Texas Special Education Corrective Action Plan

Texas Parent to Parent
Annual Statewide Parent Conference
June, 2019

Key Topics of Presentation

1. Federal Investigation of Special Education in Texas
   - January, 2018 Monitoring Visit Report

2. Strategic Plan and Corrective Action Response by Texas Education Agency (TEA)
   - April, 2018 Adoption

3. Implementation and Timeline
   - What Has Happened and Next Steps by Parents, Educators, and TEA
Federal Investigation of Special Education

Violation #1 of IDEA
• TEA failed to ensure Child Find for students suspected of having a disability and need for special education.

Violation #2 of IDEA
• TEA failed to ensure availability of free appropriate public education (FAPE).

Violation #3 of IDEA
• TEA failed to exercise its responsibility to supervise and monitor school districts and open-enrollment charter schools.
Federal Investigation of Special Education

Specific findings of noncompliance include the following:

“1. TEA failed to ensure that all children with disabilities residing in the State who are in need of special education and related services were identified, located, and evaluated, regardless of the severity of their disability, as required by IDEA section 612(a)(3) and its implementing regulation at 34 C.F.R. §300.111.”

“2. TEA failed to ensure that FAPE was made available to all children with disabilities residing in the State in Texas’s mandated age ranges (ages 3 through 21), as required by IDEA section 612(a)(1) and its implementing regulation at 34 C.F.R. §300.101.”
Federal Investigation of Special Education

Specific findings of noncompliance include the following:

“3. TEA failed to fulfill its general supervisory and monitoring responsibilities as required by IDEA sections 612(a)(11) and 616(a)(1)(C), and their implementing regulations at 34 C.F.R. §§300.149 and 300.600, along with 20 U.S.C. 1232d(b)(3)(A), to ensure that ISDs throughout the State properly implemented the IDEA child find and FAPE requirements.”

Page 14 – Enclosure to Texas Part B 2017 Monitoring Visit Letter

provided, and any intervention strategies employed, as well as an estimate of how long the child will receive assistance through the use of intervention strategies. Texas S.B. 1155 also gives parents the right, as part of their entitlement to all written records, to access to any records relating to assistance provided or any information collected regarding any intervention strategies.

V. Corrective Action/Next Steps

Within a timeframe agreed to by OSEP and TEA upon the issuance of this letter, the State must provide OSEP with each of the following.
Texas must provide the U.S. Department of Education with each of the following in a corrective action plan (CAP):

“1. Documentation that the State’s system of general supervision requires that each ISD identifies, locates, and evaluates all children suspected of having a disability who need special education and related services, in accordance with section 612(a)(3) of the IDEA and its implementing regulation at 34 C.F.R. §300.111, and makes FAPE available to all eligible children with disabilities in accordance with section 612(a)(1) of the IDEA and its implementing regulation at 34 C.F.R. §300.101.”
Federal Investigation of Special Education

Texas must provide the U.S. Department of Education with each of the following in a corrective action plan (CAP):

“2. A plan and timeline by which TEA will ensure that each ISD will (i) identify, locate, and evaluate children enrolled in the ISD who should have been referred for an initial evaluation under the IDEA, and (ii) require IEP Teams to consider, on an individual basis, whether additional services are needed for children previously suspected of having a disability who should have been referred for an initial evaluation and were later found eligible for special education and related services under the IDEA, taking into consideration supports and services previously provided to the child.”

Federal Investigation of Special Education

Texas must provide the U.S. Department of Education with each of the following in a corrective action plan (CAP):

“3. A plan and timeline by which TEA will provide guidance to ISD staff in the State, including all general and special education teachers, necessary to ensure that ISDs (i) ensure that supports provided to struggling learners in the general education environment through RtI, Section 504, and the State’s dyslexia program are not used to delay or deny a child’s right to an initial evaluation for special education and related services under the IDEA; (ii) are provided information to share with the parents of children suspected of having a disability that describes the differences between RtI, the State dyslexia program, Section 504, and the IDEA, including how and when school staff and parents of children suspected of having a disability may request interventions and/or services under these programs; and (iii) disseminate such information to staff and the parents of children suspected of having a disability enrolled in the ISD’s schools, consistent with 34 C.F.R. §300.503(c).”
Federal Investigation of Special Education

Texas must provide the U.S. Department of Education with each of the following in a corrective action plan (CAP):

“4. A plan and timeline by which TEA will monitor ISDs’ implementation of the IDEA requirements described above when struggling learners suspected of having a disability and needing special education and related services under the IDEA are receiving services and supports through RtI, Section 504, and the State’s dyslexia program.”

