

86th Legislative Session Education Bill Review

The 86th Legislative Session began in January 2019 and ran through the end of May 2019. This handout includes special education issues considered during the legislative session and how each may affect your child's education. Our bill review falls into 8 main sections:

1. School Finance
2. Safety
3. Child Find
4. Mental Health
5. Transition
6. Discipline
7. Special Populations
8. Instruction

For more details on these and other bills, visit [Texas Legislature Online](#).

TEA Rulemaking: Texas Education Agency (TEA) will be implementing new legislation by amending or creating state agency regulations. Rulemaking is a public process with notice and comments.

Training: TEA, Education Service Centers, and educational groups will be conducting trainings and seminars, adding guidance and commentary on new legislation. Some trainings open to public.

Oversight: Texas Legislature will be holding interim hearings to monitor implementation of new legislation. Interim hearings open to public and broadcast on Texas Legislative Online website. Public testimony is possible.

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SECTION 1: School Finance

House Bill 3

By Representative Huberty, related to school finance reform.

This more than 300-page bill affects every part of the public education finance system. This summary is focused on strides made impacting students with disabilities.

- The basic allotment per student was increased from \$5,140 to \$6,130.
- New funding allotments were created for:
 - Dyslexia
 - College, Career, and Military Readiness
 - Early Education
- Certain allotments were revised to provide more funding to serve students while also incentivizing the support and expansion of certain programs.
 - Special Education
 - Compensatory Education
 - Bilingual Education
 - Career and Technology Education

New Dyslexia Allotment

- School districts will get an allotment of **.1** for a student who is receiving services for dyslexia or a related disorder (through an Individualized Education Program (IEP) or Section 504 plan), if the student is receiving instruction that meets dyslexia program criteria set by the State Board of Education (SBOE) and the instruction is delivered by a person with dyslexia training. This allotment is estimated to be approximately \$600 per student.
- The school district may use up to 20% of the allotment to contract with private providers to provide to a student supplemental academic services that are recommended under the student's plan. The student, however, may not be excused from school to receive these services.

New College, Career, or Military Readiness Outcomes Bonus

- This new student allotment is based on the concept of rewarding school districts for their performance.
- The Texas Education Agency (TEA) will determine a minimum threshold for the number of high school graduates in a special population group who should achieve college, career, or military readiness.
- The groups are students who are educationally disadvantaged, students who are not educationally disadvantaged, and **students receiving special education services**.
- For the number of graduates who demonstrate college, career, or military readiness and exceed the minimum threshold for their designated group the school district will receive:
 - Educationally Disadvantaged = \$5,000
 - Not Educationally Disadvantaged = \$3,000
 - **Special Education = \$2,000**
- For readiness requirements, see new TEC 48.110(f)(1-3).

Revised Special Education Mainstream Weight

- The special education mainstream allotment has been increased from 1.1 to **1.15**.
- The mainstream weight is based on the student's average daily attendance (ADA) in a general education classroom. ADA is calculated using the number of school days the student is present in the general education classroom and the total number of school days in the school district.
- The amount generated by the mainstream weight is added to the amount of the regular allotment for the student to yield a total funding allotment.
- The increase for this funding allotment is estimated to equal approximately \$970 more per ADA (above current allotment).
- In the 2017-18 school year, about 69% of students with disabilities, age 6-21, were placed in a regular classroom for at least 80% of their school day.

New Special Education Allotment Advisory Committee

- A new TEA advisory committee will analyze the current special education funding method, the possible implementation of other financing methods, and data on current special education expenditures, while also providing recommendations for improvement to the special education finance system.
- The new TEA advisory committee will have 14 members, appointed by the TEA Commissioner.
- Each member must represent a designated stakeholder group. Among the required members are a student with a disability, a parent of a student with a disability, a school district superintendent, and a school district board trustee. (The new state budget, HB 1, includes funding to reimburse committee members for travel and expenses while conducting meetings.)
- The new TEA advisory committee is required to issue a report to the Legislature by May 1, 2020.

Teacher Bonus for Autism Training

New authority has been given to school districts to give a bonus to teachers who complete autism training.

