

October 25, 2017

The Honorable Betsy DeVos  
Secretary of Education  
Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202

Dear Madam Secretary:

Re: Stakeholder Comments on the Texas State Plan for Implementation of the Every Student Succeeds Act

The signatories to this letter are local, regional, and statewide disability organizations in Texas that have significant concerns with the submitted proposal for the Texas State Plan to implement the Every Student Succeeds Act (ESSA). Collectively, we found that the proposal violates both the letter and spirit of ESSA, warranting the U.S. Department of Education to send the plan back for further revisions.

ESSA implements many improvements to our education system. Most notably, it advances equity by upholding critical protections for America's disadvantaged and high-needs students. The Act also maintains an expectation that there will be accountability and action to effect positive change in our lowest-performing schools, where groups of students are not making progress and where graduation rates are low over extended periods of time. Unfortunately, the Texas plan fails to adequately demonstrate how the Texas Education Agency (TEA) will live up to ESSA's standards, despite recommendations for improvement from stakeholders.

The disability community was grateful for the opportunity to provide feedback on the draft plan. Together, we compiled detailed suggestions for changes to the draft that could have assisted TEA in addressing areas of need for students with disabilities – a group that has faced systematic denials of service for over a decade (see attached). We were disappointed to learn that the comments gathered from parents, advocates, and the disability community were not incorporated into the submitted proposal. The final plan remained relatively the same as the draft with minor changes in tense and spelling, updated statistics, technical corrections, and similar housekeeping edits. TEA provided no explanation about its decision-making process to stakeholders.

**Now, Texans are left with a flawed plan that does not communicate a strategy by which TEA will tackle major problems in our public education system.**

As many members in the disability community have noted, the Texas submission appears to be a collection of current program descriptions rather than a cohesive and coherent plan for ESSA implementation. Rather than take advantage of the opportunities afforded states under ESSA to make substantive, system-wide changes and improve existing programs, the Texas plan maintains the status quo by repurposing the existing strategic plan. In the Texas plan, the goals and purpose of ESSA are secondary. TEA disregarded the stated intent of the ESSA and diminished Texas' opportunity to provide substantive policy changes that would benefit all students (especially those with disabilities).

The Texas plan is inadequate and in need of revision. We are confident that the promises made to all students by ESSA will be better met by incorporating meaningful stakeholder input into the Texas State Plan. We strongly recommend that the U.S. Department of Education send the Texas State Plan back to TEA for further work.

Thank you for your dedication to improving our nation's public education system. We would be pleased to speak with you at your convenience to share our concerns in greater detail.

Respectfully,

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Mike Morath, Commissioner, Texas Education Agency

Attachments (3): CTD, DRTX, TCDD Comments, NDSC comments, & TxSER comments



Via email to: [essa@tea.texas.gov](mailto:essa@tea.texas.gov)

August 29, 2017

TO: The Texas Education Agency

RE: Comments on the Texas State Plan for Implementing the Every Student Succeeds Act Amendments to the Elementary and Secondary Education Act of 1965

Thank you for the opportunity to comment on the Texas state plan for implementing the Every Student Succeeds Act (ESSA) amendments to the Elementary and Secondary Education Act (ESEA) of 1965.

Please feel free to contact us at the telephone numbers and email addresses provided below if you would like to discuss our comments further. We would welcome meeting with staff of the Texas Education Agency (TEA) to discuss or clarify our comments.

- Steven Aleman, Disability Rights Texas, 512-454-4816, [saleman@disabilityrightstx.org](mailto:saleman@disabilityrightstx.org)
- Chris Masey, Coalition of Texans with Disabilities, 512-680-6314, [cmasey@txdisabilities.org](mailto:cmasey@txdisabilities.org)
- Linda Logan, Texas Council for Developmental Disabilities, 512-437-5430, [linda.logan@tcdd.texas.gov](mailto:linda.logan@tcdd.texas.gov)

We are attaching the joint comments of the National Down Syndrome Congress (NDSC) and The Advocacy Institute (AI), with which we fully agree. We request that the NDSC/AI comments be considered as our own. In addition, many Texas advocacy organizations with which we often partner are also submitting comments. In particular, we are in accord with the theme of the comments by the Texans for Special Education Reform (TxSER) group.

Additionally, we make the following recommendations and observations:

1. TEA has derived this draft plan by simply stating the intersection between the agency's strategic plan and ESSA. Therefore, the directives, purpose, and goals of ESSA are minimized, and the opportunity that ESSA provides to make substantive positive changes in policy and practice to a variety of existing programs in Texas has been lost. In addition, new programs are needed to address ESSA goals, especially in marginalized subgroups, including students with disabilities. In describing current programs, it is no coincidence that many sections in the draft plan provide insufficient details on how the plan will provide a quality education for students or how potential new programs could meet ESSA goals and standards.
2. Based on the introductory narrative to the plan, TEA is planning to continue gathering stakeholder input on this draft for approximately six more months. We respectfully request to be included in any additional opportunities to discuss, better understand, and make further

recommendations on how ESSA will be implemented in Texas. In addition, TEA should make substantive efforts to involve parent groups, education advocacy groups, and other non-educator groups in this process.

3. TEA cites that extensive research and stakeholder engagement were used to create this draft plan. However, we feel that the manner of soliciting and citing stakeholder input for this draft is misleading and therefore inherently flawed. Much of the reported input was made in relation to the agency's strategic plan and not specifically targeted to ESSA. In fact, one of the reports cited was a strategic planning session from 2013 and was specifically designed for educators. Parent and advocate involvement was essentially nonexistent and should have been a greater part of this process.

Regarding TEA's online survey that specifically addressed ESSA and was sent out in December of 2016, we note that while 29,554 individuals responded, the survey was completely answered by fewer than 23,000 people (10,209 parents). Although the cited parental participation is statistically relevant in the context of numbers of total survey respondents, there are more than five million children in public school in Texas. Thus, in the context of total potential parent respondents, the parental response is not robust.

It is unfortunate that the online survey was limited to seven questions (two of which were demographic) with one question about subpopulations. In addition, the time to respond to the survey was limited and school districts did not alert parents via district or individual e-mail.

**Parental input unsurprisingly represented only 35% of the total respondents.**

Given that the input which TEA receives is often skewed toward districts and educators, TEA should specifically identify the stakeholders involved in developing the state plan and when they were involved. This is valuable because a stakeholder who is a parent of a student with a disability can bring an equally valid, but different, perspective. Likewise, listing the organizations that are considered "advocacy groups" by name will clarify whether the term includes individuals and groups that comprise students, parents, and family members, as well as advocates for their interests. Such specificity would be appreciated whenever TEA describes the process by which its plans, policies, and rules are developed with stakeholder involvement.

