

What's New in Special Education? Summary of the 85th Legislative Session

In January 2017, state policymakers journeyed to Austin to begin the latest legislative session. The 85th session kicked off four months after the *Houston Chronicle* published its [“Denied” series](#) – a powerful exposé of the Texas Education Agency’s (TEA) 8.5% cap on special education enrollment. State and national attention on the cap put an unprecedented spotlight on students with disabilities during the legislative process. That attention led to the passage of many special education bills between January and May.

This biennium, the legislative session did not end after its usual 140 days. While the regular session concluded in May, Governor Abbott reconvened policymakers in July for a 30-day special session. During the special session, legislators were tasked with addressing 20 policy items. Three of these items directly implicated students with disabilities, including:

- School finance reform;
- School choice programs for students with disabilities; and
- Teacher pay and benefit reforms.

Below, DRTx has provided summaries of bills and budget riders related to students with special education needs that passed through the Texas Legislature during the regular and special sessions. This document is not a comprehensive account of all education bills considered and passed in 2017. Rather, the pages that follow give brief summaries of major legislation that will impact students with disabilities. This legislation is divided into eight categories:

- Child Find and Disability Identification;
- Transition Planning and Future Employment;
- Safety and Representation;
- School Mental Health;
- Testing and Accountability;
- Special Populations;
- School Finance; and
- Budget Riders.

Included in the tables are bill numbers, authors/sponsors, brief summaries, and links to each bill’s page on Texas Legislature Online. [Texas Legislature Online](#) is a great resource where you can find information about individual bills, legislators, and hearings dating back to 1989. Follow links in the table to find a specific bill’s history and text.

If you have any questions about bills (including those not listed here) or if you need help navigating Texas Legislature Online, contact DRTx policy specialist Steven Aleman at saleman@dr.tx.org or policy fellow Rachel Gandy at rgandy@dr.tx.org.

Child Find and Disability Identification¹

Bill Number & Caption	Author & Sponsor	Bill Summary
<p><u>SB 160</u></p> <p><i>Relating to a prohibition of a monitoring system performance indicator based solely on the number or percentage of students receiving special education services.</i></p>	<p>A: Rodríguez</p> <p>S: Wu</p>	<ul style="list-style-type: none"> • Statutorily eliminates TEA’s 8.5% cap on special education enrollment; • Prohibits TEA from adopting a similar policy in the future; and • Specifies that TEA may continue to collect and examine data on disproportionality² within the state’s special education system.
<p><u>SB 436</u></p> <p><i>Relating to the operation of the special education continuing advisory committee.</i></p> <p>Note: The CAC is in need of new members who have experience and expertise in our state’s special education system. To apply, follow this link.</p>	<p>A: Rodríguez</p> <p>S: T. Uresti</p>	<ul style="list-style-type: none"> • Reforms the procedures and duties of TEA’s Special Education Continuing Advisory Committee (CAC) – a state advisory panel that is required to exist under the Individuals with Disabilities Education Act (IDEA); • Requires TEA to post basic information about the CAC on the TEA website, including meeting dates and minutes; • Prohibits the CAC from requiring community members to register for public comment in advance of meetings; • Directs the CAC to develop policies that foster public participation; and • Requires the CAC to produce a written report for the Texas Legislature before each legislative session in which CAC members provide recommendations for new or revised TEA regulations and state statutes.

¹ The Individuals with Disabilities Education Act (IDEA) includes the Child Find mandate, which requires school districts to proactively identify, locate, and evaluate all children with disabilities. The U.S. Congress established the mandate to guarantee that children with diverse disabilities could access the services and protections they need to succeed. The mandate requires state education agencies to develop a coordinated, practical method through which children with disabilities may be properly identified. See 34 C.F.R. §300.111; 20 U.S. Code §1412(a)(3). Section 504 of the Rehabilitation Act also includes the same Child Find mandate for public schools. See 34 C.F.R. §104.32.

² Disproportionality refers to the over- or under-representation of a particular group within the special education system. For example, TEA data show that, in 2016, Black students were over-represented in special education relative to their proportion in the total school population. In contrast, English Language Learners were under-represented. See TEA, *2016 Performance-Based Monitoring and Analysis System State Report* (2016): 5.

SB 1153

Relating to parental rights and information regarding certain intervention strategies used with public school students.

A: Menéndez
S: Huberty

- Creates uniform state rules regarding a parent’s access to information when public schools provide certain general education services, including Response to Intervention (RtI) services;
- Requires schools to notify parents of children who receive individualized assistance through intervention strategies (like RtI) as soon as children begin to receive those services;
 - *Note that districts are not required by this bill to inform parents that their child is receiving services that are provided to an entire campus (i.e., Tier 1 services in the RtI framework). Rather, districts must notify parents when students are moved from campus-wide Tier 1 services to a higher service level.*
- Requires that the notice to parents include certain information, including a description of the assistance being provided and estimated time frames within which parents will receive reports on their child’s progress;
- Develops a new code within TEA’s Public Education Information Management System (PEIMS) for the total number of students receiving individualized intervention strategies (like RtI) that are more intensive than the campus-wide level of service; and
- Develops a new PEIMS code for the total number of students receiving services under Section 504 of the Rehabilitation Act.