Strategic Plan and Corrective Action Response

Initial Draft

Proposed Plan

Final Plan
Strategic Plan and Corrective Action Response

- Strategic Plan and Corrective Action Response available on TEA website:
  - https://tea.texas.gov/TexasSPED/
- Strategic Plan and Corrective Action Response document divided into two main portions:
  - Special Education Strategic Plan
  - Corrective Action Response
    - Corrective Action Response located at Appendix C
    - Note: TEA only submitted Corrective Action Response to U.S. Department of Education.
- Five-year timeframe
Strategic Plan and Corrective Action Response

• Strategic Plan and Corrective Action Response document also includes appendices:
  • Appendix A summarizes TEA efforts to gather public feedback on special education system in Texas as well as the Initial Draft and Proposed Plan.
  • Appendix B summarizes other TEA plans related to special education.
  • Appendix D summarizes the budget for the Strategic Plan and Corrective Action Response.
  • Appendix E summarizes results from the online survey on the Initial Draft.

Strategic Plan and Corrective Action Response

<table>
<thead>
<tr>
<th>Strategic Plan</th>
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<tbody>
<tr>
<td>• “This strategic plan outlines a system that supports ongoing efforts to achieve strong outcomes for all students with disabilities.” (page 3)</td>
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• Special Education Strategic Plan has three parts:
  • Executive Summary
  • Review of Outcomes and Performance by Students with Disabilities
    • The data highlighted show lagging performance and outcomes.
  • Five Focus Areas
    • The focus areas are closely aligned but slightly different from the four required corrective actions.
**Strategic Plan and Corrective Action Response**

**Strategic Plan**

- "This strategic plan outlines a system that supports ongoing efforts to achieve strong outcomes for all students with disabilities." (page 3)

**Five focus areas of Special Education Strategic Plan:**
- Monitoring
- Child Find
- Training, Support, and Development
- Student, Family, and Community Engagement
- Technical Assistance Networks

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**Strategic Plan and Corrective Action Response**

**Strategic Plan**

- Monitoring.

**The special education strategic plan monitoring elements include:**
- Creation of “Review and Support Teams”
- The identification and response to issues of noncompliance with federal and state requirements by school districts and charter schools.
- Development of compliance review process
- Data collection
- Possible future rulemaking action
Strategic Plan and Corrective Action Response

**Strategic Plan**
- Implementation of Monitoring Focus Area.
  - TEA established “Review and Support Teams” for monitoring.
  - TEA published a request for a contractor or grantee for development of a revamped monitoring review process.
    - To date: no public announcement of contract or grant award
  - TEA directed school districts to collect data on students who felt their initial evaluation for special education was delayed.
    - To date: data not published

**Special education strategic plan includes two broad elements under Child Find.**

**Immediate short-term corrective actions.**
- List of eight steps. Includes: identification support; funding for enrolled students; additional guidance; targeted outreach; statewide outreach; support for surge of FIIEs; and reviews for compensatory services.

