
SENATE COMMITTEE ON EDUCATION

Senator Benjamin Allen, Chair

2017 - 2018 Regular

Bill No: AB 2171 **Hearing Date:** June 20, 2018
Author: Frazier
Version: May 25, 2018
Urgency: No **Fiscal:** Yes
Consultant: Lynn Lorber

Subject: Individuals with disabilities: special education and related services.

NOTE: This bill has been referred to the Committees on Education and Human Services. A "do pass" motion should include referral to the Committee on Human Services.

SUMMARY

This bill expands the required contents of an individualized education program (IEP) for students who are 16 years of age, if the student qualifies for specified services, to include information on how the local educational agency (LEA) will support the student in obtaining or retaining competitive and integrated employment.

BACKGROUND

Existing law:

Transition services pursuant to an IEP

- 1) Provides that the IEP is a written statement for each individual with exceptional needs that is developed, reviewed, and revised in accordance with state and federal law, and that includes specified information. Existing law requires the IEP to include, beginning not later than the first IEP to be in effect when the student is 16 years of age, or younger if determined appropriate by the IEP team, and updated annually thereafter, the following:
 - a) Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills.
 - b) The transition services, as defined in Section 56345.1, including courses of study, needed to assist the pupil in reaching those goals. (EC § 56345)
- 2) Requires transition services to include but not be limited to the following:
 - a) In-service training programs, resource materials, and handbooks that identify specified information.
 - b) Development of the role and responsibilities of special education in the transition process, as specified.

- c) The development and implementation of systematic and longitudinal vocational education curriculum, as specified.
 - d) Materials, resource manuals, and in-service training programs to support the active participation of families in the planning and implementation of transition-related goals and activities.
 - e) The development of resources and in-service training that will support the implementation of individualized transition planning for all students with exceptional needs.
 - f) The development of a network of model demonstration sites that illustrate a wide variety of transition models and implementation strategies.
 - g) Coordination with other specialized programs that serve students who face barriers to successful transition.
 - h) A research, evaluation, and dissemination program that will support the major programmatic aspects of transition services.
(Education Code § 56462)
- 3) Requires the Superintendent of Public Instruction and the directors of the State Department of Health Care Services, the State Department of Developmental Services, the State Department of Social Services, the Department of Rehabilitation, the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, and the Employment Development Department to develop written interagency agreements or adopt joint regulations that include responsibilities for the provision of special education and related services to individuals with exceptional needs in the State of California. (EC § 56475)

Employment First Policy

- 4) Provides that it is the policy of the state, to be known as the Employment First Policy, that opportunities for integrated, competitive employment are to be given the highest priority for working-age individuals with developmental disabilities, regardless of the severity of their disabilities. (Welfare and Institutions Code § 4869)
- 5) Provides that the Employment First Policy is in furtherance of the purposes of this division to make services and supports available to enable people with developmental disabilities to approximate the pattern of everyday living available to people without disabilities of the same age, to support the integration of persons with developmental disabilities into the mainstream life of the community, and to bring about more independent, productive, and normal lives for the persons served. (WIC § 4869)
- 6) Provides, through the Employment First Policy, that postsecondary education, technical or vocational training, and internship programs may be considered as a means to achieve integrated competitive employment or career advancement.

(WIC § 4869)

- 7) Defines “competitive employment” as work in the competitive labor market that is performed on a full-time or part-time basis in an integrated setting and for which an individual is compensated at or above the minimum wage and level of benefits paid by the employer for the same or similar work performed by individuals who are not disabled. (WIC § 4868)
- 8) Defines “integrated employment” as the engagement of an employee with a disability in work in a setting typically found in the community in which individuals interact with individuals without disabilities other than those who are providing services to those individuals, to the same extent that individuals without disabilities in comparable positions interact with other. (WIC § 4851)

Interagency Agreements

- 9) Requires the Superintendent of Public Instruction and the directors of the Department of Health Care Services, the Department of Developmental Services, the Department of Social Services, the Department of Rehabilitation, the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, and the Employment Development Department to develop written interagency agreements or adopt joint regulations that include responsibilities for the provision of special education and related services to individuals with exceptional needs in the California. (EC § 56475)

WorkAbility

- 10) Establishes the Project Workability program, which provides instruction and experiences that reinforce core curriculum concepts and skills leading to gainful employment. Existing law authorizes the California Department of Education to award grants to school districts, county offices of education, state special schools, and charter schools, and nonpublic, nonsectarian schools. Existing law requires that Workability project applications include the following elements: recruitment, assessment, counseling, pre-employment skills training, vocational training, student wages for try-out employment, placement in unsubsidized employment, other assistance with transition to a quality adult life, and utilization of an interdisciplinary advisory committee to enhance project goals. (EC § 56470 et seq.)

