

December 21, 2018

Laurie VanderPloeg, Director
Office of Special Education Programs
United States Department of Education
400 Maryland Avenue SW
Washington, D.C. 20202

Dear Ms. VanderPloeg,

This letter is in response to the Office of Special Education Program's (OSEP) October 19, 2018 response to the Texas Education Agency (TEA) Corrective Action Response (CAR) submitted to OSEP on April 23, 2018. TEA is committed to correcting the issues of noncompliance described by OSEP and implementing lasting improvements to special education programming in Texas public schools.

The attached indexed PDF contains the documentation requested by OSEP regarding TEA's implementation of the CAR. The PDF is organized by OSEP requirement and, in many cases, contains multiple examples of the requested documentation. While TEA has continued to work diligently to implement all the improvements outlined in the CAR, it should be noted that TEA's timelines for implementation of portions of the CAR were impacted by the amount of time between TEA's submission of the CAR and OSEP's initial response on October 19, 2018.

In our efforts to correct issues of noncompliance, TEA has provided a clear path of student-centered improvements to serve students with disabilities toward greater outcomes. As this document will demonstrate, TEA is not simply attempting to meet compliance standards, but to implement services and processes that impact students in the classroom.

Additionally, TEA has acted toward correcting and improving our special education programs in an earnest and collaborative manner. Due to the comprehensive nature of our strategic plan, TEA has been methodical and measured in setting new state-level procedures. Understanding the size of Texas, we have established supports for LEAs that are minimally disruptive in the current year (2018-2019) to allow for training of key stakeholders by next school year. TEA plans to immediately enhance our monitoring and supports by utilizing special education experts, with pilots being conducted in the Spring of 2019. Attached, you will find a document (4.c.) that details this progression.

Finally, as TEA takes great urgency to make these improvements, it is our intent to create sustained and long-term systems of support to improve the outcomes of all students with disabilities. This work will redesign our framework for improved service to students with disabilities.

If you have any questions regarding the provided documentation, or should OSEP require further documentation at this stage, please reach out to Justin Porter, State Director of Special Education at (512) 463-9414.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mike Morath', written in a cursive style.

Mike Morath
Commissioner of Education

cc: Penny Schwinn, Chief Deputy Commissioner, Academics
Matt Montaño, Deputy Commissioner in the Office of Academics, Special Populations
and Monitoring
Justin Porter, State Director, Special Education

Enclosures

OSEP Requirement #1

Documentation that the State’s system of general supervision requires that each ISD identifies, locates, and evaluates all children suspected of having a disability who need special education and related services, in accordance with section 612(a)(3) of the IDEA and its implementing regulation at 34 CFR §300.111 and makes FAPE available to all eligible children with disabilities in accordance with section 612(a)(1) of the IDEA and its implementing regulation at 34 CFR §300.101.

Corrective Action Response

Action	Evidence Included	Link
1.A. Communicate to all local education agencies (LEAs) the Child Find and FAPE requirements and obligations in IDEA.	Yes	1.A.
1.B. Review and ensure that assurance statements received from LEA grantees, by way of signing Schedule #1—General Information of the paper Application or by certifying and submitting the eGrants Application, clearly conveys to the Applicant their acceptance of and required compliance with all state policies, and procedures under 34 CFR §§300.101 - 300.163 and 300.174 and 300.165 - 300.174.	Documentation not requested but available upon request	n/a
1.C. Revise monitoring protocols and document review requirements to ensure evidence of supervision activities related specifically to implementing regulations for Child Find and FAPE requirements.	Yes	1.C.
1.D. Make publicly available, easily accessible and understandable information regarding available dispute resolution programs (including IEP facilitation, mediation, state complaints, and due process hearings) specific to Child Find, FAPE, and other IDEA requirements.	Documentation not requested but available upon request	n/a
1.E. Ongoing training of hearing officers, mediators, and complaints investigators regarding legal provision of Child Find.	Yes	1.E.
1.F. The Texas legislature passed, and Governor Abbott signed into law, new legislation prohibiting the use of a performance indicator based on the number or percentage of children who receive special education services.	Documentation not requested but available upon request	n/a
1.G. The Texas legislature passed, and Governor Abbott signed new legislation, requiring districts to notify (requirements are defined in the bill) parents of each child, other than a child enrolled in a special education program, who receives assistance from the district for learning difficulties through the use of intervention strategies. An “intervention strategy” is defined in the bill and RtI is included within this definition. The law also gives parents the right to all written records and access to any records relating to assistance provided.	Documentation not requested but available upon request	n/a

