

Working notes: Proposal for Stop-Gap SE Weight¹ (7/30/18)

As said in the cover memo, these notes are a work in progress (with a million caveats and headaches behind them) because of all the largely uncharted variables. I am sure the notes will raise questions about assumptions and facts. But I wanted to get something to you as soon in advance of Aug 9 as possible. No doubt I will continue to wrestle with this (and will pass along any further or revised thoughts,) but hopefully the notes will assist in the staff work prior to the meeting.

Given all the variables and complexity, I think it would be helpful to schedule some kind of preliminary discussion before Aug 9; this will facilitate getting to a recommendation on Aug 9.

The predicament of little available guidance and justification

Commission member Checker Finn co-wrote in 2012: “Perhaps no challenge in American schooling is as perplexing and under-examined as special education, particularly its costs, its benefits, and the relationship between them.”²

According to a 2015 report by the Education Commission of the States, “As hard as it may be to believe, there is little information available about how much funding school districts in the U.S. are expending on the education of students with disabilities. Most states don’t require districts to report their special education expenditures, and those states [Maryland is one of them] that do require reporting from districts tend not to require that they provide detailed financial information.”³

Past weights, including the Bridge to Excellence and the current APA recommendations, reflect at best what SE currently is, not what it should be (i.e., they don’t reflect “adequacy”). Further, there is little to no reliable data on what SE currently costs. We know, however, that SE is grossly underfunded and students in SE perform far below their cognitive capacity. Roughly 85 percent of students in special education have the cognitive capacity to meet regular state standards or, at the least, to dramatically close performance gaps.⁴ Yet, only 3.6 percent of Maryland students in SE achieved proficiency on PARCC in ELA grades 3-8 in 2017.⁵ Even though we are accustomed to bad news about our schools, it is hard to imagine anything more unconscionable.

¹ In some respects this proposal builds upon my extensive analysis of the APA recommendations which is attached and referred to as Prior Analysis.

² Nathan Levenson, “Boosting the Quality and Efficiency of Special Education,” Thomas B. Fordham Institute, Wash. D.C. (2012), Foreword by Chester E. Finn, Jr. and Michael J. Petrilli, p. 1.

³ Michael Griffith, “A Look at Funding for Students with Disabilities,” Education Commission of the States, Denver, Co (2015), p. 3.

⁴ Prior Analysis 2-4, 5-8.

⁵ MSDE Report to the State Board, Sept. 19, 2017, p. 10.

Under these circumstances, pending the study under HB 1415, the Commission has the difficult task of making its best judgment on what a stop-gap weight should be.

Reasons why the 2016 study and most recent (July 13, 2018) APA recommendations are far too low

In the APA 2016 study, there was in effect no research or rationale behind its Evidence-Based approach.⁶ And the Professional Judgment approach was clearly deficient. First, the PJ panelists used discredited, low standards for how much progress students in SE should be reasonably expected to achieve.⁷ As U. of Md. special education expert Dr. Margaret McLaughlin said in testimony to the Commission, the PJ approach has not been “based on student attainment of specific goals or standards.” Second, there is no evidence that the PJ panels attempted to cost out evidence-based best instructional practices, and they substantially underestimated the costs of Related Services.⁸

The July 13, 2018 materials and recommendation also relied on MSDE’s review of “actual special education expenditures in districts in FY 15.” But MSDE’s accounting of expenditures is incomplete. It appears that major cost items are excluded. Chief among them are the costs of special education instruction in General Education and Related Services. Though these amounts are not presently known, they are substantial. According to two studies by leading national SE finance experts, the costs of General Education for students in SE in California were about one-third of all expenditures, and the costs of Relative Services nationwide (like speech/language, behavior and other counseling and occupational therapy) were roughly about one-quarter to one-third of instructional costs.⁹

Possible Stop-gap Weight Proposal

The stop-gap weight could be approached by different weights for students on a diploma program and students on an Alt program. A blended single weight could be based upon the proportion of each group.

Students on a diploma program: 1.50

A starting point might be the assumption that a weight of around 1.0 is comparable to weights in other states. However, as noted above, these weights at best reflect services “as is,” not as they

⁶ Prior Analysis pp. 15-18.

