

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Allen, Reynolds

H.B. No. 1335

A BILL TO BE ENTITLED

1 AN ACT

2 relating to certain resources available to teachers of a public  
3 school student with a disability under the statewide plan for  
4 delivery of services to public school students with disabilities.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 29.001, Education Code, is amended to  
7 read as follows:

8 Sec. 29.001. STATEWIDE PLAN. The agency shall develop, and  
9 modify as necessary, a statewide design, consistent with federal  
10 law, for the delivery of services to children with disabilities in  
11 this state that includes rules for the administration and funding  
12 of the special education program so that a free appropriate public  
13 education is available to all of those children between the ages of  
14 three and 21. The statewide design shall include the provision of  
15 services primarily through school districts and shared services  
16 arrangements, supplemented by regional education service centers.  
17 The agency shall also develop and implement a statewide plan with  
18 programmatic content that includes procedures designed to:

19 (1) ensure state compliance with requirements for  
20 supplemental federal funding for all state-administered programs  
21 involving the delivery of instructional or related services to  
22 students with disabilities;

23 (2) facilitate interagency coordination when other  
24 state agencies are involved in the delivery of instructional or

1 related services to students with disabilities;

2 (3) periodically assess statewide personnel needs in  
3 all areas of specialization related to special education and pursue  
4 strategies to meet those needs through a consortium of  
5 representatives from regional education service centers, local  
6 education agencies, and institutions of higher education and  
7 through other available alternatives;

8 (4) ensure that regional education service centers  
9 throughout the state maintain a regional support function, which  
10 may include direct service delivery and a component designed to  
11 facilitate the placement of students with disabilities who cannot  
12 be appropriately served in their resident districts;

13 (5) allow the agency to effectively monitor and  
14 periodically conduct site visits of all school districts to ensure  
15 that rules adopted under this section are applied in a consistent  
16 and uniform manner, to ensure that districts are complying with  
17 those rules, and to ensure that annual statistical reports filed by  
18 the districts and not otherwise available through the Public  
19 Education Information Management System under Section 42.006, are  
20 accurate and complete;

21 (6) ensure that appropriately trained personnel are  
22 involved in the diagnostic and evaluative procedures operating in  
23 all districts and that those personnel routinely serve on district  
24 admissions, review, and dismissal committees;

25 (7) ensure that an individualized education program  
26 for each student with a disability is properly developed,  
27 implemented, and maintained in the least restrictive environment

1 that is appropriate to meet the student's educational needs;

2 (8) ensure that, when appropriate, each student with a  
3 disability is provided an opportunity to participate in career and  
4 technology and physical education classes, in addition to  
5 participating in regular or special classes;

6 (9) ensure that each student with a disability is  
7 provided necessary related services; ~~and~~

8 (10) ensure that an individual assigned to act as a  
9 surrogate parent for a child with a disability, as provided by 20  
10 U.S.C. Section 1415(b) ~~[and its subsequent amendments]~~, is required  
11 to:

12 (A) complete a training program that complies  
13 with minimum standards established by agency rule;

14 (B) visit the child and the child's school;

15 (C) consult with persons involved in the child's  
16 education, including teachers, caseworkers, court-appointed  
17 volunteers, guardians ad litem, attorneys ad litem, foster parents,  
18 and caretakers;

19 (D) review the child's educational records;

20 (E) attend meetings of the child's admission,  
21 review, and dismissal committee;

22 (F) exercise independent judgment in pursuing  
23 the child's interests; and

24 (G) exercise the child's due process rights under  
25 applicable state and federal law; and

26 (11) ensure that each district develops a process, to  
27 be used by a teacher who instructs a student with a disability in a

1 regular classroom setting in requesting a review of the student's  
2 individualized education program, that provides for:

3 (A) a timely district response to the teacher's  
4 request; and

5 (B) notification to the student's parent or legal  
6 guardian of that response.

7 SECTION 2. This Act applies beginning with the 2011-2012  
8 school year.

9 SECTION 3. This Act takes effect immediately if it receives  
10 a vote of two-thirds of all the members elected to each house, as  
11 provided by Section 39, Article III, Texas Constitution. If this  
12 Act does not receive the vote necessary for immediate effect, this  
13 Act takes effect September 1, 2011.

