

II. EDUCATION

The Disability Policy Consortium believes that all students have the right to learn together with students their own age, with and without disabilities, in the same schools, classrooms, and other educational and extracurricular programs. People with disabilities, like all people, are life-long learners and require quality educational experiences in order to reach their life goals. Serving the individualized needs of each student starts with appropriate identification of all students who have disabilities that require special education services (Individuals with Disabilities Education Act [IDEA]) or services provided under Section 504 of the Rehabilitation Act. For this to be a reality for all students in Texas eligible for special education services, the Texas Education Agency (TEA) and school districts must fully implement and be held accountable for both IDEA and Every Student Succeeds Act (ESSA).

Special education is not a separate educational system, but a support service provided to students with specific needs within the general education system. Students with disabilities learn best in inclusive settings in their neighborhood schools. Inclusive education involves every student, regardless of the severity of a student's disability, participating and learning in the same school and with the same classmates as if they did not have a disability. Inclusive educational environments establish the foundation for society supporting the rights of all people to live in their own homes and be competitively employed as contributing and valued members of the community.

Too often, students with disabilities leave school without the skills, experiences, and supports they need to live, learn, work and play as valued citizens in their communities. The full, meaningful inclusion of Texas students with disabilities should be approached as a fundamental value and underlying principle by which we educate all students. The education policy recommendations of DPC should result in self-determination, lifelong learning, employment, and community engagement.

Key Policies That Impact Education

- Individuals with Disabilities Education Act (IDEA)
- Every Student Succeeds Act (ESSA)
- The Workforce Innovation and Opportunity Act (WIOA)
- The Higher Education Opportunity Act of 2008
- The Teacher Jobs and State Fiscal Relief Act of 2010
- Rehabilitation Act of 1973
- Senate Bill 160 (85R)

BEHAVIOR INTERVENTION

Ensure that students can be appropriately supported with an effective behavior intervention plan or behavioral improvement plan-also commonly referred to as a **BIP**-that is data driven. Provide guidance that the **BIP** should be reviewed as needed and no less than once per school year to measure effectiveness of the **BIP**.

RECOMMENDATIONS

Texas schools should prioritize identifying and preventing instances of behavior to improve school safety, climate, and discipline. The recommendations below align with priorities put forth by the Senate Select Committee on School Safety, the House Committee on Public Education, and the Texas Education Agency's Legislative Appropriation Request related to school health and safety.

- Require the review of a student's **BIP**--created in conjunction with an **IEP** or a 504 plan--for effectiveness and determine if adjustments should be made to better support the student, at least once per school year or as the student's circumstances change, warranting revision.
- Ensure that any student that may have an identified need for a **BIP**, regardless if they've been identified for special education or 504 accommodations, has access to a Functional Behavioral Assessment and the development of a **BIP**.
- In addition to regular review of the **BIP**, the data collected for the **BIP** should support that the **BIP** is effective. If the data does not support that the **BIP** is effective, the **BIP** should be adjusted as needed to support the student's needs.
- Require that documentation and parent notification regarding suspensions, restraints, or other proposed disciplinary actions indicate if **BIP** revisions are recommended. If the student does not already have a **BIP**, the documentation and parent notification of the incident should indicate if a functional behavior assessment is recommended in order to create a **BIP**.

BACKGROUND

It is common practice to carry out a functional behavior assessment (**FBA**) every three years prior to creating unique **BIPs** for students. Unfortunately, this has become the default time period for reviewing, updating and revising a student's **BIP**. **BIPs** help support schools in promoting desired behaviors, so every three years is not an effective or appropriate timeframe to evaluate the efficacy of a **BIP**. To adequately gauge the success of a **BIP** and promote positive behaviors, the Admission, Review, and Dismissal (**ARD**) Committee or 504 support teams need should review the **BIP** regularly. If a student does not have an effective **BIP**, behaviors may escalate or new behaviors may emerge, leading to more severe disciplinary actions like placements in

more restrictive settings, missed class time, or interactions with law enforcement. Compared to all students in Texas’ public schools, students receiving special education services have higher rates of disciplinary actions in terms of disciplinary alternative education programs, out-of-school suspensions, and in-school suspensions.^{iv}

