



# Safety Net Legislative Workgroup Recommendations

September 20, 2018

Office of Superintendent of Public Instruction

Chris Reykdal, State Superintendent

# Engrossed House Bill 2242, Sec. 408 (2017)

Directed Superintendent of Public Instruction to

- Review the current Safety Net process
- Make recommendations on possible adjustments to improve the process
- Evaluate the funding level to meet safety net's purpose



# Consider recommendations on the following:

- Whether fiscal components in addition or in place of those currently in place should be considered when making safety net awards?
- Should an LEA be able to access Safety Net when special education enrollment percentage exceed 13.5%?
- Should the definition and the limitation on the amount provided for high need students be adjusted?
- Should an LEA have access to safety net when it has a disproportionate concentration of students with higher than statewide average costs but the students do not meet the threshold for high need students?



# Consider recommendations on the following:

- How can the process be improved, including how can technical assistance be best provided, and how the timeline can be changed to allow for resubmission?

*The superintendent must submit the recommendation to the governor and the legislative education and operating budget committees by November 1, 2018.*



After analyzing Safety Net trends and fiscal data, draft recommendations address:

- Purpose of Safety Net
- Funds used to support Safety Net
- Definition of high need student application
- Safety Net application process
- Application review and decision process
- Technical assistance for Safety Net process

Workgroup Recommendations:

<http://www.k12.wa.us/SpecialEd/pubdocs/SpEd-SNet-Wrkgp-Recommend.pdf>



# Purpose of Safety Net

- **Currently:** Safety Net funds are to be made available to LEAs “with demonstrated needs for special education funding beyond the amounts provided through the special education funding formula under RCW 28A-150.390.”
- **Workgroup recommends:** The purpose remain the same with the clarification that the purpose is to **reimburse** rather than award for expenditures in excess of all state and federal funding available for special education services to students with disabilities.

*The implementation of this recommendation was approved by Supt. Reykdal, and is included in draft WAC revisions.*



# Funds used to support Safety Net

- **Currently:** Safety Net awards are provided to LEAs using a combination of federal IDEA funds and dedicated state funds (Operating Budget--Supplemental, ESSB 6032, Section 507 (7)).
- **Workgroup recommends:** The Safety Net process use only state funds, and that the \$14,787,000 of federal IDEA funds reserved each year remain with other IDEA funds, allocated to OSPI for administration, state-level activities, with the majority flowed-through to LEAs according to the IDEA funding formula.

*The implementation of this recommendation was delayed by Supt. Reykdal, who is seeking a significant increase in state special education funds over the next three biennia.*



# Funds used to support Safety Net

- **Workgroup requests:** The legislature commit to fully funding the needs of students with disabilities each school year.
- **Workgroup recognizes:** The long term fiscal impact of the increased use of nonpublic agencies (NPAs) to support students with significant behaviors should be considered by Legislature. LEAs need to have other sources of additional funding to develop internal capacity of staff (including paraeducators) by providing training, recruiting specialized staff and providing competitive pay.
- **Workgroup recognizes:** The need to increase professional development and training of school faculty and staff, including paraeducators and Educational Staff Associates (ESAs), to work with students with significant behavioral needs.

*These recognitions were acknowledged by Supt. Reykdal, who is seeking a significant increase in state special education funds over the next three biennia through the OSPI Multiplier Decision Package.*





# Funds requested to support Safety Net

	FY 2020	FY 2021	FY 2022	FY 2023
	2018-19 School Year	2019-20 School Year	2020-21 School year	2021-22 School Year
<b>State General Fund</b>	\$35,952,000	\$35,952,000	\$35,952,000	\$35,952,000
<b>Federal IDEA Funds</b>	\$14,787,000	\$14,787,000	\$14,787,000	\$14,787,000
<b>Current Funding</b>	\$50,739,000	\$50,739,000	\$50,739,000	\$50,739,000
<b>Additional State Funds Needed</b>	\$22,390,880	\$33,178,736	\$45,649,055	\$60,061,700

*The implementation of this recommendation was approved by Supt. Reykdal, who has included the request in the OSPI Safety Net Decision Package for 2020-21 biennium.*



# Definition of high need student

- **Currently:** High need student means a student eligible for special education whose **properly formulated** IEP costs as calculated on worksheet C exceed a multiple of statewide average per pupil expenditures as defined in section 9101 of the ESEA Act of 1965.
- **Workgroup recommends:** OSPI continues to emphasize the importance of compliance with federal and state requirements. OSPI also recognizes that compliance is a general supervision responsibility which is reviewed through WISM monitoring, dispute resolution, State Auditor's Office, and is not limited to the Safety Net Process.

