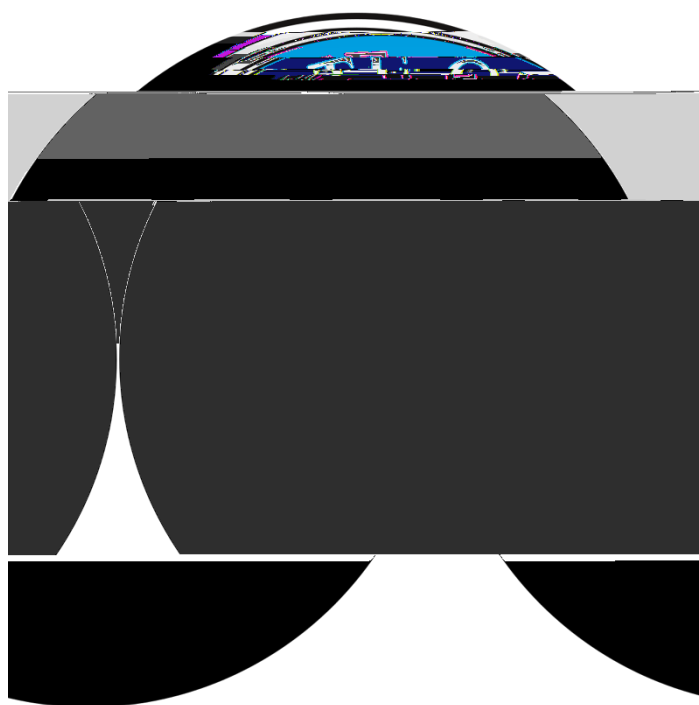


# Texas Commission on Special Education Funding Report to the 88th Texas Legislature



Final Report  
December 31, 2022

## Chair's Opening Remarks

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## Commission Meetings:

The Commission began meeting in March 2021 and held eight hearings which included invited panels of stakeholders and two meetings for public comment.

Chair Comb named a work team to review the Commission's work. The work team consists of members from the Commission, the Texas Education Agency, and other stakeholders. The work team is currently reviewing the Commission's work and will report back to the Commission in the next few months.

## Background Current System of Special Education Funding

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While special education funding changes have been made within the last several years at the state level, the focus on overall school finance in the last several years also generated renewed interest in thoroughly reviewing the state funds special education. Social education in public schools is funded both through federal and state appropriations. This Commission's report focuses only on the state financial commitments.

The state currently funds special education based on instructional arrangements, or settings. These formulas are based on how much time a student spends in a special education setting. The current settings funding model for special education in Texas has been in place since the 1990's. This model applies a differentiated funding weight to the average daily attendance funding calculation for a student, which then determines the amount of funding for that student. There are multiple funding weights that are differentiated to align with a prescribed level of cost associated with the various setting options available in most schools. The weighted funding rates are based on the amount of time the individual student is reported to spend in the respective educational setting. Additionally, the amount of time spent receiving special education services is then subtracted from the overall calculation so that the student generates general education funding for the time that they are not reported as receiving special education services and special education funding for the time they spend receiving special education services.

While the current



Students in Texas public schools who receive special education services will be categorized into one of the seven different weighted funding tiers based upon the types and number of basic special education services they receive. The tiers are associated respectively with a specific funding weight to be applied to the Basic Allotment (BA) and multiplied by the number of students in average daily attendance (ADA) in each of the tiers. An offset of the basic allotment may need to be applied depending on the appropriations and the data collected.

Students may fall into only one of the seven weighted funding tiers. If a situation occurs in which an individual student has characteristics across more than one tier, whether the funding associated with that student fell to the higher or lower tier would be a policy decision the legislature would make and outline in the enabling legislation.

The tiers

In contrast to the Intensity of Services Tiers described above, the Service Group Funding categories are applied on a multiple snapshot enrollment basis with allocations to LEAs to be prorated over weekly intervals for students to generate the respective category funding for less than an entire school year. Also, in contrast to the Intensity of Services Tiers, some students may be eligible to generate funding under multiple groups. Under this model, these individual students would generate funds for respective LEAs for every group in which they are eligible.

