

## **BACKGROUND, PURPOSE AND POLICY RECOMMENDATIONS RELATED TO THE GOVERNOR’S COMMITTEE ON PEOPLE WITH DISABILITIES**

Note: This document contains background information and policy recommendations related to the issue area of “Education” only. To access the Committee’s full report which covers ten issue areas, please visit the Committee’s website [here](#).

### ***EDUCATION***

#### ***GOAL***

Support integrated opportunities for people with disabilities to participate in the full continuum of educational opportunities.

#### **Overview**

Students with disabilities may face distinct educational challenges from the moment they begin pre-school through their participation in continuing education courses in a professional field. It is critical that students are given the tools to overcome these challenges. Access to education is the foundation to a life of independence and productivity. Further, participation in education is a fundamental part of American society.

As a society, we value the many functions of education. It is a mechanism to keep our economy competitive in the global markets. It is a leveler, a means to offer every student a fair chance to succeed, regardless of background or circumstances. It is also a place to build life skills, to enrich one’s mind through study, and to learn principles of integrity and collaboration. Students with disabilities deserve the chance to benefit from all of these functions in the most integrated setting possible.

Students with disabilities are more fully integrated into today’s educational system than ever before, but challenges remain. Trends we are currently witnessing in Texas include the rise of virtual learning and the accompanying need to ensure that virtual technology is accessible to students with disabilities; questions about behavioral interventions in schools, especially the use of restraint to discipline students with disabilities; continued concern about the prevalence of bullying in schools; questions about appropriate testing accommodations at every level of education; and general concern about the quality of support available to students receiving special education services.

#### ***Background and Purpose: Accessible Educational Technology***

As more and more aspects of daily classroom activities are conducted using technology, some students with disabilities are increasingly left out. “Find your homework assignment online” and “use this computer activity to practice your multiplication tables” are impossible instructions if the educational technologies used are not accessible to students with disabilities, in particular those with visual disabilities.

In this context, “accessible” technology refers to technology that is designed, procured, and maintained in a way that makes it useable by all students, including students with disabilities who use assistive

technology or have other particular learning needs. An example of a student with a disability using assistive technology is a student who is blind using a screen-reader. A screen reader is software or other technology that translates text into speech. Other features of accessibility include font sizes and colors that accommodate students with low-vision or dyslexia and captioning on multimedia presentations for students who are deaf or have a hearing disability.

While much of the recent discussion about accessible virtual education technology has focused on students in postsecondary schools, virtual education is becoming increasingly common in grade schools as well. In the year 2000, the number of kindergarten through twelfth grade students enrolled in at least one online class was approximately 45,000. By 2009, that number had skyrocketed to about 3 million.<sup>1</sup> We have already seen a migration toward virtual education in Texas through the creation of the [Virtual School Network](#), an online network that offers TEA-approved courses to students in public school districts and open-enrollment charter schools. As more coursework migrates to our digital world, it is imperative that steps are taken to ensure that these courses are accessible to students with disabilities at all levels of education.

The State of Texas can take its cue for creating standards for accessible educational materials from standards that the State has already created for other arenas. State agencies and institutions of higher learning are held to accessibility standards related to electronic and information resources contained in Government Code Section 2054 and Texas Administrative Code sections 206 and 213, but corollary standards for K-12 schools do not yet exist in state law. The existing standards require that vendors who wish to seek contracts with Texas state agencies or institutions of higher education make accessibility information available for each of their products under contract through one of several methods. One of these methods is the use of a Voluntary Product Accessibility Template (VPAT). The Committee supports efforts that would extend accessibility standards similar to those that already exist for state agencies and institutions of higher education to K-12 schools.

Solutions to the current and future challenges of accessible educational technology could lie in the establishment of a robust market of instructional tools, designed from the outset to meet a wide range of accessibility requirements. The State of Texas could play a pivotal role in creating a strong market for accessible virtual education by ensuring that technology used in all classrooms, from kindergarten through higher education, is developed, procured, and maintained in an accessible manner.

### **Policy Recommendations:**

- **Recommendation 3.1:** Require electronic textbooks and the [Virtual School Network in Texas](#) be developed and maintained in such a way that students with a variety of disabilities have equal access to all materials and instructions by teachers.
- **Recommendation 3.2:** Require Texas public schools to develop and use a centralized [Voluntary Product Accessibility Template \(VPAT\)](#) that will ensure commitment to procuring accessible products and materials.

