

TSTA comment on the TEA Special Education Corrective Action Plan

TSTA raises the following points and concerns:

1. TEA has attempted to craft a Corrective Action Plan in response to a decision made more than a decade ago to place an arbitrary cap of 8.5 percent on special education enrollment in Texas to compensate for underfunding. TEA denies the term, but the action had the effect of denying thousands of students the special education services to which they were entitled under federal law, the Individuals with Disabilities Education Act. They include students still in our public schools and some who have long since left.
2. TEA's plan was crafted with little, if any, long-range forethought or engagement by stakeholders on its implementation and implication. Barely three months have passed since the US Department of Education notified Texas of its deficiencies in the provision of services under IDEA for Texas school children. But TEA would have us believe that broad stakeholder input has been secured and incorporated into this plan.
3. The Corrective Action Plan requires school districts to contact parents of any student who (1) received Response to Intervention services for six months or more; (2) was on a 504 plan; or (3) was in a dyslexia program. These parents are to be informed of the opportunity to have a special education evaluation of their children. Some of these students may not even need to be assessed.
4. This plan fails to address longstanding issues that saw the Response to Intervention program morph from a valued support mechanism for students struggling academically or behaviorally to a program designed for students who failed to pass the STAAR/EOC assessments.
5. TEA has held only two public hearings on the plan – one in Edinburg and one Richardson – in state with 254 counties, 269,000 square miles, more than 1,000 public school districts, and more than 5 million students.
6. The proposed Corrective Action Plan places an unfair burden on local school districts, many of which have not yet recovered from the \$5.4 billion funding cut to public education in 2011.
7. Local school districts have the ultimate responsibility to provide a "free appropriate public education" for all children with disabilities who reside within their boundaries. This financial responsibility will be compounded by the continued diversion of tax dollars from underfunded districts to charter schools, which provide few special education services or assessments.

8. Charter school districts employ fewer than 100 of the more than 4,000 diagnosticians employed in Texas. The overwhelming majority of other assessment professionals, speech pathologists and licensed school psychologists are also employed by traditional public school districts.
9. The Corrective Action Plan does not address the students who were denied an evaluation if the request was made by parents or teachers.
10. The plan does not address how the state will accommodate students who may have had disabilities but continued to receive early intervening services with no referral and were not afforded IDEA protections in disciplinary matters because the district could claim no "basis of knowledge" that the child had a disability.
11. There is no indication in the draft plan that TEA will change practices or administrative rules that allow those closest to the students – teachers and parents – to make referrals that mandate definitive responses from the district.
12. The plan fails to consider the impact of the assessment process on current school staff who must operate within the 45-day requirement for completion of an assessment. (This is a state requirement, even though IDEA authorizes a 60-day timeline.)
13. The Corrective Action Plan makes no recommendations for future legislation or agency rules to:
 - a. Strengthen the Admission, Review and Dismissal process;
 - b. Transition from the generic Special Education: Early Childhood-Grade 12 certificate to ensure special education teachers are well-trained and educated in the specific disabilities of the children they teach;
 - c. Provide limits on the number of students in a special education classroom;
 - d. Provide limits on the number of students on a special education teacher's caseload;
 - e. Limit the number of students receiving services under IDEA who can be in a general education classroom at the same time in order to eliminate or minimize the practice of dumping.
14. The Corrective Action Plan passes over the unmet needs of students underserved through IDEA, choosing instead to prioritize those who were not served. Underserved students include students receiving services under IDEA who:
 - a. made minimal progress from year-to-year with no differentiation of goals from year-to-year;

- b. were placed in inappropriate inclusion settings under the guise of “least restrictive environment” with minimal support that failed to provide opportunities for them to be successful; and
 - c. were identified by general and special education teachers as needing to go to ARD to identify additional supports and services necessary for success, but were denied by the district.
15. TEA must ensure that individuals tasked with the responsibility of onsite visits as a part of the monitoring process are qualified to do the work necessary to support and sustain IDEA services and are not simply “hired guns” seeking to find issues with compliance.

In an effort to correct past deficiencies, TEA has opted for a fast, yet flawed, process that fails to account for the state’s history of under-funding our schools. With a cost of possibly \$10,000 per student assessed and identified for services, the cost of this plan could approach or even exceed \$1 billion, with more than \$600 million borne by local school districts. This does not include costs associated with the need for additional personnel or facilities. It also does not include the necessary supports for the delivery of special education services in school systems that already have too few teachers and even fewer teachers of children with disabilities.

Absent real and sustainable funding, this approach to remedy the mistakes of the past will be nothing more than a Band-Aid on a fatal wound. Without additional education funding from the Legislature, our most vulnerable students will become even more vulnerable.

This “Corrective Action Plan” brings to mind the adage that you can either plan your budget or budget your plan. TEA has done neither. This plan repeats the mistake of policymakers who are far removed from the school setting but assume that public school educators can “make it happen.” Well, guess what? That assumption is wrong without adequate funding from the Legislature.

In closing, TSTA will continue to demand that the Legislature provide adequate and equitable funding for special education and all other education services. That is the first step in a real “Corrective Action Plan.”

Then we ask that TEA consider our feedback and create a plan that prevents this kind of fiasco from ever happening again and ensures that all Texas children, even the most vulnerable, have the opportunity to achieve their dreams and potential in great public schools with an effective teacher in every classroom.