[See the DRTx infographic on RtI basics and reforms for more information.](#)

Transition Planning and Future Employment

Bill Number & Caption	Author & Sponsor	Bill Summary
<p><u>SB 748</u></p> <p><i>Relating to transition planning for a public school student enrolled in a special education program.</i></p>	<p>A: Zaffirini S: Allen</p>	<ul style="list-style-type: none"> • Updates the transition planning process for students in special education to reflect alternatives to guardianship, which will allow: <ul style="list-style-type: none"> ○ Adult students to avoid any unnecessary loss of individual autonomy; and ○ Families to avoid costly guardianship proceedings; • Directs TEA to develop model notices on new state laws regarding alternatives to guardianship; • Requires TEA to update the Texas Transition and Employment Guide for students exiting the public school system with information about long-term services, community supports, and alternatives to guardianship; • During the transition planning process, requires ARD committees to consider whether a student has sufficient exposure to supplementary services and curricula that assist the student in developing decision-making skills; and • Requires the TEA Commissioner to develop and post on TEA's website a list of services and public benefits to which an ARD committee could refer an adult student.
<p><u>SB 2027</u></p> <p><i>Relating to a study to evaluate by region training and employment opportunities in this state for individuals with an intellectual disability.</i></p>	<p>A: Rodríguez S: Moody</p>	<ul style="list-style-type: none"> • Requires the Health and Human Services Commission (HHSC) and the Texas Workforce Commission (TWC) to conduct a study on job training programs available in Texas for people with intellectual disabilities; • Requires that the study include information on: <ul style="list-style-type: none"> ○ Regions in the state where this training needs improvement or expansion; and ○ Strategies for placing trained individuals with intellectual disabilities in fulfilling jobs; and • States that HHSC must report the results of its study to the Governor and the Texas Legislature by December 1, 2018.

Safety and Representation

Bill Number & Caption	Author & Sponsor	Bill Summary
<p><u>SB 1398</u></p> <p><i>Relating to the placement and use of video cameras in certain self-contained classrooms or other settings providing special education services.</i></p>	<p>A: Lucio S: Thompson</p>	<ul style="list-style-type: none"> • Reforms statute passed during the 84th Legislative Session regarding cameras in self-contained special education classrooms and other special education settings; <ul style="list-style-type: none"> ○ <i>Note that this is an abbreviated summary of SB 1398.</i> • Establishes new guidelines regarding video camera requests by: <ul style="list-style-type: none"> ○ Specifying that a camera may be placed in self-contained classrooms and other special education settings after the school receives a written request from: <ul style="list-style-type: none"> ▪ A parent of a child in that setting; ▪ A staff member assigned to that setting; ▪ A school district’s board of trustees; ▪ An open-enrollment charter school’s governing body; ▪ A school principal; or ▪ A school assistant principal; ○ Clarifying steps in the request process; <ul style="list-style-type: none"> ▪ <i>For example, a parent or staff member must submit their written request for video equipment to the school’s principal.</i> • Establishes new timeline requirements regarding cameras in the classroom by: <ul style="list-style-type: none"> ○ Requiring schools to respond to requests related to video cameras within seven school business days with either an authorization for the request or a statement describing the request's denial; ○ Requiring schools to begin operation of a video camera within 45 school business days of the request, unless TEA grants the school an extension; ○ Requiring schools to maintain a video camera in the classroom or special education setting for the remainder of the school year during which they received the written request, unless the requestor withdraws their request; ○ Requiring schools that discontinue operation of the video camera during the school year to notify all parents of children who regularly attend the

		<p>classroom or setting no later than five days before the camera use will be cease;</p> <ul style="list-style-type: none"> ○ Requiring schools to notify parents no later than 10 school days before the end of the school year that the camera will not operate during the following school year, unless a new request is made; ● Establishes new guidelines regarding camera placement and operation by: <ul style="list-style-type: none"> ○ Clarifying that a video camera need only be placed in the school, schools, or specific classroom/setting for which a camera is requested and not in all similar settings across a district; ○ Requiring video cameras placed in self-contained classrooms or other special education settings to cover all areas of the classroom or setting, including rooms attached to the space for time out; ● Establishes new guidelines regarding the preservation of video footage by: <ul style="list-style-type: none"> ○ Decreasing the time period for which schools must retain recorded video from six to three months; ○ Requiring the district or charter school to retain video recordings if a requestor asks to view the recording; <ul style="list-style-type: none"> ▪ <i>Note that the district or charter school must retain the recording from the date of the request until the person views the recording and a determination is made about whether the recording documents an alleged incident.</i> ○ Clarifying that, if a recording documents an alleged incident, districts and charter schools must retain the recording until the incident has been resolved, including throughout the exhaustion of all appeals; ● Requires districts and charter schools to provide information on how a person can appeal a district or charter school action regarding cameras in special education classrooms; ● Permits districts, parents, staff members, or administrators to request an expedited TEA review of a district's camera request denials, requests for extensions of time to begin camera operation, and determinations to not release a video recording to an eligible requestor; and ● Requires TEA to collect data relating to video requests made and school actions taken in response to requests.
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<p><u>SB 1553</u></p> <p><i>Relating to certain requirements imposed on a sex offender who enters the premises of a school and to the refusal of entry to or ejection from school district property.</i></p>	<p>A: Menéndez S: Bernal</p>	<ul style="list-style-type: none"> • Revises state law which allows school districts to manage access to campuses and property; • Permits school administrators, school resource officers, and school peace officers to refuse entry to or eject from district property a person who refuses to leave peaceably upon request and: <ul style="list-style-type: none"> ○ Poses a substantial risk of harm to others; or ○ Persists in inappropriate behavior after receiving a verbal warning from district personnel; • Requires school districts to maintain a record of verbal warnings issued and provide a written explanation to those who are refused entry or ejected from district property with information regarding the appeals process; • Requires the TEA Commissioner to adopt rules for establishing an appeals process for a person who is refused entry or ejected from district property; • Requires school districts to ensure that parents or guardians who are refused entry to or ejected from district property still have access to participate in their child's ARD committee or 504 team in accordance with federal law; • Specifies that a term of refusal of entry to or ejection from district property may not exceed two years; • Requires districts and campuses to provide a notice online and in the student code of conduct regarding refusals of entry to and ejections from district property; and • Creates new requirements for persons who are subject to the sex offender registry regarding their presence on school premises.
<p><u>SB 2141</u></p> <p><i>Relating to requirements for a representative for a student in a special education due process hearing.</i></p>	<p>A: L. Taylor S: Howard</p>	<ul style="list-style-type: none"> • Requires the TEA Commissioner to revise rules regarding individuals who are not attorneys but who represent families in impartial special education due process hearings; • Requires that, if individuals receive monetary compensation for their representation, they must: <ul style="list-style-type: none"> ○ Agree to abide by a voluntary code of ethics and professional conduct; and ○ Enter into a written agreement for representation with their client that includes a process for resolving disputes; and • Clarifies that the written agreement is confidential and may not be disclosed.

