

Texas Classroom Teachers Association

P.O. Box 1489
Austin, TX 78767

512-477-9415
1-888-879-8282
Fax 512-469-9527

<http://www.tcta.org/>



Testimony to the Senate Education Committee Regarding Senate Interim Charge #6

By

Holly Eaton, Director of Professional Development and Advocacy
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Thank you for this opportunity to testify on Senate Interim Charge #6 regarding the effectiveness of Texas school districts' special education programs. We have a couple of issues we wanted to address with you that have to do with special education students being served in regular education classes.

As you're most likely aware, the federal law governing the provision of special education services calls for special education students to be educated in the least restrictive environment appropriate for the student. Through the years, interpretations about how this plays out at the "least possible" restrictive environment end of the continuum has evolved to mean serving the student in the regular education classroom for the majority of the time, commonly referred to as "inclusion". State law further encourages inclusion by providing schools with an extra ten percent in state funding for each special education student placed in the regular classroom. However, this award of additional funding doesn't necessarily manifest itself in the form of direct support for the student in the regular education classroom. Because of these incentives to educate special education students in the regular education classroom, we're focusing today on issues that have arisen for regular education teachers who teach special education students.

One of these issues involves the role of the regular education teacher in the provision of special education services. As you're aware, Texas teachers are an integral part of Texas special education programs. As such, they occupy a unique role, in which, as the Chair likes to say, they are "neither fish nor fowl". This is because the federal law governing special education really makes school districts and the parents of special education students the main parties to the contract, if you will, for the provision of special education services. So, even though teachers are the

main conduit for students to receive special education services, they are not charged with providing the services under the federal law, like school districts are; neither are they recognized under the federal law as the party to whom certain rights and protections are afforded, like the parents are. This can put teachers in a difficult spot, since they are the ones on the ground actually delivering instruction to these special education students.

To give an example, we often hear from our members who have a student who is struggling although receiving special education services. Although the teacher would like to advocate for review of and possible changes to the services the student is receiving, there are really no formal avenues in federal or state law to do so. Under federal law, the role of advocating for the provision of or changes to special education services for a child falls to the parent. The law really contemplates that conversations about what a student might need take place between the school district and the parent. However, as many of you know, any given parent may or may not be a good advocate for his or her child, for various reasons, and teachers often struggle with the ambiguity regarding their role in this process.

Fortunately, regular education and special education teachers are required members of the ARD committee (or IEP Team) under federal and state law. Because of this, ostensibly, they are able to help fashion a special education student's Individualized Education Program, which serves as the blueprint for the special education services and instructional modifications such a student will receive.

But translating what's on paper into successful implementation in the classroom can be a whole different ball game, particular for teachers, who by the very nature of their jobs, preside over highly dynamic and ever-changing classrooms full of young people. It's really once the IEP is first put into action that teachers are able to figure out whether what's on paper will work in the classroom, and if not, what kinds of changes need to be made or considered, what additional supports need to be provided etc. Yet this is the point in the process where there is no recognized formal avenue for a teacher to get help with these issues, because changes to the IEP can only be made by the ARD committee, and teachers are not authorized to call ARD committee meetings.

All of this is to say that if state law provided some mechanism for teachers providing special education instruction to request a formal review of a student's IEP so that necessary revisions and/or supports could be identified in a timely manner, it would do much to improve the delivery of special education services in

Texas. No one is well-served when the IEP is not working; not the student, not his peers in the classroom, not the parents whose expectations may not be met, and not the teacher who is struggling.

The second issue has to do with the percentage of special education students in a regular class. As far as we can tell, there is no definition in federal or state law for what "regular classroom" means. So there are no parameters in law about the point at which the percentage of special education students in a "regular classroom" turns it into, really, a special education classroom. For example, we are aware that the way some districts operate is to concentrate all the special education "inclusion" students in one "regular classroom" at any given grade level, at least at the elementary school level. So, if 51% of the students in a "regular classroom" are special education students, is it still a "regular classroom"? Or does this really challenge the notion of the federal law's least restrictive environment requirements?

Depending upon the number of and level of involvement required for special education students in any given "regular classroom", the teacher of that classroom can really struggle with the capability to provide what each student's IEP requires. How can this issue be addressed? **One way is to look at setting a standard regarding the number of special education students in a regular education class, which, if exceeded, triggers various additional supports at the request of the teacher.** Examples of additional supports could be providing substantive assistance to the teacher from district special education personnel, perhaps in the form of setting up a co-teaching arrangement by bringing in a special education teacher to co-teach with the regular education teacher, or by arranging common planning and preparation time with the teacher and special education personnel, or perhaps providing other additional personnel to assist the teacher with implementing the IEPs in her class. These are all ideas about the way to address the issue of large numbers of special education students in regular education classes.

Again, we appreciate this opportunity to testify and look forward to working with you on these issues in the future.