- Only training received through a regional education service center qualifies for the bonus.
- The school district has the discretion to determine the amount of the bonus.
- Preservation of the small and midsize school district adjustment for the state special education formula.**
- Authority for the TEA Commissioner to transfer state funds or request supplemental state funds for annual compliance with the Maintenance of Financial Support (MFS) requirement in the Individuals with Disabilities Education Act (IDEA).**

Senate Bill 500

By Senator Nelson, related to making supplemental appropriations.

This bill amended the state's current budget for the 2018-19 biennium.

•Among other things, SB 500 responded to the state's recent failures to meet federal minimum standards for statewide expenditures for students with disabilities.

•TEA violation of MFS requirement under IDEA.

•SB 500 made a supplemental appropriation to TEA to resolve past violations of the MFS requirement as well as ensure that the state will comply in fiscal year 2019:

•\$107,928,979 for resolution with U.S. Department of Education for past MFS violations. Funds will offset federal penalty.

•\$111,625,833 to ensure Texas will satisfy MFS requirement in state fiscal year ending August 31, 2019. Funds will flow to districts.

SECTION 2: Child Find

Senate Bill 139

By Senator Rodriguez, related to a notice of educational rights for certain student evaluations.

SB 139 requires the creation and distribution of a **new** notice to all Texas public school students regarding the right to a special education evaluation.

- TEA is required to develop a model notice that school districts may use to meet their obligation to distribute to every student.
- TEA must include in the model form a disclosure statement that the prior state monitoring indicator that held districts accountable to a 8.5% identification rate for students with disabilities was abolished.
- School districts and charter schools must insert into the model notice form their information about how local parents and students would initiate a referral for a special education evaluation.
- The new notice must be available in English and Spanish. Districts and charters must make a good faith effort to translate notice into the parent's native language if it is another language.
- Districts and charters are only required to distribute the new notice during the 2019-20 school year.

SECTION 3: Safety

Senate Bill 11

By Senator Taylor, related to school safety and security (and student mental health).

SB 11 is a comprehensive bill intended to improve physical security at schools as well as promote programs and interventions to minimize the risk of violence. This summary is focused on selected student-oriented provisions of the legislation.

•**New Threat Assessment and Safe and Supportive School Teams.** School districts and charter schools must now appoint Threat Assessment and Safe and Supportive School Teams.

•Threat Assessment Team **duties** include:

- 1) conducting threat assessments;
- 2) providing guidance on recognizing harmful, threatening, or violent behavior;
- 3) supporting implementation of Multihazard Emergency Operations Plans; and
- 4) developing and implementing the Safe and Supportive School Program as required by TEA.

•Threat Assessment Team members must have **expertise** in: 1) counseling; 2) behavior management; 3) mental health and substance use; 4) classroom instruction; 5) **special education**; 6) school administration; 7) school safety and security; 8) emergency management; and 9) law enforcement.

•Threat Assessment Teams must complete training regarding evidence-based threat assessment programs that is provided by either the Texas School Safety Center or a regional education service center.

•The Texas School Safety Center, in coordination with TEA, must develop model policies and procedures to assist districts and charters in establishing and training Threat Assessment Teams.

- Among other things, these model policies and procedures must include procedures, when appropriate, for **referral of a student for a full individual and initial evaluation for special education services.**

- What do threat assessments look like?

- 1) **Assessing and reporting** individuals who make threats of violence or exhibit harmful, threatening, or violent behavior.

- 2) **Determining** level of risk and appropriate intervention.

- a) Referrals for mental health assessment, or

- b) Implementing an escalation procedure.

- On a determination that a student poses a serious risk of violence to self or others, the Threat Assessment Team must immediately report that determination to the district's superintendent.

- In such cases, the superintendent must immediately attempt to inform the parent or person standing in parental relation to the student.

- Employees of the school may act immediately to prevent an imminent threat or respond to an emergency.

- New Safe and Supportive School Program.** TEA must now establish a Safe and Supportive School Program.

- TEA must collaborate with the Texas School Safety Center before adopting rules for the Safe and Supportive School Program.

