LAO

The 2021-22 Budget:
Special Education Proposals

FEBRUARY 2021

SPECIAL EDUCATION PRESCHOOL

Background

State Provides Most Special Education Funding Based on Overall K-12 Student Attendance. The state allocates most special education funding through a base rate formula commonly called AB 602 (after its enacting legislation). The formula distributes funding based on overall K-12 student attendance to Special Education Local Plan Areas (SELPAs)—typically a regional consortium of education entities that coordinate special education services. Large districts often serve as their own SELPA.

Schools Serve Preschoolers With Disabilities Using Local General Purpose or K-12 Special Education Funding. Federal law requires school districts to begin providing special education services to all children with disabilities upon their third birthday. Despite this requirement, the state historically has not provided special education funding for three- and four-year olds. As a result, districts commonly fund services for preschool-aged children with unrestricted local general purpose funding (primarily from the Local Control Funding Formula) or state funding for K-12 special education. Preschool-aged children with disabilities can be served alongside other children with special needs or in more inclusive settings alongside children without disabilities, such as the federal Head Start Program or the California State Preschool Program.

2019-20 Budget Package Provided $493 Million One-Time Funding for Special Education Preschool. The 2019-20 budget was the first time the state provided funding for special education services for preschool-aged children. Specifically, the budget provided $493 million in one-time funding to districts based on the number of preschool-aged children with disabilities they serve—$9,010 per child. Districts were not required to use these funds for additional services. Thus, funds were likely used to cover the cost of existing preschool services.

Governor's Proposal

Provides $300 Million Ongoing Proposition 98 for Special Education Preschool. The Governor's budget includes $300 million ongoing to be allocated to districts based on the number of preschool-aged children with disabilities residing in the district. Similar to the preschool funds provided in 2019-20, there are no restrictions on this funding. Rather, the Governor intends this funding to (1) supplement existing services, (2) promote inclusive practices, and (3) cover early intervention services provided both within and outside of special education.

Assessment

Different Approach for Preschool Further Complicates Special Education Funding. Given the requirements for districts to serve preschool-aged children with disabilities under federal law, we think providing ongoing state funding for this group of children is reasonable. The Governor's approach to funding preschool special education, however, is inconsistent with how the state provides most special education funding. Allocating the funding to a different set of entities (districts instead of SELPAs) and using a different allocation formula (number of children with disabilities instead of overall attendance) would add unnecessary complexity to the state's special education funding system. Furthermore, the program would complicate regional coordination of services through SELPAs. Many smaller districts coordinate special education services—including preschool-aged programs—with other districts in their SELPA. Allocating preschool funding directly to

districts would create additional barriers for pooling funding to coordinate these regional services.

Proposal Could Increase Special Education Identification Rates. Although the proposal could help encourage schools to provide services to students at an earlier age, providing funding based on the number of children identified with a disability could introduce a new financial incentive to over-identify children for special education. This is a key distinction from the state's base special education formula, which was developed with the intent to eliminate any fiscal benefits to over-identification. California law requires districts to re-evaluate a child's need for special education prior to entering kindergarten. Nonetheless, the Legislature will want to consider the long-term effects of creating such a financial incentive. This incentive may be most likely to affect how districts address borderline cases, such as a three-year old with slow speech development, where it may be difficult to determine whether the child needs special intervention to catch up to peers.

Impact of Funding Would Be Unclear Due to Lack of Restrictions and Accountability. Even though the Governor's proposal includes intent language that funding be used for certain activities beyond special education, there are no statutory restrictions on this funding to ensure that this is in fact achieved. Districts would have broad discretion over how closely to follow the intent language, and spending decisions would likely vary across the state. Some districts could use the funding to cover existing special education preschool services, whereas other districts could provide new early intervention services to a broader group of preschoolers, as specified in the intent language. Without any spending restrictions or accountability measures, the Legislature would be unable to determine the impact of the funding, and the extent to which additional state efforts to promote inclusion and early intervention may be warranted.

Proposal Does Not Address Current Challenges With Inclusion or Early Intervention. Although the Governor's proposal allows the additional funding to be used for inclusion and early intervention, it does not address the underlying barriers that exist for schools. California has a relatively low rate of inclusion for its preschool-aged students with disabilities. In 2018-19, only 27 percent of California's preschool-aged children with disabilities attended an inclusive program for at least ten hours a week, compared to 60 percent nationally. Special education preschool administrators we spoke to cited challenges finding inclusive settings for their preschoolers with disabilities. The existing options for inclusion, such as the State Preschool program, often have program regulations and requirements that can make it difficult to accommodate children with disabilities. For instance, a State Preschool program may not be licensed to serve children with behavior or cognitive challenges. Administrators also reported that preschool staff often lack the expertise to address the specific needs of students with disabilities. For early intervention, districts may face challenges finding and identifying preschool-aged children with disabilities, especially if the child does not attend a preschool program where they could be referred for special education services.