4. Dozens of education bills directly and indirectly affecting students with disabilities, their families, teachers, curricula, and services were passed during the regular and first special sessions of the 85<sup>th</sup> Texas Legislature. Bills included changes to the A-F rating of school districts, efforts to align STAAR testing with ESSA standards (the draft plan references the former testing structure and subject areas), and performance standards for higher education preparation. It would be helpful if the state plan clearly indicated how changes in state education policy arising from legislative changes affect it. If the legislative changes do not affect the plan, a statement to that effect would also be helpful.
5. A more thorough discussion of disparities and disproportionalities in Texas and how TEA intends to address them should be included. The recent identification of large numbers of students with disabilities excluded from special education services, and the passage of legislation prohibiting

arbitrary percentage caps in the future, suggests that this is an appropriate area for expanded discussion and planning.

6. ESSA guidelines address equity for all students in a variety of ways. Equity in services and supports is an extremely important issue to student with disabilities. Typically, students with disabilities face challenges similar to those affecting people of color and people living in poverty. In fact, when a child with a disability comes from a minority or impoverished background, inequities are compounded. While not expressly required in ESSA guidance for the state plan, we strongly feel that TEA could easily collect data pertaining to inequities for students with disabilities. And we strongly urge TEA to add students with disabilities to the recently released Equity Tool Kit to help school districts better allocate resources for all students. By leaving a substantial and historically marginalized subgroup out of a discussion on equity, TEA and districts continue to ignore and underserve students with disabilities. This is a disservice to them and will eventually reflect negatively on district accountability goals. Marginalized groups cannot be academically successful in the current system if they are not included in a discussion of equitable and adequate distribution of resources.
7. Federal officials and advocates for students with disabilities are concerned that many English language learners (ELLs) have been denied special education services inappropriately. The Houston Chronicle states, "Districts have used a range of tactics, from refusing to conduct eligibility evaluations in other languages or accept medical records from other countries to blaming language barriers for problems caused by disabilities ... Many districts have even held trainings to warn teachers that English learners are over-identified in special education, when statistics show the opposite is true."

ESSA says states must identify schools where subgroups of students (such as ELLs and students in special education) are "consistently underperforming" compared to their peers, and it requires Texas schools to improve their efforts to provide eligible ELLs with special education services in identified schools. Evidence suggests that legislative mandates alone will not eliminate the disproportionality experienced by ELLs who are eligible for special education services — linguistic and cultural issues also need to be addressed.

Students with disabilities who are also ELLs must receive both needed services. An appropriate language assessment and educational response must go beyond recognizing the needs of ELLs and must also assess the need for, and provide, special education services.

8. Concerning native language assessments, it is true that Spanish is the only language other than English that is present in more than 10% of the total student population. However, there are areas of Texas in which languages other than Spanish, e.g., Vietnamese, Chinese, and Korean, figure significantly and should be taken into account. In certain districts and schools, a language other than English or Spanish is used by considerably more than 10% of the students. For example, areas of Houston have substantial minority populations who are Asian and who speak a variety of languages. Vietnamese is so predominant in some areas of Houston that street signs are in both English and Vietnamese.

Valid and reliable native language assessments should not be limited to statewide minority populations. Ideally, the decision about when a native language assessment will be used should be made on an individual student basis. If that is not possible, decisions should be made on a per school or per district basis if the student population is an underperforming group that requires additional resources.

9. Concerning the statewide accountability system and school supports, please clarify the following:

- Are student with disabilities who receive services under Section 504 or the Americans with Disabilities Act, but not under the Individuals with Disabilities Education Act (IDEA), included in the “special education” group? If not, where are their needs addressed in the plan?
- How are “continuously enrolled” students defined?
- Are students labelled “Mobile” the same as homeless students? Are they children from migrant farmworker families? Where is this subgroup captured in the state plan?
- “Performance results for a small number of asylees/refugees in their first through fifth year of enrollment in U.S. schools are not included in accountability performance indicators.” Please explain.

It is not our purpose to painstakingly go through the plan identifying these types of questions for every issue discussed. They are included here to illustrate that these are the types of questions that the draft does not appear to anticipate and therefore does not answer. The plan would be more compelling and effective if efforts were made to make it accessible to individuals who are not TEA employees.

In addition, linking accountability to the ever-changing and controversial STAAR test may create a substantial barrier to explore student progress on a year-to-year basis. It is common knowledge that every two years the Texas Legislature has substantively changed STAAR testing procedures. It is extremely difficult to compare and contrast student success data between districts and it will be impossible to make any national comparisons. In addition, the subpopulation alternative assessment is available only in English. This means that Spanish-speaking students who have disabilities cannot access STAAR Alternate 2, potentially greatly skewing data.

10. Regarding minimum N-size, TEA states “Results for accountability purposes will be reported for any cell that meets accountability minimum size criteria (i.e., All Students—no minimum size criteria; if denominator is less than 10, data are aggregated across three years using uniform averaging; Student Groups—denominator greater than or equal to 25). For the All Students group, the minimum size criteria of 25 or more tests are not applied in order to ensure that campuses and districts with a very small number of students tested are still evaluated for accountability purposes.” Our observations are these:

- The N size for All Students and for Student Group(s) should be the same. This is required by ESSA effective July 1, 2017.

ESEA §1111(c)(3) MINIMUM NUMBER OF STUDENTS.—Each State shall describe—  
(A) with respect to any provisions under this part that require disaggregation of information by each subgroup of students—

(i) the minimum number of students that the State determines are necessary to be included to carry out such requirements and how that number is statistically sound, **which shall be the same State-determined number for all students and for each subgroup of students in the State;**

(ii) how such minimum number of students was determined by the State, including how the State collaborated with teachers, principals, other school leaders, **parents, and other stakeholders** when determining such minimum number; and

(iii) how the State ensures that such minimum number is sufficient to not reveal any personally identifiable information.

- The All Students group will always be larger than (or possibly equal to) any given Student Group. If TEA allows for an All Students group of less than 10 to be factored into accountability measures, please explain why a Student Group, which will be smaller (or possibly equal) to the All Students group, must have at least 25 participants. Note that *more than half* (54%) of the special education Student Groups have fewer than 25 participants, thus significantly affecting results and the conclusions that can be drawn.
- It is not necessary to have a participant pool of 25 to protect privacy rights. According to “Best Practices for Determining Subgroup Size in Accountability Systems While Protecting Personally Identifiable Student Information” (Institute of Sciences Congressionally Mandated Report, January 2017), there are eight steps necessary for consideration of setting the N-size. Among these steps are the following:
  - “...the statistical rigor that informed the selection of the minimum N-size should be documented and **how this minimum number is statistically sound should be described.**”
  - “...the state should identify recommended privacy controls...However, since data in a state’s accountability system will most likely be reported for smaller subgroups of students, additional privacy controls known as **disclosure avoidance techniques** are presented [in the report]. The techniques presented include primary and complementary suppression, ranges, top and bottom coding, and rounding.”