Following recent school violence tragedies in both Florida and Texas, Governor Greg Abbott convened a series of roundtable discussions, directed interim Senate and House committee hearings, and released a School Safety Action Plan. Current initiatives for school safety highlights the need for increasing student-

centered behavioral supports, implementing practices that maintain and review the efficacy of behavioral supports, as well as strengthening school climate tools, in Texas’ schools.

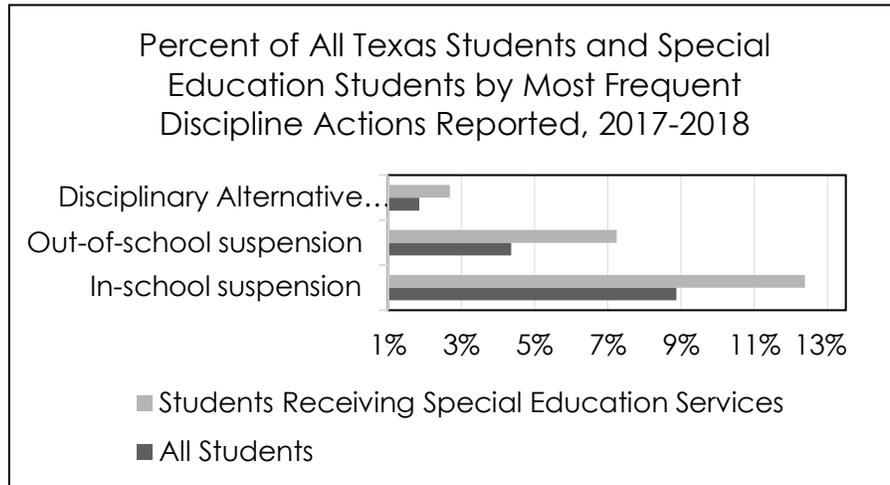


Figure 4: Percent of All Texas Students and Special Education Students by Most Frequent Discipline Actions Reported, SFY 2017-2018

CONCLUSION

Texas should ensure that students who receive special education, use a 504 plan or have an identified need for behavior supports are fully supported to succeed in the classroom. Schools should implement best practices to review a

student’s **BIP** on a regular basis to monitor progress and determine its effectiveness. If the data collected for a student’s **BIP** does not support that the **BIP** is effective, that student is at risk for unnecessary disciplinary action. Requiring a regular review of the **BIP** will provide safeguards for students so they do not fall through the cracks, support teachers to implement effective best practices with their students, and shape a healthy learning environment in the classroom for all students.

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EVALUATIONS FOR SPECIAL EDUCATION

Ensure students with disabilities are identified and evaluated as quickly as possible to receive a Free and Appropriate Public Education (FAPE) that is entitled to them by the Individuals with Disabilities Act (IDEA).

RECOMMENDATIONS

- Partner with Education Services Centers (ESCs) to share diagnostic staff outside of traditional school district boundaries
- Leverage qualified and experienced independent service providers such as Early Childhood Intervention (ECI) providers and private diagnosticians
- Expand consideration and increased acceptance of private Independent Education Evaluations (IEE)
- Explore alternative options for disability determinations and pathways to providing temporary school supports and services

BACKGROUND

Many Texas school districts currently lack sufficient numbers of qualified staff to provide timely evaluations for special education services with the influx of students requiring evaluations after the removal of the Performance-Based Monitoring Analysis System (PBMAS) Indicator #10. In addition, the approximately 133,000 additional students who may qualify, but have still not been identified for special education services, will exacerbate the current bottleneck.