## ***Background and Purpose: Innovative Learning Models***

The United States educational system faces a paradox: a postsecondary education has never been more necessary for individual or collective success, yet millions of students are failing to graduate from high school and college.

In recent decades, lower-skilled jobs, the kind of jobs that once went to those without college educations, have been forced overseas due to global competition. Meanwhile, the demand for higher-skilled jobs in the United States has increased. By 2018, it is estimated that 63 percent of United States jobs will require some form of postsecondary education. With more jobs requiring postsecondary degrees, competition for jobs without these educational requirements is fiercer than ever. Today's worker without a college education has more difficulty finding employment than his peers did in previous generations. He is also unlikely to find a job that pays a living wage. In 2008, the average wage for a worker with only a high school degree was \$33,618 and \$24,686 for a worker without a high school diploma.

These figures represent the difficulty of earning a livable wage without adequate education. They also represent a collective loss for the United States economy. Studies suggest that if the United States had closed the gap between its educational achievement levels and those of better-performing countries, the United States' Gross Domestic Product in 2008 could have been \$1.3 trillion to \$2.3 trillion higher, a 9 to 16 percent increase.

With every reason for individuals and society to strive for academic achievement, United States schools continue to face drops in their graduation rates. Recent studies show that nearly 30 percent of United States students do not finish high school. The drop-out rate rises to almost 50 percent for students who are African American, Hispanic, or low-income. Of the students who do enroll in college, only 42 percent complete a bachelor's degree by the age of 26. The rate is even lower among low-income students, at 26 percent. These trends represent millions of students who lack the credentials to secure a career-track job that will allow them to support a family.<sup>2</sup>

What explains these disheartening trends? There are many factors at work, but chief among them may be rigid instructional methods that do not account for students' diverse learning needs. Educational models used in many high schools and colleges fail to engage students or help them understand core concepts, retain learned skills, or apply their learning to real-life situations. Further, postsecondary programs are often designed without regard to the real-life challenges students face: work commitments, family obligations and financial constraints.

Students deserve solutions to this educational stagnation that will ensure that high school students are adequately prepared for success in college and that college students complete a

degree or certification with real economic value. Forward-thinking groups, such as the Bill and Melinda Gates Foundation (Gates Foundation), have proposed first steps to adoption of breakthrough educational strategies. Specifically, the Gates Foundation responds to the problems caused by rigid instructional methods by proposing next- generation learning models:

[i]n this paradigm of next-generation learning models, students and teachers—both secondary and postsecondary—will have access to high-quality, relevant and engaging content in a variety of forms. Class time and structure will be more flexible, to adapt to the learning needs of the students. Students will have access to multiple sources of instruction and use assessment and diagnostic tools to help direct the pace and format of their learning. Teachers will tailor their instruction and guidance to ensure progress and mastery for all students, with a focus on those who have historically been underserved.<sup>3</sup>

Innovative learning models can be especially beneficial for students with disabilities, who profit from personalized educational paths suited to their learning styles.

An example of a successful, innovative learning model can be found in [Western Governors University](#) (WGU), an initiative that Governor Rick Perry pioneered, along with 18 other United States Governors. WGU is an accredited online university offering online bachelor's and master's degree programs. For more than a decade, WGU has offered self-paced online courses that use a “competency-based” approach that focuses not on a set number of credit hours, but on students' demonstrated mastery of their fields. Further, WGU has earned praise from United States Secretary of Education Arne Duncan for its affordability and has set a new standard in education. Mr. Duncan acknowledged that innovative, affordable models like WGU are the exception, but stated, “I want them to be the norm.”<sup>4</sup>

The State of Texas can build on the success of Western Governors University and schools like it by acknowledging the diverse learning needs of our student population and by harnessing technology to create innovative, personalized and accessible learning models.

### **Policy Recommendations:**

- **Recommendation 3.3:** Build on the success of Western Governors University and continue to explore the intelligent use of technology to develop innovative, accessible learning models and personal educational pathways, while maintaining standards of educational excellence and student-teacher interaction.
- **Recommendation 3.4:** Educate teaching professionals on the resources available related to electronic textbooks and accessible technology options.