Paid internships

- 11) Requires the Department of Rehabilitation to oversee a program to increase paid internship opportunities for individuals with developmental disabilities that produce outcomes consistent with the individual program plan. Existing law prohibits payments for internships from exceeding (\$10,400) per year for each individual placed in an internship, and requires that placements be made in competitive, integrated work environments. (WIC § 4870)

ANALYSIS

This bill expands the required contents of an individualized education program (IEP) for students who are 16 years of age, if the student qualifies for specified services, to include information on how the local educational agency (LEA) will support the student in obtaining or retaining competitive and integrated employment. Specifically, this bill:

Include competitive integrated employment in IEPs

- 1) Requires the IEP for transition age students who qualify, or are expected to qualify, for services through the Department of Developmental Services or the Department of Rehabilitation, or both, to include a subsection within the transition planning section with specifics on how the LEA will support the student in obtaining or retaining competitive and integrated employment, including what accommodations the LEA will provide to the student in cooperation and collaboration with other local agencies and state departments.
- 2) Requires the State Board of Education to adopt the Employment First Policy; subsequent to adoption, requires the California Department of Education to apply that policy to all transition-related services and supports.

Consultation and report on multi-agency agreement

- 3) Requires the Superintendent of Public Instruction, Director of Developmental Services, and Director of Rehabilitation to regularly consult with students with developmental disabilities, adults with developmental disabilities, parents of individuals with developmental disabilities, organizations representing individuals with developmental disabilities, and the Employment First Committee on the agreement described in # 8 (the "Blueprint"; see Comment # 2) and the implementation of that agreement.
- 4) Requires, by January 1, 2020, the Superintendent of Public Instruction, Director of Developmental Services, and Director of Rehabilitation to submit to the appropriate policy and fiscal committees a report on the implementation of the Blueprint (see Comment # 2) and on the progress made to facilitate data collection and data sharing across those departments to improve coordination and collaboration to achieve competitive integrated employment, to the extent permitted under applicable state and federal privacy laws.

Department of Developmental Services and Department of Rehabilitation

- 5) Requires the regional center to include within the individual program plan a section that specifies how the regional center will support the individual in obtaining or retaining competitive integrated employment, including the accommodations that the regional center will provide to the individual.
- 6) Requires the Department of Rehabilitation to adopt the Employment First Policy and apply it to all transition- or employment-related services and supports an individual with disabilities is entitled to, or may be entitled to, from the

Department of Rehabilitation.

- 7) Requires the Department of Rehabilitation to create within the individualized plan for employment a section that specifies how the Department of Rehabilitation will support the individual in obtaining or retaining competitive integrated employment, including the accommodations that the Department of Rehabilitation will provide to the individual, in cooperation and collaboration with other state departments.

General

- 8) States that the Legislature recognizes that the Superintendent of Public Instruction, Director of Developmental Services, and Director of Rehabilitation have developed an agreement (the Blueprint; see Comment # 2) to ensure the seamless and coordinated delivery of services and supports to individuals with disabilities who are eligible for special education, or who are eligible for services provided by the California Department of Education (CDE), the Department of Developmental Services, or the Department of Rehabilitation for individuals with developmental disabilities.
- 9) States that the Legislature recognizes that the Employment First Policy provides that postsecondary education, technical or vocational training, and internship programs may be considered as a means to achieve integrated competitive employment or career advancement.
- 10) States legislative intent that, in implementing any efforts resulting from the Blueprint (see Comment # 2), the CDE ensures, to the extent possible under its authority, that those efforts result in a plan for strengthening the person-centered planning processes across all three departments, to further the Employment First Policy.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “Low employment participation rates and unemployment rates persist for individuals with disabilities. AB 2171 looks to further the state’s commitment to Employment First for persons with developmental disabilities. AB 2171 will build on California’s progress in increasing opportunities through the Employment First Policy and the implementing Blueprint to prepare for and engage in integrated competitive employment. The Blueprint establishes benchmarks and expectations for competitive integrated employment, delineates roles and responsibilities, and outlines how individuals with developmental disabilities will be informed of the opportunities available for competitive integrated employment. California has a unique opportunity with all three agencies currently working to implement the Blueprint to take a series of significant proactive steps to move to competitive integrated employment. AB 2171 advances efforts by these departments to coordinate and collaborate so that one person experiences working toward one goal.”

- 2) **Recently developed blueprint.** According to the California Health and Human Services Agency website, the CDE, Department of Developmental Services, and the Department of Rehabilitation have entered into a new agreement consistent with the State's Employment First Policy and other laws to make employment in an integrated setting, at a competitive wage, for individuals with intellectual disabilities and developmental disabilities its highest priority.

In May of 2017, the California Department of Education (CDE), Department of Developmental Services, and Department of Rehabilitation issued a plan for competitive integrated employment titled the *California Competitive Integrated Employment Blueprint*. The goals are to:

- a) Help the three departments work together to better support people with intellectual or developmental disabilities who want a competitive integrated employment job.
- b) Create more options for people to get ready for and get a competitive integrated employment job.
- c) Help people make their own choices about working in the community.

