

To reduce costs Texas officials slash special education enrollment

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The drop in the percentage of Texas public school students receiving access to special education services has been so stark that it has brought a warning from the US Department of Education.

On January 11, 2018, the federal education department issued a letter to Commissioner Mike Morath of the Texas Education Agency (TEA), stating that the 32,000 drop in the number of students receiving special education between 2003 and 2016 is “noteworthy.” The drop comes even though the student population in Texas public schools increased by more than 1 million, bringing it to 5,359,127—a number larger than the population of 23 states.

On the basis of a yearlong investigation, the DOE’s Office of Special Education Programs (OSEP) found that the TEA failed “to ensure that all children ... in need of special education...were identified, located and evaluated,” “to ensure that a free appropriate public education (FAPE) was made available to all children,” and that the state’s school districts lived up to the Individuals with Disabilities Education Act (IDEA).

In the school year of 2003-04, the state provided special education to 11.6 percent of its students, already one of the nation’s lowest percentages. Now, according to data gathered as part of a 2016 expose by the *Houston Chronicle*, only 8.6 percent of Texas school children have access to special education programs, the lowest level in the country. Basing itself on national averages, the *Chronicle* estimates the number of students affected by TEA’s failure is 250,000, many of whom may be entitled to compensatory education or tuition reimbursement.

It is even worse in large Texan cities. In 2016, Houston provided special education services to 7.4 percent of its students, and Dallas to only 6.9 percent. By way of contrast, 19 percent of children in New York

City receive special education services. Dallas and Houston are not alone. Indeed, of “the 100 largest school districts in the US, only 10 serve fewer than 8.5% of their students. All 10 are in Texas,” the *Chronicle* notes.

That Texas now offers special education services to only 8.5 percent of students was a conscious policy decision made by TEA officials. Kathy Clayton, one of the four officials who established the benchmark, admitted to the *Chronicle* that no research was involved, and that the number was arrived at randomly as a means of driving down the number of students receiving special education assistance.

“Well, it was set at a little bit of a reach,” Clayton commented. “Any time you set a goal, you want to make it a bit of a reach because you’re trying to move the number.”

In other words, if a district served 12 percent of its students with special education programs, it would “indicate” they might possibly be “over-identifying” children for special education. Yet in response to the original *Chronicle* investigation, TEA officials absurdly attempted to chalk up the decline to improvements in classroom strategies—that students who may have previously been in special education programs were “lifted up” to participate fully in the regular classroom setting.

TEA imposed the 8.5 percent measure through a system called Performance-Based Monitoring Analysis System (PBMAS). Failure to meet the benchmark brings forth various levels of intervention by the TEA that require time-consuming use of school staff, and the possibility of fines.

What is clear is that Texas deliberately set about to deny access to special education—which costs schools approximately twice as much per student—in knowing

contravention of federal rules.

One of the most important mandates of IDEA is referred to as “Child Find.” It requires school districts to take the initiative to identify, locate, and evaluate all children who may be eligible for special education programs regardless of each one’s level of severity.

Under the Child Find mandate, teachers, counselors, other administrators, and particularly important, parents, may refer a child for evaluation of his or her eligibility for special education services. In other words, those who are most “in the know” with regard to a child’s development, the parents or teachers—certainly not the bureaucrat or politician—are responsible for getting children tested by professional diagnosticians in his or her respective school district.

But, if the district can throw up road blocks, provide band-aid fixes to disabilities, such as minor accommodations for students with difficulties, or obfuscate and redirect the referrers, then they can lower the number of children whom they serve in special education.

The OSEP confirmed in many interviews what the *Houston Chronicle* had learned in their investigations: road blocks were put up everywhere.

In its 2016 report, the *Chronicle* cited one parent, Maritza Woodard, in Klein School District in northwest suburban Houston, whose 15-year-old daughter suffered from bipolar disorder. Woodard said that when she approached the Klein administration, she was given a list of private schools in the area that could help her better.

One district in the small East Texas town of Henderson was especially creative. They took all the evaluation-request forms out of the schools and put them in the central administration office where they could only be accessed by permission from supervisors.

Teachers are routinely encouraged to steer students away from special needs classes. Melanie Urbis, who teaches math in West ISD, told the *Chronicle*, “They sit you down and basically interrogate you about whether this kid really needs to be evaluated for special ed services, and if you *really* think that, and if you’re *sure*.”

Despite the transparent attempt by the TEA to cut spending on special education for students, Governor Greg Abbott criticized local school districts for their “dereliction of duty” in failing to serve students.

H.D. Chambers, the superintendent of Alief school district in suburban Houston, who is also the president of the Texas School Alliance, an advocacy group, replied, “We weren’t derelict: The state of Texas was derelict, the Texas Education Agency was derelict. We were following what they put in place.”

In the 2017 legislative session, the Texas legislature focused much attention on education. However, the attention it paid was directed toward Lieutenant Governor Dan Patrick’s pet project, the “bathroom bill”—an attempt to deny the use of public restrooms based on gender identity—and decreasing the funding of the Teacher Retirement System’s health care program to levels that increased out-of-pocket expenditures for retirees by thousands of dollars.



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