

Texas Commission on Special Education Funding

August 10, 2022

Presented by: Steven Aleman, Disability Rights Texas (DRTx), and Kristin McGuire,
Texas Council of Administrators of Special Education (TCASE)

How Did We Get Here?

Repeal of 8.5% and any future indicators that could be interpreted as limiting the identification of students who need special education and related services

Supreme Court's Endrew F. standard for FAPE in 2017

Corrective action requirements beginning in 2018

MFS violations 2012, 2017, 2018 (commissioner now has authority to move money to avoid violation)

Response to Intervention

Dyslexia identification and services in Texas

How Did We Get Here?

In its 2018 report, the Texas Commission on Public School Finance included this as a core principle of state funding:

- *Every student with greater needs should receive additional, equitable resources to allow all students, regardless of background, the chance to achieve and live a productive life. These include higher needs attributable to low income, language fluency, special education needs, or mental health.*

The 2018 Commission report also stated this about special education:

- *All students in the State of Texas deserve to have their educational needs met. As the Commission examined the special education weight, it became clear that the Texas special education system is undergoing significant reform. Given this rapid change, the Commission deemed it prudent to wait to implement special education formula changes until the Corrective Action Plan, having been approved by the Department of Education, can be fully implemented. Focusing on improving student outcomes for all students is the aim of this Commission and conversations about outcomes for students with severe disabilities should be ongoing and prioritized.*

How Did We Get Here?

- In its 2020 report, the Special Education Allotment Advisory Committee stated the following:
 - *The current system is flawed, inefficient, and no longer reflective of the types of special education services and supports provided in schools. In order to improve student outcomes, we must invest in a more logical structure in how we fund the state program.*
- Texas Commission on Special Education Funding is now charged with developing and making recommendations regarding methods of financing special education in public schools

Why is our current system problematic?

- In November 2018, Fifth Circuit Court of Appeals stated in its opinion of TEA v US Department of Education, “...*the weighted student model creates a perverse incentive for a state to escape its financial obligations merely by minimizing the special education needs of its students.*”
- Special education and related services are just that – services. It is not a “place” one goes to within a school.
- The practice of special education has evolved over the last several decades while the funding system has remained stagnant.
- State special education data collections do not match federal data collection requirements (federal data is the percentage of time students are served in the regular classroom – 80 percent or more, between 40 and 79 percent, less than 40 percent)
- Complex formula
- Is inefficient
- Not equitable
- Not improving student outcomes

Why is Reform More Important Than Just Appropriating More Money to the Current System?

- Should not be about where the body is but about the services needed.
- As more students are being educated in general education classrooms with supports, the state must adapt its funding formula to adjust for the different needs in each classroom.
- Texas has recognized that reform is needed so the job is not done.
- Nothing negates the need for special education funding reform since the Texas Commission on Public School Finance declared the need for reform in every area, including special education. Special education is the only area that has yet to undergo significant reform.

Reform Concept

- Change the funding formula to focus on the services that are provided rather than the location of the student
- The type of disability does not dictate the extent of service needs.
- Build the formula around the foundation of a basic allotment entitlement for every student.
- Simplify the formula.
- Create a formula that assists LEA staff in planning schedules and campus needs.
- Ensure that state special education aid directly targets the cost of students with disabilities in local special education budgets.
- The state should directly support schools that encounter exceptionally expensive students to serve.
- The system should recognize that funding for services are needed not only in classrooms but also in other areas such as meals, recess, before and after school activities, etc.
- The system should be contingent upon a basic allotment that continues to grow and contains inflationary mechanisms to efficiently fund public schools.

Reform Concept Considerations/Possibilities

- Using time as a factor to determine tier/level of support
- Using day/week/6 weeks/other to determine tier/level of support
- Using domains to determine tier/level of support (for example, curriculum and learning, social/emotional, health needs, communication needs, independent functioning), and would the domains be considered separately or collectively?
- Creating weights for related services, one-to-one adult to student ratios, behavior supports, itinerant services, etc.
- How often LEAs would report service intensity level to determine tier/level of support
- Whether the high cost fund needs to be eliminated or reformed in conjunction with a new service intensity formula that includes a tier for students with the most intense needs
- Who determines the level and when?
- How often do needs change?