It is recommended that TEA ensure that all eight steps are carefully followed so that Texas maximizes the volume and balance of data on which it will base decisions in the future. Adopting the proposed large N-size numbers for subpopulations would essentially eliminate reporting and accountability for many districts.

- Furthermore, the TEA online ESSA survey did not address important issues such as N-size for reporting and accountability. N-size was addressed for accountability in other reports with educators as the primary stakeholders, and as expected educators were supportive of large N-sizes of 30-50. It is unclear if N-size was discussed in relation to ESSA accountability and reporting.

11. We know that the sooner that a child has access to appropriate developmental and learning opportunities, the better the chance for growth and achievement. This is even truer for students with disabilities, especially developmental disabilities. Thus, we are disappointed that this draft state plan does not fully address early learning. TEA, for example, only mentions improving the percentage of migrant students who are educated in early childhood programs. Reaching and serving more infants, toddlers, and pre-K children with disabilities will establish a foundation for school success and result in the outcomes envisioned by ESSA. The TEA State Plan must step out of the box and include state agency partners, such as the Health and Human Services Commission, for a real plan to coordinate resources and increase the capacity of services like Early Childhood Intervention.
12. We would like to see TEA take advantage of the opportunity to create a more cohesive framework for oversight of and equity in public education in Texas. On a basic level, it seems that many of the questions posed in the federal template are unanswered. TEA may wish to compare its draft state plan to the peer review standards that are used to evaluate applications.<sup>1</sup> We urge you not to consider this draft as the final product for submission.

In conclusion, in its current form this draft appears to be more a loose collection of current program descriptions rather than a cohesive and coherent plan. As such, it has systemic flaws; lacks important information; has not been updated to reflect recent changes in state law; lacks uniformity with, and responsiveness to, ESSA guidelines; is devoid of vital parental and subpopulation input; and does not communicate a strategy by which ESSA could help guide Texas to better address major problems in its public education system.

We strongly believe that the six-month period for further stakeholder input can be used to address these issues in a meaningful and forward-looking way. The state plan will benefit from a better effort to address subpopulations, specifically align current programs with ESSA, and create new programs where programs do not exist or are deficient. If written to be understandable by people who are not education professionals, it will also serve as a useful public information tool.

Thank you for the opportunity to comment. We look forward to participating in further discussion of the issues addressed in the plan.

Attachment

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<sup>1</sup> <https://www2.ed.gov/admins/lead/account/stateplan17/essastateplanpeerreviewcriteria.pdf>.





## **Comments to Texas First Draft of the Every Student Succeeds Act (ESSA) Consolidated State Plan**

August 10, 2017

Submit comments to [essa@tea.texas.gov](mailto:essa@tea.texas.gov)

The Texas draft plan is available on the page at <http://tea.texas.gov/About TEA/Laws and Rules/ESSA/Every Student Succeeds Act/>. The comment period runs through August 29, 2017.

These comments focus on those issues most critical to subgroup accountability and to students with disabilities (SWDs).

### **Overall Comment:**

It is very unfortunate that – in a majority-minority state such as Texas – the ESSA state plan is not available in Spanish.

### **Meaningful Stakeholder Consultation**

ESSA requires the state to conduct outreach and get input from stakeholders, including parents, for the development of this draft plan. This recent template from ED does not require a description of how the stakeholder consultation was achieved.

### **Assessments**

#### Universal Design for Learning

States are required to develop their assessments using the principles of universal design for learning (UDL). Unfortunately, the March 2017 state plan template provided by the U.S. Department of Education (ED) does not require a discussion on how the state is meeting this requirement. However, that does not absolve the state from its responsibility to meet the UDL requirements in the law as it develops its assessments.

## Alternate Assessments

ESSA requires states to define “students with the most significant cognitive disabilities.” This definition is to be used in IEP team guidance regarding which students meet the criteria for participation in the state’s alternate assessment aligned with alternate academic achievement standards.

ESSA sets a cap on the number of students who may participate in an alternate assessment in the state at 1% of all students in the assessed grades (combined) which equates to roughly 9-10% of students with disabilities. Based on assessment participation data for the 2015-2016 school year (see table below), TX is likely exceeding this cap at the elementary and middle school levels.

PARTICIPATION OF CHILDREN WITH DISABILITIES (IDEA) IN STATEWIDE ASSESSMENTS

Grade and Subject Assessed	General Assessment (%)	Alternate Assessment (%)	Non-participant (%)
4th grade reading/language arts	85	14	1
8th grade reading/language arts	87	12	1
High school reading/language arts	89	7	4
4th grade mathematics	85	14	1
8th grade mathematics	87	12	1
High school mathematics	90	8	2

Source: 2017 Part B Data Display available at [osep.grads360.org](https://osep.grads360.org).

While not a required part of the state plan, the TX plan should list the strategies the state will employ to not exceed the 1% cap on alternate assessments. Also, TX should create a process for stakeholder engagement when it develops its definition of students with the most significant cognitive disabilities, including input from parents and organizations representing these students. (Additional information on this is available in this NCEO document at <https://nceo.umn.edu/docs/OnlinePubs/NCEOBrief12OnePercentCap.pdf>.)

It is critically important to ensure that the alternate assessment is used only for those students for whom the test was designed and field-tested and does not inappropriately lower achievement expectations for students who should take the general assessment. It is also important for the definition of students with the most significant cognitive disabilities to acknowledge that these students are working on the grade level content standards, even though the achievement expectations are not the same as for students taking the general assessment.

## Subgroups (page 6)

### N-Size (page 6)

N-size (minimum subgroup size) is critically important. If it is set too high many schools will not be held accountable for the students with disabilities subgroup because there are not enough students with disabilities at the school, (in the assessed grades for assessment proficiency and in the graduating class for graduation rate), to equal or exceed the N-size. For example, if the state uses 30 for the N-size, a school that has 29 students with disabilities in the assessed grades (e.g. grades 3-5 combined for an elementary schools) will not have to include the disability subgroup in any accountability determinations related to assessments. This means that the school will not be identified for targeted support and improvement for a consistently underperforming disability subgroup, even if that would have happened had the N-size of 30 been met. Similarly, a high school with less than 30 students with IEPs in the graduating class will not be held accountable for the graduation rate of the disability subgroup.

TX will use an N-size of 25 for subgroup accountability purposes (e.g. assessment proficiency and graduation rate) and for reporting data.

