



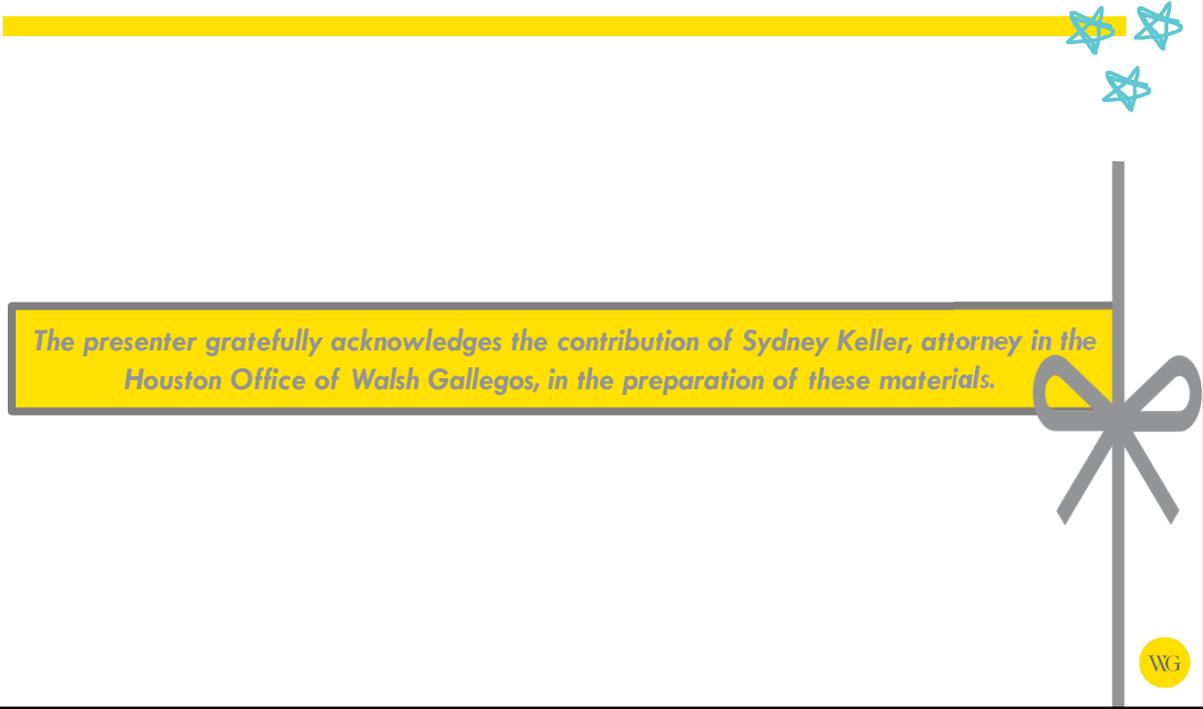
Fa law law law law . . . Remote Learning
Requirements Under Senate Bill 15

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Deck the Halls

- SB 15
- Texas Education Code Proposed Language
- Texas Education Agency Guidance
- Related Legislation
- Legal Precedent and OSEP Guidance



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Senate Bill 15



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What does SB 15 say?

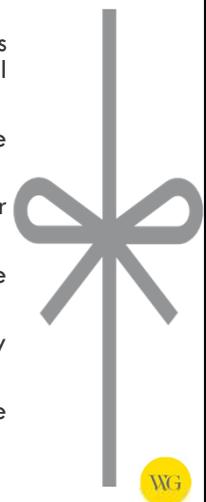
Sec. 29.9091. LOCAL REMOTE LEARNING PROGRAM. “(a) A school district or open-enrollment charter school assigned an overall performance rating of C or higher under Section 39.054 for the preceding school year or the most recent school year in which a performance rating was assigned may operate a local remote learning program to offer virtual courses outside the state virtual school network under Chapter 30A to eligible students....”



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What does SB 15 require?

- The local remote learning program must be full-time.
- It must include at least one grade level in which a STAAR exam is administered as well as the administration of all subject STAAR tests appropriate for that grade level or a complete high school program with all related STAAR EOC exams.
- The administration of the STAAR exam and all associated subjects for the appropriate grade level.
- All students in the local remote learning program must be given the option per parent election to select in-person instruction.
- The District must periodically assess the performance of student's enrolled in the program.
- The District cannot enroll more than 10% of its total student population for any length of time in the program during each school year.
- The District must establish a parental notice and input process for students who are going to be removed from the local remote learning program.



