

Texas School Quick Tip

National Youth Science Camp

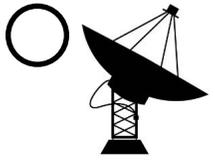
Two talented graduating high school seniors will be selected to represent Texas at the 2018

National Youth Science Camp in West Virginia from June 27 to July 20, 2018.

All expenses, including travel and lodging, are included.

Deadline: Feb. 28 The student delegates — from all over the U.S. and from other countries — will also visit Washington, D.C.

Info: www.texednews.com/2018/3/1.html



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TEA News

Abbott Orders Morath To Quickly Draft Corrective Plan

Feds Conclude that Texas Failed To Educate Students with Disabilities

Thursday, Jan. 11 was a busy day for education news in Texas. **Highlights:**

Critical Special-Ed Report

The Office of Special Education Populations (OSEP) division of the U.S. Department of Education (USDE) issued its long awaited 14-page final report — with an accompanying press release from U.S. Education Secretary **Betsy DeVos** — confirming that a policy the TEA put in place 14 years ago likely resulted in thousands of Texas children not receiving the special-ed services to which they may have been entitled.

The report concluded that the TEA failed to ensure that a free appropriate public education (FAPE) was made available to all children with disabilities. The state failed to fully identify and evaluate disabled students and did not meet “general supervisory and monitoring responsibilities” as required by the Individuals with Disabilities Education Act (IDEA), the report said.

The report indicated that much of the blame resides with the TEA’s policy decision in 2004 to implement an 8.5 percent special-ed benchmark as a school performance indicator.

The report concluded that this policy led school districts to believe that the TEA required them to take measures to ensure that the number of special-ed students never went above 8.5 percent of their total student populations.

The number of Texas children identified as having disabilities under IDEA declined from 2003-04 to the 2016-17 school year by 32,000 students, while the total enrollment of Texas schools grew by more than a million students, the data reflects.

“Leans on Administrators”

As an example of the state’s failures, the report quotes one unnamed superintendent, for instance, who said that he “leans on the administrators” if the special-ed

numbers in his district are too high because his school board “leans on him.”

At this district, the percentage of students enrolled in special-ed and related services dropped from 12.5 percent in 2005 to 7.8 percent in 2016.

The report and DeVos’ press release praised the passage of 2017’s **SB160** that prohibits the TEA from using a district’s special-ed enrollment numbers or percentages as a school performance indicator.

The report also criticizes the TEA’s **Dyslexia Handbook** for providing information that is contrary to IDEA requirements that may have resulted in thousands of students who may have qualified for special-ed dyslexia services to not be evaluated for special-ed at all.

The report found widespread instances of misconceptions at the school-district level about IDEA requirements, which resulted in some students being improperly denied special-ed evaluations to which they may have been entitled while schools waited to see how well the students would fare using less intensive non-special-ed “supports” — such as **Section 504** and/or “response-to-intervention” (RTI) strategies in the regular education setting.

A “Last Resort”

“Generally, interview data indicated that staff in many schools and ISDs appeared to view special education under the IDEA as a ‘last resort,’ which should be avoided whenever possible to ensure that the child is instructed in a general education environment, even though children with disabilities can and do receive special education and related services in the general education environment,” the report noted.

The report lists three findings of IDEA noncompliance by the state and includes corrective steps for the TEA to take.

Corrective Actions/Next Steps

The report directs Texas to: **1)** find and test *all* students who may have qualified for special education but were not evaluated, **2)** provide guidance to districts about their responsibilities under IDEA and **3)** create a school district monitoring plan. OSEP indicated it would work with the state to develop a mutually agreeable timeline.

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Special-Ed Report, Continued From Page 1

The OSEP findings confirmed the 2016 reporting by the *Houston Chronicle* that the 8.5 percent performance indicator “benchmark” put in place by the TEA had a trickle down effect that fostered a belief by school districts that special-ed enrollments should not exceed 8.5 percent of each districts’ total student population.

The TEA had repeatedly denied that the benchmark was a de facto cap on special-ed enrollments for districts.