School Mental Health

Bill Number & Caption	Author & Sponsor	Bill Summary
<p><u>SB 179</u></p> <p><i>Relating to harassment, bullying, and cyberbullying of a public school student or minor and certain mental health programs for public school students; increasing a criminal penalty.</i></p> <p>Note: This bill is also known as David's Law.</p>	<p>A: Menéndez S: Minjarez</p>	<ul style="list-style-type: none"> • Aims to address cyberbullying incidents involving public school students and minors; <ul style="list-style-type: none"> ○ <i>Note that this is an abbreviated summary of SB 179.</i> • Defines bullying and cyberbullying in statute; • Requires school boards to establish procedures for: <ul style="list-style-type: none"> ○ Notifying the parents and guardians of an alleged bullying victim by the third business day after an incident is reported; and ○ Enabling students to report bullying incidents anonymously; • Enables districts to develop district-wide policies to assist in the prevention and mediation of bullying; • Specifies that students may be placed in a disciplinary alternative education placement (DAEP) or expelled if they engage in a form of bullying that: <ul style="list-style-type: none"> ○ Encourages another student to commit or attempt to commit suicide; ○ Incites violence through group bullying; or ○ Releases or threatens to release intimate visual material of a minor or of a student over age 17 without his or her consent; • Permits school principals or their designees to make a report to law enforcement officials if the principal believes (after investigation) that a student has engaged in cyberbullying; • Requires school counselors to serve as an impartial, non-reporting resource for interpersonal conflicts, including those that involve bullying accusations; <ul style="list-style-type: none"> ○ <i>Note that this bill does not exempt counselors from mandatory reporting requirements outlined elsewhere in statute.</i> • Specifies that open-enrollment charter schools are subject to certain bullying prevention and intervention requirements under Chapter 37 of the Texas Education Code; <ul style="list-style-type: none"> ○ <i>Note that charter schools are exempt from other provisions in this chapter, which outlines school discipline procedures in statute.</i>

		<ul style="list-style-type: none"> • Expands mental health training in schools by authorizing continuing education requirements for classroom teachers and principals to include instruction on grief- and trauma-informed care; • Requires TEA and HHSC to establish and maintain a website that provides public school employees with resources on: <ul style="list-style-type: none"> ○ Grief- and trauma-informed practices; ○ Building skills related to managing emotions, maintaining positive relationships; and making responsible decisions; ○ Positive behavior interventions and supports; and ○ A safe and supportive school climate; and • Amends the Penal Code and the Civil Practice and Remedies Code to expand punishment and relief options for those involved in bullying incidents.
<p><u>SB 196</u></p> <p><i>Relating to a notification requirement if a public school, including an open-enrollment charter school, does not have a nurse, school counselor, or librarian assigned to the school during all instructional hours.</i></p>	<p>A: Garcia S: Coleman</p>	<ul style="list-style-type: none"> • Requires public school officials to notify parents when the school does not have a full-time equivalent nurse, school counselor, or librarian assigned to be present at the school for more than 30 consecutive days during the same academic year; • Clarifies that the notice requirement does not apply to school districts and open-enrollment charter schools with less than 10,000 students; • Requires that the school make a good faith effort to provide the notice in languages other than English; and • Specifies that a school may satisfy the notice requirement by making the notice easily accessible on the school's website. <p>Note: Governor Abbott vetoed this legislation.</p>
<p><u>SB 490</u></p> <p><i>Relating to school counselors in public schools.</i></p>	<p>A: Lucio S: Huberty</p>	<ul style="list-style-type: none"> • Creates a new PEIMS code to reflect the number of full-time equivalent school counselors available at each public school campus; • Requires each school board to include in its annual report on district and campus educational performance information regarding the number of school counselors providing services at each campus; and • Expands the information that high school counselors must provide to students and parents each year to include materials regarding financial aid for higher education specific to students who are or were in the conservatorship

		of the Department of Family and Protective Services (DFPS).
<p><u>HB 674</u></p> <p><i>Relating to the suspension of a student enrolled in a grade level below grade three from public school and to a positive behavior program for public schools.</i></p>	<p>A: E. Johnson S: Garcia</p>	<ul style="list-style-type: none"> • Prohibits the discretionary use of out-of-school suspensions (OSS) for students below third grade; <ul style="list-style-type: none"> ○ <i>Note that students with disabilities, particularly those with mental illness, are more likely than others to be removed from the classroom through OSS placements. These placements increase the risk of grade retention, dropout, and juvenile justice involvement.</i> • Enables public schools to develop and implement a positive behavior program with alternatives to OSS that are age-appropriate and research-based.
<p><u>HB 2904</u></p> <p><i>Relating to the memorandum of understanding among certain agencies to coordinate services provided to persons needing multiagency services.</i></p>	<p>A: White S: Watson</p>	<ul style="list-style-type: none"> • Expands the joint memorandum of understanding (MOU) that state agencies (such as TEA, HHSC, and DSHS) must enter to better coordinate services for persons with multi-agency needs in the least restrictive environment; <ul style="list-style-type: none"> ○ <i>Note that students with disabilities often have complex needs that span across multiple state agencies. A lack of coordination among agency officials can cause students' needs to fall through the cracks.</i> • Defines “least restrictive environment” to mean settings that are most able to meet a person’s needs, that prioritize home and community-based care, and that engage the strengths of families; • Requires that the MOU clarify the statutory responsibilities of each agency related to: physical and behavioral health care; prevention services related to child abuse, neglect, delinquency, truancy, and school dropout; diversion from justice involvement; and housing; • Directs state-level interagency staff groups to collaborate with local agency groups on the availability of community resources and best practices for addressing individuals’ complex needs in the least restrictive environment; and • States that the agencies must update the MOU by December 1, 2017.