The table that appears on pages 7-8 which, according to the descriptive text, is intended to “summarize the impact at the district and campus level for all students and six student groups based on a minimum size of 10 for all students and 25 for student groups based on 2016 data,” appears to indicate that using an N-size of 25, 44% of campuses (i.e., schools) will be exempt from accountability for the special education subgroup. Or, since it is unclear what is meant by “impact,” the table might indicate that 44% of campuses will be held accountable. Either way, this low level of accountability is unacceptable. Additionally, the plan doesn’t provide any information regarding the impact of N-size on subgroup accountability for graduation rate. This information should be provided.

Setting minimum subgroup size is a highly consequential decision, particularly as it relates to the students with disabilities (i.e., special education) subgroup. Inclusion in this subgroup is driven by subjective decisions regarding special education eligibility. It has been documented that the potential exists for schools to manipulate their special education population in order to keep the subgroup under the N-size thus avoiding accountability for this group of students. A lower N-size (as low as 10) can ensure both statistical reliability across accountability metric calculations and privacy protection while ensuring that the largest number of schools are held accountable. See <http://all4ed.org/reports-factsheets/n-size> and <https://nces.ed.gov/pubs2011/2011603.pdf>.

According to the plan, TX will not apply an N-size to the “all students” group in order to preserve accountability for very small schools. However, ESSA requires that the

N-size be the same for all students and for each subgroup of students in the state (Sec 1111 (c) (3)(A)(i)). Therefore, this proposal does not comply with the Act.

ESSA requires states to describe in their plans how the N-size was determined by the state in collaboration with teachers, principals, other school leaders, parents, and other stakeholders.

The TX plan (at page 8) does not indicate that parents were involved in determining N-size.

### **Long-term goals (page 11 and Appendix A)**

TX has set long-term goals to be accomplished in year 2031-2032, a timeline of 14 years.

### **Academic Achievement**

TX sets the same academic proficiency goals for all student subgroup. Since special education students are by far the lowest performing subgroup, the proficiency goals are extremely aggressive. Schools will be judged by either meeting the interim targets or meeting a Safe Harbor (required improvement) measure.

TX should make a commitment to maintain these goals over time and not adjust them based on actual achievement. Constantly re-setting targets renders the long-term goal meaningless.

It should be noted that the TEA has developed a State Systemic Improvement Plan (SSIP) as required by the Individuals with Disabilities Education Act (IDEA) and has prioritized increasing the reading proficiency rate for all children with disabilities in grades 3-8 against grade level and alternate achievement standards, with or without accommodations, as its State-identified Measurable Result (SiMR) of its SSIP. ESSA requires that the state plan coordinate with other programs, such as those under the IDEA. The SSIP is the major initiative of the TEA special education improvement activities. As such, the SSIP and SiMR should be integrated with the state ESSA plan. (More information on alignment of ESSA and SSIP is available at <https://ncsi.wested.org/news-events/tool-checking-for-alignment-in-every-student-succeeds-act-plans-and-state-systemic-improvement-plans/>)

### **Graduation Rate**

TX is setting a long-term statewide goal for the four-year graduation rate at 96 percent for all students and each student subgroup.

This represents aggressive improvement for special education students. It is important to point out that TX has increased the 4-year adjusted cohort graduation

rate (ACGR) of students with disabilities by only 1 percentage point over 5 years – from 77% to 78%. See table below.

**4-Year Adjusted Cohort Graduation Rate (ACGR), Children with Disabilities**

State	2010-2011	2011-12	2012-13	2013-14	2014-15
TX	77	77	78	77	78

The plan should also make clear how TEA is calculating graduation rates for the English Learner, Economically Disadvantaged, and students with disabilities subgroups since students move in and out of these groups during their time in the cohort. For example, is TEA counting any student who, at any time during the cohort, belonged to one of these subgroups or counting student's subgroup status upon exiting, or some other methodology.

The annual determination process regarding state implementation of the IDEA, based upon states' Annual Performance Report/State Performance Plan, rates states' graduation rate calculated on how special education students are exiting school each year (regular diploma, certificate, dropping out) rather than the ACGR. Using this calculation method, 58% of TX special education students are exiting school with a regular high school diploma. This stands in sharp contrast to the reported ACGR of 78% for special education students. These two rates, while calculated differently, should not be substantially different. Therefore, the ACGR that is being reported by TEA should be examined to discover the reason(s) for such variation.

The ACGR should report only those students earning a regular high school diploma, which is defined in ESSA as: "standard high school diploma awarded to the preponderance of students in the State that is fully aligned with State standards, or a higher diploma, ... and does not include a recognized equivalent of a diploma, such as a general equivalency diploma, certificate of completion, certificate of attendance, or similar lesser credential."

The significant discrepancy between the ACGR and the exiting rates suggests that TEA is reporting diplomas that do not meet the definition above in its ACGR data for students with disabilities.

### **Indicators (page 14)**

Certain indicators will be used to provide meaningful differentiation between schools for the accountability system. How well or poorly schools do on the measures for these indicators (for all students and each subgroup) will determine if they are identified for comprehensive or targeted support and improvement. The indicators will also be the basis for the information that is reported for each school. Most of the indicators and their measures are required by ESSA, others are left to

state discretion. These distinctions are critically important. States are required to add at least one indicator of School Quality or Student Success to the indicators defined by ESSA. These are referred to as the non-academic indicators. Although they are supposed to be linked by evidence to improved academic outcomes, they are not direct academic indicators like those required by the statute, which measure achievement, growth, graduation rate and English language proficiency.

We note that the Indicator table on pages 17-19 states (for each indicator) “Long-term and interim targets as well as weighting will be determined based on stakeholder feedback.” Since long-term goals and interim targets for indicators appear in Appendix A, we question whether the state will set different long-term and interim targets than those listed in Appendix A. This should be clarified in the final plan.

#### Academic Achievement:

The TEA plan indicates that proficiency on science and social studies assessments will be included in the academic achievement indicator. This is not allowed under ESSA. The academic achievement indicator is measured only by proficiency on state assessments in reading/language arts and math. ED has already advised states that submitted plans in April/May 2017 of this.

#### School Quality or Student Success Indicator (SQSS):

TEA plans to use achievement outcomes on STAAR grade 3-8 in reading and mathematics as one of its SQSS indicators. However, this appears to replicate the academic achievement indicator. Furthermore, SQSS metrics are not to be academic in nature.

#### **Annual Meaningful Differentiation of Schools (page 20)**

The system for determining meaningful differentiation of schools is neither fully articulated nor explained in a manner that is understandable by most. TEA should provide examples of the system and more detail. It is completely unclear as to how subgroup performance will be included in the system.

#### **Weighting of indicators (page 17)**

ESSA requires substantial weight be given to each academic indicator defined in the statute (Academic Achievement, Other Academic Indicator, Graduation Rate and English Language Proficiency) and that, in the aggregate, these indicators should have much greater weight than the SQSS indicator(s) selected by the state.