For a decade and a half Texas' special education enrollment percentage was artificially condensed towards a target enrollment of 8.5%. Hundreds of thousands of children each year were denied services and supports that would have helped them to be successful in school. After the removal of PBMAS monitoring system Indicator #10 and passage of SB 160 in May of 2017, Texas' special education enrollment has continued to languish well below the national special education enrollment average of 12-13%. At the beginning of the 2018-2019 school year Texas had only reached a 9.23% enrollment average (a net increase of only 35,000 students), leaving approximately 133,000 students still unidentified and needing crucial services and supports.

Even prior to the removal of Indicator #10, a reported 868 evaluations were delayed for special education services in Texas during fiscal year 2016. 56.5% were reportedly delayed due to scheduling and 34.3% were reportedly delayed to due a lack of available assessment personnel.^v

Regardless, it is important to remember that while there are timeline requirements for school districts to approve and provide services and supports, it can take months from the initial disability determination to the commencement of services.

CONCLUSION

Federal law requires that all children who need special education services and supports are identified and receive services in a timely manner. The Texas Education Agency (TEA) is responsible for enforcing this mandate.

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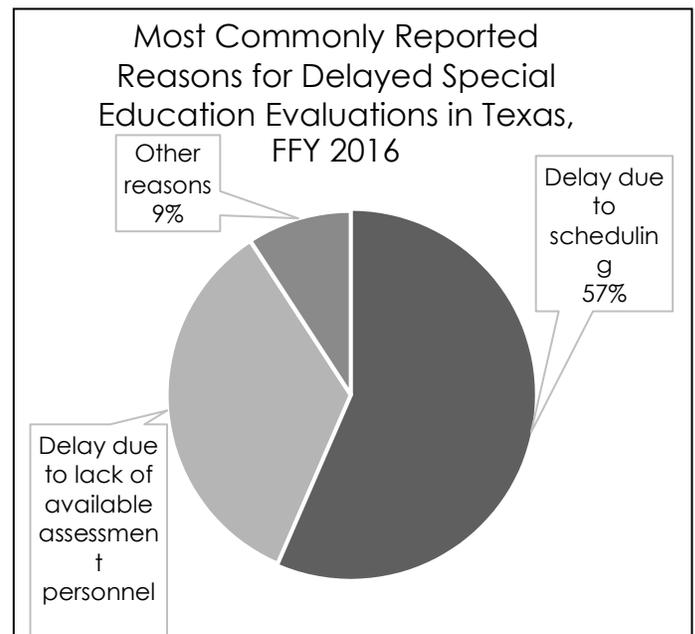


Figure 5: Most Commonly Reported Reasons for Delayed Special Education Evaluations in Texas, FFY 2016

MENTAL HEALTH SERVICES & SUPPORTS

Improve student success by strengthening existing school-based and community mental health services, supports, and practices to identify and provide services to all students and ensure referrals for students with suspected or known disabilities.

RECOMMENDATIONS

The legislature should direct the TEA and HHSC to address student mental health needs by providing multi-tiered systems of support that help schools promote positive behaviors and interventions. The Disability Policy Consortium supports strategies that foster safe and healthy schools for all students. The recommendations below align with priorities put forth by the Senate Select Committee on School Safety, the House Committee on Public Education, and the Texas Education Agency's Legislative Appropriation Request.

- Allocate funding from the TEA Safe and Healthy Schools Initiative to address the shortage of mental health professionals on school campuses.
- Expand mental health and disability training for educators. The State Board of Educator Certification (SBEC) should ensure that current and future teachers are adequately trained to help all students in their classroom reach their full potential regardless of disability or mental health concerns. SBEC would benefit by adding a special education representative to the board.
- Ensure that when schools implement evidence-based threat assessment models or mental health screening programs, they include a special education professional and create a documented referral protocol for voluntary services that meet the identification, evaluation, and service needs for students with suspected or known disabilities.
- Expand the number of school resource officers trained to work with and support students with disabilities by lowering the current district enrollment threshold, and develop best practice guidelines for new school safety initiatives, such as iWatch, that avoid targeting students with disabilities for disciplinary action.
- Assist schools in forming and strengthening effective partnerships with community-based mental health.