**ADOPTED**

MAY 23 2011

*Atty. Gen.*  
Secretary of the Senate

By: *Reticia VandePutte*

H.B. No. 1335

Substitute the following for H.B. No. 1335:

By: *David P. ...*

C.S. H.B. No. 1335

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to certain resources available to teachers of a public  
3 school student with a disability under the statewide plan for  
4 delivery of services to public school students with disabilities.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 29.001, Education Code, is amended to  
7 read as follows:

8 Sec. 29.001. STATEWIDE PLAN. The agency shall develop, and  
9 modify as necessary, a statewide design, consistent with federal  
10 law, for the delivery of services to children with disabilities in  
11 this state that includes rules for the administration and funding  
12 of the special education program so that a free appropriate public  
13 education is available to all of those children between the ages of  
14 three and 21. The statewide design shall include the provision of  
15 services primarily through school districts and shared services  
16 arrangements, supplemented by regional education service centers.  
17 The agency shall also develop and implement a statewide plan with  
18 programmatic content that includes procedures designed to:

19 (1) ensure state compliance with requirements for  
20 supplemental federal funding for all state-administered programs  
21 involving the delivery of instructional or related services to  
22 students with disabilities;

23 (2) facilitate interagency coordination when other  
24 state agencies are involved in the delivery of instructional or

1 related services to students with disabilities;

2           (3) periodically assess statewide personnel needs in  
3 all areas of specialization related to special education and pursue  
4 strategies to meet those needs through a consortium of  
5 representatives from regional education service centers, local  
6 education agencies, and institutions of higher education and  
7 through other available alternatives;

8           (4) ensure that regional education service centers  
9 throughout the state maintain a regional support function, which  
10 may include direct service delivery and a component designed to  
11 facilitate the placement of students with disabilities who cannot  
12 be appropriately served in their resident districts;

13           (5) allow the agency to effectively monitor and  
14 periodically conduct site visits of all school districts to ensure  
15 that rules adopted under this section are applied in a consistent  
16 and uniform manner, to ensure that districts are complying with  
17 those rules, and to ensure that annual statistical reports filed by  
18 the districts and not otherwise available through the Public  
19 Education Information Management System under Section 42.006, are  
20 accurate and complete;

21           (6) ensure that appropriately trained personnel are  
22 involved in the diagnostic and evaluative procedures operating in  
23 all districts and that those personnel routinely serve on district  
24 admissions, review, and dismissal committees;

25           (7) ensure that an individualized education program  
26 for each student with a disability is properly developed,  
27 implemented, and maintained in the least restrictive environment

1 that is appropriate to meet the student's educational needs;

2 (8) ensure that, when appropriate, each student with a  
3 disability is provided an opportunity to participate in career and  
4 technology and physical education classes, in addition to  
5 participating in regular or special classes;

6 (9) ensure that each student with a disability is  
7 provided necessary related services; ~~and~~

8 (10) ensure that an individual assigned to act as a  
9 surrogate parent for a child with a disability, as provided by 20  
10 U.S.C. Section 1415(b) ~~[and its subsequent amendments]~~, is required  
11 to:

12 (A) complete a training program that complies  
13 with minimum standards established by agency rule;

14 (B) visit the child and the child's school;

15 (C) consult with persons involved in the child's  
16 education, including teachers, caseworkers, court-appointed  
17 volunteers, guardians ad litem, attorneys ad litem, foster parents,  
18 and caretakers;

19 (D) review the child's educational records;

20 (E) attend meetings of the child's admission,  
21 review, and dismissal committee;

22 (F) exercise independent judgment in pursuing  
23 the child's interests; and

24 (G) exercise the child's due process rights under  
25 applicable state and federal law; and

26 (11) ensure that each district develops a process to  
27 be used by a teacher who instructs a student with a disability in a

1 regular classroom setting:

2 (A) to request a review of the student's  
3 individualized education program;

4 (B) that provides for a timely district response  
5 to the teacher's request; and

6 (C) that provides for notification to the  
7 student's parent or legal guardian of that response.

