

Government of the District of Columbia
Office of the Chief Financial Officer



Jeff DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeff DeWitt
Chief Financial Officer

DATE: September 15, 2014

SUBJECT: Fiscal Impact Statement – Enhanced Special Education Services Act of 2014

REFERENCE: Bill 20-724, AINS shared with the Office of Revenue Analysis on September 10, 2014

This is an updated FIS that corrects two errors on page 5 of the FIS we issued around 11a.m. on September 15, 2014. First, Early Stages completes 96 percent (not 85 percent) of eligibility decisions in 120 days. The updated FIS also clarifies that DCPS has completed around 90 percent of assessments on time over the past five years.

Conclusion

Funds are not sufficient in the FY 2015 through FY 2018 budget and financial plan to implement the bill.

Beginning FY 2017, when the bill's requirements become fully effective, the annual cost of implementation could be somewhere between \$25 million and \$39 million. The Office of Revenue Analysis is providing a range, and not a point estimate, because several variables that determine the costs, both on the demand side (demographics) and on the supply side (management variables, reimbursement rates, etc.) are constantly changing. Given the two-year delay between the vote on the bill and potential implementation, it is not possible to provide a reliable estimate for budgeting purposes. If the bill is enacted, the Office of Revenue Analysis will provide an updated estimate in February of 2016, which can then be included in the FY 2017 budget.

Background

The bill makes the following changes to special education services:

1. Lowers the age for making an adulthood transition plan

Adulthood transition plans outline post-secondary goals and interagency responsibilities for children with individualized education programs (IEPs). Currently, local education agencies (LEAs) must make this plan when a child turns 16. The legislation lowers the age to 14 starting July 1, 2016.

The bill also requires IEP teams, starting October 1, 2015, to identify which adult services might be appropriate for the student and what evaluations the student needs to complete to be eligible for those services. IEP teams must do this at least one year before a child graduates from high school.

2. Makes more children eligible for early intervention services

On July 1, 2017, the bill will expand the number of infants and toddlers eligible for early intervention services¹ to include those with disabilities who demonstrate a delay of 25 percent in one of five developmental areas. Currently infants and toddlers are only eligible for these services if they have a delay of 50 percent in one area or 25 percent in two or more areas.

OSSE must issue a report by October 1, 2015 on further expanding eligibility for early intervention services to infants or toddlers experiencing developmental delays because of additional biological or environmental factors.²

3. Reduces the time between referral and evaluation for special education services

Beginning July 1, 2017, LEAs will evaluate students for special education services within 60 days of a parent consenting to the evaluation and LEAs must make reasonable efforts to obtain parental consent 30 days from the referral date. Currently the evaluation must be completed within 120 days of referral.

Financial Plan Impact

Funds are not sufficient in the FY 2015 through FY 2018 budget and financial plan to implement the bill.

When fully in effect in FY 2017, the bill can cost up to \$39 million per year.³ Given the high level of uncertainty related to several cost variables related to some of the new requirements, this fiscal impact statement provides an estimated cost range for FY 2017 and FY 2018. The Office of Revenue Analysis will update this estimate for the FY 2017 through FY 2020 financial plan period in February of 2016.

In what follows, we discuss the cost factors for requirements of the bill and provide a range of estimates based on various operational and demographic assumptions.

Lowering the Age for the Adulthood Transition Plan

¹ Under Part C of the Individuals with Disabilities Education Act, as approved April 13, 1970 (84 Stat. 175, 20 U.S.C. § 1400 *et seq.*)

² As described in 34 C.F.R. §303.5.

³ The bill would be in effect only for the last quarter of FY 2017, and the first full year of implementation would be FY 2018.

Changing the age at which LEAs must create adulthood transition plans for children with IEPs from 16 to 14 will cost the Office of the State Superintendent of Education (OSSE) \$55,000 in FY 2016 and \$100,000 in FY 2017 for a total cost of \$155,000 over the four-year financial plan period.

Estimated Cost to OSSE of Lowering the Age for Adulthood Transition Planning					
	FY 2015	FY 2016	FY 2017	FY 2018	4-Year Total
Data system upgrades	\$ -	\$ 5,000	\$ -	\$ -	\$5,000
Additional staff member ¹	\$ -	\$ 50,000	\$ 100,000	\$ -	\$150,000
Total Cost	\$ -	\$ 55,000	\$ 100,000	\$ -	\$155,000

¹ A CS-12 secondary transition specialist

This part of the legislation will go into effect just before the start of the 2016-2017 school year. During that year, school staff will have to create adulthood transition plans for three cohorts: the 16 year-olds who were already due for a plan that year plus the 14 and 15 year-olds newly eligible for plans. Normally, staff would only have to prepare plans for one age cohort. To manage the increased workload during this transition period, OSSE will hire one staff member for the last half of FY 2016 and all of FY 2017. This staff member will train ninth and tenth grade staff on preparing transition plans review IEPs, and do site visits to make sure the 14 to 16 year-olds who need transition plans have them. The federal government requires OSSE to look at IEPs and do site visits because the District has had very low compliance with federal secondary transition requirements. Non-compliance with the requirements could affect the amount of special education funding the federal government gives the District.