**Funding Group Level One.** Students who are eligible to generate funding associated with this group receive a single ancillary instructional service such as speech therapy or dyslexia therapy. The student receives related services described in 34 CFR 300.34, such as physical or occupational therapy, audiological services, music therapy, and special education counseling services. Note that this group level can be used more than once and is based on each eligible service that a student receives. Students who are eligible to generate funding associated with this group would also include students who get a functional behavioral assessment (FBA) or a behavioral intervention plan (BIP).

**Funding Group Level Two.** Students who require assistive technology and/or augmented communication or audiologic devices or systems would generate funding associated with this group. Examples of this would be the need for an FM audio system within the classroom to support students who are hard of hearing or a student with a disability impacting communication that requires an assistive technology communication device.

**Funding Group Level Three.** Students who require a dedicated staff member for less than half of the school day would generate funding associated with this group. Examples of this would be dedicated sign or paraprofessional staff that are assigned to an individual student as part of a student's IEP.

**Funding Group Level Four.** Students who require a dedicated staff member for at least half of the school day would generate funding associated with this group. Examples of this would be dedicated nursing or paraprofessional staff are assigned to an individual student as part of the student's IEP.

## Recommendation 2: Provide a Cost Offset for Full and Individual Initial Evaluations (FIEs)

As part of their requirements to find all children who may need special education services within their geographic boundary, school systems conduct thousands of initial student evaluations every year to determine if students qualify for special education services. The TEA currently collects data from LEAs related to the number of FIEs that are conducted annually. However, the state does not collect specific data on the cost of these evaluations. While the overall cost is dependent on the disabilities suspected, demographic information, and the evaluations that are required for a given student, the Commission was advised of an average cost of approximately \$1,500 per evaluation. The Commission recommends that

education positions have historically been hard to staff. In today's climate, it continues to be harder to find qualified staff. LEAs are often forced to hire uncertified or inappropriately certified staff when certified or licensed professionals cannot be located. There are instances where a recently retired special education professional might set that someone with full certification can be utilized by the LEA. However, current state law places penalties on those who return to the field within twelve months of retirement. The Commission therefore recommends that the Legislature provide funds for LEAs to cover the retire/rehire penalties associated with a recently retired employee who returns to the public school setting when qualified professionals cannot be found. This would include all types of special education positions, including teachers, related services personnel, and evaluation personnel. While it is difficult to ascertain the fiscal impact of this recommendation because the TRS does not keep specific data on the type of position to which a retiree returns, initial unofficial estimates from TRS at the time of this report indicate that approximately \$30 million per year would be needed to address this issue for retire/rehires. For the Commission's focus, the recommendation would pertain only to special education assignments. Absent specific data on the issue, the Commission's recommendation would be for the state to appropriate between \$2 million and \$12 million per year to assist in covering the surcharge penalties for those who return to a special education position.

[Recommendation 5: Provide funding for special education teacher -6 \( t33.3 \(r\)3.29 \(w\)-6.\)-6 \(ao \(c\)-5 \(a\)-9 \(t\)4](#)







## Appendix

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### Appendix A:

All Texas Commission on Special Education Funding documents and information can be found [here](https://tea.texas.gov/finance-and-grants/state-funding/additional-finance-resources/texas-commission-on-special-education-funding#:~:text=Texas%20Commission%20on%20Special%20Education%20Funding%20House%20Bill,to%20address%20issues%20related%20to%20special%20education%20funding)  
(<https://tea.texas.gov/finance-and-grants/state-funding/additional-finance-resources/texas-commission-on-special-education-funding#:~:text=Texas%20Commission%20on%20Special%20Education%20Funding%20House%20Bill,to%20address%20issues%20related%20to%20special%20education%20funding>).

### Appendix B:

Commission Member Letters



# TEXAS HOUSE of REPRESENTATIVES

**Mary E. González**

State Representative, District 75

December 27, 2022

Stacey Neal Combest  
Chair, Texas Commission on Special Education Funding  
Texas Education Agency  
1701 N Congress Ave  
Austin, TX 78701

Dear Chair Combest,

The Commission on Special Education Funding took on a broad and responsible task laid out in House Bill 1525 to improve the method of funding education for more than 600,000 students with disabilities, to not only transform their lives individually but the education system for a spectrum of positive outcomes. The bulk of our seven meetings reflected the seriousness and necessity of that charge, providing a wealth of information and suggestions. The report proposed for our Commission's adoption contains critical elements that should move forward with urgency in the upcoming legislative session.