OSEP Requirement #2

A plan and timeline by which TEA will ensure that each ISD will (i) identify, locate, and evaluate children enrolled in the ISD who should have been referred for an initial evaluation under the IDEA, (ii) require IEP Teams to consider, on an individual basis, whether additional services are needed for children previously suspected of having a disability who should have been referred for an initial evaluation and were later found eligible for special education and related services under the IDEA, taking into consideration supports and services previously provided to the child.

Corrective Action Response

Action	Evidence Included	Link
<p>2.A. Require all local education agencies (LEAs) to distribute information to every enrolled student’s family regarding the Child Find and FAPE requirements and obligations in IDEA, to inform them of their rights under IDEA, and to provide the contact information to request an initial evaluation.</p>	<p>Yes</p>	<p>2.A</p>
<p>2.B. TEA will provide guidance and information related to LEA legal responsibilities under state and federal law, including the identification of all eligible students and subsequent additional service guidelines, processes and best practices regarding provision of Child Find, Evaluation, Procedural Notice and Safeguards, and supports and services that results in positive school outcomes and success</p>	<p>Documentation not requested but available upon request</p>	<p>n/a</p>
<p>2.c. TEA will require LEAs to collect and retain data that includes (i) each request for evaluation made during the 2018-2019 school year, (ii) whether the reason for request indicates a claim that the child should have been referred for an initial evaluation prior to the 2018-19 school year, and (iii) if the child is found eligible, whether additional services are needed, taking into consideration supports and services previously provided, and what those services are determined to be, including the timeline for implementation. LEAs may produce this data to TEA upon request or through approved TEA data collection processes.</p>	<p>Documentation not requested but available upon request</p>	<p>n/a</p>

OSEP Requirement #3

A plan and timeline by which TEA will provide guidance to ISD staff in the State, including all general and special education teachers, necessary to ensure that ISDs (i) ensure that supports provided to struggling learners in the general education environment through RtI, Section 504, and the State’s dyslexia program are not used to delay or deny a child’s right to an initial evaluation for special education and related services under the IDEA; (ii) are provided information to share with the parents of children suspected of having a disability that describes the differences between RTI, the State dyslexia program, Section 504, and the IDEA, including how and when school staff and parents of children suspected of having a disability may request interventions and/or services under these programs; and (iii) disseminate such information to staff and the parents of children suspected of having a disability enrolled in the ISD’s schools, consistent with 34 CFR §300.503(c)

Corrective Action Response

Action	Evidence Included	Link
<p>3.a. Upon direction from the State Board of Education, TEA will facilitate a process to revise the <i>Texas Dyslexia Handbook</i> to clarify the difference between dyslexia and dyslexia-related services, IDEA, Section 504, and RtI, and ensure clear guidance in the field, especially as it relates to dyslexia and dyslexia-related disabilities being eligible for IDEA. TEA will ensure that any guidance is compliant with IDEA.</p>	<p>Yes</p>	<p>3.A.</p>
<p>3.b. Evaluate existing resource content and whether the <i>Parent’s Guide to the Admission, Review, and Dismissal Process</i> meets legal requirements regarding a child’s right to an initial evaluation for special education and related services under the IDEA.</p>	<p>Documentation not requested but available upon request</p>	<p>n/a</p>
<p>3.c. TEA will leverage resources to enable the creation of a suite of information intended to be shared with the parents of children suspected of having a disability. These resources will describe the differences between RtI, the State dyslexia program (for dyslexia or dyslexia-related needs), Section 504, and the IDEA, and would be developed in conjunction with extensive stakeholder feedback. This will include how and when school staff and parents of children experiencing learning difficulties may request interventions and/or services under these programs. This will include policy development relating to timelines, forms, with relatable and understandable translation of federal regulations and state statutes and will be readily available to all stakeholders. TEA will provide resources and guidance to support LEA understanding of IDEA and state statute compliance.</p>	<p>Yes</p>	<p>3.C.</p>