The draft plan does not provide information on the weighting of indicators, stating that “weighting will be determined based on stakeholder feedback.”

This information is a critical (and required) component of the statewide accountability system. Since the TEA plan is out for public comment until August 29, 2017 and the plan must be submitted to USED on Sept. 18, 2017, it would appear that this information will not be available to the public for comment prior to the submission of the final plan.

### **Different Methodology for Certain Types of Schools**

This information is not provided.

### **Identification of Schools (page 21)**

#### Comprehensive Support and Improvement (CSI)

ESSA requires states to identify for CSI:

- The bottom 5% of Title I schools. If the state elects to identify additional (non-title I) schools, it must ensure that the bottom 5% of title I schools are included in those identified.
- High schools that fail to graduate a third or more of their students. The regulations that were repealed in March 2017 required that the 4-year Adjusted Cohort Graduation Rate be used for this purpose. Without the regulations states are permitted to use longer graduation rates (e.g. 5 year), but it should be discouraged because it removes the emphasis on on-time graduation.

#### **Lowest 5% of Title I Schools:**

TEA will use the system described under Annual Meaningful Differentiation of Schools to identify CSI schools, using a tiered approach based on overall school grade. The system does not provide any detail on how student subgroups are factored in to the grading.

#### **Public high schools failing to graduate at least one-third of its students:**

TEA will identify all high schools with lower than 67 percent 4-year graduation rate. We commend TEA for using ONLY the 4-year ACGR for identification of high schools for CSI. TEA should note that the ESSA requirement is to identify high schools graduating 67% or less rather than less than 67%.

**Frequency of Identification:** TEA will annually identify campuses for comprehensive support and improvement beginning with the August 2018 accountability release, which is based on School Year 2017-2018 performance data.

#### Targeted Support and Improvement (TSI) (page 22)

ESSA requires states to identify for Targeted Support and Improvement (TSI) two distinct categories of schools:

- Any school with one or more consistently underperforming subgroups

- Any school in which one or more subgroups of students are performing at or below the performance of all students in the lowest performing schools (referred to as low- performing subgroups)

The importance of the minimum subgroup (N-size) size becomes critical in the identification of TSI schools. Many TX schools will not be held accountable for the students with disabilities subgroup if the state uses an N-size of 25. So, while the details of how the state will identify TSI schools are important, many schools will escape the possibility of TSI identification entirely due to the N-size being used.

### **Consistently underperforming subgroups:**

The TEA plan states: “Subgroup achievement will be monitored annually through the Closing the Gaps domain (see Appendix B). Any campus that has one or more significant achievement gap(s) between subgroups will be identified for targeted support and improvement. TEA defines consistently underperforming as a school having one or more subgroups that do not meet interim benchmark goals for three consecutive years.”

This definition is confusing in so much as it mentions BOTH achievement gaps between subgroups AND performance against interim goals (presumably these are academic achievement or graduation goals). Achievement gaps between subgroups within a school should not be part of the definition of consistently underperforming subgroup(s).

**We recommend that a consistently underperforming subgroup be defined as a subgroup that has not met, or is not on track to meet, the state defined long-term goals or interim measures for that subgroup for two consecutive years.**

### **Additional Targeted Support (schools with a low-performing subgroup or subgroups):**

The TEA draft plan states “Any campus that is not identified for comprehensive or targeted support, and receives an F-rating in the Closing the Gaps domain will be identified for additional targeted support. Identification will begin with the August 2018 school ratings and will occur on an annual basis.”

This approach does not comply with ESSA. Low performing subgroups are identified based on whether a subgroup or subgroups are performing as poorly as the “all student” group in the lowest 5% of Title I schools.



## **Annual Measurement of Achievement – (At least 95% Assessment Participation Rate Requirement (page 23)**

ESSA requires that at least 95% of all students in the assessed grades (and at least 95% of each subgroup - including the disability subgroup) must be included in the state's annual assessments.

The TEA plan states “A participation rate of less than 95 percent on statewide math and reading/language arts assessments will be included on the Closing the Gaps domain report. Campuses that do not meet the 95 percent rate will be notified and develop strategies to address as part of their annual campus needs assessment for Title I funding.”

This is a wholly inadequate response to this important ESSA requirement.

States must provide information on how the participation rate (for all students and all subgroups) will factor into the accountability system. Merely noting participation on a school report does not satisfy this requirement. Furthermore, ESSA requires that in calculating proficiency rates for the Academic Achievement indicator the denominator must include every student who was supposed to be tested, even if they opted out, once the participation rate falls below 95 percent. The TEA plan should acknowledge this requirement.

It is important to keep in mind the impact of the participation rate requirement on students with disabilities. A “non-punitive” approach such as that proposed by TEA would likely led to widespread exclusion of historically underperforming subgroups-similar to the situation that existed prior to the No Child Left Behind Act (which was replaced by the Every Student Succeeds Act).

We believe the appropriate impact on the accountability system is that a school should not get a satisfactory rating for any year the participation requirement is not met for any subgroup. TEA can also consider the options in the ESSA accountability regulations regarding how to factor the failure of schools to meet the participation rate requirement into the accountability system. Even though Congress repealed these regulations in March, they still provide excellent guidance on many difficult ESSA implementation issues.

## **Continued Support for School and LEA Improvement (page 24)**

### **Exit Criteria for CSI and TSI Schools (page 24)**

The TEA plan does not provide the number of years needed to exit TSI, stating only that “Targeted support campuses will exit when they no longer meet identification criteria in the Closing the Gaps domain. Campuses are expected to exit within three years.”

## **School Conditions (page 29)**

State plans are required to describe strategies to reduce

- Incidents of bullying and harassment;
- The overuse of discipline practices that remove students from the classroom; and
- The use of aversive behavioral interventions that compromise student health and safety

The TEA plan only addresses activities designed to address discipline and fails to provide information regarding bullying and harassment and use of aversive behavioral interventions. The plan should also address specifically students with disabilities since this group of students are disproportionately impacted.

A discussion of UDL should be added in “School Conditions” because UDL improves accessible learning opportunities and reducing frustration that can lead to suspension and aversive behavioral intervention. There are many ways UDL can be used to improve the TX state plan so that it supports a fair, equitable and high quality education for all students. For more information on UDL and ESSA state plans see <http://www.udlcci.org/policytwo-pagerdraft-2-3-17-update2/>.

## **School Transitions (page 30)**

The dropout rate of students with disabilities in TX was 15% in SY 2014-2015. Given this, the plan should include specific strategies on how the state will improve the dropout rate of this population.

