

House Bill 704: Special Education Funding and Accountability Reform

Questions and Answers June 22, 2010

1. What is the purpose and history of House Bill 704?

HB 704 addresses the current problems with the state systems for funding and accountability of special education for students with disabilities. The Commonwealth benefits when all students are educated and prepared for meaningful employment, higher education, and self-sufficiency.

HB 704 has 66 bipartisan cosponsors. The Senate companion bill, SB 940, has 15 cosponsors. HB 704 was approved 22-3 by the House Education Committee on July 1, 2009. Amendment 7709 was approved by the whole House of Representatives on June 22, 2010 by a vote of 199 to 0. The amendment reflects the input of many legislators and the Pa. Department of Education.

The updated provisions in Amendment 7709 make the following improvements:

- Provide an effective formula to distribute state funding for special education, without creating compulsory annual targets or limiting the discretion of the General Assembly;
- Increase the accuracy of the special education formula by using three weights;
- Establish a transparent process to set the final formula weights through a legislative commission and subsequent regulation;
- Maintain spending at 2008-09 levels for 2010-11 if insufficient funds are appropriated;
- Streamline and strengthen school district accountability without imposing excess bureaucracy, applied when sufficient funds are appropriated in future years; and
- Maintain the Contingency Fund and make it more accountable and transparent.

2. Why is this the right time for fixing the state's special education funding and accountability system?

First, most districts currently do not have the basic resources needed to provide a quality education to children with disabilities. Since 2003, the annual increase in state funding for special education has averaged only 1.7% per year. This has not kept pace with overall inflation (over 3% growth per year), with medical sector inflation (nearly 10% growth per year), or with increased numbers of Pennsylvania students with disabilities (2.6% growth per year).

Second, if we do not fix the system, the upward pressures on local property taxes will continue. It costs more to effectively educate children with disabilities than other students. Students have a legal right to receive quality special education services and programs from their schools (and are more successful when they receive it). Districts must help to meet these needs.

Third, the basic education reforms adopted in 2008 did not include special education. The basic education formula contains variables for students in poverty, English language learners, and district size, but not for special education.

Fourth, school districts will better invest federal stimulus dollars for special education and for basic education if they can accurately anticipate the state systems for special education funding and accountability in future years. The state funding and accountability systems for special education are broken and need repair.

3. How will the proposed legislation calculate and distribute state funding for special education?

The formula remains an independent line item in the state budget, separate from basic education. The formula acknowledges that the General Assembly will use its discretion to decide for each year about the level of state funding for special education and the amount of any change in funding.

The formula distributes any increased funding, determined by the appropriations decisions of the General Assembly, by taking into consideration a number of factors reflecting the unique circumstances of each school district. Factors include the base cost to educate all students, a different weight for each of three cost categories for students with disabilities, and district-specific variables for student enrollment, actual spending, poverty, tax effort, and cost of living. Three-year averages are used for many variables, ensuring stable funding levels for districts.

The distribution formula will include three multipliers and weights to better match real student costs, rather than a single variable, a single student count, and a single weight (1.3). Using three "cost categories" will allow the formula to more accurately distribute resources and avoid over-identification.

An actual student count will be used in the highest cost category to ensure distribution accuracy. A data-based statewide percentage of eligible students will be used in the two lower cost categories to balance the needs for providing accuracy and avoiding over-identification. This percentage will be applied to the actual total enrollment of all students in each district for the lowest cost category and to the actual number of students receiving special education for the middle cost category.

The final form of the variables in the formula will be determined by a legislative commission and implemented by subsequent regulations. The commission will use national accounting standards, share information, consult with stakeholders, work with PDE's Task Force and the Advisory Panel, hold at least three regional public hearings, and receive overall support as needed from PDE. After the commission evaluates and develops the final variables in this open and transparent manner, the State Board of Education will enact the commission's decisions into regulation.

The formula has been changed from earlier versions, so that it no longer includes a performance variable that pays districts additional funding for meeting both inclusion and achievement targets. Instead, a modest grant program will be established to allow school districts to seek recognition and support for the additional costs of implementing best practices for inclusion and achievement. Nothing in the bill, including the grant program, will change IDEA law or the authority of IEP teams for the placement of students.

4. What are the costs of these reforms?

State funding will remain at 2008-09 levels for 2010-11 if insufficient funds are appropriated. Since 2003, the annual increase in state funding for special education has averaged only 1.7% per year. See #2 above for details showing that special education funding has fallen far behind inflation and other cost drivers.

The bill does not create compulsory annual state spending targets. It is assumed, however, that any increased funding in the future would provide a minimum increase for all districts without state funding cuts. The original terms of the bill, deleted in the current version, would have phased in about \$36 million per year in additional state funding, with local districts also picking up their share.