HB 4056

Relating to a list of best practice-based programs and research-based practices in certain areas for implementation in public schools.

A: Rose

S: Lucio

- States that the annual list of recommended best practices for public schools that TEA, the Department of State Health Services (DSHS), and education service centers produce must be research-based;
- Expands this list to include programs and practices in the following areas:
 - Building skills related to managing emotions, maintaining positive relationships, and responsible decision-making;
 - Trauma-informed practices;
 - Positive school climate³ initiatives; and
 - Positive behavior supports; and
- Specifies that suicide prevention programs on the list are the only programs that must include training components for school personnel and others who regularly interact with students, such as social workers and law enforcement officers.

³ The bill clarifies that "school climate" means the quality and character of school life, which includes interpersonal relationships, teaching and learning practices, and organizational structures that are experienced by students, parents, and school personnel.

Testing and Accountability

Bill Number & Caption	Author & Sponsor	Bill Summary
<p><u>SB 463</u></p> <p><i>Relating to the use of individual graduation committees to satisfy certain public high school graduation requirements and other alternative methods to satisfy certain public high school graduation requirements.</i></p>	<p>A: Seliger S: Huberty</p>	<ul style="list-style-type: none"> • Requires the TEA Commissioner to establish procedures for determining whether certain students qualify to graduate and receive a high school diploma; <ul style="list-style-type: none"> ○ Impacted students include those who: <ul style="list-style-type: none"> ▪ Entered 9th grade before the 2011-2012 school year; ▪ Successfully completed curriculum requirements for high school graduation; ▪ Have not performed satisfactorily on a statewide assessment instrument, part of an instrument, or an alternate assessment instrument that is required for graduation; and ▪ Have been administered this instrument and performed unsatisfactorily at least three times; ○ Requires the TEA Commissioner to establish: <ul style="list-style-type: none"> ▪ A procedure for determining whether a student (described above) qualifies to graduate and receive a high school diploma; and ▪ Criteria for districts to make recommendations for alternative requirements by which a student may qualify to graduate; ○ States that alternative graduation requirements for a student who meets the bill’s criteria may include: <ul style="list-style-type: none"> ▪ Performance standards on alternative assessment instruments; ▪ Work experience; ▪ Military experience; or ▪ Other relevant life experience; and ○ Specifies that the school district’s decision regarding whether a student (described above) qualifies to graduate is final and may not be appealed; • Extends (to 2019) the ability of eleventh- and twelfth-grade students who failed an end-of-course assessment to qualify for graduation if approved by each student’s individual graduation committee; • Requires the Texas Higher Education Coordinating Board (THECB) and TEA to collect longitudinal data related to the post-graduation pursuits of students who are awarded a

		<p>diploma based on an individual graduation committee's determination;</p> <ul style="list-style-type: none"> ○ Data collected may include whether a student: <ul style="list-style-type: none"> ▪ Enters the workforce; ▪ Enrolls in an associate, certificate, or bachelor's program at an institution of higher education; or ▪ Enlists in the armed forces; and ● Requires the THECB to report these data to the Texas Legislature before each legislative session.
<p><u>HB 61</u></p> <p><i>Relating to consideration under the public school accountability system of performance on assessment instruments by certain students formerly receiving special education services and to the placement and use of video cameras in certain self-contained classrooms or other settings providing special education services.</i></p>	<p>A: Guillen S: Uresti</p>	<ul style="list-style-type: none"> ● Amends annual school accountability standards to include new measures related to students with disabilities; ● Expands accountability standards to evaluate middle school, junior high school, and elementary school campuses (and districts that include these campuses) on the percentage of students who performed satisfactorily on statewide assessments during the year after their exit from a special education program; ● Establishes an academic distinction designation for campuses and districts based upon the percentage of students who performed satisfactorily on statewide assessments during the year after their exit from a special education program; and ● Includes reforms to statute regarding cameras in special education classrooms identical to those in SB 1398 (Lucio/Thompson). Note that SB 1398 did pass and was signed into law by the Governor. See page 5 for those details. <p>Note: Governor Abbott vetoed this legislation.</p>
<p><u>HB 657</u></p> <p><i>Relating to procedures for a student enrolled in a special education program who fails to perform satisfactorily on certain assessment instruments.</i></p>	<p>A: Bernal S: Menéndez</p>	<ul style="list-style-type: none"> ● Requires a student's ARD committee to meet after a student does not perform satisfactorily on a statewide assessment (such as a STAAR test) and before that student is administered the assessment for a second time; ● Allows the ARD committee to promote the student who has performed unsatisfactorily on a statewide assessment to the next grade level, if the committee determines that the student made sufficient progress toward his or her IEP goals; ● Specifies that a student who is promoted to the next grade level by his or her ARD committee is not required to retake the statewide assessment after failing to perform satisfactorily the first time; and

