

Child Find

CLOSING THE GAP

July 7, 2022

Model operating procedures created by



Student Solutions

and

**Thompson
& Horton** LLP
ATTORNEYS | COUNSELORS

Disclaimer: This information is provided for educational purposes only to facilitate a general understanding of the law or other regulatory matter. This information is neither an exhaustive treatment on the subject nor is this intended to substitute for the advice of an attorney or other professional advisor. Consult with your attorney or professional advisor to apply these principles to specific fact situations.

©2020 by Texas Association of School Boards, Inc.

TASB grants members/subscribers of TASB Student Solutions™ the limited right to customize this publication for internal (non-revenue generating) purposes only.

CONTENTS

CLOSING THE GAP 1

 What is Required..... 1

 Early Intervention Services1

 Bilingual Education Program2

 After-School and Summer Intensive Math & Science Instruction Programs2

 Basic Skills Programs for High School Students2

 Life Skills Program for Student Parents3

 Definitions.....3

 Additional Procedures 4

 Early Intervention Services for Students Suspected of Having a Disability.....4

 Bilingual Education Program for Special Education Students4

 After-School and Summer Intensive Math & Science Instruction Programs5

 Basic Skills Programs for High School Students6

 Life Skills Program for Student Parents6

 Evidence of Implementation 6

 Resources 7

CITATIONS 7

CLOSING THE GAP

What is Required

In 2015, Congress passed the Every Student Succeeds Act (ESSA), reauthorizing the Elementary and Secondary Education Act of 1965 (ESEA). Under ESSA, campuses must implement a targeted assistance school program to provide students identified as eligible for targeted assistance with methods and instructional strategies to strengthen the student's academic program.

Each campus in the District should have a schoolwide program that includes a comprehensive plan related to the strategies that the campus will implement to address the needs of all students in the school, especially the needs of students at risk of not meeting state academic standards. This includes, but is not limited to, the following services:

- Early intervention services
- A bilingual education program
- After-school and summer intensive instruction programs
- Basic skills programs for high school students
- Life skills programs for student parents

This may also include a schoolwide tiered model to prevent and address problem behavior and early intervention services and should be in coordination with similar activities and services under the IDEA.

Early Intervention Services

To reduce the need to label students as having a disability to the greatest extent possible, District Administration should provide incentives to campuses that provide a whole-school approach to early intervention services that address learning and behavior needs of all students. See [REFERRAL FOR POSSIBLE SPECIAL EDUCATION SERVICES]. In doing so, District and Campus Personnel will provide educational and behavioral evaluations, services, and supports to students whenever concerns arise, including scientifically-based literacy instruction. In addition, District Personnel should conduct professional development for Campus Personnel related to scientifically based academic instruction and behavioral interventions, including scientifically-based literacy instruction, and where appropriate, instruction on the use of adaptive and instructional software.

However, Campus Personnel may not provide early intervention services to avoid providing a student with a disability with FAPE under the IDEA. These services should not delay an appropriate evaluation of a student suspected of having a disability. See [REFERRAL FOR POSSIBLE SPECIAL EDUCATION SERVICES].

Bilingual Education Program

District Administration must develop a bilingual education or special language program if the District has more than 20 emergent bilingual students in any language classification in the same grade level.

If the District is required to offer a bilingual education program, campuses within the District must offer the following for emergent bilingual students:

- Bilingual education in kindergarten through the elementary grades;
- Bilingual education, instruction in English as a second language (ESL), or other transitional instruction approved by TEA in post-elementary grades through 8th grade; and
- Instruction in ESL in grades 9-12.

After-School and Summer Intensive Math & Science Instruction Programs

District Administration may offer an intensive after-school or summer program to provide mathematics and science instruction to the following:

- Students who are not performing at grade-level in mathematics and/or science and require assistance to perform at grade-level;
- Students who are not performing successfully in mathematics and/or science courses and require assistance to successfully complete the course(s); or
- Any other student as determined by District policy.

Before implementing these programs, the District's Board of Trustees will adopt a policy to determine what grade level or course the student must be enrolled in to be eligible, decide whether teacher recommendations will be necessary for eligibility, ensure parents are provided notice of the program, ensure that eligible students are encouraged to attend the program, ensure that the program is offered at one or more locations in the District that are easily accessible to eligible students, and measure student progress on completion of the program.

District Administration must use funds appropriated by the state legislature for intensive instruction designed to help students satisfy state and local high school graduation requirements.