## ***Background and Purpose: Restraint and Seclusion, Anti-Bullying Efforts, and the Effects of Zero Tolerance Policies and Ticketing in Schools***

The United States [Government Accountability Office](#) (GAO) conducted [an investigation in 2009 of seclusion and restraint practices in schools](#). The results of the GAO investigation revealed “hundreds of cases of alleged abuse and death related to the use of these methods on school children during the past two decades.”<sup>5</sup> Further, the GAO closely examined the details of 10 extreme instances of restraint or seclusion, including one that occurred in Texas, and identified the following common themes among these cases:

they involved children with disabilities who were restrained and secluded, often in cases where they were not physically aggressive and their parents did not give consent; restraints that block air to the lungs can be deadly; teachers and staff in the cases were often not trained on the use of seclusions and restraints; and teachers and staff from at least 5 of the 10 cases continue to be employed as educators.<sup>6</sup>

The GAO report demonstrates that restraint and seclusion are used much more commonly as disciplinary interventions on students with disabilities, particularly behavioral disabilities, than on those without. The report states that despite no deliberate effort on the part of the GAO to limit its investigation to only those incidents involving students with disabilities, “most of the hundreds of allegations [it] identified related to children with disabilities. In addition, 9 of [its] 10 closed cases involve children with disabilities or a history of troubled behavior”.<sup>7</sup> Students with disabilities are vulnerable to untrained staff or abusive practices related to restraint and seclusion and deserve the best protections our law and policies can provide.

Texas law currently addresses the restraint and seclusion of students with disabilities in the [Texas Education Code](#) and a [subchapter of the Texas Administrative Code](#). The Texas Administrative Code restricts the lawful use of restraint to emergencies in which a student’s behavior poses a threat of imminent, serious physical harm to the student or others or imminent, serious property destruction.<sup>8</sup> The same rule states that restraint shall be limited to the reasonable force necessary to address the emergency and shall be discontinued when the emergency no longer exists.<sup>9</sup> The law also requires detailed notification of the use of restraint to a student’s parent(s)<sup>10</sup> and requires that a core team of personnel on each campus be trained in the use of restraint.<sup>11</sup> Importantly, the law prohibits the use of restraints that “deprive the student of basic human necessities”.<sup>12</sup>

[Texas’s law on the use of seclusion](#) is direct and to-the-point: school personnel may not place a student in seclusion.<sup>13</sup> Seclusion is defined as “a behavior management technique in which a student is confined in a locked box, locked closet, or locked room that is designed solely to exclude a person; and contains less than 50 square feet of space”.<sup>14</sup> Seclusion is distinguished from the use of “time-out” which involves separating a student from other students to allow the student to regain self-control in a setting where the student is not locked or blocked in.<sup>15</sup> The law

reserves the right for seclusion to be used in certain court-ordered placements and does not apply to juvenile probation, detention, or corrections personnel. Further, there is an exception on the prohibition against seclusion by school district personnel in emergencies where a student possesses a weapon and school district personnel are awaiting the arrival of law enforcement.

Compared to many states, Texas's law on restraint and seclusion is fairly comprehensive, but despite these protections, concerns about the use of restraint and seclusion remain. In response to the 2012 Texas Governor's Committee Citizens' Input Survey, 70 percent of surveyed respondents indicated that the prohibition of restraint and seclusion of students with disabilities is of "high importance" and 15 percent indicated it is of "moderate importance".<sup>16</sup> The existing protections could be strengthened through the introduction of training requirements for all school district personnel who are likely to interact with students with disabilities in methods for managing aggressive behavior other than the use of restraint. Further, incidents of restraint could be reviewed by a panel of experts to determine appropriateness and how to avoid similar incidents in the future.

### **Policy Recommendations:**

- **Recommendation 3.5:** Require the successful completion of Prevention and Management of Aggressive Behavior (PMAB) or similar training for all school district personnel who are likely to interact with students with disabilities.
- **Recommendation 3.6:** Establish a review panel of educators, diagnosticians and administrators to review the appropriateness of each case of restraint or seclusion in consultation with the student and his or her family, including how the incident could have been avoided.

### ***Background and Purpose: Anti-Bullying Efforts***

The 82<sup>nd</sup> Texas State Legislature passed legislation related to bullying in schools. [House Bill 1942](#) provided a definition of bullying; required school district boards to adopt policies prohibiting bullying and requiring parental notification; allowed for the transfer of the student engaging in the bullying; allowed for staff training related to bullying; and required the [State Board of Education](#) to adopt evidence-based practices related to bullying. House Bill 1942 also included a provision directly related to students with disabilities, which required that any change in placement for a student receiving special education services be performed in accordance with relevant special education law.