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How will the courses be taught?

- Synchronous instruction, asynchronous instruction, or a combination of the two.
- All virtual instruction may be provided in combination with in-person instruction.
- Multiple school districts may contract with each other to allow students from one district to enroll in a remote learning program in another district. The student will still be considered an enrolled student in the student's original district for purposes of ADA funding and accountability.

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Who can enroll in the program?

- Any student who lives within the district's attendance zones, who:
 - Has reasonable access to in-person services for the course at the district; and
 - Meets any additional criteria as established by the school district including, minimum academic standards.
 - If a student no longer meets minimum standards or criteria as established by the District, the district may remove a student from virtual courses and return the student to in-person instruction.

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How can a district lose funding for SB 15?

- If a student has 10 or more unexcused absences for the local remote learning program in a six month period, the District loses ADA funding through the remote learning program for that student. The student would have to return in person for ADA funding to resume.
- If a district enrolls more than 10% of their total number of students enrolled in the district for the school year in the local remote learning program for any length of time, any student over the 10% cap will not receive ADA funding for participation in the remote learning program.
- The district will lose ADA funding for any student currently enrolled in the local remote learning program who received virtual instruction for the majority of the day for the previous school year and either; (1) did not pass the STAAR exam during the previous school year, or (2) if the student did not take a STAAR exam during the previous school year, the student had more than 10% of their total attendance as unexcused absences, and the student did not earn a grade of C or higher in each of the foundation curriculum courses taken.
- All funding for SB 15 will end on September 1, 2023, unless extended by the Texas legislature.



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Texas Education Code Proposed Language



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Additional requirements for SB 15 in the TEC

- School boards will create a policy to determine the method of instruction (synchronous, asynchronous, or both).
- This policy must include the official attendance time for synchronous instruction.
- If the board chooses asynchronous instruction, the District must create an asynchronous instructional plan and must post it publically on the District's website.
- For either method of instruction, daily attendance must be taken and at least 240 instructional minutes must be offered to each student each day for a full day of funding and at least 120 instructional minutes must be offered for a half day of funding.

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What is required for remote synchronous instruction?

- Remote synchronous instruction is defined as two-way, real-time/live, virtual instruction between teachers and students when students are not on campus. Instruction may be provided through a computer or other electronic device or over the phone.
- Students are considered present for attendance taking purposes if they are logged on at the teacher's documented official attendance time, the student's camera is turned on, and the teacher is able to see the student. If the student attends class outside of the official attendance time, the student is still counted as absent for that day.
- At least 240 total minutes of instruction per day must be provided via synchronous instruction. All 240 minutes of synchronous instruction does not have to be provided consecutively. Additional asynchronous activities may be offered, but they cannot be considered for the 240 required minutes of instruction.
- Daily attendance must be taken during synchronous instruction.

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What is required for remote asynchronous instruction?

- Remote asynchronous instruction is defined as instruction that does not require the instructor and the student to be engaged at the same time. This type of instruction may include various forms of digital and online learning, such as prerecorded video lessons or game-based learning tasks that students complete on their own, and pre-assigned work and formative assessments.
- If students are receiving asynchronous instruction or less than 240 minutes of synchronous instruction in a combination program, Districts must ensure that students have access to the required number of daily instructional minutes in order to receive daily attendance funding. This can be proven by planning for and keeping documentation of the daily attendance measure, instructional schedule, materials, progress monitoring, and teacher supports.



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Additional Requirements for Remote Asynchronous Instruction

- Attendance must be taken every school day and may occur at any time from 12:00 a.m. to 11:59 p.m. or in a smaller timeframe as determined by the School Board.
- Attendance may be taken via daily progress in the learning management system, a daily check-in via teacher-student interactions, or completion/turn-in of assignments from student to teacher online or via email. Documentation proving each student's daily attendance must be maintained for funding purposes.
- District's must provide access to at least 240 minutes of remote instruction daily.
- District's must create an asynchronous instructional plan that includes: the instructional schedule, a description of how students engage in instructional materials for at least 240 minutes per day, expectations for progress monitoring, and expectations for support students will receive from a teacher. This plan must be publically posted on the District's website.



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What about students receiving special education?