**Ongoing actions.**
- List of six steps. Includes: updated guidance; state complaint system; hearing officer and mediator training; guidance on Response to Intervention (RtI); local applications for IDEA funding; and information of dispute resolution options.
### Strategic Plan and Corrective Action Response

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<td><strong>Implementation of Child Find Focus Area.</strong></td>
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<td>• TEA established the Evaluation Capacity Program (ESC Region 20) to give supplemental grants to school districts to secure evaluation staff for completing evaluations for eligibility for special education services.</td>
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<td>• $10 million in awards distributed</td>
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<td>• TEA has initiated a project on multi-tier systems of support (MTSS) for use by schools to help struggling learners.</td>
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<td>• Guidance that MTSS cannot be used to delay special education referral</td>
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<td><strong>Training, Support, and Development.</strong></td>
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<td>• Special education strategic plan includes twelve specific elements under Training, Support, and Development.</td>
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<td>• Increasing local capability to conduct FIIEs</td>
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<td>• Teacher training institute</td>
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<td>• Information resource on RtI, state Dyslexia program, Section 504, and IDEA</td>
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<td>• State-funded Call Center expansion</td>
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<td>• State Board of Education update of Dyslexia Handbook, and other support for students with Dyslexia and related disorders. (3)</td>
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<td>• Resource on public school finance of special education</td>
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<td>• Explore educator preparation and teacher shortages. (2)</td>
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<td>• Training for local boards of trustees</td>
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<td>• Coordination with relevant state agencies</td>
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Strategic Plan and Corrective Action Response

Strategic Plan

- State Board of Education updated the state’s *Dyslexia Handbook* in November, 2018.
  - [https://tea.texas.gov/academics/dyslexia/](https://tea.texas.gov/academics/dyslexia/)
- TEA issued policy guidance on serving students with Dyslexia and related disorders.
  - June 6, 2018 letter to districts
- TEA hired a contractor to conduct a Dyslexia school district data reporting study.
- TEA did not launch teacher training institutes as proposed for 2019.

Strategic Plan and Corrective Action Response

Strategic Plan

- Special education strategic plan includes four specific elements under Student, Family, and Community Engagement.
- Statewide outreach (previously mentioned in strategic plan)
- State-funded Call Center expansion (previously mentioned in strategic plan)
- Parent brochures to help navigate special education process
- Creation of a “Stakeholder Engagement Partnership” for feedback and input to TEA
### Strategic Plan and Corrective Action Response

**Strategic Plan**

<table>
<thead>
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<th>Implementation of Student, Family, and Community Engagement Focus Area.</th>
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- TEA published a request for a contractor or grantee for development of a statewide outreach campaign.
  - To date: no public announcement of contract or grant award
- TEA published a request for a contractor or grantee for operation of stakeholder engagement activities.
  - To date: no public announcement of contract or grant award

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**Strategic Plan**

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<th>Technical Assistance Networks.</th>
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- Special education strategic plan proposes ten centers under Technical Assistance Networks.
- Child Find, Evaluation and ARD Supports
- School, Family, and Community Engagement
- Inclusive Services and Practices
- Autism
- Intervention Best Practices
- Students with Intensive Needs
- Students with Sensory Impairments
- Students in Small and Rural areas
- Student-Centered Transitions
- Multiple Exceptionalities and Multiple Needs
## Strategic Plan and Corrective Action Response

### Strategic Plan

**Implementation of Technical Assistance Networks Focus Area.**

- TEA has established seven of the ten Technical Assistance Networks:
  - Inclusive Services and Practices
  - Autism
  - Intervention Best Practices
  - Students with Sensory Impairments
  - Students in Small and Rural areas
  - Student-Centered Transitions
  - Multiple Exceptionalities and Multiple Needs

- TEA has not yet established these Networks:
  - Child Find, Evaluation and ARD Supports
  - School, Family, and Community Engagement
  - Students with Intensive Needs

### Corrective Action # 1

- Public schools will engage in Child Find and provide FAPE.

- Corrective Action Response includes seven “essential corrective actions” under # 1.

- TEA places emphasis on monitoring and compliance checks.

- TEA plans to provide better information for families on dispute resolution and better training of staff performing dispute resolution such as Hearing Officers and Mediators.

- TEA highlights SB 160 and SB 1153, both passed by the Legislature in 2017.
Strategic Plan and Corrective Action Response

Corrective Action # 2

- Public schools will evaluate students who were previously denied testing, and reassess needs of students who got services late.