The Immediate Aftermath

Immediately after the OSEP report was released:

➔ **Gov. Abbott** directed Education Commissioner **Mike Morath** to issue a **draft corrective action plan** within **seven days**. The governor’s letter said the “past dereliction of duty on the part of many school districts to serve our students and the failure of TEA to hold districts accountable are worthy of criticism.”

The governor’s statement led to:

➤ An announcement by Commissioner Morath that he will comply with the governor’s directive to draft a corrective action plan within seven days, and that he shares the governor’s commitment to doing what is right for Texas’ special-ed students.

Morath said the corrective action plan will outline specific steps the TEA will take to address all of the issues identified in the report — and that parents and special-ed advocacy group representatives will play an “ongoing integral role” in helping to shape the plan.

➤ A statement by the **Texas Council of Administrators of Special Education (TCASE)** that labeled the governor’s “dereliction of duty” charge against ISDs as “offensive” and “inaccurate.”

TCASE noted that the OSEP report concluded that special-ed related actions taken by local districts resulted from the TEA’s guidance.

The TCASE response also took the governor and “some members of his Texas Legislature” to task, as funding for schools has been cut, for not providing the resources and assistance needed by districts to meet the needs of increasing student enrollments and putting in place higher accountability requirements.

The **Texas Association of School Administrators** and the **Texas School Alliance**, among others, joined in supporting the TCASE statement.

➤ Various education advocates, in support of the argument that the problem was the fault of the Legislature and not school districts, distributed copies of a November 2004 **Texas House Public Education Committee** interim report that suggested that a method to control special-ed costs would be to either impose caps on the number of students identified as special-ed eligible or by reducing the amount spent on special-ed.

➔ Disability rights groups and special-ed parent advocates loudly applauded the report’s findings. “It’s the federal government telling families we heard you, we understand, and you are right,” said **Kym Rogers** with *Disability Rights Texas*, adding: “Your children should have been getting these services and it was the actions of TEA that kept them from getting them.”

➔ State Board of Education Chair **Donna Bahorich** of Houston tweeted that she is “glad this report recognizes we’re falling far short for SPED students” and that she supports the quick response by the governor and commissioner. “We can & must do better,” she said.

More info: www.texednews.com/2018/3/2.html

Other TEA News**TEA Submits Revised ESSA Plan**

The TEA publicly released (Jan. 9) its revised version of the state’s Every Student Succeeds Act (ESSA) implementation plan to the U.S. Department of Education.

The USDE had given the TEA only 15 calendar days, starting just before the holiday break on Dec. 21, to submit its revisions based on the department’s feedback to the TEA’s originally submitted plan. The agency met the deadline by submitting the revisions on Jan. 8.

Education Commissioner **Mike Morath**’s letter to Texas school administrators about the ESSA plan revision submission mostly focused on how the revisions would impact the implementation of 2017’s **HB22** that made changes to the state’s academic accountability system.

Morath noted that provisions contained in the revised plan, due to the tight deadline imposed by USDE, reflect what might be included in still-to-be finalized TEA rules implementing HB22.

Morath said he will submit amendments to the plan if additional feedback (based on input from stakeholders) leads to “decisions different from what is proposed and already submitted in our ESSA plan.”

A few of the many changes in the revised plan:

- ➔ Removing writing, science and social studies test results from academic accountability considerations, leaving only STAAR reading and math tests as accountability indicators. The other test results will still be used for calculating student success and school quality.
- ➔ Requiring students who take Algebra I in middle school to take either the SAT, ACT or Texas Success Initiative Assessment in high school for high school math accountability purposes.
- ➔ Providing that if fewer than 95 percent of students take an ESSA-associated assessment, then for accountability purposes, the number of students needed to bring the test-taking percentage up to the 95 percent level would be added for accountability purposes.
Example: If 20 students need to take an exam to meet the requirement that 95 percent of students took the exam — but only 18 students actually took the exam — two fictional students would be added to the calculation to meet the 95 percent threshold.
This could negatively affect ISDs in which large numbers of students opt out of exams.