- “If a district offers virtual courses under a local remote learning program for students receiving special education services, the courses must meet the needs of a participating student in a manner consistent... with federal law, including the IDEA and Section 504.”
- There are no exceptions to FAPE for remote local learning programs. All related services and accommodations deemed necessary for FAPE as determined by the Student’s ARD committee and listed in the Student’s IEP must be provided in full throughout remote synchronous or remote asynchronous instruction.
- Additionally, students receiving special education must meet the minimum participation and attendance requirements for the local remote learning program for the District to receive funding for the student. If the student does not meet the minimum requirements the ARDC should consider remote conferencing or remote homebound instruction.

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What about homebound students? Are they included?

- Students who received at least half of their instructional time enrolled in virtual courses or received remote instruction outside of the Texas Virtual Schools Network are included in the 10% funding cap for students participating in a local remote learning program.
- Students who are medically fragile, placed in a virtual setting by an ARD committee or receiving 504 services are counted towards the 10% funding cap even if they are not enrolled in the District’s formal local remote learning program as long as they are receiving some type of remote instruction outside of the Texas Virtual Schools Network.
- The 10% cap includes all students who receive remote instruction under an alternative to local remote instruction for a majority of their instructional time including those served via remote conferencing.

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What is the difference between Remote Conferencing and Remote Learning Under SB 15?

- Remote conferencing is different from remote learning under SB 15 because for remote conferencing the following requirements must be met:
 - The student is unable to attend school because of a temporary medical condition;
 - The total amount of remote conferencing instruction does not exceed more than 20 instructional days over the entirety of the school year; and
 - One of the following:
 - The student's temporary medical condition is documented by a physician that states student must remain confined to their home or hospital;
 - The student has a positive test for a communicable condition; or
 - The student has been identified as having been in close contact with COVID-19.



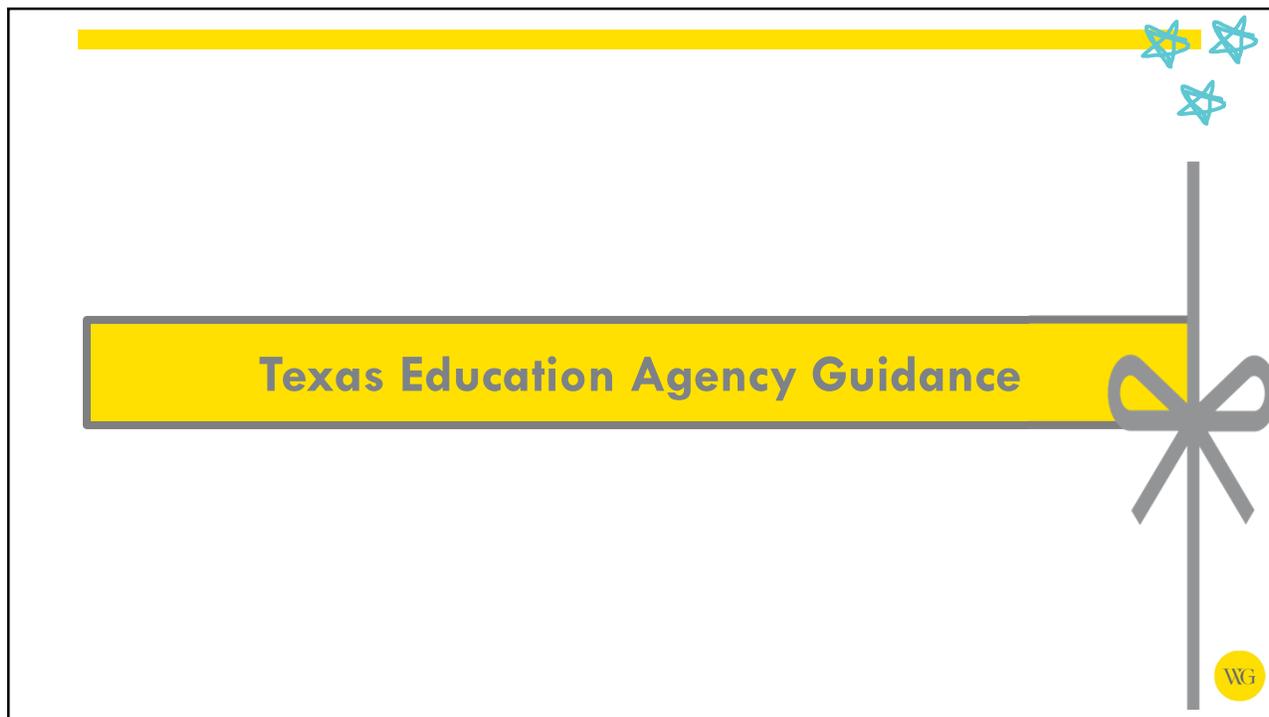
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What is the difference between Remote Conferencing and Remote Learning Under SB 15?