## **Children and Youth who are Neglected, Delinquent, or At-Risk (page 35)**

In the section on Title I, Part D (Prevention and Intervention Programs for Children and Youth who are Neglected, Delinquent, or At-Risk) there is no mention of students with disabilities. According to data from the National Technical Assistance Center for the Education of Neglected or Delinquent Children and Youth (<http://www.neglected-delinquent.org>) **21%** of students served under Subpart 1 in TX in 2013-14 had IEPs and **18%** of students served under Subpart 2 had IEPs. The TEA plan should state specifically how it will ensure that students in such facilities are provided with special education and related services as needed, as well as how child find will be carried out.

## **Supporting Effective Instruction (page 37)**

The majority of TX students with Intellectual Disabilities (58%) and Multiple Disabilities (64%) spend most of their school day in segregated classroom (See Part B 2017 Texas Data Display at <https://osep.grads360.org>). The TEA plan should, therefore, provide a commitment to critically important strategies such as

promoting UDL implementation and significantly improving the capacity of educators to implement inclusive best practices.

### **Student Support and Academic Enrichment Grants** (page 49)

The TEA plan makes no mention of how these grants will be used to support and improve use of technology.

Additionally, given the recent Texas law banning the TEA policy that forced LEAs to keep identification for special education below 8.5% of enrollment, the plan should include activities to improve and reform the referral, evaluation, and identification of students who may be in need of special education. (Source: <https://www.houstonpublicmedia.org/articles/news/education-news/2017/05/12/200810/texas-lawmakers-send-ban-on-special-ed-cap-to-governor/>)

UDL and inclusive best practices should also be part of this section of the plan.

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T X S E R  
TEXANS for SPECIAL EDUCATION  
**REFORM**



August 30, 2017

To: The Texas Education Agency

Re: Comments on the Texas State Plan for Implementing the Every Student Succeeds Act  
Amendments to the Elementary and Secondary Education Act of 1965

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Texans for Special Education Reform is the leading grassroots organization - made up of parents, educators, advocates, and allies - focused solely on improving special education and advancing educational outcomes for students with disabilities in our state.

We have collaborated with Texas Parent to Parent, Easterseals of Central Texas, Autism Society of Texas, the Down Syndrome Association of Central Texas, Decoding Dyslexia Texas, the Texas Down Syndrome Advocacy Coalition, and individual Texas stakeholders to construct this document.

Our organizations are parent-led and children-focused. As such, and given TEA's plan to continue gathering stakeholder input on this draft for approximately six more months as stated in the introductory narrative to the plan, we respectfully request to be included in any additional opportunities to discuss, better understand, and make further recommendations on how ESSA will be implemented in Texas.

We are attaching both the joint comments of the National Down Syndrome Congress (NDSC) and Advocacy, Inc. (AI), as well as those of DRTx, CTD and TCDD, with which we are in complete agreement. We request that these comments be considered as our own. In addition, we offer the following comments, observations, and recommendations.

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A. Title I, Part A: Improving Basic Programs Operated by Local Educational Agencies (LEAs)

2. Eighth Grade Math Exception (ESEA section 1111(b)(2)(C) and 34 CFR § 200.5(b)(4)), *Page 3*

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iii. TEA states that “the State of Texas encourages and allows all students the opportunity to be prepared for and take advanced mathematics coursework in middle school.” Unfortunately, not all students in Texas have the opportunity to be prepared for and take advanced mathematics coursework in middle school. Texas law gives school districts the choice as to whether or not to offer students such an opportunity. There are many districts that choose not to provide students this opportunity. TEA’s assertion here is misleading and should be reworded.

4. Statewide Accountability System and School Support and Improvement Activities (ESEA section 1111(c) and (d)), *Page 4*

Referring to HB 22, passed during the recent 85th Texas Legislative Session, TEA states, “Implementation of the new accountability system will occur with the release of August 2018 accountability ratings, thereby maintaining alignment with provisions of ESSA accountability requirements.” However, HB 22 does not require disaggregation of data for students with disabilities currently receiving Special Education services as part of the ‘Closing the Gaps’ domain, which is a necessary component to maintaining alignment with ESSA accountability requirements.

ii. Minimum N-Size (ESEA section 1111(c)(3)(A)), *Page 6*

a. TEA states there will be no minimum size criteria for the “All Students” group and a minimum n-size of 25 for subgroups. ESEA section 1111(c)(3)(A)(i) states the “n” size “shall be the same State-determined number for all students and for each subgroup of students in the State.”

With an N-size of 25, less than half of schools in Texas would be held accountable for the performance of African American, Economically disadvantaged or special education students on assessments. Less than half of all school districts would be held accountable for the performance of the African American and English Learners subgroups. The impact on the number of schools and districts held accountable for graduation rates is not provided but, we suspect, would be far greater. This is unacceptable.

According to NCES *Best Practices for Determining Subgroup Size*, “researchers have observed that the number of subgroups for which data are not reported increases as the minimum number of students required for inclusion in a state accountability system increases. This observation raises questions of whether results are generalizable (external validity), credible (statistical conclusion validity), and stable (reliability) when large portions of important subgroups cannot be reported in an accountability system for statistical or privacy reasons.” A lower N-size (as low as 10) would provide both statistical reliability across accountability metric calculations and privacy protection while ensuring that the largest number of schools and districts are held accountable.

c. In its description on Page 8 of how the minimum number of students was determined by the State, TEA fails to include parents among the stakeholders with whom they collaborated when determining such minimum number as required under ESSA.

iii. Establishment of Long-Term Goals (ESEA section 1111(c)(4)(A)), *Page 10*

a. Academic Achievement (ESEA section 1111(c)(4)(A)(i)(I)(aa))

1. In establishing long term goals for improving student achievement, TEA refers to the state's 60X30 Plan as providing the benchmark for setting high goals for postsecondary student achievement. It is worth noting that the 60X30 Plan makes no mention of students with disabilities or how said Plan supports them in achieving these high goals.

TEA further states, "To align with this plan, the bar for high student achievement – performance at an "A" rating in the Student Achievement domain – is set at 60% of students being on pace for likely success in a post-secondary setting, be it a trade school, community college, or four-year university." It is unclear whether this 60% goal applies to each subgroup of students. Appendix A does include two Student Success indicators for non-high schools with a long-term goal of 60%. *If these are the indicators to which TEA is referring here, it would be inappropriate for these two indicators to be the sole factors in determining school/district ratings for the 'Student Achievement' domain.*

Additionally, the interim targets for the indicators are the same for all subgroups of students, though many of the subgroups are starting at a much lower baseline. For example, the performance of students receiving Special Education is expected to increase by 26.5% in the first 5-year interval. The performance of Asian students, on the other hand, is apparently expected to decrease by over 23%.