- Corrective Action Response includes three “essential corrective actions” under # 2.
- TEA plans that school districts will notify all students about Child Find.
- TEA plans to provide supplemental guidance to schools about compensatory services.
- TEA plans that during the 2018-19 school year school districts will collect data on the number of students requesting an initial evaluation on basis that they should have been previously referred for special education.

Strategic Plan and Corrective Action Response

Corrective Action # 3

- Educators will not delay referrals for evaluation, and parents will get clear information about differences among laws and programs.

- Corrective Action Response includes three “essential corrective actions” under # 3.
- TEA places emphasis on the State Board of Education’s revision of the Dyslexia Handbook.
- TEA plans on providing resources focused on the interplay of IDEA, Section 504, the state’s dyslexia law, and RtI models and the benefits and limitations of each.
Strategic Plan and Corrective Action Response

Corrective Action # 4

- TEA will effectively monitor public schools to protect struggling learners suspected of having a disability and need for special education.

- Corrective Action Response includes two “essential corrective actions” under # 4.
- TEA places emphasis on restructuring its special education monitoring teams.
- TEA plans on conducting regular meetings with special education stakeholders from across the state.

Appendix D

- “Funding”
- Strategic Plan and Corrective Action Response document includes a budget.
- Budget total is $211.3 million over five years. However, if TEA reallocation of existing funds to school districts is not included, the total budget would be $146.3 million.
- Budget financed with federal IDEA funds.
  - Funds already received.
  - Anticipated funds in future.
- “TEA commits to including a legislative appropriation request (LAR) for local special education needs for the 86th Legislative Session (2019))."
Federal Review of Plan

- On October 19, 2018, the U.S. Department of Education issued its review and comments on the Corrective Action Response.
- OSEP conducted an additional onsite monitoring visit in May, 2019. Federal officials visited TEA and a small number of school districts across the state. To date, there has been no public report on findings by OSEP.
- OSEP asked TEA to develop a process, as part of its general supervisory responsibility, to identify a representative sample of school districts in the State and conduct a review of their policies and procedures relating to Child Find, evaluations, and FAPE. TEA identified a sample of districts and collected required information. To date, there has been no public report on the TEA findings.

Federal Review of Plan

- OSEP stated that it will review any revised TEA monitoring protocols and provide feedback, if needed.
- OSEP stated that with regard to the published materials that TEA has committed to provide for LEAs to post on their websites, TEA must explain, where applicable, how it will ensure LEAs communicate this information to families through means other than postings on websites, when necessary. Further, . . . if these published materials are not provided to meet IDEA’s notice requirements, they must meet the effective communication requirements for parents who are limited English proficient.
Federal Review of Plan

- OSEP indicated that it will review the revised Texas *Dyslexia Handbook*. To date, there has been no public feedback.
- OSEP told TEA that it must maintain a plan and timeline that specifies how its overall monitoring system will be implemented to ensure compliance with the statutory and regulatory provisions of the IDEA that are reflected in these corrective actions. TEA must specify how it will identify noncompliance by each LEA and describe the specific actions it may take to ensure that LEAs correct any noncompliance.
- OSEP will continue to request updates from TEA to learn of ongoing and meaningful stakeholder involvement as TEA implements the corrective actions outlined in this response.

Next Steps

- To provide feedback on the Strategic Plan and Corrective Action Response, implementation, and revision, please check the TEA website:
  - Dedicated TEA email address: TexasSPED@tea.texas.gov.
  - Comments may be submitted to the Special Education Continuing Advisory Committee via email to: CAC@tea.texas.gov
For More Information

• Texas Education Agency
  • https://tea.texas.gov/TexasSPED/
  • Email: TexasSPED@tea.texas.gov
  • Email: CAC@tea.texas.gov

• U.S. Department of Education

• Disability Rights Texas
  • https://www.disabilityrightstx.org/en/handout/tea-illegal-sped-cap/
  • https://www.facebook.com/DisabilityRightsTx/
  • www.disabilityrightstx.org

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