- The purpose of the program is to instill research-based best practices for school safety, including those that:

- 1) Ensure psychological and physical safety;

- 2) Establish crisis situation protocols;

- 3) Provide for multi-tiered systems that support school climate, socioemotional learning, and mental and behavioral health;

- 4) Support multidisciplinary, multiagency collaboration to assess risks and threats, including rules for establishing and operating Threat Assessment and Safe and Supportive School Teams.

- Revised Multihazard Emergency Operations Plans.** Among other things, each school district's and charter school's Multihazard Emergency Operations Plan must now include a section ensuring that **students with disabilities are provided equal access to safety during a disaster or**

emergency situation, and a section ensuring the safety of students in portable buildings.

- If a board of trustees or charter receives a notice of noncompliance from the Texas School Safety Center regarding its Multihazard Emergency Operations Plan, the board or charter must take certain corrective steps.

- Revised Local School Health Advisory Councils and Health Education Instruction.** Among other things, school health advisory councils must now recommend strategies to increase parental awareness regarding risky behaviors and early warning signs of suicide risks and behavioral concerns, **including mental health disorders** and substance use disorders, and available community programs and services.

- Revised Training Policy for School District Peace Officers and School Resource Officers.** School districts of all sizes must now ensure that their peace officers and resource officers are trained in accordance with requirements of the Texas Commission on Law Enforcement (TCLE). Note: prior law exempted smaller-sized school districts.

- The TCLE training requirements for school district peace officers and school resource offices include the following topics:

- 1) child and adolescent development and psychology;
- 2) positive behavioral interventions and supports, conflict resolution techniques, and restorative justice techniques;
- 3) de-escalation techniques and techniques for limiting the use of force, including the use of physical, mechanical, and chemical restraints;
- 4) the mental and behavioral health needs of children with disabilities or special needs; and
- 5) mental health crisis intervention.

SECTION 4: Mental Health

Senate Bill 11

By Senator Taylor, related to student mental health (and school safety and security).

SB 11 also includes some provisions to promote student mental health, in addition to school safety.

- New Statewide Plan for Student Mental Health.** TEA must develop a new plan to ensure that all students have access to adequate mental health resources.

- Among other things, the plan must include TEA's goals for student mental health access to be applied across the state, a list of actions the TEA Commissioner may take without legislative action, and legislative recommendations.

- New Mental Health Rubric.** TEA must develop a new rubric that will be used by regional education service centers to assist school districts to identify resources related to student mental health.

- Among other things, regional education service centers must use the new rubric to create a regional inventory of mental health resources.

- New Statewide Inventory of Mental Health Resources.** TEA must develop a list of statewide resources available to school districts and charter schools to address mental health needs of students.

- New School Safety Allotment.** SB 11 authorizes a new grant program to direct state aid to school districts and charter schools specifically for school safety. While much of the state aid is intended for building upgrades and physical security enhancements, authorized uses also include expenditures for student-oriented programs and services.

- Among other things, districts and charters may use the new school safety allotment for:

- 1) prevention and treatment programs relating to addressing adverse childhood experiences;
- 2) providing mental health personnel and support; and

3) providing behavioral health services.

- New Texas Child Mental Health Care Consortium.** SB 11 establishes a new Texas Child Mental Health Care Consortium. Among the features of the new Consortium will be a network of comprehensive child psychiatry access centers.

House Bill 18

By Representative Price, related to student mental health and student counseling.

HB 18 is a comprehensive bill intended to improve student mental health services as well as student counseling services. This summary is focused on selected services-oriented provisions of the legislation.

- New State Access To Mental Health Services Guidelines.** TEA must develop new guidelines for school districts to partner with local mental health authorities and other local mental health services providers to increase student access to mental health services.

- TEA must cooperate with the Texas Health and Human Services Commission in developing the guidelines.

- The guidelines must address obtaining mental health services through Medicaid.

- The guidelines must be developed by May 1, 2020.

- Transfer of Duties from Texas Department of State Health Services to Texas Education Agency.** Under HB 18, certain programs connected to student mental health that were previously administered by the Texas Department of State Health Services were moved to TEA.

- Among other things, TEA will now be responsible for the state list of recommended best practice-based programs and research-based practices in areas such as **early mental health prevention and intervention**; and safe, supportive, and positive school climate.