Expanding Early Intervention Services

ORA projects that during the first full year the new eligibility standards are in place (FY 2018), the number infants and toddlers receiving early intervention services will increase by about 1,200. This projection is based on 7 percent of this age group being newly eligible for services each year,⁴ which reflects Maryland's experience with the same eligibility requirements as those in the legislation.⁵

OSSE currently spends about \$18,800 per child for each year of early intervention services and it costs \$10,500 per year to serve Medicaid-eligible children. Though OSSE believes about 60 percent of its early intervention population is Medicaid-eligible, it currently does not receive Medicaid reimbursements for these children and pays the full \$18,800 for every child it serves.⁶ OSSE hopes to eventually receive Medicaid reimbursements for early intervention services, which could cut its

⁴ Our analysis also assumes that 30 percent of children receiving services each year exit the system, either because they become too old for early intervention services or because they no longer require treatment.

⁵ The source of this data is the Children's Law Center. OSSE expects the percent of newly eligible children to be closer to 5 percent under the new eligibility requirements, so ORA's estimate is conservative.

⁶ Children who are part of a managed-care contract do receive reimbursements, but OSSE could sometimes be forced to pay for the services delivered for these children if the federal requirements are not met.

costs by as much as half.⁷ It is hard to reliably predict the number of children who will be eligible for Medicaid when the legislation is implemented in the last quarter of FY 2017 and it is uncertain for how many of these children OSSE will be able to receive reimbursements. Given these uncertainties, ORA estimates that the cost of this portion of the legislation could be anywhere between \$11 million and \$23 million in FY 2018 (see the table below). The high estimate assumes that OSSE pays \$18,800 for every child, while the low estimate assumes costs are halved due to Medicaid reimbursements. Costs could potentially be even lower if OSSE could reduce its cost per child to be closer to that of other jurisdictions. Maryland, for instance, spends an average of about \$6,300 per child for early intervention services, though costs vary widely across the state.⁸

Estimated Cost to OSSE of Expanding Early Intervention Services					
	FY 2015	FY 2016	FY 2017¹	FY 2018	4-Year Total
Low estimate: Costs cut in half with Medicaid reimbursements	\$0	\$0	\$3,000,000	\$11,000,000	\$14,000,000
High end: No Medicaid reimbursement	\$0	\$0	\$5,000,000	\$23,000,000	\$28,000,000

¹ The legislation goes into effect July 1, 2017.

Reducing Time between Referral and Evaluation

When a child older than 3 years might need special education services,⁹ the child is evaluated through one of three ways:

- Early Stages – this group within DCPS evaluates all children aged 3 years to 5 years, 10 whether they are enrolled in a public or public charter school or attend childcare centers. There are two Early Stages evaluation sites in the city.
- DCPS Related Service Providers – children 5 years, 11 months and older who attend DCPS are evaluated by related service providers, most of whom are located on-site at schools. Some charter schools use DCPS for this service.
- Public Charter School Related Service Providers – children 5 years, 11 months and older who attend charter schools that do not use DCPS for special education services, are evaluated by related service providers who may be on- or off-site.

⁷ According to the testimony of Jesus Aguirre, the State Superintendent of Education, given to the D.C. Council on June 19, 2014. This is for children who would be in fee-for-service programs, and not managed care programs under Medicaid. The Department of Health Care Finance just published the regulations that would allow OSSE to seek Medicaid reimbursement, but before this could be done, the District has to amend its State Plan for Medicaid, a process that could take a couple years. The regulations are available here: <http://www.dcregs.dc.gov/Gateway/NoticeHome.aspx?noticeid=5022192>

⁸ According to Brian Morrison, Section Chief, Policy and Data, Maryland State Department of Education Division of Special Education/Early Intervention Services.

⁹ Under Part B of the Individuals with Disabilities Education Act, as approved April 13, 1970 (84 Stat. 175, 20 U.S.C. § 1400 *et seq.*)

Cutting the referral to evaluation timeline from 120 to 60 to 90 days will not change the number of children a year that each of the three groups (Early Stages, DCPS, and Charters) evaluate, but is likely to change the way each group needs to be staffed so that they can evaluate children quicker. The staffing needs across the three groups to meet the 60 to 90 day timeline varies. These needs also depend on the size of the population each group is serving and how efficiently each group runs its programs. These variables, especially operational variables, could significantly change by the time the legislation is implemented in the last quarter of FY 2017.

Early Stages

The Early Stages program will likely need 22 additional staff members (currently there are 85) to meet the new timeline requirements. Currently the Early Stages program completes about 96 percent of eligibility decisions in 120 days. Our discussions with the group suggests that the delay in evaluations are not always a matter of staffing shortage, but sometimes reflect the difficulty of getting these children to the evaluation centers. It is also important to note that the requirement to expand early intervention services will increase the workload of the Early Stages program independent of the reduced timeline. The estimate provided here also accounts for the increase in the evaluations due to expanded services.