Recommendations

Provide Funding for Preschoolers Through Existing Special Education Base Formula. To align with how the state primarily funds special education, we recommend the Legislature expand the existing special education base formula to include ongoing funding for preschool-aged children. Expanding the base formula would allow the state to recognize local costs associated with serving this age group, while avoiding the additional challenges introduced by the Governor's proposal. Specifically, we recommend modifying the special education base formula to double-count kindergarten attendance for school districts. This approach effectively uses kindergarten attendance as a proxy for preschool attendance, since most preschool-aged students do not attend programs in public schools. We estimate this approach would cost around $255 million for 2021-22, freeing up about $45 million relative to the Governor's proposal.

Explore Opportunities to Promote Inclusive Practices and Early Intervention. With the remaining $45 million, the Legislature could consider other ways to promote inclusive practices and early intervention. For instance, the Legislature could expand existing initiatives that provide districts technical assistance to implement inclusive

practices or support coordinated efforts for early identification and intervention.

MEDI-CAL BILLING

Background

California Has Low Participation in the School-Based Medi-Cal Billing Program. Schools have the option to seek partial reimbursement for some health-related services from Medi-Cal—the state's health care program for low-income residents—through the school-based Medi-Cal billing program. Because Medi-Cal is jointly funded by the state and federal government, greater participation from schools allows the state to bring in additional federal funds. Eligible services through the Medi-Cal billing program include counseling, occupational therapy, speech therapy, and transportation related to these services. Previously, schools were primarily eligible to be reimbursed for services provided to students receiving special education who also were enrolled in Medi-Cal. A recent program change approved April 2020, however, expands coverage to include all Medi-Cal enrolled students. Low participation has been a longstanding issue, as only about half of California's school districts participate in the Medi-Cal billing program. A recent analysis by WestEd showed that California received a low rate of federal reimbursement per Medi-Cal enrolled student in 2014-15 compared to other states—suggesting substantial opportunities to draw down additional federal funds.

2019-20 Budget Package Established the Medi-Cal Billing Work Group. In response to low participation in the school-based Medi-Cal billing program, the 2019-20 budget package provided $500,000 one-time General Fund for the California Department of Education (CDE) to convene two interagency work groups—one of which was to focus on Medi-Cal billing and include the Department of Health Care Services (DHCS). The work group is tasked with providing recommendations to the Legislature, by October 1, 2021, to improve access to the Medi-Cal billing program. The work group's interim report released in October 2020 identified several barriers to program participation, including the lack of interagency collaboration between CDE and DHCS, challenging documentation and billing system requirements, a high share of claims being disallowed, and limited state-led training and support.

Governor's Proposal

Provides $5.3 Million Proposition 98 for Medi-Cal Billing Professional Learning. The Governor's budget provides $5 million one-time for CDE to select two or more school districts or county offices of education to convene professional learning networks and share best practices on the Medi-Cal billing program. The Governor's budget also provides $250,000 ongoing to designate a district or county office of education to provide technical assistance on Medi-Cal billing as part of the statewide system of support.

Assessment

Given Upcoming Work Group Recommendations, Medi-Cal Billing Proposals Are Premature. The final work group recommendations expected in October will likely include a set of policy changes aimed at increasing access and participation in the Medi-Cal billing program. It is unclear whether the Governor's proposals would be an effective complement to these recommendations. For instance, the interim report highlights that DHCS has limited staff designated to the Medi-Cal billing program, and CDE has no formal role in providing technical assistance. Given the complexity of program requirements and the recent expansion to include all Medi-Cal enrolled students, having a state-level agency providing technical assistance may better address the needs of schools.

Recommendation

Reassess Medi-Cal Billing Proposals Next Year in Coordination With Work Group Recommendations. Given the considerations discussed above, we recommend the Legislature reassess the Medi-Cal billing proposals as part of the 2022-23 budget process, after it has an opportunity to review the final work group recommendations. This approach would ensure additional state funding is provided in a manner most likely to improve program participation.

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This report was prepared by Amy Li, and reviewed by Edgar Cabral and Anthony Simbol. The Legislative Analyst's Office (LAO) is a nonpartisan office that provides fiscal and policy information and advice to the Legislature.