8 SECTION 2. This Act applies beginning with the 2011-2012  
9 school year.

10 SECTION 3. This Act takes effect immediately if it receives  
11 a vote of two-thirds of all the members elected to each house, as  
12 provided by Section 39, Article III, Texas Constitution. If this  
13 Act does not receive the vote necessary for immediate effect, this  
14 Act takes effect September 1, 2011.



# ADOPTED

MAY 23 2011

FLOOR AMENDMENT NO. 1

*Leta Spaw*  
Secretary of the Senate

BY:

*Wendy N Davis*

1 Amend C.S.H.B. No. 1335 (senate committee report) by adding  
2 the following appropriately numbered SECTIONS to the bill and  
3 renumbering subsequent SECTIONS of the bill accordingly:

4 SECTION \_\_\_\_ Chapter 29, Education Code, is amended by  
5 adding Subchapter M to read as follows:

6 SUBCHAPTER M. INTRA-DISTRICT SPECIAL SERVICES TRANSFER PROGRAM

7 Sec. 29.501. DEFINITIONS. In this subchapter:

8 (1) "Parent" includes a guardian, custodian, or other  
9 person with authority to act on behalf of a student.

10 (2) "Pervasive developmental disorder" includes, as  
11 defined by the most recent edition of the Diagnostic and  
12 Statistical Manual of Mental Disorders:

13 (A) autism;

14 (B) Asperger's syndrome;

15 (C) Rett's syndrome;

16 (D) childhood disintegrative disorder; and

17 (E) a pervasive developmental disorder, not  
18 otherwise specified.

19 (3) "Program" means the special services transfer  
20 program for eligible students created by this subchapter.

21 Sec. 29.502. SPECIAL SERVICES TRANSFER PROGRAM. (a) An  
22 eligible student under Section 29.503 may, at the option of the  
23 student's parent, attend any public school in the district in which  
24 the student resides that provides a program appropriate to the  
25 student's needs.

26 (b) Each school year, a school district shall provide  
27 written notice of the opportunity to transfer under this subchapter  
28 to the parent of a student who is eligible to participate in the  
29 program under Section 29.503.

1       Sec. 29.503. ELIGIBLE STUDENT. (a) A student is eligible  
2 to participate in the program if the student:

3           (1) is receiving public school services;

4           (2) is eligible to participate in a school district's  
5 special education program under Section 29.003; and

6           (3) has been diagnosed by a medical doctor with:

7                   (A) a pervasive developmental disorder; or

8                   (B) an intellectual disability.

9       (b) Each school year, the school district and the student's  
10 parent shall review:

11           (1) the continued applicability of the student's  
12 original diagnosis; and

13           (2) the student's continued eligibility for  
14 participation in the program.

15       (c) If a parent disagrees with a school district's decision  
16 that a student does not initially meet or does not continue to meet  
17 the requirements for eligibility under Subsection (a), the parent  
18 may seek a second diagnosis by a second medical doctor. The parent  
19 is responsible for obtaining and paying the costs of a second  
20 diagnosis. Not later than the 30th day following the date of the  
21 second diagnosis as provided by this subsection, the school  
22 district and the parent shall meet to discuss the results of the  
23 second diagnosis. The second diagnosis determines whether the  
24 student meets the eligibility requirements under Subsection (a).

25       Sec. 29.504. ADMISSIONS. (a) A campus that has more  
26 applications for attendance under this subchapter than available  
27 positions must fill the available positions in the order the campus  
28 receives the applications.

29       (b) In determining the number of available positions, a  
30 campus may consider staff needs and facility space.

31       Sec. 29.505. PROGRAM COMPLIANCE. The agency may withhold

1 funding from any district that violates this subchapter or a rule  
2 adopted under this subchapter. Agency decisions are final and may  
3 not be appealed.

4 Sec. 29.506. RULES. The commissioner may adopt rules to  
5 implement this subchapter.

6 SECTION \_\_\_\_\_. (a) The Texas Education Agency shall make the  
7 intra-district special services transfer program under Subchapter  
8 M, Chapter 29, Education Code, as added by this Act, available for  
9 participation beginning with the 2012-2013 academic school year.