- Revised School-Based Health Centers Requirements.** School-based health centers are a mechanism to deliver cooperative health care programs to students and their families. HB 18 revised the state requirements for these centers.

- Among other things, school-based health centers may now provide treatment for **mental health conditions** and treatment for substance abuse.
- Among other things, consent for services may now apply to a course of treatment that includes multiple treatment occasions of the same service.
- Among other things, school district boards of trustees and charter schools governing boards may now initiate the establishment of a school-based health center.
- Revised Counseling Services Requirements.** HB 18 addressed the provision of school counseling services in several ways.
- Among other things, the requirement for continuing education for counselors was increased to now include training on counseling students concerning **mental health conditions**.
- Among other things, school counselors are required to work with district staff, students, parents, and the community to plan, implement, and evaluate the new requirements for a comprehensive school counseling program that conforms to the Texas Model for Comprehensive School Counseling Programs developed by the Texas Counseling Association.
- Among other things, school districts must publish in its student handbook and post on the district's website, a statement of whether each campus in the district has a full-time school counselor.
- New Authority to Employ or Contract with Nonphysician Mental Health Professionals.** School districts now have specific authority to either employ or contract with nonphysician mental health professionals.

House Bill 19

By Representative Price, related to mental health resource for school districts.

HB 19 concentrates on strengthening partnerships between local mental health authorities and regional education service centers and school districts to improve mental health services for public school students.

- New Local Mental Health Authority Resource.** Local mental health authorities must now employ a non-physician mental health professional to serve as a mental health and substance use resource for school districts. There are certain limitations on this requirement.
- Regional education service centers must collaborate with their local mental health authority to help host the professional and make connections with school districts in the region.

SECTION 5: Transition

House Bill 165

By Representative Bernal, related to high school endorsements for students with disabilities.

HB 165 ended the state's blanket policy to deny a student with a disability a high school diploma endorsement if the student required a modification of the curriculum in a course required for the endorsement. In Texas, students may go beyond the basic Foundation Program diploma and graduate from high school with an endorsement in one of five areas, signifying completion of extra credits in the endorsement track.

•**New Special Education Eligibility for High School Endorsement.** A student with a disability may now earn an endorsement with modified curriculum in a required course for the endorsement provided that the student's Admission, Review and Dismissal (ARD) Committee determines that the curriculum, as modified, is sufficiently rigorous. The ARD Committee also determines whether the student must achieve satisfactory scores on State of Texas Assessment of Academic Readiness (STAAR) end-of-course assessments to earn an endorsement.

House Bill 2184

By Representative Allen, related to a student's transition from an alternative education placement to regular school.

HB 2184 is about facilitating a smooth return and reentry to regular school for students who have been away because of a disciplinary removal to an alternative educational placement.

•**New Personalized Transition Plan Requirement.** Schools must now create a personalized transition plan (PTP) for students arriving from a disciplinary alternative education program, juvenile justice alternative education program, or other residential program or facility.

- The PTP must include input from multiple school personnel.
- The PTP must include recommendations for best educational placement of student and range from counseling and mental health, **information regarding evaluations for special education services**, and progress reviews.

•**New Notice and Records Transfer Requirements.** The alternative placement must now provide notice and assessment and academic documentation to the school to which the student intends to transition and resume his or her education.

SECTION 6: Discipline

Senate Bill 712 and House Bill 3630

By Senator Lucio and Representative Meyer, respectively, related to prohibiting the use of certain aversive techniques on students.

SB 712 and HB 3630 prohibit school districts from using aversive techniques on students. Aversive techniques are generally regarded as a misguided method to changing a person's behavior. They intentionally inflict significant physical or emotional pain or discomfort in an attempt to reduce and stop a reoccurring behavior being exhibited by a student.

- New Ban on Aversive Techniques.** School districts now are not allowed to utilize aversive techniques.
- New Education Code Section 37.0023 defines the term aversive techniques for the purpose of the school ban.
- New TEA Guidance.** To assist schools in dealing with behavioral issues that might prompt them to consider aversive techniques, TEA must now issue guidance on alternative strategies to behavior management.
- NOTE: the new ban on aversive techniques only applies to school districts and not to charter schools.

Senate Bill 2432

By Senator Taylor, related to the removal of students from the classroom following certain conduct.