BACKGROUND

Unaddressed mental health conditions can impede students' academic success and compound existing developmental delays. Students with mental health conditions are often unidentified and do not have adequate access to or receive treatment. School mental health personnel shortages, inappropriate discipline practices, and an uncoordinated effort between schools and mental health systems all contribute to the lack of identification and treatment for students.

In a survey conducted by Texas Council of Community Centers on its member centers regarding interactions with local school systems and regional Education Service Centers (ESCs), all member centers reported that they at least an informal training agreement with local schools to provide Mental Health First Aid.^{vi} Despite this, survey results show other training and engagement improvement opportunities.

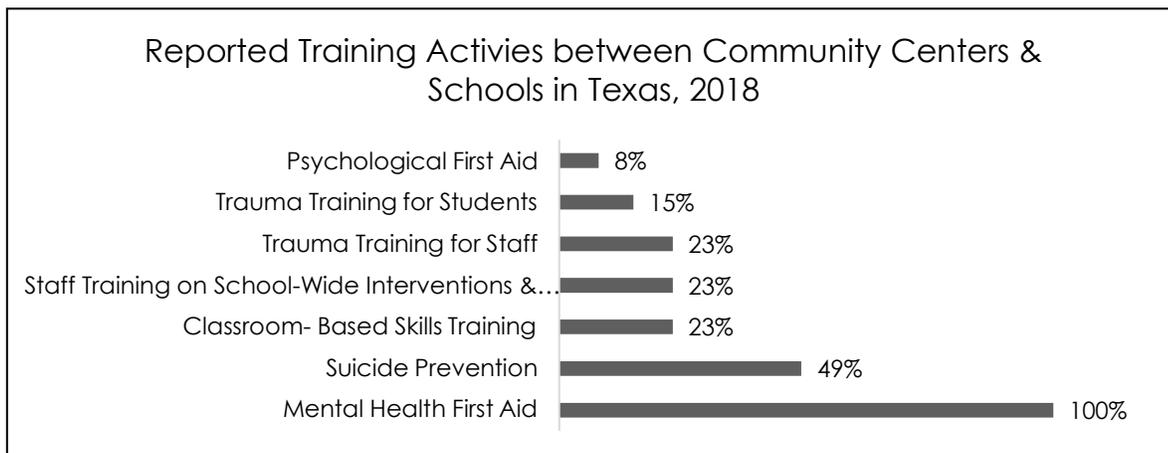


Figure 6: Reported Training Activities between Community Centers & Schools in Texas, 2018

The trauma of Hurricane Harvey provided impetus for the Legislature to address school mental health. Following recent school violence tragedies in both Florida and Texas, Governor Abbott convened a series of roundtable discussions and released a School Safety Action Plan. Subsequently, Senate and House committees held hearings and released interim reports on school safety. The theme of each directive and report highlights the need for increasing mental health supports and strengthening school climate tools in Texas’ schools.

CONCLUSION

Texas student success depends on the health and safety of our schools. Texas is poised to address the unmet mental health needs and improve the identification and evaluation structures for students with disabilities by increasing funding and strengthening systemic relationships.

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ENGLISH LEARNERS IN SPECIAL EDUCATION

Since 1990, only two teacher shortage areas have been consistently designated every school year in Texas: bilingual or English as a second language (ESL) and special education. As two of the fastest growing subgroups of students served in Texas public schools, Texas must examine the current state of services needed by students who are in both subgroups.

