

Special Education Following the COVID-19 Pandemic

Texas Parent to Parent State Virtual Conference

July 16, 2021

Today's Presentation

The goal of this presentation is to inform parents about the latest mandates and guidance in special education as public schools try to return to normal following the COVID-19 pandemic. Parents need to be educated and able to ensure appropriate special education services for their children. This presentation includes the rules on compensatory education services to remedy lost services during school closures over the past two school years.

Agenda

- Recap on School Closures and Instructional Continuity
- Recap of State and Federal Policy Guidance
- Compensatory Services
- 2021-2022 School Year
- Questions and Answers

Overview of Texas Special Education

In the 2020-2021 school year, Texas school districts and charter schools provided special education services to **605,043 students with disabilities**.

In addition to the federal Individuals with Disabilities Education Act (IDEA), Texas has both statutory and regulatory requirements for special education.

- Texas Education Code, Chapter 29, Subchapter A
- Texas Administrative Code, Title 19, Chapter 89

The Texas Education Agency (TEA) is responsible for implementing Part B of IDEA.

COVID-19 and School Closures

The statewide closure of public schools in the 2019-2020 school year was unprecedented. On March 19, 2020, Governor Abbott issued the first executive order that closed all schools. Public schools remained closed for the 2019-2020 school year.

Only the Governor can close schools across the state. Our state department of education, the Texas Education Agency (TEA), **does not** have the authority to close schools.

TEA is playing a vital role during this period. TEA is providing guidance to school districts across the state, as well as adjusting state funding of public education.

COVID-19 and School Closures

TEXAS PUBLIC SCHOOL STUDENT ENGAGEMENT IN LEARNING DURING THE PANDEMIC				
TEA Crisis Code	Crisis Code Description	Student Count – All Students with Disabilities	Student Count – Learning Disabilities	Student Count – Speech Impairment
7B	No Contact For Entire Time Period	9,484	2,814	1,676
7E	Contact But Not Engaged For Majority Of Time Period	36,564	11,462	6,548
7H and 7I	Engaged Before 5/1; Either No Contact 5/1 Thru End Of Year, Or Not Engaged 5/1 Thru End Of Year	18,393	6,204	3,812

SOURCE: TEA crisis code data, School Year 2019-2020.

COVID-19 and School Closures

TEA has a dedicated page on its website for information on Coronavirus/COVID-19.

- [TEA Coronavirus COVID-19 Support and Guidance Documents Page](#)

TEA assisted school districts with trying to continue to educate students while campuses were closed. TEA and schools used the term “**instructional continuity**.” Instructional continuity applies to all students so they can pursue their studies while at home.

What instructional continuity looked like in your district was a **local** decision.

COVID-19 and School Closures

The TEA website has a page for special education guidance during the Coronavirus/COVID-19 outbreak.

[TEA COVID-19 Special Education Support and Guidance Page](#)

COVID-19 and School Closures

On **January 21, 2021**, TEA released a revised version of its COVID-19 policy questions document on special education for school districts. The policy questions pertain to developing situations that arise across the state.

[TEA Special Education FAQs](#)

COVID-19 and School Closures

TEA has produced, or provided links to, additional resources to assist educators and families on a number of special education topics during COVID-19 pandemic.

[TEA List of Special Education Resources During Pandemic](#)

TEA is frequently updating its policy and documents on COVID-19 so it is **important to always check the TEA website for the most current version.**

COVID-19 and School Closures

The U.S. Department of Education website has a home page for information on Coronavirus/COVID-19.

- [Federal COVID-19 Guidance Page](#)

There is federal guidance on Section 504 of the Rehabilitation Act and the Individuals with Disabilities Education Act (IDEA).

- [Federal COVID-19 Special Education Guidance Page](#)

COVID-19 and Compensatory Services

Compensatory Services and Extended School Year Services.