OSEP Requirement #4

A plan and timeline by which TEA will monitor ISDs’ implementation of the IDEA requirements described above when struggling learners suspected of having a disability and needing special education and related services under the IDEA are receiving services and supports through RTI, Section 504, and the State’s dyslexia program.

Corrective Action Response

Action	Evidence Included	Link
<p>4.a. TEA will restructure Agency oversight with increased capacity and monitoring expertise, ensuring a balanced system of compliance and results-driven accountability monitoring and intervention practices in the state, that includes specific monitoring requirements to review LEAs’ implementation of the IDEA requirements found in 34 CFR §§300.111 and 300.101 when struggling learners suspected of having a disability and needing special education and related services under the IDEA are receiving supports through RTI, Section 504, and/or the State’s dyslexia program.</p>	<p>Documentation not requested but available upon request.</p>	<p>n/a</p>
<p>4.b. TEA will establish broad stakeholder involvement opportunities, including input from the State’s Continuing Advisory Committee (CAC) to inform and provide feedback on effective monitoring practices that will be additionally developed and implemented by TEA to ensure LEAs are meeting regulatory requirements under IDEA for struggling learners suspected of having a disability and needing special education and related services, regardless of whether they are receiving other services and supports through RTI, Section 504, and the State’s dyslexia program.</p>	<p>Documentation not requested but available upon request.</p>	<p>n/a</p>

Evidence subject to Corrective Response 1.A.

Communications	Relevant Date(s)	Publicly Available?	Link to presentation or documentation
To the Administrator Addressed (TAA) Letter	11/17/2016	Yes	To the Administrator Addressed November 2016
TAA Letter	2/26/2018	Yes	To the Administrator Addressed February 2018
TAA Letter	6/6/2018	Yes	To the Administrator Addressed June 2018
TX Continuous Improvement Steering Committee (TxCISC) Presentation	2/8/2018	Yes	TxCISC Presentation February 2018
Continuing Advisory Committee (CAC)	2/13/2018	Yes	CAC Presentation February 2018
District Administrator Focus Group Meetings All 20 Regions	2/1 - 2/28/2018	Yes	Administrator Focus Meeting Presentations February 2018
Texas Council for Administrators of Special Education (TCASE) Presentation	2/20/2018	Yes	TCASE Presentation February 2018
Texas Council for Administrators of Special Education (TCASE) Presentation	7/24/2018	Yes	TCASE 7-24-18 Presentation
TCASE Dyslexia Panel Discussion	7/25/2018	Yes	TCASE Dyslexia TEA Panel Summary of Q and A TCASE Dyslexia TEA Panel Discussion PowerPoint Visuals – July 25, 2018
University of Texas-Arlington Special Education Policy Forum	9/19/2018	Yes	UT Arlington Special Education Policy Forum September 19th, 2018

[Return to OSEP Requirement #1](#)

Evidence subject to Corrective Response 1.C.

Documentation	Relevant Date(s)	Publicly Available?	Link to website or documentation
Monitoring Protocol (identify specific LEA review requirements for Child Find and FAPE)*	2018-2019	Yes	https://tea.texas.gov/si/SPEDmonitoring/SPED Compliance Review Topics
TAA letter	10/26/2018	Yes	LEA Staging and Determination TAA

* These protocols and resources are available for the 2018-19 school year. Solicitation for improved monitoring processes for the 2019-20 school year is in process.

Evidence subject to Corrective Response 1.E.

Documentation	Relevant Date(s)	Publicly Available?	Link to documentation
Documentation of most recent training conducted by an independent expert in the field of special education law.	5/1/2018	no	Hearing Officer Training Documents May 2018
Documentation of most recent training conducted by an independent expert in the field of special education law.	11/16/2018	no	Hearing Officer Training Documents Nov 2018

* All current hearing officers, mediators and complaint investigators have attended at least one training on Child Find by outside experts.