More info: www.texednews.com/2018/3/3.html

TEA News Briefs

More info about all of the following is at:
www.texednews.com/2018/3/4.html

➔ **Year-round education** — The TEA reports that 121 campuses operated year-round programs last school year in 25 school districts (ISDs, charters and six campuses under Texas Department of Juvenile Justice ju-

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TEA News Briefs, Continued From Page 2

risdiction). About 1.4 percent of the state's 8,956 campuses are operating year round schedules.

As in prior reports, **Socorro ISD** in El Paso led the list, with 49 campuses operating year round. This was followed by **Tyler ISD**, which had 25 campuses on the year-round list.

This is the first year that the TEA has collected the year-round scheduling data directly from the Public Education Information Management System (PEIMS) instead of asking districts to report, via a survey, which of their campuses are operating year round. The surveys have not ever had a 100 percent response rate, the TEA noted.

- ➔ **Assessment news** — The TEA has released a **Postsecondary Readiness Assessment Instruments** report to the Legislature that contains comprehensive summary data on the Spring 2016 and Spring 2017 **Algebra II** and **English III** end-of-course assessments.
- ➔ **Teaching awards** — The TEA has released information regarding the **2018 Presidential Awards for Excellence in Mathematics and Science Teaching**, which this year will recognize grades K-6 math and science teachers. The deadline to nominate a teacher is **April 1**. Eligible teachers can submit an application themselves (by **May 1**) and will receive 25 continuing professional education hours for doing so.

Other News

More info about all of the following is at:
www.texednews.com/2018/3/5.html

- ➔ **Harvey** — In a move that can affect when (and if) *Harvey* displaced families move back to their original school districts, FEMA announced that the end of the **Transitional Shelter Assistance Program** — allowing *Harvey* families to stay in hotels, trailers and other short-term temporary housing — has been extended from Jan. 16 to March 12, with eligibility to be reviewed mid-term on Feb. 20.
As of Jan. 12, more than 10,000 Texas households were receiving assistance from the program.
This is the second time the program has been extended.
- ➔ **School finance commission** — The first meeting of the 13-member **Texas Commission on Public School Finance** will be held Jan. 23 in Austin. The commission must issue its report by Dec. 31, 2018.
- ➔ **Dual-credit concerns** — In a “wide ranging” discussion with reporters, Texas Higher Education Commissioner **Raymund Paredes** expressed serious reservations about the expansion of dual-credit courses, the *Austin American-Statesman* reported (Jan. 10).
Paredes suggested that students who are not prepared for the classes are being placed in them anyway, amid the rush to get them early college credit.
About 150,000 Texas high school students are taking such dual-credit courses, but only 110,000 students in the state have met college readiness standards in both English and math on the SAT, ACT or Texas Success Initiative Assessments, he said.

“That’s 40,000 over the numbers we have data for that are demonstrably college-ready,” he said in the conference call with reporters, adding:

“We need to consider whether we’ve expanded too quickly and whether we’ve compromised the integrity of these courses.”

- ➔ **Vision screening** — The *Texas Department of State Health Services* has updated its vision and hearing screening website for schools to provide info on 2017’s **HB3157** that allows schools to use **photoscreening devices** to screen students for vision problems. The department is also seeking input for its review of the vision screening program.
- ➔ **Workforce report** — Among newly released reports issued by the **Texas Workforce Investment Council**, an advisory body under the governor’s responsibility, is a 55-page report summarizing work-based learning activities operating in six ISDs (**Amarillo, Bryan, Conally, Humble, Irving and North East**) and by **Panola Charter School** — and in four community colleges (**Alamo, Lone Star, San Jacinto and Tyler Junior**).
The council also released an evaluation of the **Texas Workforce System**, an initiative that includes ISD participation.
- ➔ **Tobacco age ordinance** — **San Antonio’s** city council approved (Jan. 11) an ordinance — the first of its kind in Texas — prohibiting stores within the city limits from selling tobacco products to anyone under age 21. If the city health inspectors find violations, retailers could face maximum fines of \$500. The ordinance takes effect on Oct. 1.

A bill to raise the minimum age to buy tobacco products from 19 to 21 failed to pass in the Legislature last year.