RECOMMENDATIONS

- Provide districts with targeted guidance, technical assistance, and resources to ensure English language learners (ELLs) are identified and provided appropriate services.
- Require TEA to monitor implementation of ELL/special education assessments/evaluation and services in school districts statewide within two years following United States Department of Education (USDE) acceptance of the Texas corrective action plan. Monitoring should be informed by previously cited federal regulations on disproportionality and disparities.
- Create incentives for bilingual/ESL special education teachers to obtain and maintain certification in inclusive general education and self-contained special education settings.
- Develop a separate and focused bilingual/ESL certification program option specifically for the purpose of teaching special education.
- Require that local education agencies (LEAs) submit special education program plans that detail their process for the referral, identification, assessment, and provision of services to ELLs with disabilities. These plans should include available personnel qualified to conduct each aspect of the process and the LEA's strategies for recruiting additional qualified personnel if local workforce supply is inadequate.
- Increase the allocation of resources provided to the Multicultural and Diverse Learners program housed in the Education Service Center (ESC) in Region 13. Examine ways to expand the accessibility and availability of the program to other ESC regions.
- Explore the creation of a tele-assessment system for assessments in languages other than English in school districts without personnel competent in a student's native tongue

BACKGROUND

Students who are ELLs and those who also have intellectual and developmental disabilities (IDD) were disproportionately affected by the 8.5% special education target enrollment of the Texas Education Agency (TEA) investigated by the U.S. Department of Education. These students were not adequately identified by Child Find, evaluated for special education services in their native tongue, or provided a free appropriate public education (FAPE) under the Individuals with Disabilities Education Act (IDEA). Instead, students who

are ELL with IDD are often referred to English language classes only, and IDD educational needs are often neither evaluated nor addressed.

A major barrier for teachers, schools, and districts is determining whether an ELL is experiencing academic difficulties in school due to issues primarily related to language acquisition, or to disability. As a result, ELLs can be misidentified or under-identified in qualifying for special education services. A lack of adequate training in second language acquisition, cultural sensitivity, ESL instruction and bilingual education, and pre-referral interventions in both special and general education contribute to the prevalence of this issue. During the 2017-18 school year, 17.6 percent of all identified ELLs in Texas' public schools received special education services. 31.8 percent received bilingual services and 57.4 percent received ESL services.^{vi} Unfortunately, almost 11 percent of ELLs receiving special education services were not provided any services through an ELL program. Reasons for this are unknown; however, language acquisition is a critical component of ensuring that all students with disabilities in Texas achieve their potential for independence, productivity, and full integration into the community.

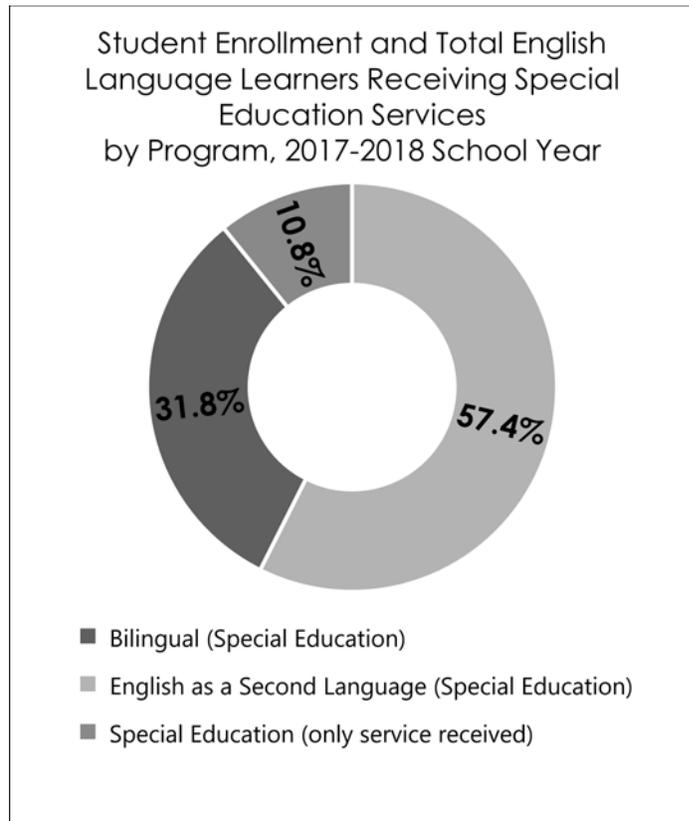


Figure 7: Student Enrollment and Total English Language Learners Receiving Special Education Services by Program, 2017-2018 School Year