Basic Skills Programs for High School Students

District Administration may apply to the Commissioner of Education to request funding for the basic skills programs for students in ninth grade who are at risk of not earning sufficient credit or who have not earned sufficient credit to advance to tenth grade and who fail to meet minimum skills levels. If the Commissioner approves the request, the District, with the consent of a student's parent or guardian, may assign a student to a

basic skills program not to exceed 210 instructional days.

The goal of the program is to provide students the opportunity to increase credits required for high school graduation. The program will emphasize basic skills in English language arts, mathematics, science, and social studies. Campus Personnel must evaluate student progress annually and submit the results of the evaluation to the Commissioner at the end of each school year.

Life Skills Program for Student Parents

Campuses may offer a life skills program to provide educational and support services for students who are pregnant or parents. If a campus offers a life skills program, it must include:

- Individual counseling, peer counseling, and self-help programs;
- Career counseling and job readiness training;
- Day care for the students' children on the campus or at a day care facility in close proximity to the campus;
- Transportation for children of students to and from the campus or day care facility;
- Transportation for students, as appropriate, to and from the campus or day care facility;
- Instruction related to knowledge and skills in child development, parenting, and home and family living; and
- Assistance to students in the program in obtaining available services from government agencies or community service organizations, including prenatal and postnatal health and nutrition programs.

Program Coordinators should also seek community support for the students and their children.

District Administration may enter into a shared services arrangement with a public or private entity to provide these programs. See [SHARED SERVICES ARRANGEMENTS].

Definitions

“Bilingual education program” is a program provided to Emergent Bilingual students by teachers certified in bilingual education to help students attain full proficiency in English in order to participate equitably in school. It includes:

- Bilingual education in kindergarten through the elementary grades;
- Bilingual education, instruction in English as a second language (“ESL”), or other transitional language instruction approved by the Texas Education Agency for junior high or middle school; and
- Instruction in English as a second language in grades 9 through 12.

“Shared services arrangement” is a written contract that school districts may enter into to jointly operate their special education programs. The contract must be approved by the commissioner. Funds to which participating districts are entitled may be allocated to the districts jointly or in accordance with an agreement between the shared service arrangements.

Additional Procedures

Early Intervention Services for Students Suspected of Having a Disability

Where appropriate, Campus Special Education Personnel will ensure that early intervention services are provided in the general education setting prior to initiating a referral for possible special education services.

To determine which students require early intervention services, Campus Personnel should use student performance data from basic skills assessment instruments and achievement tests. Campus Administration will ensure that the general education teacher documents concerns related to the student’s educational progress, as well as any supports provided to the student within the general education classroom and their level of success. The general education teacher should communicate the results of these efforts to the Campus student support team. The Campus student support team will review documentation related to the student’s educational progress and any supports provided to the student within the general education classroom and their level of success.

If a student is still demonstrating a lack of educational progress in the general education setting with the implementation of early intervention services, the Campus student support team will initiate a referral for a special education evaluation. However, the Campus student support team will not encourage the provision of early intervention services to avoid providing a student with a disability with FAPE under the IDEA or delay an evaluation. Where a student is suspected of having a disability and an evaluation is requested, Campus student support team will commence the evaluation process while early intervention services are ongoing. See [REFERRAL FOR POSSIBLE SPECIAL EDUCATION SERVICES].

Bilingual Education Program for Special Education Students

A student receiving special education services through an IEP may be identified as an Emergent Bilingual (EB) student. District Special Education Personnel shall evaluate students using assessment procedures that differentiate between language proficiency and a potential disability. The student’s ARD Committee will be responsible for working with the language proficiency assessment committee (“LPAC”) to determine appropriate entry and exit criteria for a bilingual education or ESL program. A District employee who is a member of the LPAC must be a member of the student’s ARD Committee if the student is identified as an English language learner. A general education or special

education teacher representative for the student's ARD Committee may also serve as the student's LPAC representative for this purpose.

The student with a disability will be identified as an Emergent Bilingual student if the student's ability in English is so limited or the student's disabilities are so severe that the English language proficiency test for identification cannot be administered. The student will not be denied placement in a bilingual education or ESL program solely because the student has a disability, and the campus is responsible for providing such services despite limited staffing, scheduling issues, or other elements of administrative inconvenience.

The bilingual or ESL, special education, and general education teachers will consult regarding the student's progress regularly. While Campus Special Education Personnel may still review student progress and recommend an exit from bilingual education or ESL during the student's annual ARD meeting, such discussion must be in conjunction with the student's LPAC. Additionally, Campus Personnel may reclassify a student with a disability as English proficient only at the end of the school year and must still provide written notification to the student's parent and seek written approval if the student is reclassified as English proficient and will no longer participate in the bilingual education program. Campus Special Education Personnel will continue to monitor these students and consult with other Campus Personnel if it is determined that reenrollment may be necessary.