The estimate could change by FY 2017 depending on the number of younger children who are referred for evaluations and on how Early Stages evolves to reach children that are referred for evaluations. For example, as more children attend pre-K programs at DCPS, the burden on the Early Stages program might be reduced if a related services provider at a school evaluates these younger children.

Estimated fiscal impact for Early Stages to Meet 60-90 Day Timeline Goal					
	FY 2015	FY 2016	FY 2017	FY 2018	Four-year total
Additional Staffing requirements ¹	\$0	\$0	\$600,000	\$2,000,000	\$2,600,000

¹ Includes five speech/language pathologists; four psychologists, occupational therapists, evaluation coordinators, and family care coordinators; and one physical therapist. Assumes an average salary of \$78,000 per person with 15 percent fringe and \$7,000 per person in first year for office space and supplies.

DCPS Related Service Providers:

DCPS might have to add up to 104 additional related service providers and several managers to its current staff of 416 to meet the new timeline goals. This would cost about \$3.4 million in FY 2017 and \$10.4 million in FY 2018. Under this staffing model, all of the new hires would provide treatment to students and the current staff would focus on evaluations only. Right now, most staff must split their time between treatment and evaluations, which DCPS says is one reason it struggles to meet the 120 day timeline (over the past five years DCPS has completed around 90 percent of assessments on time).

Estimated fiscal impact for DCPS Related Service Providers to Meet 60-90 Day Timeline Goal

	FY 2015	FY 2016	FY 2017	FY 2018	Four-year total
Additional Staffing requirements ¹	\$0	\$0	\$3,000,000	10,000,000	13,000,000

However, if DCPS could reach the efficiency levels of other jurisdictions it might be able to meet the new timeline with far fewer costs. In Cleveland Public Schools, for instance, psychologists do at least twice the number of evaluations and reevaluations each year than psychologists in DCPS.¹⁰

Public Charter School Related Service Providers:

ORA estimates¹¹ that charter schools not using DCPS as their LEA for special education would need only 16 additional staff to meet the 60-90 day timeline, which would cost about \$1.5 million during the first full year of implementation, FY 2018. This comes to about \$500 per special education student, about 40 percent of the per pupil cost of DCPS meeting the 60-90 timeline, which is around \$1,200 per student.

It is not clear why there is such a cost differential between Charter schools and DCPS. This could be because of systematic differences between the needs of special education students across the two sectors, parents' willingness to be involved in the evaluation process, or a function of the scale of evaluations. The Office of Revenue Analysis cannot say for sure if the cost differences can be captured in the Uniform Per Student Funding Formula through funding differences across different levels of special education needs. Here, we provide two estimates—the lower estimate assumes that the Uniform Per Student Funding Formula will capture the cost differences, and the higher estimate assumes that the systematic differences in evaluation costs cannot be captured in the formula.

Estimated fiscal impact for Public Charter Schools¹ to Meet 60-90 Day Timeline Goal

	FY 2015	FY 2016	FY 2017	FY 2018	Four-year total
Lower Estimate—the funding formula captures current cost differences	\$0	\$0	\$400,000	\$2,000,000	\$2,400,000
Higher Estimate—the funding formula cannot capture cost differentials.	\$0	\$0	\$1,000,000	\$4,000,000	\$5,000,000

¹ Charter LEAs not dependent on DCPS for special education services.

¹⁰ According to data from Jessica Baldwin, Executive Director of the Special Education Department in Cleveland Public Schools.

¹¹ Based on conversations with four large charter schools and a survey of six charter schools done by the DC Special Education Co-Operative.

The Honorable Phil Mendelson

FIS: B20-724, "Enhanced Special Education Services Act of 2014," Draft Committee Print shared with the Office of Revenue Analysis on September 10, 2014

Implementation costs combined

Taken together, the proposed legislation will cost \$55,000 in FY 2016, but could cost up to \$10 million in FY 2017 and up to \$39 million in FY 2018, which is the first year of full implementation for the two substantive requirements in the bill. However, the FY 2017 and FY 2018 costs could also be much lower, depending on things like number of children eligible for Medicaid, the funding mechanism for charter schools and DCPS, and how efficiently agencies run their programs. All of these factors could change significantly over the next two years in ways that would impact costs.

Estimated Fiscal Impact of B20-724, the Enhanced Special Education Services Act of 2014					
	FY 2015	FY 2016	FY 2017	FY 2018	Four-year Total
Estimated Fiscal Impact	\$0	\$55,000	\$7 million to \$10 million	\$25 million to \$39 million	\$32 million to \$49 million

If the bill is enacted, The Office of Revenue Analysis will re-estimate the bill's FY 2017 and FY 2018 costs in preparation for the FY 2017 budget.