An Example of Service Intensity Formula Based on Time Methodology

Special Education Allocation Structure Based on Six Levels of Service Intensity

<u>Level</u>	<u>Students with disabilities receive specialized instruction, services and supports as documented in the student's IEP on average...</u>	<u>Weight Multiplier</u>
Level I	less than 20 percent of the instructional day	Adjusted Basic Allotment multiplied by Factor 1
Level II	between 20 but less than 40 percent of the instructional day	Adjusted Basic Allotment multiplied by Factor 2
Level III	between 40 but less than 60 percent of the instructional day	Adjusted Basic Allotment multiplied by Factor 3
Level IV	between 60 but less than 80 percent of the instructional day	Adjusted Basic Allotment multiplied by Factor 4
Level V	more than 80 percent of the instructional day	Adjusted Basic Allotment multiplied by Factor 5
Level VI	Full-time within the placement of a nonpublic day program placement or residential facility	Adjusted Basic Allotment multiplied by Factor 6

An Example of Service Intensity Formula Based on Hybrid Methodology

- Combines the concepts from the Florida matrix without the extensive matrix worksheet
- Includes the Texas specific speech therapy, which can be an instructional or related service
- Includes standard protocol dyslexia instruction as a special education service

Level 1

- Level 1 indicates that the student receives speech therapy (only), standard protocol dyslexia instruction (only), and/or other supports that result in minimal accommodations to the curriculum and learning environment, social/emotional behavior, independent functioning, health care, and communication domains.

Level 2

- Level 2 indicates the student is receiving assistance on a periodic basis or receives minor supports, assistance or services in the curriculum and learning environment, social/emotional behavior, independent functioning, health care, and/or communication domains.
- The student's team would consult with each other, which refers to sharing of information among the team, but the student would not generally need the more intensive service of team collaboration (used in Level 3).

Level 3

- Level 3 indicates the student is receiving accommodations to the learning environment that are more complex or is receiving services on a more frequent schedule in the curriculum and learning environment, social/emotional behavior, independent functioning, health care, and/or communication domains.
- The student's team would engage in collaboration, which refers to a joint effort among teachers, family, agencies and other providers, and involves cooperative, proactive work on the part of all participants. Collaboration, which is more intense than consultation, involves all parties actively planning and carrying out interventions designed to meet a student's needs.

Level 4

- Level 4 indicates that, for the majority of learning activities, the student is receiving specialized approaches, assistance or equipment, or is receiving more extensive modifications to the curriculum and learning environment, social/emotional behavior, independent functioning, health care, and/or communication domains. Services received on a daily basis are generally included at this level.

Level 5

- Level 5 indicates that the student is receiving continuous and intense (one-on-one or very small group) assistance, multiple services or substantial modifications for the majority of learning activities in the curriculum and learning environment, social/emotional behavior, independent functioning, health care, and communication domains.

Level 6

- Level 6 indicates that the student is receiving continuous and intense (one-on-one or very small group) assistance, multiple services or substantial modifications for the majority of learning activities at a separate location. This would include nonpublic day program placements and residential facilities.

Recommendations for Transition

- 2023-2024 school year: Beginning with this school year, TEA will operationalize and create PEIMS codes for the new funding formula.
- 2024-2025 school year: Beginning with this school year, LEAs will begin utilizing new PEIMS codes and submit to TEA.
- 2025-2026 school year: Beginning with this school year, TEA utilizes the newly collected and reported LEA data to begin distributing special education aid on the basis of the new system.
- 2025-2026 school year: In this first year of the utilization of the new formula, a mechanism would need to be in place so that LEAs would not receive less aid than in the final year of the existing formula.
- TEA would continue to collaborate with LEAs and provide technical assistance during the development of, transition to, and implementation of the new system.

How Will a Change in Funding Help Students?

- If you target funding to student needs, LEAs can plan and staff more appropriately.
- More targeted supports empowers special educators to serve as experts in student needs
- CCMR Outcomes Bonus could serve as a way to monitor the impact of the new service intensity formula on student outcomes over time.

Personnel Needs

- Remove retire/rehire penalties for anyone returning to the special education field (must include more than just teachers) (see HB 3929, 87th legislature, passed House)
- Provide funds, similar to what the legislature currently does for dyslexia specialists, to ESCs to employ staff who can serve as itinerant evaluators and specialists, including behavior specialists, to assist LEAs in meeting timelines and delivering critical services.
- Include special education teachers in good standing automatically at the recognized level in the TIA statute.
- Fee waivers to provide certification exams at no cost for special education.
- Content area special education teacher certification flexibilities.
- Direct THECB and EPPs to find ways to improve and expand certification and licensure programs.

Other Recommendations

- Increase the per mileage reimbursement for special education transportation.
- Develop and implement a statewide electronic IEP system to make data transfers and reporting more expedient and efficient.
- For the next four years, create an initial evaluation reimbursement allotment to help cover the costs incurred by LEAs.
- Authorize TEA to cap costs of residential and nonpublic day program placements made by LEAs at public expense.
- Recommend the 88th legislature adopt a resolution for Congress to increase funding under IDEA for state grants.
- Invest state resources into statewide, districtwide, community-wide, and campuswide, and classroom-wide inclusive education supports.