- Compensatory services are extra services provided by the school to return a student with a disability to a level of educational progress which the student should have attained but could not because of a failure by the school. Schools should provide compensatory services so students may catch up and reach Individualized Education Program (IEP) goals.
- Extended school year services are special education services provided beyond the normal school year. The school should offer extended school year services if the student has exhibited, or reasonably may be expected to exhibit, severe or substantial regression that cannot be recouped within a reasonable period of time.

COVID-19 and Compensatory Services

On May 14, 2020, TEA released its COVID-19 policy guidance document on compensatory services for students with disabilities.

[TEA COVID-19 Special Education Comp Ed Guidance](#)

On August 27, 2020, TEA released a video presentation on special education compensatory services.

[TEA COVID-19 Special Education Comp Ed Webinar](#)

TEA has also produced an informational flyer on compensatory services for parents.

[TEA COVID-19 Special Education Comp Ed Flyer](#)

COVID-19 and Compensatory Services

TEA guidance on compensatory services makes several points.

- Encourages school districts to have a system to identify and track each student with a disability whose IEP was amended or supplemented due to the closure, as well as a system to identify and track each student with a disability whose IEP services were temporarily reduced or suspended regardless of a formal IEP amendment.
- In reviewing a child's need for compensatory services, Admission, Review, and Dismissal (ARD) Committees should discuss and weigh information from a variety of sources and consider need for a formal reevaluation.

COVID-19 and Compensatory Services

TEA guidance on compensatory services makes several points.

- ARD committees should keep the student and the family in mind when determining the duration and frequency of compensatory services.
 - Overloading a student with compensatory services may ultimately do more harm than good.
 - Removing a student too often from his/her routine settings, peers, and classes once school reopens in order to provide him/her with compensatory services may have a negative impact on the student's social and educational progress.

COVID-19 and Compensatory Services

In 2021, the Texas Legislature Regular Session passed a bill important to students with disabilities and their recovery from the pandemic.

[Senate Bill 89](#) (Senator Jose Menendez)

The bill requires a student's ARD Committee to conduct an individualized review for special education compensatory services due to school closures because of the COVID-19 pandemic. The bill identifies factors for the ARD Committee to consider. If the ARD Committee has already performed such a review for a child, it is not required to repeat it during the 2021-2022 school year.

Scope: all students with disabilities in public schools.

Effective: Governor signed into law, effective immediately.

COVID-19 and Compensatory Services

Senate Bill 89 amends state law on IEPs – new Tex. Educ. Code 29.0052. A new **IEP Supplement** must address four factors in regard to both the 2019-20 and 2020-21 school years.

- Timeliness of the student's FIEE written report (if applicable).
- Timeliness of the student's initial IEP (if applicable).
- Interruption, reduction, delay, suspension, or discontinuation of special education and related services in student's IEP.
- Whether compensatory services are appropriate based upon all information.

The ARD Committee must complete the IEP Supplement by May 1, 2022.

COVID-19 and Compensatory Services

Senate Bill 89 amends state law on IEPs – new Tex. Educ. Code 29.0052. There are limits on the requirement for the new IEP Supplement.

- Applies only to students who were in special education during either the 2019-20 or 2020-21 school years.
- Applies only to students whose ARD Committee did not address and document the four factors as of the 2020-21 school year.

COVID-19 and Compensatory Services

While the school district has a duty to raise the provision of compensatory services, parents should not wait on the school.

There is a deadline for parents to formally challenge the school district on compensatory services for their student with a disability.

- Parents have one (1) year from the time that special education services were disrupted, suspended, or altered due to COVID-19 to file a complaint with TEA or request a due process hearing.
- In most cases, the deadline for going to TEA with a complaint or request for due process hearing will be **March, 2021**.

DRTx has created a sample letter for parents to use to request compensatory services. (See resource page.)

COVID-19 and Compensatory Services

In 2021, the Texas Legislature Regular Session passed a bill important to students with disabilities and their recovery from the pandemic.

[House Bill 1252](#) (Representative Joe Moody)

The bill increases the state's statute of limitations period for requesting a special education due process hearing from one year to two years.