SB 2432 expands the authority of schools to place a student in a disciplinary alternative education program (DAEP).

- New Mandatory Removals to DAEP for Harassment of District Staff.** School districts must now send a student to DAEP if the student engages in harassment as outlined in the Texas Penal Code in the offense of harassment.
- See subsections 1, 2, 3, and 7 in Penal Code 42.07.

- Focused on behaviors associated with obscene communications, threats, false reports, and repeated electronic communication.
- NOTE: Chapter 37 of the Texas Education Code outlines statewide policies for school discipline and includes Section 37.004 concerning students with disabilities. Section 37.004 reinforces that schools must always comply with disciplinary procedures under IDEA.

Senate Bill 1707

By Senator Lucio, related to the duties of school district peace officers, school resource officers, and security personnel.

SB 1707 concerns the role of law enforcement personnel in school discipline.

• **New Restriction on Duties of Law Enforcement at School.** Now, school districts may not assign any duties related to routine student discipline or administrative tasks to school district peace officers, school resource officers, and security personnel. Further, districts may not require as duties of law enforcement personnel contact with students unrelated to their law enforcement duties.

• In addition, districts must coordinate with district behavior coordinators and other school personnel in determining the law enforcement duties of their officers.

SECTION 7: Special Populations

Senate Bill 2075

By Senator Paxton, related to state monitoring of, screening of, and services to, students with dyslexia and related disorders.

SB 2075 follows up on legislation passed in 2017 to require robust screening of young students for dyslexia and related disorders. The bill ensures that TEA is checking on school districts for compliance with state mandates.

•**New TEA Monitoring Authority to Ensure Screening and Services for Students with Dyslexia and Related Disorders.** The Education Code is amended to now specifically authorize and require TEA to write formal procedures to audit, monitor, and conduct on-site visits of school districts with respect to state law on screening of, and services for, students with Dyslexia and related disorders. TEA is further authorized to respond to any findings of noncompliance by developing reasonable and appropriate remedial strategies for districts.

•SB 2075 also grants TEA the same monitoring authority and duty with respect to reading diagnostic activities that districts are conducting as required under state law.

House Bill 548

By Representative Canales, related to language acquisition by students who are deaf.

HB 548 addresses concerns that students who are deaf may not have the language skills necessary for success in school and life activities.

•**New Assessment Requirement Regarding Language Acquisition By Students Who Are Deaf.** TEA must now ensure that school districts are assessing the language acquisition of students who are deaf and eight years of age and younger.

- "Language acquisition" means expressive and receptive language acquisition and literacy development in English, American Sign Language, or both, or, if applicable, in another language primarily used by a child 's parent or guardian, and is separate from any modality used to communicate in the applicable language or languages.
- TEA must identify the assessment instrument to be used by December 1, 2019.
- Districts will be required to report to TEA the data on language acquisition to assist in the statewide measure of educational progress by students who are deaf.

Senate Bill 54

By Senator Zaffirini, related to a study of accountability for students participating in regional day school programs for the deaf.

SB 54 addresses concerns by school districts about their ratings under state accountability for students in regional day school programs for the deaf.

- New Study Required Regarding State Accountability for Students in Regional Day School Programs for the Deaf.** TEA must now conduct a study regarding appropriate methods and standards to evaluate the performance, separately from the performance of other students attending the district or campus in which the program is physically located, of a student who both spends at least 50 percent of the instructional day participating in the program and whose parents do not reside in the district operating the program.
- The report is due by September, 2020.

SECTION 8: Instruction

Senate Bill 522

By Senator Zaffirini, related to development of an individualized education program for a student with a visual impairment.

SB 522 addresses Braille instruction for students with visual impairments.

- **Revised Instructional Requirements Regarding Braille.** School districts must now evaluate and consider whether Braille is an appropriate literacy medium for each student with a visual impairment. The student's ARD Committee is responsible for this review and determination. If the ARD Committee makes a determination that Braille is not the appropriate literacy medium, it may leave Braille instruction out of the student's IEP. Otherwise, the ARD Committee must include Braille instruction in the IEP.
- Districts must ensure that Braille instruction is provided by a teacher certified to instruct students with visual impairments.

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