CONCLUSION

Meeting needs of English language learners with intellectual and developmental disabilities is a key aspect of Texas complying with federal law under IDEA. Texas must ensure that it complies and school districts should be provided assistance in developing appropriate evaluations for all students. The state should provide districts with targeted guidance, technical assistance, and resources to ensure ELLs are identified and provided appropriate services. Providing incentives for bilingual teachers who obtain special education services certification should be explored to help with the availability of bilingual/ESL educators available. Bilingual/ESL certification requirements should also be examined to see if any could be adjusted to meet the specific needs of existing primary and secondary classroom educators. In addition, a separate and focused ESL certification could be developed specifically for special education teachers.

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of the TPPWDP.

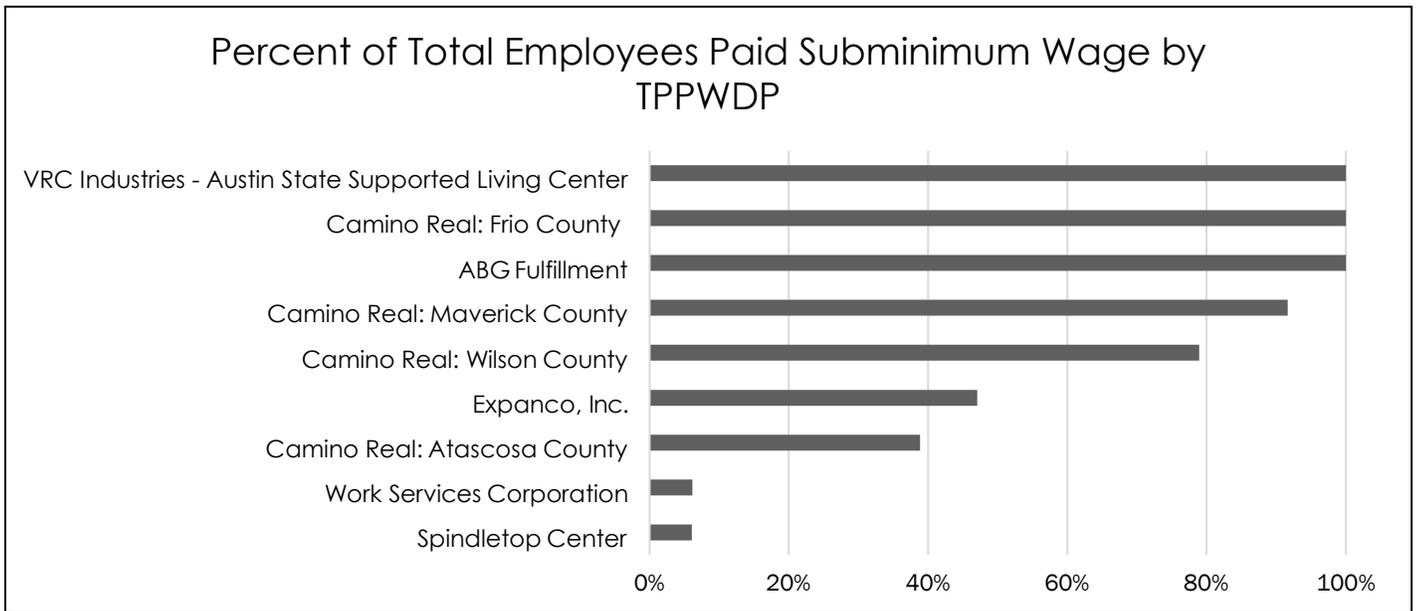


Figure 10: Percent of Total Employees Paid Subminimum Wage by TPPWDP

CONCLUSION

Texans with disabilities want to work and earn a wage that supports a meaningful life. They deserve the dignity to bring home a paycheck that allows them to contribute to society like everyone else. It's time to demonstrate Texas' commitment to Employment First and the rights, inclusion, and independence of Texans with disabilities.

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