The name of the bill is the Edgar Pacheco Jr. Act.

Scope: all students with disabilities in public schools.

Effective: Governor signed into law, effective September 1, 2022.

COVID-19 and Compensatory Services

House Bill 1252 amends state law on the limitations period for requesting a special education due process hearing – new Tex. Educ. Code 29.0164.

- New limitations period begins to apply to hearing requests filed with TEA on or after September 1, 2022.
 - Claim may cover period from September 1, 2020 to September 1, 2022 (2020-21 and 2021-22 school years).
 - Consider whether special education services were disrupted or not delivered according to the IEP during the 2020-21 school year.

Tips for Parents and Advocates

- Documenting Special Education and Related Services Suspended During School Closure
- Documenting Your Child's Educational Performance During School Closure
- Documenting Your Child's Noneducational Performance During School Closure
 - Behavioral
 - Social
 - Mental Health
 - Transition

Tips for Parents and Advocates

- Safeguarding the Health, Safety, and Welfare of Your Family
- Practicing Patience with Yourself, Your Children, and the School
- Communicating Both Directions with Your School and Teacher
- Reviewing Your Child's Current IEP
 - Present Level of Academic Achievement and Functional Performance
 - Measurable Annual Goals
 - Statement of Special Education and Related Services

Tips for Parents and Advocates

- Obtaining Private Independent Educational Evaluation for Your Child
- Requesting Reevaluation of Your Child
- Requesting Summer Instruction, Summer School, Extended School Year Program for Your Child
- Requesting Compensatory Educational Services for Your Child
 - DRTx has created a sample letter for parents to use to request compensatory services. (See resource page.)

Tips for Parents and Advocates

- Maintaining Your Child's Enrollment in School
- Signing Documents Only After You Have Reviewed and Understand
 - Consent
 - Releases
 - Waivers
 - IEP Amendments
- Ensuring Services for Your Child Even If Your Family Enters a Period of Homelessness
- Using Procedural Safeguards When Needed Such As State Complaint

2021-2022 School Year

As of the date of this presentation, there have been no official announcements regarding the 2021-2022 school year. If TEA follows the same pattern, TEA will not release any updated guidance until the middle of summer, 2021.

At this point, factors such as the status of the pandemic and federal and state decisions are still uncertain. Presumably there will be an emphasis on school “returning to normal.”

In general, TEA will not be providing state aid to school districts and charter schools to fund virtual education or remote instruction. However, when the Legislature meets in special session, extra state aid might be approved. Districts and charters will make local decisions about offering virtual education or remote instruction using local funds.

2021-2022 School Year

In 2021, the Texas Legislature Regular Session passed a bill important to all public school students and their recovery from the pandemic.

House Bill 4545 (Representative Harold Dutton)

The bill requires what is termed as “accelerated instruction” for public school students who fail to achieve satisfactory performance on certain State of Texas Assessment of Academic Readiness (STAAR) tests.

For students with disabilities, the ARD Committee will decide an individual educational plan for the student and monitor progress.

Students with disabilities should also have access to supplemental tutoring and may request a highly qualified classroom teacher.

General Resources During COVID-19

- Disability Rights Texas
 - [DRTx Website Home Page](#)
 - [DRTx COVID-19 Website Page](#)
 - [DRTx COVID-19 Compensatory Services Request Letter](#)
- Texas LawHelp
 - [Texas LawHelp COVID-19 Website Page](#)
- Texas Council for Developmental Disabilities
 - [TCDD COVID-19 Website Page](#)

Special Education Resources

- Disability Rights Texas
 - [DRTx Website Home Page](#)
 - [DRTx Education Website Page](#)
- Partners Resource Network
 - [PRN Website Home Page](#)
- Texas Special Education Information Center
 - [SPEDTEX Website Home Page](#)

Questions

Question and Answer Session as Time Permits

This presentation is for informational purposes and not intended to provide legal advice. If you believe that you are directly affected by violations of law or have questions about your specific rights, we encourage you to seek legal counsel as soon as possible.

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