

Date of Hearing: June 15, 2022

ASSEMBLY COMMITTEE ON EDUCATION

Patrick O'Donnell, Chair

SB 291 (Stern) – As Amended May 20, 2021

SENATE VOTE: 36-0

SUBJECT: Advisory Commission on Special Education: pupil advisory council

SUMMARY: Establishes an advisory council of pupils with exceptional needs to provide input to the Advisory Commission on Special Education (ACSE) and adds a member of the pupil advisory council to the ACSE. Specifically, **this bill:**

- 1) Establishes an advisory council composed of 10 pupils with exceptional needs for the purpose of providing the ACSE with advice and input from current pupils with exceptional needs.
- 2) Requires the State Board of Education (SBE) to identify and nominate a pool of qualified candidates for appointment to the advisory council by the Superintendent of Public Instruction (SPI).
- 3) Requires that each member of the advisory council to be a pupil with exceptional needs who is age 16 to 24, inclusive, drawn from and representative of all geographic regions of the state, and serve a term of two years.
- 4) Requires the advisory council to meet on a regular basis in meetings open to the public, except that the advisory council may conduct its public meetings virtually. Authorizes the advisory council to conduct meetings in person when the advisory council and the ACSE determine it is necessary and public-private partnership funds are sufficient to support conducting the meeting in person.
- 5) Requires the advisory council to appoint one of its members to serve as a member of the ACSE for one calendar year.
- 6) Increases the number of members on the ACSE from 17 to 18 by adding a pupil as a full member of the advisory council.

EXISTING LAW:

- 1) Requires the SBE to determine all questions of policy within its powers. (Education Code (EC) 33030)
- 2) Requires the SBE to adopt rules and regulations not inconsistent with the laws of this state for its own government, for the government of its appointees and employees, for the government of the day and evening elementary schools, the day and evening secondary schools, and the technical and vocational schools of the state, and for the government of other schools, excepting the University of California, the California State University, and the California Community Colleges, as may receive in whole or in part financial support from the state. (EC 33031)

- 3) Establishes the ACSE as an entity in state government that studies and provides assistance and advice to the SBE, the SPI, the Legislature, and the Governor in research, program development, and evaluation in special education, as required by the Individuals with Disabilities Education Act (IDEA).
- 4) Specifies that the ACSE consist of 17 members as follows:
 - a) A member of the Assembly appointed by the Speaker of the Assembly;
 - b) A member of the Senate appointed by the Senate Committee on Rules;
 - c) Three public members appointed by the Speaker of the Assembly, two of whom individuals with a disability or parents of pupils in either a public or private school who have received or are currently receiving special education services due to a disabling condition;
 - d) Three public members appointed by the Senate Committee on Rules, two of whom are individuals with a disability or parents of pupils in either a public or private school who have received or are currently receiving special education services due to a disabling condition;
 - e) Four public members appointed by the Governor, two of whom are parents of pupils in either a public or private school who have received or are currently receiving special education services due to a disabling condition; and
 - f) Five public members appointed by the SBE, upon the recommendation of the SPI or the members of the SBE, three of whom are parents of pupils in either a public or private school who have received or are currently receiving special education services due to a disabling condition, and requires one of whom to be a representative of the charter school community.
- 5) Requires ACSE members to be selected to ensure the body is representative of the state population, composed of individuals involved in, or concerned with, the education of children with exceptional needs, and include a majority of members with exceptional needs or parents of children with exceptional needs who are age birth to 26 years, inclusive.
- 6) Requires the ACSE to comment publicly on any rules or regulations proposed by the state regarding the education of individuals with exceptional needs and advise the SPI in developing: (1) evaluations and reporting on data to the Secretary of Education in the United States Department of Education, (2) corrective action plans to address findings identified in federal monitoring reports under the IDEA, and (3) policies relating to the coordination of services for individuals with exceptional needs.
- 7) Requires the ACSE to report to the SBE, the SPI, the Legislature, and the Governor at least once per year on the following:
 - a) Activities enumerated in state law that are necessary to be undertaken regarding special education for individuals with exceptional needs;

- b) The priorities and procedures utilized in the distribution of federal and state funds;
- c) The unmet educational needs of individuals with exceptional needs within the state; and
- d) Recommendations relating to providing better education services to individuals with exceptional needs.

