

House Bill 704: Special Education Funding and Accountability Reform

Questions and Answers

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 7153 reflects the input of many legislators and the Pa. Department of Education.

The updated provisions in Amendment 7153 make the following improvements:

- Increase the accuracy of the special education formula by using three weights;
- Establish an open oversight/regulatory process to set the final formula weights;
- Maintain spending at 2008-09 levels for 2010-11 if insufficient funds are appropriated;
- Streamline and strengthen school district accountability, applied when sufficient funds are appropriated in future years; and
- Strengthen 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 need 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 uses a needs-based process that first calculates the funding target for each school district based on the essential needs of students and schools and then calculates the state share of meeting this target based on district wealth, tax effort, and local costs. Overall, the formula will provide school districts with special education funding above the “base cost” needed for all students to meet state academic standards.

The 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. An accurate data-based statewide percentage of eligible students will be used in the two lower cost categories to avoid over-identification, will be determined through the regulatory process, and will be applied to the actual total enrollment of all students in each district.

The formula will include a performance variable that pays districts additional funding for meeting both inclusion and achievement targets. About 110 districts would meet these targets in the first year that sufficient funds are appropriated and on average would each receive a total of about \$60,000 as an incentive to continue their improved performance. This modest factor in the formula does not change IDEA law or the authority of IEP teams for the placement of students.

The final form of the variables in the formula will be determined through a super-regulatory process. PDE and the State Board of Education are required to use national accounting standards, share information, consult with advocacy groups, work with PDE’s Task Force and the Advisory Panel, and hold at least three regional public hearings. Legislative committees may also hold hearings. The full standard regulatory process will take place after draft regulations have been vetted in this open, transparent manner.

4. What are the costs of these reforms?

State funding will remain at 2008-09 levels for 2010-11 if insufficient funds are appropriated. New state resources under the formula will be phased in to reach funding targets for each school district, starting when sufficient funds are appropriated (possibly in 2011-12) and being completed by 2017-18. The original terms of the bill would phase 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, increased by 50%, and made more accountable with PDE reports to the General Assembly. The changes to the Fund take effect in 2011-12. 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. Improved accountability is provided by requiring districts to include in their ongoing plans (for use of new funding) a budget, timeline, benchmarks for implementation, and provisions to address the academic and developmental challenges for eligible students (such as federal performance indicators, graduation rates, and IEP implementation). The 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 these 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.

In addition, school districts are required to utilize new state funding for research-based 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.

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 will 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.