The long-term goals and measurements of interim progress for the Student Success indicators do not take into account the improvement necessary for subgroups of students who are behind in reaching those goals. Nor do they require maintenance of performance for those subgroups who have already attained the set goal.

TEA states on page 11, "Our long-term goal is for all students and subgroups to reach the 90 percent threshold at the 'Approaches Level' on STAAR. Based on current statewide average achievement levels, by successfully meeting this long-term goal, Texas schools will help set the course for achieving the ambitious 60X30 goal for our State." It is unclear how having 90% of the student population at or above a level that is one standard deviation below the "Meets Grade Level" standard by the year 2032 helps "set the course" for meeting the 60X30 goal, which has a deadline two years earlier.

3. The long-term goals and measurements of interim progress for Performance described on Page 11 and in the Table in Appendix A do not take into account the improvement necessary for subgroups of students who are behind in reaching those goals. Nor do they require maintenance of performance for those subgroups who have already attained the set goal. The tables of interim measures for Performance (see Appendix A) indicate that the interim targets are the same for

all subgroups of students, though many of the subgroups are starting at a much lower baseline. For example, the performance of students receiving Special Education is expected to increase by 44.7% in the first 5-year interval. The performance of Asian students, on the other hand, is apparently expected to decrease by over 10%.

TEA appears to recognize that certain subgroups will not meet the interim targets set and plans to implement a “Safe Harbor” provision which would give schools/districts a “pass” if the subgroups meet some as-yet-undefined “required improvement measure.” But that is exactly what the interim targets are supposed to represent. *We suggest that TEA instead set appropriate interim targets that do take into account the improvement necessary for each subgroup of students to meet them.*

**b. Graduation Rate (ESEA section 1111(c)(4)(A)(i)(I)(bb)), Page 13**

1. The description provided by TEA does not include long term goals for each subgroup of students.

4. The tables of interim measures (see Appendix A) for four-year adjusted cohort graduation rates (as well as the extended adjusted cohort rates), indicate that the interim targets are, again, the same for all subgroups of students, though many of the subgroups are starting at a much lower baseline. For example, the graduation rate for students receiving Special Education services is expected to increase 13.8% in the first 5-year interval while white and Asian student graduation rates, which are already at or above the target, are apparently expected to decrease in the same 5-year interval.

The long-term goals and measurements of interim progress for the four-year adjusted cohort graduation rate and extended-year adjusted cohort graduation rates do not take into account the improvement necessary for subgroups of students who are behind in reaching those goals. Nor do they require maintenance of performance levels for subgroups that have already attained said goals.

It is also unclear how TEA has calculated the Adjusted Cohort Graduation Rate (ACGR), particularly with regard to students receiving special education. According to ESSA, the ACGR is to be determined based on the number of students in the cohort who graduate in four years with a regular high school diploma, which it defines as, “standard high school diploma awarded to the preponderance of students in the State that is fully aligned with State standards, or a higher diploma.” It does not include, “a recognized equivalent of a diploma, such as a general equivalency diploma, certificate of completion, certificate of attendance, or similar lesser credential.”

TEA reports the baseline 2015 4-year ACGR for students receiving special education as being 78%. Yet, the Texas State Performance Plan/Annual

Performance Report, required under IDEA, shows only 58% of TX special education students exiting school with a regular high school diploma. While these two rates may be calculated differently, if they are using the same criteria of graduating with a regular high school diploma, they should not be that substantially different.

iv. Indicators (ESEA section 1111(c)(4)(B)), *Pages 17-19*

This section of the Plan is woefully incomplete. The Indicator table on pages 17-19 states (for each indicator) “Long- term and interim targets as well as weighting will be determined based on stakeholder feedback.” Many of the tables provided in Appendix A are replete with boxes labeled “TBD.” The Consolidated State Plan Template Instructions state, “Consistent with ESEA section 8302, the Secretary has determined that the following requirements are absolutely necessary for consideration of a consolidated State plan. An SEA may add descriptions or other information, but may not omit any of the required descriptions or information for each included program.”

a. Academic Achievement Indicator

TEA describes the Academic Achievement indicator as measured by “Achievement outcomes on STAAR grade 3-8 and EOC assessments in ELA/reading, mathematics, writing, science, and social studies.” The inclusion of proficiency rates in science and social studies in this indicator is not allowed under ESSA. The US DOE has clearly stated the Academic Achievement indicator is to be measured by proficiency on the annual Statewide reading/language arts and mathematics assessments only.

e. School Quality or Student Success Indicator(s)

The Texas Plan includes two School Quality or Student Success Indicators. The first, applicable to grades 3-8, is based on academic achievement on the STAAR. Since this indicator is supposed to be non-academic in nature, this would seem to be an inappropriate choice. It also seems a bit duplicative as STAAR performance is already sufficiently addressed in the Academic Achievement indicator. TEA should consider more appropriate measures for this indicator such as:

- Student engagement (e.g., chronic absenteeism)
- Educator engagement
- Student access to and completion of advanced coursework (e.g., high school students enrolled in calculus)
- Postsecondary readiness (e.g., college enrollment following high school graduation)
- School climate and safety (e.g., student survey)

Texas’s second School Quality or Student Success indicator, the Achievement Outcomes of Annual Graduates on College, Career, and Military Readiness indicator, does not allow for meaningful differentiation in school performance as graduates can meet the standard through achievement of any one of a number of indicators listed. This renders it impossible to determine which items from the list comprise each school's score.

v. Annual Meaningful Differentiation (ESEA section 1111(c)(4)(C)), *Page 20*



In this section, TEA provides an overview of the State's A-F Accountability System which now includes three domains: Student Achievement, School Progress and Closing the Gaps. This description does not identify how the Academic Achievement, Other Academic, Graduation Rate, and Progress in ELP indicators each receive substantial weight individually and, in the aggregate, much greater weight than the School Quality or Student Success indicator(s). On the contrary, the ELP indicator does not appear to be included at all. The 'Student Achievement Domain' combines the Academic Achievement indicators and the Graduation Rate indicator with a school quality/student success indicator. The 'School Progress' domain combines the Other Academic Indicator for non-high schools (growth on STAAR assessments) with school to school comparisons - which is not an identified indicator under ESSA. It is unclear from the description what the 'Closing the Gaps' domain measures, but as defined in current statute and reflected in the recently published *2017 State Accountability Ratings*, it doesn't include students currently receiving special education as a disaggregated subgroup.

Also problematic is the calculation of the overall campus/district A-F grade, which is weighted by taking the better score of the 'Student Achievement' domain or 'School Progress' domain and averaging that composite with the 'Closing the Gaps' domain, which must account for at least 30% of the overall rating (see page 21). Taking the better score of the 'Student Achievement' or 'School Progress' domain means that one or the other will have no weight at all in a school/district's overall accountability rating. Since each contains indicators that are supposed to "receive substantial weight individually and, in the aggregate, much greater weight than the School Quality or Student Success indicator(s), in the aggregate," this does not appear to meet the requirements of ESSA.