[Return to OSEP Requirement #1](#)

Evidence subject to Corrective Response 2.A.

Documentation	Relevant Date(s)	Publicly Available?	Link to documentation
TAA Letter	7/17/2018	Yes	TAA Letter July 2018
Guidance on Admission, Review, and Dismissal Guide Production and Required Dissemination	2018-2019	Yes	Guidance on Procedural Safeguards
Student Handbook Statement	2018-2019	Yes	Student Handbook Webpage Student Handbook Statement-English Student Handbook Statement-Spanish
Information describing TEA’s Legal Framework and relationship to this corrective action and how communication to families through means other than postings on websites, when necessary is ensured; Clarify whether used to fulfill 300.503, 300.504, or 300.612	2018-2019	No	Legal Framework Utilization

[Return to OSEP Requirement #2](#)

Evidence subject to Corrective Response 3.A.

Documentation	Relevant Date(s)	Publicly Available?	Link to documentation
Finalized Dyslexia Handbook	11/16/2018	Yes	TEA Dyslexia Website The Dyslexia Handbook—2018 Update: Procedures Concerning Dyslexia and Related Disorders

Evidence subject to Corrective Response 3.C.

Documentation	Relevant Date(s)	Publicly Available?	Link to documentation
Representative sample of the documents produced to satisfy this Corrective Action*	12/1/2018	Yes	Solicitation for LEA Resources Solicitation for Family Resources

* Solicitation for production of additional resources to be published in multiple languages and broadly disseminated through a variety of mediums to all families in Texas is in process.

[Return to OSEP Requirement #3](#)

1.C.

SPED Compliance Review Topics



SPED_Compliance
Review Topics_19.pdf

1.E.

Hearing Officers, Mediators, and Complaint Investigators Training Documents



May 1st Training
Materials.pdf



November 16th
Training Materials.p

2.A.

Information describing TEA's Legal Framework and relationship to this corrective action and how communication to families through means other than postings on websites, when necessary is ensured; Clarify whether used to fulfill 300.503, 300.504, or 300.612

The Legal Framework is a statewide leadership project partnering the Texas Education Agency and Region 18 Education Service Center. The project which includes contacts from each educational service center is a compilation of state and federal requirements for special education organized by topic in a user-friendly format. Additionally, the Legal Framework supports a user account created access portal for local educational agency (LEA) superintendents or their designees. This portal provides a mechanism by which each LEA uploads their most current special education policies, as well as provide assurances for a variety of required actions as applicable by the State.

TEA is required to provide school districts and charter schools a written statement of the options and requirements for providing assistance to students who have learning difficulties or who need, or may need, special education services (Texas Education Code (TEC) [§26.0081](#)). The statement must explain that a parent may request an evaluation for special education or Section 504 services at any time. Parents must receive the statement in a written format every year. A school may include the statement in the student handbook, or a school may disseminate the statement through other means such as a letter or newsletter to each parent and ensure that each parent receives a copy. Each LEA in the state was required to certify and submit assurances that the statement, provided in the student handbook or by other means, included the most recent and updated required language and was distributed to a parent of each district student in compliance with TEC §26.0081(c).

This requirement was communicated in a July 17, 2018 To the Administrator Addressed (TAA) letter linked on the TEA website. Additionally, this requirement was communicated regionally via the 20 regional education service center (ESC) networks and special education specialists to the LEA administrators and special education directors.

Although the provisions under TEC §26.0081 do not specifically fulfill 34 CFR §§300.503, 300.504, or 300.612, they do require LEAs to give notice to parents of the options and requirements for assisting students who have learning difficulties or who need or may need special education. However, [The Legal Framework](#) does serve as the resource where LEAs may obtain the most updated Notice of Procedural Safeguards and the Parent's Guide to the ARD Process, in both English and Spanish, that are utilized to fulfill these regulatory requirements.