



Legislative Update on Select Student and Special Education Issues

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HB 159



Adds to the requirements for educator preparation programs and staff development related to serving students with disabilities. A student with a disability means a student who is eligible for special education, covered by Section 504 or covered by the IDEA. Minimum academic qualifications for certification include basic knowledge of federal disability categories and their affects on student learning and development, competence in the use of specified proactive instructional planning techniques, competence in use of evidence-based instructional practices, training in dyslexia, mental health, substance abuse, and youth suicide regardless of if a person's certification requires a bachelor's degree. Field-based teacher certification programs would also be expanded to require involvement with a diverse student population including students with disabilities to the greatest extent practicable.

Status: Sent to the Governor on 5/24/21

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HB 572

Authorizes the TEA to conduct a study on the implementation of competency-based educational programs by public schools. The study must analyze: (1) methods of providing funding that does not rely on average daily attendance, (2) assessing the performance of these programs under the public school accountability system, and (3) providing competency-based educational programs to nontraditional students, including adult students. A report to the legislature will be created for the next session based off of the results of the study. This bill also expands the definition of “student at risk of dropping out of school” to include students enrolled in a dropout recovery school.

Status: Signed in the Senate on 5/31/21

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HB 699

Requires school districts to excuse a student from attending school for an absence resulting from a serious or life-threatening illness or related treatment that made the student’s attendance infeasible, if parent or guardian provided a physician’s note with the illness and duration of absence. This absence cannot be considered in determining if student has satisfied attendance requirements for credit or final grade. Student cannot be held back due to failing STAAR primarily to circumstances that resulted from student’s health status. The school cannot refer the student to truancy court if the truancy was the result of the student’s illness or treatment. Bill would begin with 2021-2022 school year.

Status: Sent to the Governor on 5/24/21

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HB 785

Requires at least an annual review of BIPs. This review must consider changes in circumstances that may impact the student's behavior, as well as the safety of the student and others. School districts must provide written notice to a parent when a school used a restraint on their student. Schools must document each use of time-out and the behaviors that prompted the time-out if a student has a BIP. Whenever a disciplinary action leads to a change in placement, the district must conduct an FBA if the current FBA is older than one year or if an FBA has never been conducted for this student. A new BIP must then be developed based on the new FBA within 10 school days of the change in placement.

Status: Sent to the Governor on 5/22/21

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HB 1080

Prohibits the UIL from excluding students from participation in a UIL activity based on a student receiving outpatient mental health services from a mental health facility and any related absences.

Status: Sent to the Governor on 5/24/21

HB 1252

Extends the statute of limitations for filing a due process hearing for special education from 1 year to 2 years to comply with the IDEA. This new timeline would only apply to due process hearings requested on or after September 1, 2022.

Status: Signed in the Senate on 5/31/21

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HB 1468

Authorizes a school district or open-enrollment charter school to establish a local remote learning program and offer virtual courses through the program. The bill would require students enrolled in such courses to be counted toward the school's average daily attendance in the same manner as other students. Courses under this bill could be provided via synchronous instruction, asynchronous instruction, a combination of both, or in combination with in-person instruction as appropriate to meet a student's individual needs. Students would still be required to take STAAR.

A district or charter school that offered virtual courses under a remote learning program for students receiving special education services would have to ensure the courses met the needs of a participating student in a manner consistent with state and federal laws governing education services for students with disabilities.

Status: Senate adopts House conference committee report on 5/30/21

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HB 1525

Creates a grant program to provide training in dyslexia for teachers and staff. The commissioner shall establish a program to increase local capacity for school districts and open-enrollment charter schools to appropriately serve students with dyslexia. The application for funds must include an evidence-based and research-based design that (1) increases local capacity to appropriately serve students with dyslexia by providing training to teachers and administrators on meeting the needs of students with dyslexia or (2) training to intervention staff which results in appropriate credentialing related to dyslexia. The commissioner shall create an external panel of stakeholders, including parents of students with disabilities, to provide assistance in the selection of applications for the award of grants. These grants will be awarded beginning in the 2021-2022 school year, and the grants will last for two years.

Status: Signed in the Senate on 5/31/21

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HB 2256

Requires the State Board for Educator Certification to establish a bilingual special education certificate to ensure there are teachers with special training in providing instruction to students of limited English proficiency with disabilities. The coursework for this certification would focus on foundations of bilingual, multicultural, and second language education; providing IEPs for students of limited English proficiency with disabilities; providing assessments for students of limited English proficiency with and without disabilities; teaching fundamental academic, social, and emotional skills; and creating partnerships with families and school professionals among other requirements prescribed by the board.

Status: Signed in the Senate on 5/31/21

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HB 2287

Allows the Collaborative Task Force on Public School Mental Health Services or the TEA on behalf of the task force to request data from or consult with school districts, open-enrollment charter schools, regional education service centers, local mental health authorities, and other entities that possess information relevant to the task force's duties. In requesting data or consulting with permitted entities, the task force and agency may not disclose a student's medical or educational information and would have to ensure any request or consultation complied with required privacy and confidentiality of student information. The person providing the data may do so without seeking prior authorization of an individual included in the data or of the individual's parent or guardian. A person that discloses data to the task force or agency is immune from civil or criminal liability and may not be subject to administrative penalty.