5. How does the proposed legislation affect the Contingency Fund?

The Contingency Fund for extraordinarily costly students is maintained at current levels (one percent of the total special education appropriation) and with current standards for issuing the grants through PDE. The Fund is made more accountable with PDE reports to the General Assembly. The Fund is necessary because no formula can anticipate the extraordinary expenses needed for the most costly students with disabilities.

6. How does the proposed legislation provide accountability for special education?

The accountability system is streamlined and strengthened by incorporating the existing requirement for districts to implement three-year special education plans. The bill has been revised to ensure that accountability will be accomplished without imposing excess bureaucracy on school districts, while still addressing the academic and developmental challenges for eligible students. The district plans will be written in a manner that is easier for parents to understand and shall be made available to the public. PDE will more closely review the plans, will provide technical assistance to improve the plans, and will reject plans that do not meet state and federal standards. PDE will monitor plan implementation to ensure progress pursuant to federal performance indicators and shall identify districts failing to adequately implement their plans. PDE must withhold partial funding when district plans are rejected or when districts are not implementing their plans. PSBA and PSEA reviewed and approved the accountability provisions prior to the votes in the House Education Committee. To cut costs over time, school district plans must describe programs and strategies targeting K-3 early intervention and also policies to ensure that students who no longer qualify for special education services are transitioned out. This section takes effect when funding is appropriated.

Districts will utilize new state funding, as appropriated, to improve programs and supports and other best practices that benefit students with disabilities, such as meeting state and federal performance indicators and providing curricula adaptation, co-teaching, assistive technology, school-wide positive behavior supports, supplementary aids and services, professional development, reading specialist services and supports, reducing caseloads for special education teachers and related services personnel, and/or placing eligible students in regular classrooms with supports in accordance with their IEP. School districts retain discretion to make the best investments.

7. What protections are needed to guard against over-identification of students for special education?

First, over-identification has not been a problem for many years in Pennsylvania. Since school districts pay for the majority of special education costs, there is no financial incentive to place students into special education. The proposed legislation could increase the state share of funding, but districts will still carry a larger share. Second, the proposed legislation contains strict protections against over-identification: (i) The bill supports current state and federal law prohibiting over-identification. (ii) The bill requires the state to monitor special education data, to issue public reports, and to conduct a review if any district has an excessive increase in its enrollment numbers. (iii) The formula provides funding based three cost categories and statewide percentages for two of the categories, thus minimizing the potential for over-identifying students. (iv) The bill strengthens the current accountability system for special education, ensuring that districts invest new funding in effective programs with results for students and schools.

8. What is the background and current system for special education funding in Pennsylvania?

Prior to 1991-92, the state reimbursed school districts for 100% of the “excess costs” of special education above the average cost per student for basic education. After 1991-92, the state switched to a Census System, which was used through 2008-09. The Census System distributed a capped amount of annual state spending for special education based on relative student population in each district. In 2008-09, the state simply assumed that 16% of all students in each district need special education services. Actual student counts in nearly all districts are significantly higher or lower than this 16% assumption. Since 2008-09, the state has not utilized a formula but has maintained the same level of special education funding for each school district.

9. What is the current level of special education funding?

Pennsylvania’s state share of funding for special education is low. Local school districts pay most of the cost. This puts pressure on local property taxes in many communities. In recent years, state funding for special education has fallen behind state funding for basic education, receiving much smaller annual increases.

Special Education Expenditures in PA (2007-08): Local – \$1.5 billion (54%); State – \$926 million (32%); Federal – \$400 million (14%); Total – \$2.8 billion. **Average annual increase** in the last 6 state budgets: Special Education – 1.75%; Basic Education – 4.66%.

10. What is special education?

Special education is not a “place” for receiving instruction, but is a set of supports to help students with disabilities learn in the general curriculum according to their needs. Regular education teachers, with training, can usually meet these needs in regular classrooms with accommodations, supports, and services. These additional supports are often quite costly.

11. How are students with disabilities doing in Pennsylvania public schools?

Over 270,000 students receive special education services. The drop-out rate for students with disabilities is over ten times higher than for other students. Teacher quality and academic achievement are much lower for students with disabilities. National data show that the unemployment rate of adults with disabilities exceeds 70 percent, partly due to a lack of quality education. These outcomes are not inevitable, as students with disabilities in wealthier Pennsylvania school districts have much better outcomes.

12. Why does special education cost more than basic education?

Emotional, intellectual, or physical disabilities can directly impact a child’s capacity to achieve key learning goals and milestones in the same manner as other students. This requires additional time, equipment and technology, materials, personnel, and effort. Costs have increased over the years as science has progressed, identification and treatment have improved, and shortages of trained professionals have developed.