*The implementation of this recommendation was approved by Supt. Reykdal and will be continued.*



# Safety Net application process

## Currently:

- LEAs apply for Safety Net funds through an annual application process using Form SPI 1381 according to the schedule published in the annual OSPI Safety Net Bulletin.
- LEAs may apply for high needs student(s) and/or community impact factor(s), and must have billed for federal Medicaid for eligible services prior to requesting Safety Net awards.
- Worksheets A and C are used to calculate capacity of the LEA (e.g., maximum amount of reimbursement eligibility) and ensure that the IEPs are “properly formulated”.



# Safety Net application process

## Workgroup recommends:

- Modification and revision of current language requiring a “properly formulated IEP” to include a review of a sample of IEPs for each LEA that has not had IEPs reviewed through the WISM process within the last two years or any unresolved audit issued related to special education that are material in nature.

*The implementation of this recommendation was approved by Supt. Reykdal. Areas to be reviewed will be determined by OSPI and published in the annual Safety Net Bulletin; this recommendation is included in draft WAC revisions.*



# Safety Net application process

## Workgroup recommends:

- Application process transition from a paper application to an electronic process using secure file transfer protocol.
- LEAs either submit verification of Medicaid billing **or** receive a deduction calculated by OSPI based on reimbursement potential of services provided by a qualified biller.
- A new category of eligibility for students with disabilities served in residential schools and programs for juveniles under department of corrections be added.

*The implementation of these recommendations was approved by Supt. Reykdal, is included in draft WAC revisions, and funding for the electronic process is included in an OSPI Safety Net Decision Package for the 2020-21 biennium.*



# Safety Net application process

## Workgroup recommends:

- Community Impact application language be modified to clarify that it pertains to the extraordinary costs associated with communities that draw a larger number of students with disabilities in need of special education services “to the LEA, based on current unique attributes of the LEA that are not related to LEA philosophy, staffing decisions, or service delivery choices.”
- Applications cannot include students for whom the LEA is receiving state special education funding.

*The implementation of these recommendations was approved by Supt. Reykdal, and is included in draft WAC revisions.*



# Safety Net application process

**Currently:** IEPs that are not properly formulated are not awarded any Safety Net reimbursement.

**Currently:** Applications are adjusted for fiscal calculation errors.

Total High Need Individual applications funded	2,793	92.6%
Number not funded due to non-compliance	132	4.3%
Number not funded because High Need Individual application did not exceed threshold of \$30,316	78	2.6%
Number not funded because LEA did not demonstrate capacity for funding on Worksheet A	13	0.5%
Total High Need Individual applications submitted	3,016	100.0%



# Application review & decision process

## Workgroup recommends:

- Revise the order of Safety Net application reviews so that high need student applications are reviewed first, followed by community impact applications.
- Decisions would be:
  - Recommendation for conditional approval,
  - Recommendation for adjustment on amount and conditional approval,
  - Recommendation for disapproval, and
  - Recommendation for conditional pro-rated funding to address findings of noncompliance.

*The implementation of these recommendations was approved by Supt. Reykdal, and is included in draft WAC revisions.*





# Application review & decision process

## Workgroup recommends:

- The final option on slide 16 allows for pro-rating of reimbursement for IEPs with findings of noncompliance. This will allow State Safety Net Oversight Committee members to potentially provide a partial reimbursement for the portion of the delivered services aligned with the compliant portion of the IEP.

*The implementation of this recommendation was approved by Supt. Reykdal, and is included in draft WAC revisions.*



# Application review & decision process

- **Currently:** The request for review and reconsideration of a decision is limited to a re-review of the original submission.
- **Workgroup recommends:** Rules should be revised to allow the review of additional documentation, if specifically requested by the Committee during the initial review and included in the conditional decision letter.
  - This exception should be limited to unique circumstances and should not be expected by LEAs.

*The implementation of this recommendation was approved by Supt. Reykdal, and is included in draft WAC revisions.*



# Application review & decision process

**Currently:** There is no opportunity for a second submission due to unusual circumstances.

**Workgroup recommends:** LEAs be allowed to request reimbursement for

- Students enrolling in the LEA after the initial submission deadline;
- Students with a significant change in services or placement;
- Students accessing ESY when decision is made after the initial submission date.