FISCAL EFFECT: According to the Senate Appropriations Committee, the CDE estimates General Fund costs of approximately \$497,000 each year and two new positions to comply with the bill's requirements. This estimate includes \$200,000 for travel costs and operational expenses, such as increased costs for interpreter services, for the new advisory council. Further, the CDE indicates that the costs associated with establishing, staffing, and supporting the council to ensure compliance with the Bagley-Keene Open Meeting Act are based on the actual costs of staffing and supporting the ACSE. Staff notes that the ACSE currently receives an annual budget appropriation of \$96,000 for in-state travel and operational expenses (Item 6100-001-0890, Provision 2).

COMMENTS:

Key provisions of the bill. This bill would establish a 10-member pupil advisory council of the ACSE in order to provide the ACSE with advice and input from current pupils with exceptional needs. The bill would also increase the number of members on the ACSE from 17 to 18 by adding a member of the advisory council.

Need for the bill. The author states, "Representation Matters – The ACSE provides recommendations and advice to the state on new or continuing areas of research, program development, and evaluation in California special education. However, the people most directly impacted by these policies, students with exceptional needs, have no direct input or representation on the ACSE. This is especially concerning given that approximately one in eight California public school students receive special education, yet those same students have no seat at the decision making table.

SB 291 will improve California special education by ensuring direct representation and an impactful decision-making role on the California ACSE for current students with exceptional needs. It is also an exciting step that makes California the first state with student voting rights on the ACSE."

The SBE. The SBE was established first by statute in 1852, then by amendment to the California Constitution in 1884. Both the Constitution and statutes set forth the SBE's duties. Constitutional duties of the SBE include the appointment of one deputy and three associate superintendents upon nomination of the SPI and the adoption of textbooks for use in grades one through eight. By statute, the SBE is the governing and policy-making body of the State. The Constitution and statute also assign the SBE a variety of other responsibilities: regulations, standards, waivers, assessment, district reorganization, charter schools, the ESSA, funding allocations, and study and planning.

Committees and Commissions of the SBE. In addition to the regular work of the SBE, the board maintains five committees and commissions. All five committees and commissions advise the SBE, and fulfill a specific statutory role or task. All were created in order to satisfy a federal requirement for state advisory committees or commissions, with the exception of the Advisory

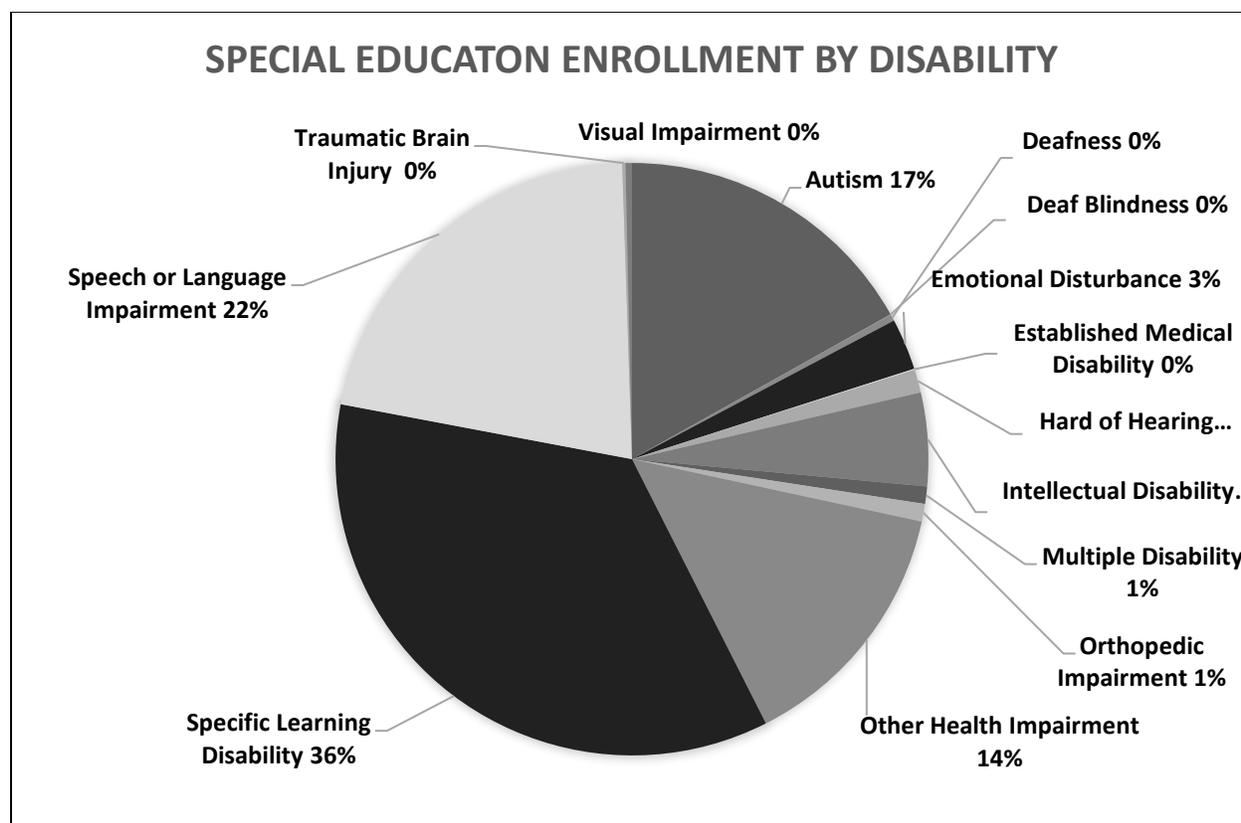
Commission on Charter Schools, and the Instructional Quality Commission, which were created solely in the state statute.