		<ul style="list-style-type: none"> • Requires school districts, at the beginning of each school year, to provide parents with information about an ARD committee's options after a student in special education does not perform satisfactorily on a statewide assessment.
<p><u>HB 2130</u></p> <p><i>Relating to a study conducted by the Texas Education Agency regarding the statewide assessment program in relation to students in special education programs.</i></p>	<p>A: Roberts S: Menéndez</p>	<ul style="list-style-type: none"> • Charges TEA with the responsibility to conduct a study regarding the impact of the statewide assessment program on students receiving special education services; • Requires TEA to include certain components in the study, such as: <ul style="list-style-type: none"> ○ Whether state assessments accurately assess students with disabilities; ○ How assessments impact student promotion, graduation, and employment outcomes; and ○ How allowing parents to opt children with disabilities out of assessments would impact the statewide assessment program; • Instructs TEA to develop specific recommendations on how to improve the impact of the statewide assessment program on students in special education, including recommendations for applying universal design principles during the administration of assessments; and • Requires TEA to develop, publish online, and submit a report to the Texas Legislature describing the study's findings and recommendations by October 1, 2018.

Special Populations

Bill Number & Caption	Author & Sponsor	Bill Summary
<p><u>SB 589</u></p> <p><i>Relating to the licensing and regulation of behavior analysts and assistant behavior analysts; requiring an occupational license; imposing fees.</i></p>	<p>A: Lucio</p> <p>S: Simmons</p>	<ul style="list-style-type: none"> • Known as the Behavior Analyst Licensing Act; • Defines the practice of applied behavior analysis (ABA) as the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior; • Prohibits a person from practicing ABA or using the title licensed behavior analyst, licensed assistant behavior analyst, or behavior analyst, unless the person holds a specific license; • States that the bill does not apply to several groups, including: <ul style="list-style-type: none"> ○ Licensed psychologists and other licensed professionals whose use of ABA services is within their scope of practice; ○ Family members or guardians who are implementing a behavior analysis treatment plan under the direction of a licensed behavior analyst or licensed assistant behavior analyst; ○ Teachers or school employees who provide ABA services within their scope of employment; and ○ Behavior analysts who practice with nonhumans or who do not provide direct services; • Requires applicants for an ABA license to submit an application presenting evidence that they: <ul style="list-style-type: none"> ○ Are certified by an approved certifying entity; ○ Have met certain education requirements; ○ Have passed the board-certified behavior analyst (BCBA) examination or an approved equivalent; ○ Are in compliance with all professional, ethical, and disciplinary standards; and ○ Are not subject to any disciplinary action by the certifying entity; • Specifies that licenses must be renewed every two years; • Creates a nine-member advisory board which must meet at least twice per year and include members of the public who are former service recipients of ABA services or their parents/guardians; • Requires the Texas Commission of Licensing and Regulation to provide reasonable assistance to someone who wishes

		<p>to file a complaint regarding ABA services and/or a licensed behavior analyst, licensed assistant behavior analyst, or behavior analyst; and</p> <ul style="list-style-type: none"> • States that licensing requirements created by the bill do not apply until September 1, 2018.
<p><u>SB 2080</u></p> <p><i>Relating to a requirement that school districts and open-enrollment charter schools report certain information regarding children with disabilities who reside in residential facilities.</i></p>	<p>A: L. Taylor S: Guillen</p>	<ul style="list-style-type: none"> • Requires school districts and open-enrollment charter schools to include in their PEIMS report information regarding the number of children with disabilities who: <ul style="list-style-type: none"> ○ Reside in a residential facility; ○ Are tracked by the Residential Facility Monitoring System; and ○ Receive educational services from that district or charter school.
<p><u>HB 1556</u></p> <p><i>Relating to the appointment of foster parents and other qualified persons to serve as educational decision-makers for certain children in the conservatorship of the Department of Family and Protective Services.</i></p>	<p>A: Gonzalez S: Menéndez</p>	<ul style="list-style-type: none"> • Enables a foster parent to act as a parent (and therefore, the special education decision-maker) of a child with a disability immediately, rather than requiring the foster parent to wait at least 60 days before doing so; • Requires the foster parent to complete a training program before the next ARD meeting and no later than 90 days after the date on which the foster parent begins acting as the parent; • Requires the Department of Family and Protective Services (DFPS) to notify a school district within five days of a child's enrollment, if the child's foster parent is unwilling or unable to serve as a parent for purposes of special education decision-making; • Requires school districts to appoint a surrogate parent for a child with a disability when the district is unable to identify or locate the child's parent, or the foster parent is unwilling or unable to serve as a parent; • Specifies that the surrogate parent may not: <ul style="list-style-type: none"> ○ Be an employee of the state, school district, or any other agency involved in the child's education; or ○ Have any interest that conflicts with the child's interests; • Requires the surrogate parent to perform certain duties, including: <ul style="list-style-type: none"> ○ Ensure that the child's due process rights are not violated;