⁷ Prior Analysis pp. 2-3, 5-8.

⁸ Prior Analysis 17-22.

⁹ Jay G. Chambers, et al., Total Expenditures for Students with Disabilities, 1999-2000....Report, Special Education Expenditure Project (SEEP), 2003; Tom Parrish Special Education Expenditures, Revenues, and Provision in California, Dec. 2012.

should be under appropriate legal standards. Further these weights also reflect incomplete estimates of current SE expenditures.

The boost of .5 reflects several considerations. Among them, based on the applicable legal standard for student progress: the cost of adequate “specially designed instruction” comparable to the cost of Tier 2 and Tier 3 interventions;¹⁰ the cost of Related Services; and the cost of smaller LRE classrooms for the approximately 12 percent of students with disabilities in such placements.¹¹

Students on an Alt program: 4.5

A starting point might be the assumption that a weight of around 4.0 is comparable to weights in other states.¹² However these weights, like those for students on a diploma program, do not reflect appropriate standards for student progress. An increase of .5 (only 17% above the current 4.0) seems justified under the legal standard that students on an Alt program are entitled to services that enable them to attain “the highest achievement possible.”¹³

Blended weight: 1.8

Assumption that about 10% of all students with disabilities are on Alt programs.¹⁴ 90% @ 1.50 and 10% @ 4.5 =s a weighted average of 1.8.

Design Assumptions

As I have previously noted, I believe the current Design Assumptions require revision. First, they should reflect the guiding standards and principles behind any stop-gap weight proposal. The chief guiding standards, I believe, should be:

For students on a diploma program. Adequate IEP services enable students on a diploma program to achieve grade level standards in foundational skills (reading, writing and math), or, if students are below grade level, to narrow the gap between their enrolled grade level and their performance level in the foundational skills.¹⁵

¹⁰ On the one hand, students on a diploma program are part of the 60% of all students who are below proficiency and would receive RTI tutoring under the categorical tutoring program being considered by our Work Group. On the other hand, these students, in all likelihood, are farther below proficiency than other below-proficient students and would have the greatest need. Further, the cost of this instruction would not include other cost-factors such as Related Services and pupil-teacher ratios in LRE placements.

¹¹ MSDE Special Education Census Data, 6/2 017, Table 16b. A small number of Alt-students might be in such LRE classrooms.

¹² APA Final Report, p. 80. Note too the PJ recommendation of 3.86 in the APA 2016 study.

¹³ Alternate Achievement Standards for Students with the Most Significant Cognitive Disabilities, DOE Non-Regulatory Guidance, Aug 2005 p. 22.

¹⁴ Alternate Assessment Program Data 2015, printed 7/6/2018, submitted by MSDE Office of Finance.

¹⁵ Prior Analysis pp. 2-3, 5-8.

*For students on an Alternate (certificate) program. Adequate IEP services for students who are in certificate programs and receive alternate assessments enable them to achieve, taking into account the severity of individual disabilities, “the highest achievement possible.”*¹⁶

As to the current Design Assumptions, I think #1 through #3 should be dropped. They consist of isolated and incomplete statements of IDEA requirements. #4 seems appropriate. #5 should be dropped because it is an isolated and incomplete reference to the qualifications of teachers (which presumably is being considered by Work Group 2).

The Commission’s own standard for recommending a weight

No stop-gap weight can be reliably justified, pending the HB 1415 study. But some estimate must be made. The operative fact is that it is for decades, including since the Bridge to Excellence Act, SE has been greatly underfunded, and students with disabilities have been tragically underserved. Recall that only 3.6 percent of Maryland students in SE achieved proficiency on PARCC in ELA grades 3-8 in 2017.¹⁷

Therefore fairness and justice require that the Commission – given its predicament -- should err on the side of a stop-gap weight that does the most that can be done now to improve the life chances of our most vulnerable students.

Thank you for considering.

kcseweightmyproposal

¹⁶ Alternate Achievement Standards for Students with the Most Significant Cognitive Disabilities, DOE Non-Regulatory Guidance, Aug 2005 p. 22.

¹⁷ MSDE Report to the State Board, Sept. 19, 2017, p. 10.