With respect to the first goal, the departments agreed to improve information sharing between the three departments, work together to use current resources better, and work together more on planning, implementation, and evaluation of competitive integrated employment. The departments identified strategies to achieve those objectives, including developing and communicating written guidance, encouraging local level relationships among agencies, and improve data collection and sharing.

This bill requires the three state departments to submit a report, by January 1, 2020, on the implementation of the agreement described above and on the progress made to facilitate data collection and data sharing across those departments to improve coordination and collaboration to achieve competitive integrated employment.

- 3) **Changes to individualized education programs (IEPs).** Like all parts of the IEP, transition planning is intended to be based on the individual student's needs, taking into account the student's strengths, preferences, and interests. Postsecondary school activities can include post-secondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. Services may include instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

This bill proposes to add a section to student's IEP that specifies how each department will support the individual in obtaining or retaining competitive integrated employment, including what accommodations The CDE, Department of Developmental Services, and Department of Rehabilitation will provide to the

individual, in cooperation and collaboration with the other departments. *The result is to make competitive integrated employment a mandatory part of transition planning.* The likely practical effect is that IEP teams will discuss competitive integrated employment as a transition goal, and include in the student's individualized education program (IEP) information about instruction and services (and supports) in reaching identified goals leading toward competitive integrated employment. However, a student should always have input and a choice in his or her transition goals and the IEP should agree upon those goals prior to modifying the student's IEP. This bill does not clearly state that a student's IEP is to specify how the local educational agency (LEA) will support the student in obtaining or retaining competitive integrated employment (including what accommodations the LEA will provide) *only to the extent that the student chooses, and the IEP team agrees.* **Staff recommends this amendment be accepted in this Committee and adopted in the Senate Human Services Committee.**

- 4) **Reporting.** This bill requires, by January 1, 2020, the three departments to report on the implementation of the Blueprint and on the progress made to facilitate data collection and data sharing across those departments to improve coordination and collaboration to achieve competitive integrated employment, to the extent permitted under applicable state and federal privacy laws. The Blueprint currently requires annual report by December 31 of each year. It is not clear whether the report required by this bill is duplicative of the report pursuant to the Blueprint.
- 5) **Will LEAs know how to support goals for competitive integrated employment?** According to the Assembly Education Committee's analysis of this bill, the Transition Partnership Program (TPP) builds partnerships between LEAs and the Department of Rehabilitation for the purposes of successfully transitioning high school students with disabilities into meaningful employment and/or post-secondary education. There are more than 100 TPPs administered through contractual agreements with school districts and county offices of education. Under these agreements, the Department of Rehabilitation assigns vocational rehabilitation counselors to be actively involved with the students and LEAs. The Department of Rehabilitation counselor determines eligibility and provides enhanced vocational rehabilitation services for at least one year prior to the student's graduation. The LEA provides training and enhanced vocational programming to enable students to achieve employment utilizing community-based instruction, vocational and work-site training, job placement, and follow-up services upon graduation.
- 6) **Information on the California Department of Education's (CDE) website.** The CDE's website includes links to outside resources and guidelines for educators, parents, and agencies that will assist transition age youth develop postsecondary goals that lead to competitive integrated employment. It is unclear how helpful these resources and guidelines are to local educational agencies in coordinating with other agencies and ultimately preparing students to transition to competitive integrated employment.
<https://www.cde.ca.gov/sp/se/st/employmentfirstpolicy.asp>

- 7) **WorkAbility.** The WorkAbility program provides a work-based transition service to students with disabilities. The program helps students become aware of their career possibilities and potential, complete their high school education, learn employment skills, and accrue direct work experience (both paid and unpaid), and ultimately job placement. Unfortunately, the WorkAbility is not available to all students because funding is based on historical inequities.
- 8) **Double-referred to Senate Human Services Committee.** This bill, should it pass out of this Committee, will be heard in the Senate Human Services Committee on June 26, 2018.
- 9) **Fiscal impact.** According to the Assembly Appropriations Committee analysis, this bill would impose:
- a) Ongoing General Fund (GF) costs in the low hundreds of thousands of dollars to provide staff at the three departments to oversee stakeholder groups.
 - b) Unknown, potentially significant ongoing (potentially mandated) Proposition 98 GF and GF costs to local education agencies, regional centers, and the Department of Rehabilitation to add information in their respective individualized plans on competitive integrated employment.
 - c) One-time costs of about \$300,000 GF to submit a report on the implementation of the plan.
 - d) One-time costs of \$100,000 GF to convene a stakeholder group.

SUPPORT

State Council on Developmental Disabilities (sponsor)
 California State PTA
 Children Now
 Disability Rights California
 East Bay Developmental Disabilities Legislative Coalition
 The Arc and United Cerebral Palsy California Collaboration

OPPOSITION

None received

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