		<ul style="list-style-type: none"> ○ Complete an approved training program; ○ Visit the child and his or her school; ○ Review the child's educational records; ○ Consult with various individuals involved in the child's education (such as teachers, guardians ad litem, and foster parents); and ○ Attend ARD meetings; ● Requires school districts to consult with DFPS if the district determines that the surrogate parent is failing to properly perform his or her duties; and ● Requires DFPS to appoint another surrogate parent and promptly inform the court of the original surrogate parent's failure to properly perform his or her duties.
<p><u>HB 1569</u></p> <p><i>Relating to the disclosure to public schools of certain records of students placed in residential facilities.</i></p>	<p>A: Ashby S: Nichols</p>	<ul style="list-style-type: none"> ● Requires a residential facility to provide public schools that serve students in the facility with certain information; ● Information may include: <ul style="list-style-type: none"> ○ A student's school records, ○ A student's special education eligibility; ○ A student's behavioral intervention plan; ○ A school-related disciplinary actions taken against the student; ○ Documents related to the student's educational needs; ○ Any behavioral history information that is not confidential; and ○ A student's conviction record or probation, community supervision, or parole status, if that information is needed to provide the student with educational services; ● Clarifies that the bill does not apply to: <ul style="list-style-type: none"> ○ Juvenile pre-adjudication secure detention facilities; or ○ Juvenile post-adjudication secure correctional facilities.
<p><u>HB 1886</u></p> <p><i>Relating to dyslexia screening and testing in public schools, the employment of dyslexia specialists by regional education service centers, the development of a</i></p>	<p>A: Miller S: Huffman</p>	<ul style="list-style-type: none"> ● Requires each education service center to employ a licensed dyslexia therapist who can provide districts with the support and resources needed to serve students with dyslexia and their families; ● Specifies that students in Texas public schools must be screened or tested for dyslexia and related disorders at the end of each student's kindergarten and first grade years; ● Requires TEA to develop an annual list of training opportunities regarding dyslexia that will enable educators to:

<p><i>list of training opportunities for educators regarding dyslexia, and transition planning for students enrolled in a special education program.</i></p>		<ul style="list-style-type: none"> ○ Recognize the signs of dyslexia and other related disorders; and ○ Implement evidence-based instruction that meets the needs of students with dyslexia; and ● Includes transition planning reforms identical to those in SB 748 (Zaffirini/Allen). See page 4 for those details.
<p><u>HB 3632</u> <i>Relating to notice of an extension of the timeline for a parent to request a special education impartial due process hearing in certain circumstances.</i></p>	<p>A: Moody S: Rodríguez</p>	<ul style="list-style-type: none"> ● Aims to ensure that families with active-duty military members have access to an appropriate and fair amount of time when requesting a special education due process hearing; ● Requires TEA to include information regarding the Servicemembers Civil Relief Act (SCRA) in the <i>Notice of Procedural Safeguards</i>;⁴ and ● Requires the TEA Commissioner to adopt rules for implementing HB 3632 during the TEA rulemaking process.

⁴ The Servicemembers Civil Relief Act is a federal law that provides protections for active-duty military members. Among other things, the law stipulates that the period of a servicemember's active military service may not be included when computing a period by law or regulation for the bringing of an action or proceeding in a court or agency. HB 3632 aims to ensure that active-duty military members may toll their time in service when requesting a special education due process hearing in Texas.

School Finance

Bill Number & Caption	Author & Sponsor	Bill Summary
<p><u>HB 21</u></p> <p><i>Relating to public school finance, including funding for the recruitment and retention of teachers and the support of participants in the public school employees group insurance program.</i></p> <p>Note: This bill was passed during the first-called special session of the 85th Texas Legislature.</p>	<p>A: Huberty</p> <p>S: L. Taylor</p>	<ul style="list-style-type: none"> • Reforms finance mechanisms for traditional public schools and open-enrollment charter schools; <ul style="list-style-type: none"> ○ <i>Note that this is an abbreviated summary of HB 21.</i> • Appropriations Transfers: <ul style="list-style-type: none"> ○ Transfers \$311 million from the Health and Human Services Commission (HHSC) to TEA in order to fund: <ul style="list-style-type: none"> ▪ The financial hardship transition program; ▪ Instructional facilities for open-enrollment charter schools; ▪ The existing debt allotment; and ▪ The small-sized district adjustment; ○ Transfers \$212 million from HHSC to the Teacher Retirement System of Texas; and ○ Allows HHSC to identify the strategies and objectives out of which these transfers will be made; • Financial Hardship Transition Program: Establishes a financial hardship transition program to replace Additional State Aid for Tax Reduction (ASATR) funding for certain school districts; <ul style="list-style-type: none"> ○ Caps the amount of grants that can be awarded at \$100 million during the 2017-2018 school year and \$50 million for the 2018-2019 school year; • Charter Facilities Funding: Provides \$60 million dollars to fund instructional facilities for charter schools if their most recent overall performance rating reflects at least acceptable performance; • The Teacher Retirement System of Texas: Allocates \$212 million to the Teacher Retirement System of Texas to provide support to participants in the Texas Public School Employees Group Insurance Program; • Autism Grant Program: Develops a two-year, \$20 million grant program for public schools that provide free and innovative services to students with autism; <ul style="list-style-type: none"> ○ Requires the TEA Commissioner to award grant funds to no more than 10 eligible programs; ○ States that, to be eligible for the grant, the autism program must operate as an independent campus or a separate program from the campus in which the program is located;