*The implementation of these recommendations was approved by Supt. Reykdal, and is included in draft WAC revisions.*



# Application review & decision process

- **Currently:** An applicant's request for review and reconsideration of an action by the committee must be made within twenty (20) days from the date of the state oversight committee's written determination letter.
- **Workgroup recommends:** OSPI staff should adjust application deadlines, meeting dates, and notification dates to allow for the 20 day request for review and reconsideration process to be extended from 20 to 30 days.

*The need behind this recommendation is acknowledged by Supt. Reykdal and is being explored.*



# Technical assistance for Safety Net process

- **Currently:** Legislature provides funding for 2.00 FTE to provide training, technical advise, committee support, conduct an annual survey and prepare annual reports to the Legislature.
- **Workgroup recommends:**
  - OSPI support be increased to 3.00 FTE.
  - Annual survey be an anonymous survey.
  - OSPI staff be allowed to request missing documentation during safety net application reviews.
  - Workgroup be allowed to reconvene during 2020-21 to determine if further changes are needed.

*The implementation of these recommendations was approved by Supt. Reykdal, and is included in draft WAC revisions and the OSPI Safety Net Decision Package for the 2020-21 biennium.*



# Additional request from Education Task Force (not Safety Net Related)

- **Request:** Review and make recommendations regarding the state special education excess cost funding multiplier.
- **Currently:** The multiplier originally set at BEA times .9309 was raised to BEA times .9609 this school year.
- **Workgroup recommends:** Adoption of a tiered multiplier. The workgroup is cautious of models based solely on the type of setting or disability category and favors a hybrid model combining hours of service and location of services.

*The implementation of this recommendation was approved by Supt. Reykdal, and is included in OSPI Multiplier Decision Package for 2020-21, and future biennia.*



# Sample using statewide averages

Enter Number of Students in each band of weekly hours of service	Weekly Hours of Service	Setting	Basic Education Allocation (18-19 Projection)	Tiered Multiplier	Rate	Funding Available
486	1	Time in Gen Ed Setting 80%-100%	\$9,484	0.5000	\$4,742	\$2,304,725
304	2-4	Time in Gen Ed Setting 80%-100%	\$9,484	1.1000	\$10,433	\$3,171,606
706	5-9	Time in Gen Ed Setting 80%-100%	\$9,484	1.7500	\$16,598	\$11,718,058
45	≥10	Time in Gen Ed Setting 80%-100%	\$9,484	2.0000	\$18,969	\$853,602
85	7-12	Time in Gen Ed Setting 40%-79%	\$9,484	0.9309	\$8,829	\$750,473
228	13-18	Time in Gen Ed Setting 40%-79%	\$9,484	1.5000	\$14,227	\$3,243,687
251	19-24	Time in Gen Ed Setting less than 39%	\$9,484	1.7500	\$16,598	\$4,166,052
105	24+	Public or private day school	\$9,484	2.7500	\$26,082	\$2,738,640
6	24+	Residential facility	\$9,484	3.0000	\$28,453	\$170,720
0	≤20	Homebound	\$9,484	1.2500	\$11,856	\$0.00
0	21+	Home bound	\$9,484	1.5000	\$14,227	\$0
2216		Total			Total	\$25,525,321
2216		Total using .9609	\$9,484	0.9609	\$9,114	\$20,195,790
					Change in funding	\$5,329,531



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- Contact [Maryellen.parrish@k12.wa.us](mailto:Maryellen.parrish@k12.wa.us)





# Next steps (Legislative)

- The superintendent will submit the recommendations to the governor and the legislative education and operating budget committees by November 1, 2018.



# Next steps (OSPI)

- [CR 101 Preproposal Statement of Inquiry](http://www.k12.wa.us/ProfPractices/adminresources/RulesProcess/WSR1818105.pdf) filed September 5  
(<http://www.k12.wa.us/ProfPractices/adminresources/RulesProcess/WSR1818105.pdf>)
  - Notification to the public of intent to revise rules
- CR 102 Proposed Rulemaking
  - Notification to the public of the date of hearing
  - Proposed rules are published
- CR 103 Rule-making Order
  - Rules hearing is held
  - Concise explanatory statement prepared
  - Rules become effective 31 days after filing CR 103



# Questions and Comments?





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