10 (b) As soon as practicable, the commissioner of education  
11 shall adopt and implement rules necessary for the administration of  
12 the program.

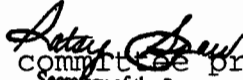
FLOOR AMENDMENT NO. 2

**ADOPTED**

MAY 23 2011

BY: 

1 Amend H.B. <sup>1335</sup>~~1334~~ (senate committee printing) as follows:

  
Secretary of the Senate

2 Insert the following appropriately numbered SECTION and  
3 renumber the subsequent SECTIONS appropriately.

4 SECTION \_\_. Section 29.005, Education Code, is amended by  
5 adding Subsection (f) to read as follows:

6 (f) The written statement of a student's individualized  
7 education program may be required to include only information  
8 included in the model form developed under Section 29.0051(a).

9 SECTION \_\_. Subchapter A, Chapter 29, Education Code, is  
10 amended by adding Section 29.0051 to read as follows:

11 Sec. 29.0051. MODEL FORM. (a) The agency shall develop a  
12 model form for use in developing an individualized education  
13 program under Section 29.005(b). The form must be clear,  
14 concise, well organized, and understandable to parents and  
15 educators and may include only:

16 (1) the information included in the model form  
17 developed under 20 U.S.C. Section 1417(e)(1);

18 (2) a state-imposed requirement relevant to an  
19 individualized education program not required under federal law;  
20 and

21 (3) the requirements identified under 20 U.S.C.  
22 Section 1407(a)(2).

23 (b) The agency shall post on the agency's Internet website  
24 the form developed under Subsection (a).

25 (c) A school district may use the form developed under  
26 Subsection (a) to comply with the requirements for an  
27 individualized education program under 20 U.S.C. Section  
28 1414(d).

29 SECTION \_\_. Not later than December 1, 2011, the Texas

1 Education Agency shall develop the model form required under  
2 Section 29.0051, Education Code, as added by this Act.

3 ~~SECTION \_\_. This Act takes effect immediately if it~~  
4 ~~receives a vote of two-thirds of all the members elected to each~~  
5 ~~house, as provided by Section 39, Article III, Texas~~  
6 ~~Constitution. If this Act does not receive the vote necessary~~  
7 ~~for immediate effect, this Act takes effect September 1~~

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**May 24, 2011**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB1335** by Allen (Relating to certain resources available to teachers of a public school student with a disability under the statewide plan for delivery of services to public school students with disabilities.), **As Passed 2nd House**

<b>No significant fiscal implication to the State is anticipated.</b>
---

The bill would require the Texas Education Agency (TEA) to develop a standardized form for use in developing an individualized education program (IEP), including information under Section 1417(e) (1), Title 20, United States Code, which authorizes the development of a model form to implement the Individuals with Disabilities Education Act of 2004 (IDEA). The bill would require the TEA to post the form on its website for use by school districts.

It is estimated that agency costs to develop an IEP model form are not significant and could be covered with existing Federal Funds.

**Local Government Impact**

School districts and open-enrollment charter schools would be required to expend funds to develop and implement the process regarding the review of student IEPs. The requirement to allow a classroom teacher to request an ARD committee meeting could be costly and could create procedural problems for the school district, open-enrollment charter school, or the parent. The provisions of this bill would impact only regular classroom teachers who instructed students with disabilities and would not effect change with regard to special education instructional and related service providers. Approximately 68 percent of the students with disabilities are served 80 percent or more of the day in a regular classroom. The provisions of this bill could result in a large number of additional ARD committee meetings. The impact of the associated costs to school districts and open-enrollment charter schools is not known at this time and could vary widely from school district to school district.

The bill would authorize students with certain pervasive developmental disorders to transfer to any public school within the student's school district of residence upon request of the student's parent.