Additionally, the ARD Committee and LPAC may determine that the state's English language proficiency assessment for reclassification is not appropriate for a student with a significant cognitive disability. Where this is the case, these committees will meet to decide if the student should take the state's alternative English language proficiency assessment, determine an appropriate performance standard requirement for reclassification for the student, consider the results of a subjective teacher evaluation using the state's standardized alternate rubric.

After-School and Summer Intensive Math & Science Instruction Programs

If the District offers after-school and summer intensive mathematics and/or science instruction programs, such programs will be available to students with disabilities under the same policy and criteria as general education students. If such programs are available, at each annual ARD meeting, the ARD Committee will consider whether the student with a disability requires an intensive after-school or summer program in mathematics and science instruction. This will require an analysis of the student's performance on the most recent statewide assessments, where applicable, and performance in mathematics and science. If the student is eligible for these general education programs, the ARD Committee will also determine what accommodations or modifications are needed in order for the student to appropriately access these programs, if any.

This program is different from ESY services and thus requires a different analysis as to

whether the student qualifies than the traditional regression/recoupment analysis under ESY. See [EXTENDED SCHOOL YEAR SERVICES]. Furthermore, instruction through an intensive instruction program is not designed to replace special education and related services required by the student's IEP.

Basic Skills Programs for High School Students

If the District offers basic skills programs for high school students, such programs will be available to students with disabilities under the same policy and criteria as general education students. At the annual ARD meeting for a student in ninth grade, if the District offers a basic skills program for high school students, the ARD Committee will consider whether the high school student with a disability would benefit from such a program. This will require an analysis of whether the student is at risk or not earning or has not earned sufficient credit to advance to tenth grade and whether the student has met the minimum skills levels for a ninth-grade student. The basic skills program is separate and apart from any special education and related services provided to the student through the student's IEP and should not be provided as a replacement for such services.

The basic skills program may not be appropriate for a student depending on the student's unique needs. Should the ARD Committee determine that the basic skills program is beneficial for the student, the ARD Committee must also determine what accommodations or modifications are needed for the student to appropriately access the program, if any.

Life Skills Program for Student Parents

If the District provides a life skills program to offer educational and support services for students who are pregnant or parents, an eligible student with a disability who receives special education and related services may not be denied the opportunity to participate on the basis of disability. The student's ARD Committee will discuss whether this program is appropriate and necessary for the student based on the student's unique needs.

The District will maintain documentation requirements of compliance associated with Texas Student Data System (TSDS), Public Education Information Management System (PEIMS), and State Performance Plan (SPP). District staff will provide training, with follow up, to ensure the documentation required is in place and compliant.

Evidence of Implementation

- Written District or Campus Plan Regarding Targeted Assistance Program
- Professional Development and Trainings
- Documentation Regarding Early Intervention Services
- Parent and Student Communications Regarding Programs
- FIE

- Bilingual Education Program Documentation
- Campus Improvement Plans
- After-School and Summer Intensive Instruction Programs Documentation
- Basic Skills Programs Documentation
- Life Skills Programs Documentation
- Documentation for the state in TSDS, PEIMS, and SPP

Resources

[The Legal Framework for the Child-Centered Special Education Process: Closing the Gap - Region 18](#)

[Requirements of Coordinated Early Intervening Services - Texas Education Agency](#)

[Response to Intervention - Texas Education Agency](#)

[Early Intervention - U.S. Department of Education](#)

[Early Childhood Intervention Services - Texas Health and Human Services](#)

[Bilingual Education Program Brochure - Region 20](#)

[Bilingual and English as a Second Language Education Programs - Texas Education Agency](#)

[Developing Programs for English Language Learners - U.S. Department of Education](#)

[Accelerated Instruction and Intensive Programs of Instruction for Students in Special Education Programs - Texas Education Agency](#)

[Guidance Related to ARD Committee and LPAC Collaboration - Texas Education Agency](#)

[Learning Support - Texas Education Agency](#)

[Pregnancy and Parenting Education Resources - Texas Education Agency](#)

[Applying for a Grant - Texas Education Agency](#)

CITATIONS

Board Policy EHBAA; Board Policy EHBE; Board Policy EHBC; Board Policy EHAD; 20

U.S.C. 1400(c), 6314, 6315; 34 CFR 300.226; Texas Education Code 29.053(c)–(d), 29.055, 29.057(b), 29.059, 29.085, 29.086, 29.088, 29.090; 19 TAC 89.1050, 89.1203, 89.1205, 89.1210, 89.1226, 102.1041