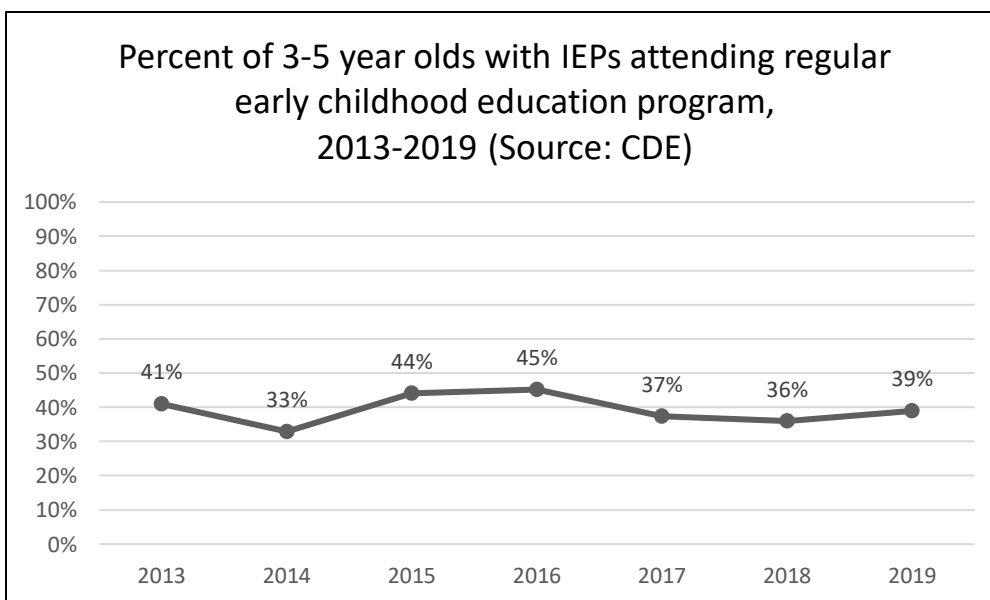
As noted above, one of the SPP indicators of LRE (Indicator 5a), is defined as the percent of students with disabilities, ages 6 to 22, served inside the regular class 80% or more of the day.

As shown in the chart on this page, California's rate of inclusion of students with disabilities 80% or more of the day remained relatively constant in recent years, rising from 50% in 2005 to 57% in 2018. Historically, California has had low rates of inclusion compared to other states.



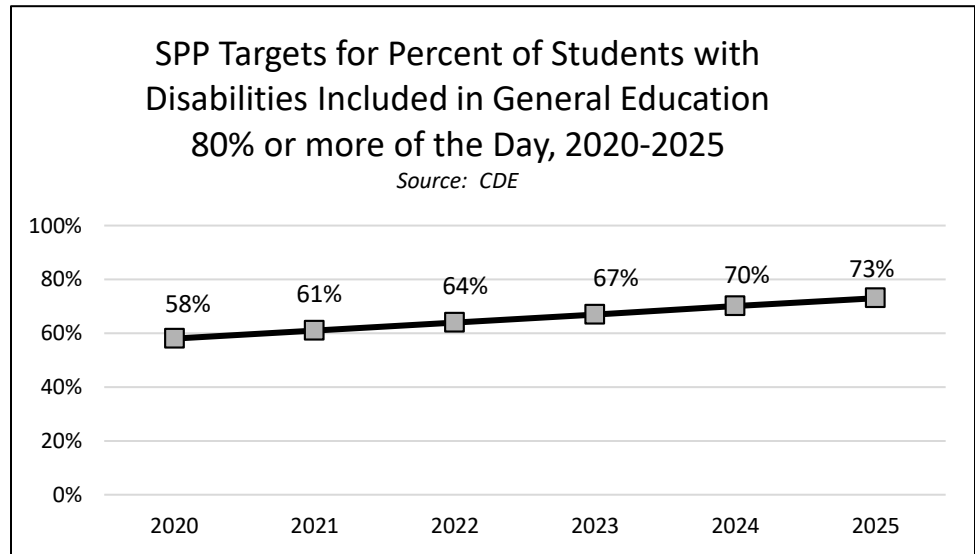
According to the National Center for Education Statistics, nationally, the percentage who spent 80% or more of their time in general classes in regular schools increased from 59% in 2009 to 65% in Fall, 2019.