- *Advisory Commission on Charter Schools (ACCS)*. The SBE established the ACCS in 2001 in order to recommend criteria for the funding determinations for nonclassroom based charter schools, and for advising the SBE. Membership includes, but is not limited to, representatives from school district superintendents, charter schools, teachers, parents, members of the governing boards of school districts, county superintendents of schools, and the SPI.
- *Advisory Commission on Special Education (ACSE)*. The ACSE is an advisory body required by the Individuals with Disabilities Education Act (IDEA). Each state is required to establish and maintain an advisory panel for the purpose of providing policy guidance with respect to special education and related services for children with disabilities. California's ACSE provides recommendations and advice to the SBE, the SPI, the Legislature, and the Governor in new or continuing areas of research, program development and evaluation in California special education. The ACSE consists of appointed members from the Speaker of the Assembly, Senate Committee on Rules, Governor, and the SBE. The membership consists of parents, persons with disabilities, persons knowledgeable about the administration of special education, teachers, and legislative representatives from the Assembly and Senate.
- *California Practitioners Advisory Group (CPAG)*. CPAG provides input regarding local, state, and federal accountability and serves as the Title I Committee of Practitioners. The purpose of CPAG is to provide input to the SBE on practical implications of decisions before the SBE, which includes providing input on the design of the LCFF evaluation rubrics and other decisions related to implementing the LCFF. The CPAG also reviews any State rules and regulations relating to Title I of the Elementary and Secondary Education Act, as amended by the ESSA, in order to advise the State in carrying out its Title I responsibilities.
- *California Workforce Pathways Joint Advisory Committee (CWPJAC)*. The CWPJAC addresses systems alignment policies specific to career pathways within the context of recent and future state and federal investments. The CWPJAC advises the SBE and the SPI related to the development of the state plan for the federal Strengthening Career and Technical Education for the 21st Century Act (Perkins V). Membership includes board member representatives from the SBE, the Community Colleges Chancellor's Office Board of Governors representatives, and ex-officio members.
- *Instructional Quality Commission (IQC)*. The IQC was established in 1927 in the Education Code. The IQC is responsible for advising the SBE on matters related to curriculum and instruction: 1) develops and recommends curriculum frameworks; 2) develops and recommends criteria for evaluating instructional materials submitted for adoption; 3) evaluates instructional materials that have been submitted by publishers and makes recommendations to adopt or reject each submission; 4) recommends policies and activities to the SBE, CDE, and LEAs regarding curriculum and instruction; 5) advises and makes recommendations to the SBE on implementing the state's academic content standards; and 6) advises the SBE on professional development, pupil assessments, and academic accountability systems alignments to the standards. Membership includes

members appointed by the SBE, the Governor, the Speaker of the Assembly, and Senate Rules Committee. At least seven of the 13 public members appointed by the SBE are required to be recognized authorities in specific subject matter fields, and at least seven of the 13 public members appointed by the SBE are required to be current K–12 classroom teachers, mentor teachers, or both.