Paramount among the several excellent recommendations contained in the proposed report is moving from funding special education based on student placement to funding based on service intensity. I believe the long-term effect of such a change will be transformational and of enduring value to our students with disabilities. Other recommendations, including those to update transportation funding, to provide financial assistance to districts, and to recruit and retain qualified educators, offer even more immediate benefit to students and all those who serve them.

Several proposals included in the draft report do not meet the threshold of having reasonably proved to offer a significant benefit to students in special education. Recommendations for more careful adoption could have made those regarding the Supplemental Special Education Services Program, grants for nonprofit agencies, or funding for nonpublic day programs acceptable but without such, I am not able to support those recommendations. That said, as the first thirteen recommendations stood within the draft report even without adopting offered changes, I would have been pleased to join in signing and endorsing the overall report.

Therefore, however, I am saddened that I am unable to ratify the Commission report because it contains recommendation fourteen that threatens public education for students with disabilities and for their more than five million peers. Regardless of whether they are called "educations savings accounts" or something else and regardless of the particular implementation, public vouchers for students to attend private schools has many negative implications for our state, our communities, our 5.5 million students and their families, and, most especially, our 600,000 students with disabilities.

Educating students with disabilities in a private school setting removes critical protections for students and families. Of the most significant protections include the Individuals with Disabilities Education Act (IDEA) Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act. These federal guidelines have a record spanning several decades protecting hundreds of thousands of students. Without IDEA, for example, students lose the right to have individualized education programs and placement in the least restrictive environment. Research demonstrates these two specific elements support opportunity for students with disabilities to achieve the highest academic success.

The record illustrates private school vouchers, whether for all students or those in special education, at best, provide no overall improvement in students' educational performance and, in the largest and most recent cases, lead to a significant decline. Particularly as students struggle to make up ground lost during the pandemic, which affected students with disabilities significantly more than their peers, it is unconscionable that our state consider siphoning resources into a system that would actually serve those students less well and offer zero protections as compared to our public schools.

A publicly-funded private school voucher does nothing to address the overwhelming need for more than 600,000 students receiving special education services at more than 8,000 Texas public school campuses. In fact, such a plan undermines the constitutional obligation of public schools to serve all students and specifically has a multiplied negative effect on rural communities. Our state's constitution, our statutes, and many years of case law leave no doubt that public school districts and our neighborhood public schools are obliged to serve every Texas child who comes through their doors, regardless of when the child comes or where the child was in school before. Any child with a disability, whether entering kindergarten on the first day of the school year or leaving a private school in the middle of a senior high school year must and will be served by the student's local public school.

As I would with any proposed legislation put before the House of Representatives, I must judge the Commission's report as a whole. It contains urgent elements, but the inclusion of a recommendation for private school vouchers makes that whole unacceptable and I cannot serve my constituents state, the 5.5 million school children including the 600,000 living with disabilities, or my conscience were I to sign it.

Sincerely

Mary E. González PhD  
Texas State Representative  
House District 75

State Representative Dan Huberty  
District 127

December 16, 2022

Members of the Commission on Special Education Funding,

I have been honored to serve the Commission on Special Education Funding during the 87<sup>th</sup> Interim Session. I want to thank the Commission for all their hard work, especially Chair Combest and the Texas Education Agency for their work in pulling the final report together.

While it is my intent to vote for the final report, I cannot support REP HQGDWLRQ. Consider FKVWDW Educational Savings Accounts to better serve students with disabilities and unique educational requirements, the legislature should consider Educational Savings Accounts as a form of education funding. The TEA shall provide additional avenues for families of students with disabilities to access education services. The TEA shall develop resources for families considering ESAs to ensure they are fully informed on the resources and utilization. RI (6\$V

When creating HB 1525, and in particular the language that created the Commission on Special Education Funding, the intent was to address the gap in funding that exists between what the TEA spend and what was funded by the State. This final report proved that