		<ul style="list-style-type: none"> ○ Requires that eligible grantees incorporate: <ul style="list-style-type: none"> ▪ An evidence- and research-based design; ▪ Empirical data on student achievement; ▪ Parental collaboration; ▪ Meaningful inclusion; and ▪ The ability to replicate the program; ○ Narrows program eligibility to students between ages three and nine (or those below fourth grade); ○ Clarifies that administrators and ARD committee members may not place a student in the program without a parent’s written consent; ○ Enables grantees to alter the length of the school day or year, coordinate with private and community-based service providers, serve students other than those with autism, and adapt staff-to-student ratios while implementing the program; ○ Requires the TEA Commissioner to create an external panel of stakeholders (which must include parents of students with disabilities) to select grantees; ○ Enables the TEA Commissioner to consider a participating child as a student in a mainstream placement for school finance purposes; and ○ Requires the TEA Commissioner to publish a report on the grant program by December 31, 2020; ● Dyslexia Grant Program: Develops a two-year, \$20 million grant program for public schools that provide free and innovative services to students with dyslexia; <ul style="list-style-type: none"> ○ Establishes the same eligibility and implementation requirements as the autism grant program described above; ● Commission on Public School Finance: Creates a 13-member Texas Commission on Public School Finance to develop recommendations for improvements to the school finance system; <ul style="list-style-type: none"> ○ Among other membership requirements, specifies that the Commission must include at least one person who is a current or retired classroom teacher with 10+ years of teaching experience; ○ States that the Commission must develop recommendations that address certain issues, including: <ul style="list-style-type: none"> ▪ The purpose of the school finance system; ▪ The relationship between state and local funding in that system;
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		<ul style="list-style-type: none"> ▪ The appropriate levels of funding to implement a system that complies with the Texas Constitution; and ▪ Policy changes to the system that are needed to adjust for student demographics and the geographic diversity in the state; ○ Requires the Commission to deliver a report of its findings to the Governor and Texas Legislature by December 31, 2018; and ○ Permits (but does not require) the Commission to hold public meetings.
<p><u>HB 30</u></p> <p><i>Relating to the transfer of certain appropriations to the Texas Education Agency and the Teacher Retirement System of Texas and the adjustment of appropriations for public school finance.</i></p> <p>Note: This bill was passed during the first-called special session of the 85th Texas Legislature.</p>	<p>A: Zerwas</p> <p>S: Nelson</p>	<ul style="list-style-type: none"> • Transfers certain appropriations from the Health and Human Services Commission (HHSC) in order to pay for school finance reforms created by HB 21 (Huberty/Taylor); • Allows HHSC to identify the strategies and objectives out of which the transfers will be made; • Transfers \$351 million from HHSC to TEA as follows: <ul style="list-style-type: none"> ○ \$150 million to fund financial hardship grants for certain school districts; ○ \$60 million to fund instructional facilities for open-enrollment charter schools; ○ \$60 million to fund the existing debt allotment; ○ \$41 million to fund the small-sized district adjustment for certain school districts; ○ \$20 million to fund a grant program for public schools that provide free and innovative services to students with autism; ○ \$20 million to fund a grant program for public schools that provide free and innovative services to students with dyslexia; ○ Clarifies that if HB 21 also transfers dollars in the same manner, then the transfer under HB 21 takes precedence; • Enables HHSC to push back monthly capitation payments to managed care organizations (MCO) that provide health care services to Medicaid recipients; <ul style="list-style-type: none"> ○ Specifies that if HHSC uses the MCO deferral as a method to finance the reforms created by HB 21, then HHSC must make the delayed payments as soon as possible out of available funds; • Transfers \$212 million from HHSC to the Teacher Retirement System of Texas to provide support to

		<p>participants in the Texas Public School Employees Group Insurance Program; and</p> <ul style="list-style-type: none">• Clarifies that HB 30 only becomes law if HB 21 (or a similar act addressing funding to the public school finance system) is passed.
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Special Education Budget Riders SB 1 (General Appropriations Act)

Rider Number & Title	Budget Article	Rider Summary
Rider 65 <i>Early Childhood Intervention (ECI) Report on Changes to Improve the Family Cost Share System</i>	Article II, HHSC	<ul style="list-style-type: none"> • Requires HHSC to prepare and submit a report on alternative methods (e.g. monthly participation fees) for charging parents for ECI services; and • States that HHSC must submit its report to the Legislative Budget Board and Governor’s Office by December 1, 2018.
Rider 67 <i>Early Childhood Intervention (ECI) Services; Medicaid Billing</i>	Article II, HHSC	<ul style="list-style-type: none"> • Requires HHSC to provide technical assistance to ECI service providers regarding Medicaid Targeted Case Management (TCM) reimbursement; and • States that assistance must include: <ul style="list-style-type: none"> ○ In-depth assistance on correct billing and documentation procedures; and ○ Disseminating best practices to local ECI providers.
Rider 10 <i>State-Level Professional Development for School Personnel and Parents of Students with Autism</i>	Article III, TEA	<ul style="list-style-type: none"> • Directs TEA to continue allocating \$200,000 per year to implementing state-level professional development for school personnel and parents of children with autism.
Rider 13 <i>Regional Day Schools for the Deaf</i>	Article III, TEA	<ul style="list-style-type: none"> • Clarifies that funds appropriated for Regional Day Schools for the Deaf must be allocated on a weighted full-time equivalent basis.
Rider 14 <i>Summer School for Children with Limited English Proficiency</i>	Article III, TEA	<ul style="list-style-type: none"> • Requires TEA to allocate \$3.8 million each year to summer school programs for students with limited English proficiency. • <i>Note that children with limited English proficiency were disproportionately impacted by TEA’s 8.5% cap on special education enrollment.</i>
Rider 15 <i>Statewide Services for Students with Visual Impairments</i>	Article III, TEA	<ul style="list-style-type: none"> • Requires TEA to allocate about \$5.7 million each year to statewide services for students with visual impairments.

