

House Bill 1335
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

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

- (1) ensure state compliance with requirements for supplemental federal funding for all state-administered programs involving the delivery of instructional or related services to students with disabilities;
- (2) facilitate interagency coordination when other state agencies are involved in the delivery of instructional or related services to students with disabilities;
- (3) periodically assess statewide personnel needs in all areas of specialization related to special education and pursue strategies to meet those needs through a consortium of representatives from regional education service centers, local education agencies, and institutions of higher education and through other available alternatives;
- (4) ensure that regional education service centers throughout the state maintain a regional support function, which may include direct service delivery and a component designed to facilitate the placement of students with disabilities who cannot be appropriately served in their resident districts;

SENATE VERSION (IE)

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

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- (5) allow the agency to effectively monitor and periodically conduct site visits of all school districts to ensure that rules adopted under this section are applied in a consistent and uniform manner, to ensure that districts are complying with those rules, and to ensure that annual statistical reports filed by the districts and not otherwise available through the Public Education Information Management System under Section 42.006, are accurate and complete;
- (6) ensure that appropriately trained personnel are involved in the diagnostic and evaluative procedures operating in all districts and that those personnel routinely serve on district admissions, review, and dismissal committees;
- (7) ensure that an individualized education program for each student with a disability is properly developed, implemented, and maintained in the least restrictive environment that is appropriate to meet the student's educational needs;
- (8) ensure that, when appropriate, each student with a disability is provided an opportunity to participate in career and technology and physical education classes, in addition to participating in regular or special classes;
- (9) ensure that each student with a disability is provided necessary related services; ~~and~~
- (10) ensure that an individual assigned to act as a surrogate parent for a child with a disability, as provided by 20 U.S.C. Section 1415(b) ~~[and its subsequent amendments]~~, is required to:
 - (A) complete a training program that complies with minimum standards established by agency rule;
 - (B) visit the child and the child's school;
 - (C) consult with persons involved in the child's education, including teachers, caseworkers, court-appointed volunteers, guardians ad litem, attorneys ad litem, foster parents, and caretakers;

SENATE VERSION (IE)

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- (9) ensure that each student with a disability is provided necessary related services; ~~and~~
- (10) ensure that an individual assigned to act as a surrogate parent for a child with a disability, as provided by 20 U.S.C. Section 1415(b) ~~[and its subsequent amendments]~~, is required to:
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(D) review the child's educational records;
(E) attend meetings of the child's admission, review, and dismissal committee;
(F) exercise independent judgment in pursuing the child's interests; and
(G) exercise the child's due process rights under applicable state and federal law; and
(11) ensure that each district develops a process, to be used by a teacher who instructs a student with a disability in a regular classroom setting in requesting a review of the student's individualized education program, that provides for:

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

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

No equivalent provision.

No equivalent provision.

SENATE VERSION (IE)

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(E) attend meetings of the child's admission, review, and dismissal committee;
(F) exercise independent judgment in pursuing the child's interests; and
(G) exercise the child's due process rights under applicable state and federal law; and
(11) ensure that each district develops a process to be used by a teacher who instructs a student with a disability in a regular classroom setting:

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

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

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

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

(f) The written statement of a student's individualized education program may be required to include only information included in the model form developed under Section 29.0051(a). [FA2]

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

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

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(1) the information included in the model form developed under 20 U.S.C. Section 1417(e)(1);
(2) a state-imposed requirement relevant to an individualized education program not required under federal law; and
(3) the requirements identified under 20 U.S.C. Section 1407(a)(2).
(b) The agency shall post on the agency's Internet website the form developed under Subsection (a).
(c) A school district may use the form developed under Subsection (a) to comply with the requirements for an individualized education program under 20 U.S.C. Section 1414(d). [FA2]

No equivalent provision.

SECTION __. Not later than December 1, 2011, the Texas Education Agency shall develop the model form required under Section 29.0051, Education Code, as added by this Act. [FA2]

No equivalent provision.

SECTION __. Chapter 29, Education Code, is amended by adding Subchapter M to read as follows:
SUBCHAPTER M. INTRA-DISTRICT SPECIAL SERVICES TRANSFER PROGRAM
Sec. 29.501. DEFINITIONS. In this subchapter:
(1) "Parent" includes a guardian, custodian, or other person with authority to act on behalf of a student.
(2) "Pervasive developmental disorder" includes, as defined by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders:
(A) autism;
(B) Asperger's syndrome;
(C) Rett's syndrome;

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(D) childhood disintegrative disorder; and
(E) a pervasive developmental disorder, not otherwise specified.
(3) "Program" means the special services transfer program for eligible students created by this subchapter.
Sec. 29.502. SPECIAL SERVICES TRANSFER PROGRAM. (a) An eligible student under Section 29.503 may, at the option of the student's parent, attend any public school in the district in which the student resides that provides a program appropriate to the student's needs.
(b) Each school year, a school district shall provide written notice of the opportunity to transfer under this subchapter to the parent of a student who is eligible to participate in the program under Section 29.503.
Sec. 29.503. ELIGIBLE STUDENT. (a) A student is eligible to participate in the program if the student:
(1) is receiving public school services;
(2) is eligible to participate in a school district's special education program under Section 29.003; and
(3) has been diagnosed by a medical doctor with:
(A) a pervasive developmental disorder; or
(B) an intellectual disability.
(b) Each school year, the school district and the student's parent shall review:
(1) the continued applicability of the student's original diagnosis; and
(2) the student's continued eligibility for participation in the program.
(c) If a parent disagrees with a school district's decision that a student does not initially meet or does not continue to meet the requirements for eligibility under Subsection (a), the parent may seek a second diagnosis by a second medical doctor. The parent is responsible for obtaining and paying the

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costs of a second diagnosis. Not later than the 30th day following the date of the second diagnosis as provided by this subsection, the school district and the parent shall meet to discuss the results of the second diagnosis. The second diagnosis determines whether the student meets the eligibility requirements under Subsection (a).

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

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

Sec. 29.505. PROGRAM COMPLIANCE. The agency may withhold funding from any district that violates this subchapter or a rule adopted under this subchapter. Agency decisions are final and may not be appealed.

Sec. 29.506. RULES. The commissioner may adopt rules to implement this subchapter. [FA1]

No equivalent provision.

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

(b) As soon as practicable, the commissioner of education shall adopt and implement rules necessary for the administration of the program. [FA1]

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

SECTION 2. Same as House version.

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

SENATE VERSION (IE)

SECTION 3. Same as House version.

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