**Source Agencies:** 701 Central Education Agency

**LBB Staff:** JOB, LXH, JGM, JW

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**May 20, 2011**

**TO:** Honorable Florence Shapiro, Chair, Senate Committee on Education

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE:** **HB1335** by Allen (Relating to certain resources available to teachers of a public school student with a disability under the statewide plan for delivery of services to public school students with disabilities.), **Committee Report 2nd House, Substituted**

<b>No fiscal implication to the State is anticipated.</b>
---

**Local Government Impact**

School districts and open-enrollment charter schools would be required to expend funds to develop and implement the process regarding the review of student IEPs. The requirement to allow a classroom teacher to request an ARD committee meeting could be costly and could create procedural problems for the school district, open-enrollment charter school, or the parent. The provisions of this bill would impact only regular classroom teachers who instructed students with disabilities and would not effect change with regard to special education instructional and related service providers. Approximately 68 percent of the students with disabilities are served 80 percent or more of the day in a regular classroom. The provisions of this bill could result in a large number of additional ARD committee meetings. The impact of the associated costs to school districts and open-enrollment charter schools is not known at this time and could vary widely from school district to school district.

**Source Agencies:** 701 Central Education Agency

**LBB Staff:** JOB, LXH, JGM, JW

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**May 10, 2011**

**TO:** Honorable Florence Shapiro, Chair, Senate Committee on Education

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB1335** by Allen (Relating to certain resources available to teachers of a public school student with a disability under the statewide plan for delivery of services to public school students with disabilities.), **As Engrossed**

**No fiscal implication to the State is anticipated.**

**Local Government Impact**

School districts and open-enrollment charter schools would be required to expend funds to develop and implement the process regarding the review of student IEPs. The requirement to allow a classroom teacher to request an ARD committee meeting could be costly and could create procedural problems for the school district, open-enrollment charter school, or the parent. The provisions of this bill would impact only regular classroom teachers who instructed students with disabilities and would not effect change with regard to special education instructional and related service providers. Approximately 68 percent of the students with disabilities are served 80 percent or more of the day in a regular classroom. The provisions of this bill could result in a large number of additional ARD committee meetings. The impact of the associated costs to school districts and open-enrollment charter schools is not known at this time and could vary widely from school district to school district.

**Source Agencies:** 701 Central Education Agency

**LBB Staff:** JOB, LXH, JGM, JW



**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**April 22, 2011**

**TO:** Honorable Rob Eissler, Chair, House Committee on Public Education

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB1335** by Allen (Relating to certain resources available to teachers of a public school student with a disability under the statewide plan for delivery of services to public school students with disabilities.), **Committee Report 1st House, Substituted**

**No fiscal implication to the State is anticipated.**

**Local Government Impact**

School districts and open-enrollment charter schools would be required to expend funds to develop and implement the process regarding the review of student IEPs. The requirement to allow a classroom teacher to request an ARD committee meeting could be costly and could create procedural problems for the school district, open-enrollment charter school, or the parent. The provisions of this bill would impact only regular classroom teachers who instructed students with disabilities and would not effect change with regard to special education instructional and related service providers. Approximately 68 percent of the students with disabilities are served 80 percent or more of the day in a regular classroom. The provisions of this bill could result in a large number of additional ARD committee meetings. The impact of the associated costs to school districts and open-enrollment charter schools is not known at this time and could vary widely from school district to school district.

**Source Agencies:** 701 Central Education Agency

**LBB Staff:** JOB, LXH, JGM, JW

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**March 21, 2011**

**TO:** Honorable Rob Eissler, Chair, House Committee on Public Education

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB1335** by Allen (Relating to certain resources available to teachers of a public school student with a disability under the statewide plan for delivery of services to public school students with disabilities.), **As Introduced**

**No fiscal implication to the State is anticipated.**

**Local Government Impact**

School districts and open-enrollment charter schools would be required to expend funds to develop and implement the process regarding the review of student IEPs. The requirement to allow a classroom teacher to request an ARD committee meeting could be costly and could create procedural problems for the school district, open-enrollment charter school, or the parent. The provisions of this bill would impact only regular classroom teachers who instructed students with disabilities and would not effect change with regard to special education instructional and related service providers. Approximately 68 percent of the students with disabilities are served 80 percent or more of the day in a regular classroom. The provisions of this bill could result in a large number of additional ARD committee meetings. The impact of the associated costs to school districts and open-enrollment charter schools is not known at this time and could vary widely from school district to school district.

**Source Agencies:** 701 Central Education Agency

**LBB Staff:** JOB, LXH, JGM, JW