TEA provides no information in the plan about the cut scores that will be used to establish each band of performance for B, C, D or F grades. Nor does it indicate how student subgroups are factored into the grading. Without this information, it is even more difficult to determine if differentiation will be statistically meaningful.

vi. Identification of Schools (ESEA section 1111(c)(4)(D)), *Page 21*

a. Comprehensive Support and Improvement Schools, page 22

Again, without knowing what constitutes a D or F grade, or how subgroup performance factors into grading, it is difficult to determine if TEA's methodology for identifying schools for comprehensive improvement is statistically meaningful.

b. Comprehensive Support and Improvement Schools, page 22

We commend TEA for using only the 4-year graduation rate in identifying schools that fail to graduate one third or more of their students for comprehensive support.

e. Targeted Support and Improvement, page 22

TEA states "Subgroup achievement will be monitored annually through the Closing the Gaps domain (see Appendix B). Any campus that has one or more significant achievement gap(s) between subgroups will be identified for targeted support and

improvement.” The State’s methodology for annually identifying schools with one or more “consistently underperforming” subgroups of students is not based on all indicators in the statewide system of annual meaningful differentiation, as required under ESSA (ESEA section 1111(c)(4)(C)(iii)). We also find TEA’s definition of “consistently underperforming” confusing in that it mentions BOTH “significant” achievement gaps between subgroups AND performance against interim benchmark goals. Achievement gaps between subgroups within a school should not be part of the definition of consistently underperforming subgroup(s).

*We would ask that TEA consider lowering the number of years that constitute “consistent underperformance” from 3 to 2 to prevent further widening of the performance gap.*

f. Additional Targeted Support, page 23

TEA’s approach of identifying a campus that receives an overall F rating in the ‘Closing the Gaps’ domain for additional targeted support does not comply with ESSA. Low performing subgroups are identified based on whether a subgroup or subgroups are performing as poorly as the “all student” group in the lowest 5% of Title I schools.

5. Disproportionate Rates of Access to Educators (ESEA section 1111(g)(1)(B)),  
Page 27

TEA fails to define “ineffective” teacher or describe the extent that minority children enrolled in schools assisted under Title I, Part A are served at disproportionate rates by ineffective, out-of-field, or inexperienced teachers.

6. School Conditions (ESEA section 1111(g)(1)(C)), page 29

In this section, TEA focuses solely on the issue of discipline and fails to address how the agency will support LEAs receiving assistance under Title I, Part A to improve school conditions for student learning through reducing: (i) incidences of bullying and harassment, or (iii) the use of aversive behavioral interventions that compromise student health and safety.

C. Title I, Part D: Prevention and Intervention Programs for Children and Youth who are Neglected, Delinquent, or At-Risk, Page 35

In this section, there is no mention of students with disabilities. According to data from the National Technical Assistance Center for the Education of Neglected or Delinquent Children and Youth (<http://www.neglected-delinquent.org>), 21% of students served under Subpart 1 in TX in 2013-14 had IEPs and 18% of students served under Subpart 2 had IEPs. We agree with our colleagues at the National Down Syndrome Congress and The Advocacy Institute that the TEA plan should state specifically how it will ensure that students in such facilities are provided with special education and related services as needed, as well as how Child Find will be carried out.

**D. Title II, Part A: Supporting Effective Instruction**

4. Improving Skills of Educators (ESEA section 2101(d)(2)(J)), Page 40

TEA states that in order to qualify for recertification, all teachers must receive training in several areas including research and practices in educating students with dyslexia and educating diverse student populations such as students with disabilities, including mental health disorders; students who are educationally disadvantaged; students of limited English proficiency; and students at risk of dropping out of school. Similarly, TEA states all principals must receive training in several areas including educating the same diverse student populations. Unfortunately, this is not correct. The specific wording of the State statute is highly significant to how it must be interpreted and applied. TEC §21.054(b) requires dyslexia training only for "an educator who teaches students with dyslexia," not all educators. Additionally, and more importantly, §21.054(d) and (e) specifically state "Continuing education requirements for a classroom teacher (principal) must provide that not more than 25 percent of the training required every five years include instruction regarding:

- (1) collecting and analyzing information that will improve effectiveness in the classroom;
- (2) recognizing early warning indicators that a student may be at risk of dropping out of school;
- (3) integrating technology into classroom instruction; and
- (4) educating diverse student populations, including:
  - (A) students with disabilities, including mental health disorders;
  - (B) students who are educationally disadvantaged;
  - (C) students of limited English proficiency; and
  - (D) students at risk of dropping out of school."

The statute clearly sets a maximum, but no minimum, requirement for such training. Simply stated, if a teacher or principal received no continuing education training in these areas, that would meet statutory criteria and they would be recertified.

We agree that such training should be required for all educators, particularly with regard to educating students with disabilities as more than two thirds of students receiving special education services in Texas spend 80% or more of their day in general education classrooms. The TEA plan should, therefore, provide a commitment to critically important strategies such as promoting Universal Design for Learning (UDL) implementation and significantly improving the capacity of educators to implement inclusive best practices.

5. Teacher Preparation (ESEA section 2101(d)(2)(M)), Page 42

The TEA Plan should include taking steps to improve teacher preparation by ensuring traditional and alternative preparation programs incorporate Universal Design for Learning principles and emphasize inclusive best practices throughout the pre-service curriculum so that all new teachers enter the classroom with the skills necessary to address the needs of all students.

## **F. Title IV, Part A: Student Support and Academic Enrichment Grants**

1. Use of Funds (ESEA section 4103(c)(2)(A)), Page 49

In support of TEA's initiative to recruit, support and retain effective teachers, UDL and inclusive best practices should be part of this section of the plan.

Additionally, given the recent passage of SB 160 by the 85<sup>th</sup> Texas Legislature banning the TEA policy which led to school districts reducing the identification of students for special education

below 8.5% of enrollment, the plan should include activities to improve and reform the referral, evaluation, and identification of students with disabilities who may be in need of special education services.

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### In Closing

It is extremely disappointing to see this draft plan so inadequately address the needs of students with disabilities in Texas. The lack of detail and thoughtfulness in addressing the improvement of performance of each student subgroup, the lack of significant parental involvement in developing the Plan, and its overall incompleteness leave this draft woefully inadequate in addressing the mandates and requirements of ESSA.

In our opinion, this is not so much a plan to develop systems to support ESSA implementation, but rather an attempt to retrofit existing systems and programs in Texas by claiming they align with ESSA requirements. They don't. Students and families in Texas deserve better.

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