- ➔ **GED concerns** — The Austin-based **Center for Public Policy Priorities** issued a report regarding high school equivalency (**GED**) programs in Texas that estimates there are more than three million adults in the state who lack a high school diploma or equivalent — and that the problem is getting worse.
Between 2003 and 2012, an average of 33,700 students per year from across the state received their high school equivalency credential by passing the GED. During the same time period, there was a gradual decline in the number of test takers in the state, despite significant population growth.
After changes to the GED test, only 21,000 Texans earned a high school equivalency in 2016, the report says.
The report concludes with a set of recommendations for state policy makers and business leaders.

The Courts

Texas Third Court of Appeals (Austin)

Parent’s Lawsuit Threats Justify ISD’s Refusal to Release Certain Records

Ruling: An ISD justifiably refused to turn over certain records to a parent due to the parent’s threat to sue the district. **B.W.B. v. Eanes ISD [and vice versa] v. Eanes ISD, No. 03-16-00710-CV**. Issued Jan. 10.

More info: www.texednews.com/2018/3/6.html

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- ➔ **Feds Blast Texas' Special-Ed Compliance**
- ➔ **TEA Submits Revised ESSA Plan**
- ➔ **ISD Wins Open Records Court Fight**

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The Courts, Continued From Page 3

The record reflects that the underlying dispute involves a contentious relationship between a father (**B.W.B.**) and EISD that reportedly began when the father complained that his daughter's soccer coach: **1)** bullied his daughter and **2)** shared his daughter's private information with other students. The father also claimed that EISD failed to effectively discipline the soccer coach and that district officials encouraged other parents to retaliate against him.

The dispute, which continued over several years, included the father filing numerous open records requests and EISD seeking at least two attorney general (**AG**) opinions.

Although some of the records were released to the father, others were not released after the attorney general agreed with EISD that certain communications between the district and its lawyer could be withheld under **Texas Public Information Act** provisions allowing the withholding of attorney/client communications based on a governmental entity's reasonable anticipation of litigation (or if litigation was "pending") as of the date the entity received the request for information *and if* the requested information related to the anticipated or pending litigation.

The three-member Third Court panel issuing this decision agreed with the AG and trial court judge that the documents could be withheld because the father, prior to filing his request for the records, had sent an email to the soccer coach (that was copied to other EISD email accounts) and a letter to the district threatening to file suit unless certain conditions were met.

Threats to Sue

The justices noted that their decision was based on the specific wording of B.W.B.'s threats to sue the district and not just on the mere fact that he had threatened the district with litigation.

Also, the fact that B.W.B. is a licensed attorney did not play a significant part in upholding EISD's right to withhold the requested documents, the justices said.

FERPA

The justices also upheld the prior rulings by the AG and the trial court judge dismissing the father's claims that he is entitled to the withheld records anyway under the federal Family Educational Rights and Privacy Act (**FERPA**) guarantees of parental access to school records involving the parent's child.

The justices noted that the U.S. Department of Education (**USDE**) has made it clear to the state attorney general and to Texas courts that they cannot rule on FERPA decisions — and cannot have access to student education records without parental consent — and that the only recourse for a parent to challenge a FERPA-related decision by an ISD is to file a complaint with the USDE.

Otherwise, an ISD's FERPA-related decision is final, the justices concluded.

The justices affirmed other parts of the trial judge's rulings, including denying the father's request for attorney fees from EISD.

\$\$ Money \$\$

The **deadline** for both of these TEA grants is **March 13:**

- ➔ **Principal Preparation grant program (701-18-105)** — Providing a means for ISDs, charters and other eligible entities to support existing staff (most likely classroom teachers) in becoming principals. The program will provide an estimated \$4.7 million to fund about 120 grants ranging from \$13,000 to \$130,000.
- ➔ **Grow Your Own grant program (701-18-106)** — Promoting efforts to encourage a district's high school students, paraprofessionals, instructional aides, substitute teachers and others to pursue teaching careers. The \$3.04 million program is expected to fund about 100 grants.

More info: www.texednews.com/2018/3/7.html

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