- Both remote conferencing and remote learning are included for ADA funding for the 10% cap if a student was enrolled in either for any length of time (including only one day).
- Remote conferencing is a temporary learning option available for all District's and must include synchronous instruction for at least 2 hours for elementary students and a minimum of 4 hours for secondary students.
- Remote learning under SB 15 can be either short term or long term, a District must have an overall performance rating of C or higher to participate, and students must receive 240 minutes a day of either synchronous or asynchronous instruction or a combination of the two.



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A graphic with a yellow horizontal bar at the top. Below it, a yellow rectangular box contains the text "TEA SB 15 to the Administrator Addressed" in bold blue font. To the right of the box is a vertical grey line with a large grey bow tied around it. Three light blue stars are positioned above the bow. A small yellow circle with "WG" is at the bottom right.

- No LEA is required to offer remote instruction.
- If an LEA chooses to offer remote instruction, the LEA can offer an asynchronous or synchronous or combination program to grades K-12 as long as one of the grade levels offered takes the STAAR exam or a complete high school program.
- Tests must be administered to students in a local remote learning program. These tests must be administered in the same manner as tests are administered to students learning on campus.
- Districts must periodically assess students in the remote learning program for progress.
- Students must be provided the same opportunity to participate in any extracurricular activity by the District or by the UIL.

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TEA SB 15 to the Administrator Addressed

- To be eligible for funding for local remote learning, Districts must:
 - **“Meet the needs of and comply with all relevant federal and state law and policy with respect to students with disabilities and English learners who are enrolled in a remote program.”**
- *Don't Forget* Districts still have a child find requirement under the IDEA to locate, identify, and evaluate students in need of special education and related services even if the student primarily receives remote instruction!

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TAA: Who is going to teach this program?

- The following is required for teachers delivering remote synchronous instruction or the remote asynchronous instruction:
 - The District must provide professional development on virtual instruction to all teachers delivering instruction in a local remote learning program.
 - The District must ensure that teachers delivering instruction in a full-time remote program have not been coerced in any way to take their full-time remote learning instruction position.
 - The District must ensure teachers are not delivering instruction concurrently; concurrent instruction is instruction delivered to both on-campus and remote learners during the same class period at the same time.

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TEA SB 15 Frequently Asked Questions

- #35. If an ARD Committee determines that remote learning is necessary for the provision of a Free Appropriate Public Education (FAPE), is the LEA required to deliver remote instruction to that student?
- Yes. If an ARD Committee determines remote instruction is the only option to provide a FAPE to a student with an Individualized Education Program (IEP), then that student must be served via remote instruction. SB 15's local remote learning program will provide funding for most students for whom such an ARD Committee determination is made. In the cases where SB 15 would not provide for funding for a given student (for example, if the student does not meet student eligibility requirements set forth in SB 15), then remote conferencing or remote homebound, as appropriate and depending on the student's individual needs, may be an avenue for delivering remote instruction with full ADA to that student. In such a case, an LEA must follow the guidance available for remote conferencing or remote homebound instruction including the submission of any applicable waivers.
- If your LEA does not generally offer remote instruction under SB 15 or via remote conferencing or remote homebound, then your LEA is still required to identify a mechanism for delivering remote instruction in a manner consistent with the ARD Committee's determination, defined services, and the student's needs.

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TEA SB 15 Frequently Asked Questions

- #36. For a student enrolled in special education to be placed in a local remote learning program, is it required that an ARD Committee determines that remote learning is an appropriate setting for the student? Is an amendment required?
- Yes, the ARD committee determines whether remote instruction is appropriate for implementing the student's IEP, bearing in mind that students with disabilities may not be excluded from, or be denied the benefits of, remote instruction on the basis of disability. An LEA should address specific concerns with its local counsel. The determination may be documented as an amendment by agreement if there is a change in location and the determination is not being made during the student's annual ARD meeting. However, the determination would require an ARD committee meeting if it results in a change of placement.

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TEA SB 15 Frequently Asked Questions

- #37. If an ARD Committee determines that a student needs to keep their camera off during instruction, how should LEAs reconcile this determination with the “on camera” synchronous attendance-taking requirement?
- In this limited circumstance, LEAs may ask that the student verbally affirms that they are attending (with the camera off) for attendance-taking, and then may keep it off during instruction, given the ARD determination.