<p>Rider 16 <i>Non-Educational, Community-Based Support Services</i></p>	<p>Article III, TEA</p>	<ul style="list-style-type: none"> • Requires TEA to allocate about \$1 million per year to non-educational, community-based support services for students with disabilities.
<p>Rider 17 <i>Professional Development for the Provision of Access to the General Curriculum for Students with Disabilities in the Least Restrictive Environment</i></p>	<p>Article III, TEA</p>	<ul style="list-style-type: none"> • Requires TEA to set aside 10.5% of its discretionary special education funds provided through the IDEA for capacity building projects, including projects to: <ul style="list-style-type: none"> ○ Increase access to the general curriculum for students with disabilities in the least restrictive environment; and ○ Implement Response to Intervention (RtI) processes for struggling learners.
<p>Rider 19 <i>Payments to Texas School for the Blind and Visually Impaired and Texas School for the Deaf</i></p>	<p>Article III, TEA</p>	<ul style="list-style-type: none"> • States that the Texas School for the Blind and Visually Impaired and the Texas School for the Deaf must be considered independent school districts for determining eligibility for all discretionary grants from state or federal funds; • Out of discretionary IDEA Part B funds, requires TEA to allocate: <ul style="list-style-type: none"> ○ \$1.3 million each year to the Texas School for the Blind and Visually Impaired; and ○ \$460,000 each year to the Texas School for the Deaf; and • Requires that these funds be used to support classroom instruction.
<p>Rider 25 <i>Limitation on the Transfer and Use of Funds</i></p>	<p>Article III, TEA</p>	<ul style="list-style-type: none"> • Grants TEA the authority to transfer IDEA dollars set aside for state-level activities among IDEA programs upon written notice to the Legislative Budget Board and the Governor; and • Specifies that this transfer may not exceed \$5 million each year.
<p>Rider 29 <i>Regional Education Service Center Dyslexia and Related Disorder Coordinators</i></p>	<p>Article III, TEA</p>	<ul style="list-style-type: none"> • Requires TEA to allocate \$275,000 each year to education service centers in order to fund the employment of specialists in dyslexia and other related disorders; • See the description of HB 1886 on page 17 for more information.

<p>Rider 31 <i>Recorded Instructional Materials</i></p>	<p>Article III, TEA</p>	<ul style="list-style-type: none"> • Requires TEA to allocate no more than \$200,000 each year to continue providing digital audio technology for the instruction of students with visual impairments and other print disabilities; and • Requires TEA to allocate no more than \$1.5 million each year to an educational outreach program that provides: <ul style="list-style-type: none"> ○ Instructional materials in accessible formats to people with print disabilities; and ○ Training in the use of accessible instructional materials and related assistive technology.
<p>Rider 32 <i>Local Educational Agency Risk Pool</i></p>	<p>Article III, TEA</p>	<ul style="list-style-type: none"> • Requires TEA to establish a high cost risk pool to assist districts and charter schools in serving students with disabilities in the least restrictive environment.
<p>Rider 33 <i>Early Childhood Intervention</i></p>	<p>Article III, TEA</p>	<ul style="list-style-type: none"> • Requires TEA to transfer \$16.5 million each year from the special education allotment to HHSC in order to support ECI service delivery; and • Requires TEA and HHSC to enter a memorandum of understanding (MOU) in which the agencies must list the services that the funding will support.
<p>Rider 68 <i>Individuals with Disabilities Education Act State Maintenance of Financial Support</i></p>	<p>Article III, TEA</p>	<ul style="list-style-type: none"> • Directs TEA to make necessary expenditures in order to meet state maintenance of financial support requirements under the IDEA.

Related Resources

General Resources

- TEA's [Notice of Procedural Safeguards](#): Explains parents' rights and responsibilities under the Individuals with Disabilities Education Act (IDEA) in [English](#) and [Spanish](#).
- [The Parent's Guide to the Admission, Review, and Dismissal Process](#): Explains the individualized education program (IEP) process for a student in a special education program and incorporates a parents' rights and responsibilities concerning the ARD process in [English](#) and [Spanish](#).
- [Special Education Rules & Regulations](#): Outlines federal laws, state laws, and TEA Commissioner and State Board of Education rules related to students with disabilities.
- [SPEDTEX](#): TEA's special education information center, which provides accurate and timely answers to questions about special education to stakeholders across the state.
- [DRTx's IDEA Manual](#): Contains information about the IDEA, as well as form letters for requesting special education evaluations, filing a due process complaint letter, and other helpful resources in [English](#) and [Spanish](#).

Child Find and Disability Identification

- [The Houston Chronicle's "Denied" series](#): Provides information about the 8.5% cap on special education enrollment in Texas.
- [DRTx's Response to Intervention \(RtI\) Infographic](#): Describes the RtI process and the information that school districts are required to provide to parents and guardians regarding a struggling learner.

Transition Planning and Older Students

- [The Texas Transition and Employment Guide](#): Provides information on statewide services and programs that assist students with disabilities as they transition to life outside of the public school system.
- [DRTx's Supported Decision-Making Resources](#): Lists helpful resources on supported decision-making as an alternative to guardianship for students with disabilities.
- [DRTx's Your Rights, Your Voice Guide](#): Helps transition-age youth with mental health concerns learn about their rights as they transition into adulthood.

School Mental Health

- [Texans Care for Children's Policy Update](#): Reviews information about children's mental health and youth justice policies during the 85th Legislative Session.
- [The Hogg Foundation's Mental Health Guide](#): Describes mental health services available across state agencies, including the [Texas Education Agency](#), the [Department of State Health Services](#), and the [Health and Human Services Commission](#).

- **The Hogg Foundation’s [Legislative Session Summary](#):** Outlines bills and budget riders related to mental health that were filed during the 85th Legislative session.

Testing and Accountability

- **TEA’s [Accommodations Resources](#):** Provides information on TEA’s accessibility policies in 2017 and 2018 for students taking STAAR or TELPAS.

Special Populations

- **Texans Care for Children’s [Policy Update](#):** Reviews information about child protection, early childhood, and maternal & child health policies during the 85th Legislative Session.

Budget

- **[Conference Committee Report, SB 1 \(General Appropriations Act\)](#):** Outlines the state’s budget, including budget riders for each state agency.

Need help on a certain policy issue or special education concern?

Contact DRTx policy specialist Steven Aleman at saleman@drtx.org or policy fellow Rachel Gandy at rgandy@drtx.org.

Are your rights or the rights of a loved one being violated?

Call DRTx’s toll-free intake line at 1-800-252-9108 or complete an online service request [here](#).