Additionally, as shown in the chart on the following page, the rate of inclusion varies significantly by disability, with students with speech or language impairments included at a rate of 82%, and students with multiple disabilities included at the rate of 4%.



SPP indicator 6a relates to preschool LRE, requiring states to report on the percentage of children with IEPs ages 3 to 5 year olds attending a regular early childhood program and receiving the majority of special education and related services in the regular early childhood program.

As shown on the chart on the prior page, less than half of California preschool-aged children with disabilities attend regular early childhood education programs and receive the majority of their services in that program. However, performance on this indicator has increased in recent years, rising from 20.2% in 2011 to 45.2% in 2016.

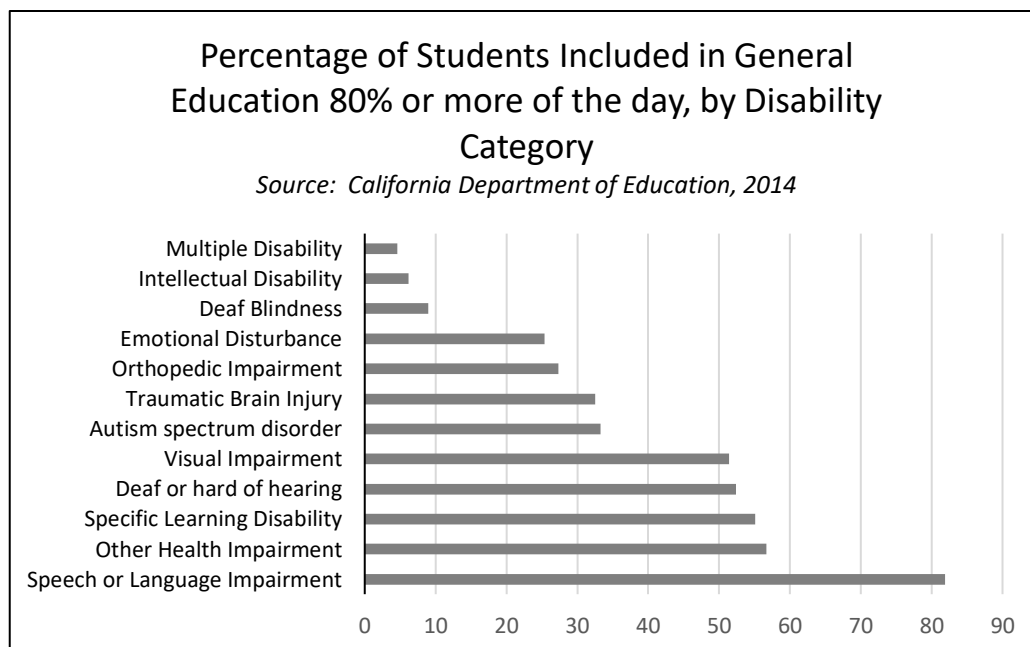


The State Board of Education (SBE) adopted revised SPP targets in January, 2022. With regard to the state target for LRE, adopted targets increase from 53% in 2019 to 70% in 2025, as shown in the adjacent chart. The new targets adopted for indicator 6a (preschool LRE) is 49% by 2025.

The Committee may wish to consider that, considering the slow progress the state has made in this area to date, to increase inclusion to the targets set for 2025, significant support will be needed for schools to achieve the state’s new targets.

Most districts identified by the state as underperforming were on the basis of performance of students with disabilities. Current law requires that the CDE identify school districts for DA based on student performance on certain indicators, which include English language arts and mathematics, graduation, chronic absenteeism, suspension, and college/career readiness. Performance on these indicators yields a color-coded score, which is then used to identify

districts for this assistance.



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 Policy Analysis for California Education (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).

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.”

REGISTERED SUPPORT / OPPOSITION:

Support

Santa Clara County Office of Education (sponsor)
 CA Concerned Parents Association
 California Charter Schools Association
 California Council on Teacher Education
 California County Superintendents Educational Services Association
 California State PTA
 CalTash
 City of San Jose
 Club 21 Learning and Resource Center
 Coalition for Students With Disabilities
 Disability Rights California
 El Dorado County Office of Education
 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
 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

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