Status: Signed in the Senate on 5/31/21

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HB 3643



Creates the Texas Commission on Virtual Education to develop and make recommendations regarding the delivery of virtual education in the public school system and state funding for virtual education under the Foundation School Program. The commission would consist of 12 members appointed by the governor, lieutenant governor, speaker of the House, plus a member of the State Board of Education. The 12 appointed members would have to consist of an experienced (10+ years) classroom teacher, a member of the business community, a member of the civic community, three members of the House, three members of the Senate, and an administrator in the public school system or an elected member of the board of trustees in a school district. The commission should reflect the ethnic and geographic diversity of Texas. The commission would develop recommendations to address issues related to the delivery of and funding for virtual education, including alternative instructional delivery methods and alternative methods of funding. The commission shall prepare a report for the next legislative session.

Status: Signed in the Senate on 5/31/21

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SB 40



Allows a licensed dyslexia practitioner to practice only in or provide telehealth services from a remote location only to an educational setting, including a school, learning center or clinic. A licensed dyslexia therapist may practice in or provide telehealth services from a remote location to a school learning center, clinic, or private practice setting.

Status: Sent to the Governor on 5/20/21

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SB 89

For each child who was enrolled in a school district's special education program during the 2019-2020 or 2020-2021 school year, the district shall prepare a supplement to be included with the written statement of the IEP developed for the child. The supplement must include (1) if a child's FIIE was completed during these school years and if so, if it was completed in a timely manner, (2) if a child's initial IEP was developed during these school years, and if so if it was completed in a timely manner, (3) if the provision of the child's special services as outlined by their IEP were interrupted, reduced, delayed, suspended, or discontinued, and (4) whether compensatory education is appropriate for the child. This supplement is not necessary for a child's 2020-2021 IEP if it already addresses these 4 factors.

Status: Sent to the Governor on 5/24/21.

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SB 179

School district board of trustees shall adopt a policy that requires a school counselor to spend at least 80% of their total work time on duties that are components of a counseling program. Time spent administering assessment instruments (excluding time spent in interpreting data from assessment instruments) is not considered time spent towards counseling. If a counselor needs to spend less than 80% of time on counseling due to staffing needs, the district must list why, make a list of non-counseling duties, and allocate percentage of work time counselor must spend on counseling. This list must be addressed annually.

Status: Sent to the Governor on 5/26/21

SB 279

Requires suicide prevention information to be printed on public school students' IDs in grade six and higher. The ID card must have on it the contact information for the National Suicide Prevention Lifeline and the Crisis Text Line and may include contact information for a local suicide prevention hotline.

Status: Signed in the House on 5/31/21

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SB 776



Mandates that the UIL establish and maintain an inclusive sports program for students with intellectual disabilities. The UIL shall establish rules which must accommodate inclusive sports teams offered through participating public middle schools, junior high schools, and high schools, establish eligibility requirements, identify best practices for school districts to incorporate inclusive sports, and incorporate activities that promote bullying prevention, moral intelligence, character development, leadership development, physical fitness; and positive school culture.

Status: Sent to the Governor on 5/26/21

SB 1267

Requires continuing education requirements for educators to include training regarding students with disabilities.

Status: Signed in the Senate on 5/31/21

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SB 1716



Mandates that the TEA establish and administer a supplemental special education services and instructional materials program which provides each approved student with up to a \$1500 credit to purchase supplemental special education services and supplemental special education instructional materials. TEA will establish application procedures and eligibility criteria for the credit. Students who are eligible for compensatory education allotment will be given priority.

The ARDC of participating students will provide to the student's parent at the ARD a list of supplemental special education services provided by agency-approved providers for which the account may be used for the student. Supplemental special education services include: occupational therapy, physical therapy, speech therapy, private tutoring, and supplemental private instruction or programs provided by an agency-approved provider. Supplemental special education instructional materials include: textbooks, computer hardware, computer software, assistive technology devices, and other materials that address an educational need. Status: Signed in the Senate on 5/31/21

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SB 2050



Adds additional requirements to the school board's bullying policy. The policy must include any necessary procedures concerning bullying that prevent and mediate bullying incidents that interfere with a student's education opportunities or substantially disrupt the orderly operation of a classroom, school, or school-sponsored or school-related activity. Additionally, the TEA must establish minimum standards for school district policy that includes an emphasis on bullying prevention by focusing on school climate and building healthy relationships between students and staff, require annual bullying prevention training for students and staff, require each district campus to establish a committee to address bullying, require all students to meet periodically for instruction on building relationships and preventing bullying and cyberbullying, emphasize increasing student reports of bullying, collect data on bullying, require districts to develop a checklist to address bullying and determine how to respond to the student. Districts must report through PEIMS annually the number of bullying incidents that occurred at each campus, including cyberbullying. Act applies to 2021-2022 school year and beyond.

Status: Signed in the Senate on 5/31/21

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SB 2081

Prohibits more than 22 students to be enrolled in a prekindergarten class. This act begins with the 2021-2022 school year.

Status: Signed in the House on 5/31/21

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*The information in this presentation was created by WALSH GALLEGOS TREVIÑO KYLE & ROBINSON P.C.
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