

BILL ANALYSIS

Senate Research Center
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S.B. 927
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Education
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 927 is intended to ensure that students who may have been wrongly denied special education services are given a second chance to be appropriately evaluated.

Several media reports have described the impact of a Texas Education Agency (TEA) policy, implemented as part of its Performance-Based Monitoring Analysis System, that set an 8.5 percent performance target for the total number of children receiving special education services in a school district. Numerous parents, advocates, and school districts say the policy effectively serves as a cap, drastically lowering the amount of students receiving special education services. When the target was implemented in 2004, the national special education average was over 13 percent and Texas' statewide average was about 12 percent. By 2015, Texas' average dropped to reach 8.5 percent, the lowest of any state, while the national average remained steady. This decrease came at the same time that more than a million new students enrolled in Texas schools.

Advocates say TEA ensured compliance with the performance target by requiring districts to take specific actions to reduce their special education enrollment rate, a view supported by media reports of numerous educators attesting to feeling pressured to deny or remove students from special education services. Advocates say more than a quarter of a million children may have gone without services because of this policy.

S.B. 927 would require parents of students attending schools with the largest drop in special education enrollment since the 8.5 percent indicator was adopted by TEA in 2004 to receive notice that their students are entitled to a new evaluation for special education services. The bill would only apply to students denied special education services since 2004, and would only be available for students still under age 21, when they would transition out of special education services in Texas public schools. The program would sunset in 2021, after five years.

S.B. 927 uses a mixed methodology to determine which districts are subject to this recovery program: (1) School districts that decreased their special education enrollment rate by at least 75 percent since 2004. This metric is intended to mostly capture smaller districts. (2) School districts that decreased their special education enrollment by a minimum of 200 students since 2004. This metric is intended to capture some of the state's largest districts.

As proposed, S.B. 927 amends current law relating to a special education recovery program operated by the Texas Education Agency.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of education in SECTION 1 (Section 29.023, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 29, Education Code, by adding Section 29.023, as follows:

Sec. 29.023. SPECIAL EDUCATION RECOVERY PROGRAM. (a) Requires the Texas Education Agency (TEA) to develop and operate a special education recovery program

(recovery program) for the benefit of students who may have been negatively affected by TEA's use of a performance indicator under the performance-based monitoring analysis system that evaluated the percentage of the total number of enrolled students of a school district who received special education services.

(b) Requires TEA, in operating the recovery program, to take certain actions relating to the identification, notification, and reevaluation of affected students and their parents.

(c) Requires TEA to designate for participation in the program each school district in which the participation of students in the district's special education program declined in certain manners relating to the number and rate of students receiving special education services.

(d) Provides that TEA is not required to provide notification under Subsection (b)(2) (relating to requiring TEA to provide a certain notice to the parent of each identified student) or take further action in accordance with this section if the identified student is 21 years of age or older.

(e) Requires TEA to operate the recovery program using federal funds available to TEA for statewide special education activities.

(f) Authorizes the commissioner of education to adopt rules as necessary to implement this section.

(g) Provides that this section expires September 1, 2021.

SECTION 2. Effective date: upon passage or September 1, 2017.