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Related Legislation

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HB 3643

- HB 3643 established the Texas Commission on Virtual Education to develop and make recommendations regarding the delivery of and funding for virtual education, including alternative instructional delivery methods and alternative methods of funding.
- It is foreseeable that the Texas Commission on Virtual Education would provide oversight for local remote learning programs under SB 15 in the future, but nothing official has been announced yet.
- The Texas Commission on Virtual Education will be abolished on January 1, 2023 unless renewed by the legislature.

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SB 226

- Defines virtual instruction as “instructional activities delivered to students primarily over the Internet.”
- Defines virtual learning as “digital learning facilitated by virtual instruction.”
- Requires teacher certification programs to cover best practices in assessing students receiving virtual instruction based on academic progress and developing a virtual learning curriculum.

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SB 348

- Expands parental access rights to educational materials to include virtual or remote instruction and materials.
- Allows a parent to review all teaching materials, instructional materials and other teaching aids, including while the child is participating in virtual or remote learning and allows a parent to observe virtual instruction while the parent's child is participating in virtual or remote learning instruction to the same extent the parent would be entitled to observe in-person instruction of the child.

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Legal Precedent and OSEP Guidance

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S.P. v. Fairview School District

- This case involved a Pennsylvania high school student whose 504 services to accommodate his refractory migraine headaches.
- The Student was frequently absent. Whenever the Student had a refractory migraine headache the student needed to remain in a quiet, dark room for 12-16 hours.
- The Student's parents claimed that the school district discriminated against the Student because it failed to provide proper accommodations in student's LRE, which parents argued was via in-person services.
- The school allowed the Student to arrive later in the school day, complete his coursework in the school's resource room, and receive additional tutoring outside of school hours and complete certain courses online.
- Once the Student was unable to attend school for even a portion of the day in-person, the Student was moved to an online program in a homebound placement. The Student was allowed to participate in extracurricular activities and school-based classes when the student felt healthy enough to do so.
- The Court found that the District won the case because homebound placement and virtual instruction via the online school with access to in-person classes was the Student's LRE for purposes of providing FAPE.

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S.P. v. Fairview School District

- ***Takeaway***
- The District should keep thorough documentation regarding any attempts to accommodate the Student's disability in an in-person setting. Even though, it is not required that a Student begins in an in-person setting prior to an ARD committee's determination that homebound is the Student's LRE, the District's prior attempts and accommodations in-person helped it win its case.

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S.P. v. Fairview School District

- *Reminder*
- Virtual Instruction is not an educational placement in Texas.
- The Texas Education Agency has issued multiple pieces of guidance stating that virtual instruction is only a delivery method of instruction, and it does not affect a student's educational placement.
- Participation in a local remote learning program or remote conferencing does not constitute a student's placement. They are methods of instruction for how to serve a student in an educational placement, such as homebound.

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Quillayute Valley v. Office for Civil Rights

- In this case a Washington online high school was found to discriminate against Students with disabilities and it violated Section 504 and the ADA.
- The online school had different admissions criteria for students with disabilities than for students without disabilities.
- The written admissions criteria stated that it would not provide certain accommodations to students with disabilities.
- The school limited students to 40 minutes per week of specialized instruction, and put a blanket prohibition on providing counseling, paraeducator support, tutoring, or a modified curriculum. The school also excluded students who could not complete assignments or could not write at a sixth grade level. These criteria only applied to disabled students and similar standards did not apply to nondisabled students.
- The District lost the case because it had different admissions criteria for students with disabilities differently than students without disabilities.

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Quillayute Valley v. Office for Civil Rights

- *Takeaways*
- Any minimum standards criteria for local remote learning programs or other online schools should be applied evenly to all students, regardless if the student has a disability.
- Any minimum standards or admission criteria should be deemed necessary for the school to achieve its goals.
- Do not put a blanket prohibition on certain related services for local remote learning programs.



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Dear Colleague Letter August 5, 2016

- In this letter OSEP clarified that virtual schools still have a child find obligation.
- To fulfill their child find obligations with respect to children in virtual schools, Districts must make special efforts when it comes to identifying students who may need special education and related services.
- It is suggested that Districts consider conducting screenings, distribute parent questionnaires, and train staff who work with remote students in child find identification and evaluation obligations.



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Happy Holidays

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