Special education in California. According to the CDE, there were 745,000 children, aged birth to 22, who were identified as students with disabilities in the 2021-22 school year. IDEA authorizes federal funding for the needs of school-age children with a range of disabilities, such as specific learning disabilities, speech and language impairments, or intellectual disabilities, who need special education services, see chart below. In the 2021-22 school year students with disabilities composed 12.7% of California’s public prekindergarten through 12th grade school enrollment.

The most common disabilities among students are specific learning disabilities, and speech and language impairments, which together constituted about 58% of all students with exceptional needs in 2021-22. While the prevalence of students with autism spectrum disorder (ASD) was at one time relatively rare, the number of students diagnosed with ASD has increased notably over the last decade, from 2% of all disabilities in 2002 to 17% in 2021.



Academic and other outcomes for students with disabilities in California. Viewed as a whole, there is a significant achievement gap between students with disabilities and their peers. According to data from the CDE, California’s students with disabilities have among the lowest academic and behavioral outcomes of all student groups:

- English language arts: In 2018-19, 16% of students with disabilities met or exceeded standard, compared to 56% for students without disabilities.
- Mathematics: In 2018-19, 13% of students with disabilities met or exceeded standard, compared to 43% for students without disabilities.
- Science: In 2018-19, 8% of students with disabilities met or exceeded standard, compared to 33% for students without disabilities.
- Graduation: In 2018-19, the four year adjusted cohort graduation rate for students with disabilities was 67.7%, vs. 84.5% for all students. The five year adjusted cohort graduation rate for students with disabilities was 71.2% compared to 85.5% for all students. These rates are among the lowest for all subgroups for which the state tracks data.
- Suspension and expulsion: In 2018-19, the suspension rate for students with disabilities was 6.4%, compared to 3.5% for students overall. Students with disabilities had a rate of multiple suspensions of 40%, compared with 30% for all students. The expulsion rate for students with disabilities was 0.8%, the same as the statewide average.
- Attendance: In 2018-19, the chronic absenteeism rate for students with disabilities was 19.5%, compared to 12.1% for students overall.
- College attendance: In 2017-18, 45.4% of students with disabilities who completed high school were enrolled in college, compared to 64.4% for all students. Students with disabilities also had the lowest rate of enrollment at the University of California and the California State University.
- On the 2017 National Assessment of Educational Progress (NAEP) assessment, California students with disabilities scored among the lowest in the country in 4th and 8th grade mathematics and in 8th grade reading.

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

- Increase the size of the ACSE to 19 members.
- Require the SBE to appoint two additional members to the ACSE that are pupils with exceptional needs, ages 16 to 24.
- Specify that the pupil members serve for a one-year term, with the option to serve a second one-year term.
- Remove provisions related to the creation of the pupil advisory council of the ACSE.

Arguments in support. The Diverse Learners Coalition writes, “Current law requires a state receiving federal funds through the Individuals with Disabilities Act (IDEA) to establish an advisory panel to provide policy guidance related to special education and related services for children with disabilities. In California, the ACSE serves this role. Despite the increasing

number of California students with exceptional needs, they remain a stakeholder without a voting seat at the ACSE table. SB 291 would establish a 15 student advisory council representing all geographic areas of California to help elevate voices from diverse communities with unique needs. From this council, one student will be appointed to the ACSE as a full voting rights member.

SB 291 is an unprecedented opportunity to allow students an active voice in a state's federally mandated advisory commission for special education. While many states require either individuals with disabilities or parents of children with exceptional needs to be on their commission, currently no other state ensures a voting role for a current student with exceptional needs. SB 291 will allow California to be a leader in this area of special education policy."

Related legislation. AB 2364 (Megan Dahle) of the 2021-22 Session would establish the Rural Education Advisory Council, and would require the council to provide assistance and advice to the SBE on the needs of very rural schools that serve pupils in kindergarten and grades 1 to 12, inclusive.

SB 908 (Pan) of the 2021-22 Session would establish the Student Board Member Advisory Commission as a stand-alone state-level body to provide assistance and advice to the student member of the SBE, the SBE, the SPI, the Legislature, and the Governor in education policy.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Student Councils
 California State PTA
 Coalition for Adequate Funding for Special Education
 Decoding Dyslexia CA
 Disability Voices United
 Diverse Learners Coalition
 Eye to Eye
 Learning Rights Law Center
 SELPA Administrators of CA
 State Council on Developmental Disabilities
 State Independent Living Council
 The Arc and United Cerebral Palsy California Collaboration

Opposition

None on file

Analysis Prepared by: Marguerite Ries / ED. / (916) 319-2087