

State Plan Objective 2.3 Activity: Special Education Disparities Collaboration

In November, the Public Policy Committee requested additional information regarding English Language Learners (ELL) who receive special education services as part of their **Disproportionalities and Disparities Discussion**. This document responds to that request and proposes action to address identified concerns. The action proposed would address **TCDD's FY17-FY21 State Plan Objective 2.3**: Collaborate with three community-based organizations to reduce disparities arising from linguistic and cultural barriers that prevent individuals who are Spanish-speaking from receiving services by 9/30/2021.

In 2016, the Houston Chronicle called widespread public attention to a longstanding concern that thousands of Texas students are not receiving a free appropriate public education (FAPE) required by Individuals with Disabilities Education Act (IDEA). In Texas, a disproportionately low number of students who are ELL receive special education services — only 7.3%, compared to a national average of 13%. This gap is three times higher than it was in 2004. The Chronicle noted, “If English Language Learners were in special education at the same rate as they were in 2004, about 40,000 more of them would now be receiving those services.”

Federal officials and advocates for students with disabilities are concerned that many ELLs have been denied special education services inappropriately. The 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.”

The Every Student Succeeds Act (ESSA), which says states have to identify schools where subgroups of students (such as English-language learners or students in special education) are "consistently underperforming" compared to their peers, requires Texas schools to improve their efforts to provide eligible ELLs with special education services.

Evidence suggests that legislative mandates alone will not eliminate the disproportionality experienced by ELLs who are eligible for special education — linguistic and cultural issues also need to be addressed.

Advocacy for Living in Mainstream America's (ALMA) 2013 TCDD Outreach and Development final grant report noted, “... despite federal mandates, Latino families of children with disabilities are not always involved in their children's education ... This lack of involvement may be the result of one or more of the following factors: (a) lack of time, (b)

lack of transportation, (c) lack of understanding of the special education system, (d) lack of child care facilities at the school, (e) language barriers, and (f) perceptions that the school does not welcome them ... Research done with Latino families documents the influence that culture and language have on families' perceptions about the special education system.”

Based on a review of legislation debated in previous legislative sessions and proposed in the current session, staff have identified the following advocacy organizations that have testified on, for or against bills relating to ELL:

- Texas Association for Bilingual Education
- Intercultural Development Research Association
- Mexican American Legal Defense Fund
- League of United Latin America Citizens
- Texas Center for Educational Policy at the School of Education at the University of Texas

TCDD should approach the above organizations for technical assistance to develop agreement regarding how to collaborate in the future.

Related Legislation

SB 98 (2017) Would eliminate special education services to bilingual students and associated funding. Would give schools the option to provide special education services in the students' primary language if there are at least 20 students speaking the same primary language.

SB 1868 (2015) Would have required each campus to disaggregate data reflecting bilingual students and students with limited English proficiency in grade level retention, performance assessments, and dropout rates, and monitor data to evaluate program effectiveness (did not pass).

SB 149 (2015) Allows graduation committees to assess whether a student who has not performed satisfactorily on end-of-course assessments to qualify for graduation based on other criteria. Does not affect the role of the ARD as final decision maker for students receiving special education services. Requires a translator to be provided if needed and a reassessment determined by the graduation committee for end of course assessments that were not passed (current law).

SB 811 (2015) Would have required school districts to provide, on parental request, a translated audiotape of the student's individualized education program (did not pass).