Despite this considerable progress, concerns about bullying of students, in particular students with disabilities, remain high. Seventy-nine percent of respondents to the 2012 Texas Governor's Committee Citizens' Input Survey indicated that "strengthening existing anti-bullying laws in schools related to students with disabilities" was of "high importance" and 11 percent of survey respondents indicated that it was of "moderate importance." The bullying phenomenon has taken on new aspects in the digital age. [The National Crime Prevention Council](#) defines cyber-bullying as occurring "when an individual uses the Internet, cell phones, or other devices to send or post text messages, videos, or photos intended to hurt or embarrass another person." In fact, the combined threat of bullying and cyber-bullying has become parents' greatest fear: Care.com commissioned a national survey, which revealed that bullying and cyber-bullying have eclipsed kidnapping as parents' greatest fears about their children's safety. Almost one in three (30 percent) of surveyed parents with children ages 12 to 17 reported fearing bullying and cyber-bullying over kidnapping, domestic terrorism, car accidents, suicide or any other incident.<sup>17</sup>

Students with disabilities are distinctly vulnerable to bullying and disproportionately affected by bullying. Many research studies indicate that students with disabilities are substantially more likely to be the victims of bullying than their peers without disabilities. Further, research suggests that the bullying experienced by students with disabilities is often directly related to the student's disability.<sup>18</sup> The effects of bullying take a heavy toll on any student. The United States Department of Education identified possible effects of bullying on students, including lowered academic achievement and aspirations, increased anxiety, loss of self-esteem and confidence, depression and post-traumatic stress, deteriorating physical health, self harm and suicidal thinking, suicide, feelings of alienation, absenteeism and other negative impacts, both educational and health-related.

Often, the existing legal and policy tools to address bullying against students with disabilities remain underutilized. Students who have been bullied, parents, and educators can all benefit from policies that focus on preventing bullying and reporting the incidents that do occur. Julie Hertzog and the [National Bullying Prevention Center](#) suggest strategies that focus on clear communication. Among Herzog's recommendations are the following:

- Suggest that schools consider using student surveys. These surveys often reveal problem areas and allow students to anonymously express their concerns or fears.
- Provide curriculum strategies and resources that value diversity, including disabilities.
- Encourage schools to have up-to-date and timely in-service training for staff to help them best handle and recognize bullying problems and potential disability harassment. It's not only important for staff to know how best to intervene, but also to understand the impact of their role as role models. Make sure that staff training sessions include areas specific to the particulars of student disabilities and that all relevant staff, including teachers, yard duties assistants, bus drivers, and sport coaches receive training.<sup>19</sup>

Students who have experienced bullying do not have to stay victims. Any student, including targets of bullying, can be part of changing the culture that allows bullying to persist. Students with disabilities have particular tools and supports already available through their [Individualized Education Programs](#) (IEPs). Parents, educators, and school officials should work together to ensure that a student's IEP addresses the student's unique needs. IEPs can be used to improve the circumstances that can lead to bullying. Expanding the role of IEPs to include bullying prevention and elimination is a policy recommendation of the National Council on Disability.<sup>20</sup> Some of the suggested goals and interventions that can be included in a student's IEP to address bullying issues come from AbilityPath.org:

- Increase self-advocacy skills so that the child can say “stop that” or walk away.
- Help the child identify bullying as well as how and to whom to report it. Keep in mind that some children may have a difficult time determining that they are a target of bullying behavior.
- Teach the child a signal system to use when in need of friend or adult intervention.<sup>21</sup>

Texas schools can build on the foundation of existing state anti-bullying legislation to create policies and culture that eliminate existing bullying and prevent new incidents from arising. Among the tools available to education professionals to help protect students with disabilities from the negative effects of bullying is the IEP process.

### **Policy Recommendation:**

- **Recommendation 3.7:** Utilize the existing Individualized Education Program (IEP) process to address bullying prevention.

### ***Background and Purpose: Effects of Zero Tolerance Policies and Ticketing in Schools on Students with Disabilities***

Over the last twenty years, zero tolerance policies have become an accepted part of public school disciplinary culture. This trend began in the 1990s, when apprehension about violent crime was at its peak. Some experts were predicting a continued rise in violent crime, along with the creation of juvenile “super predators.” In response to these concerns, zero tolerance crime policies emerged and grew in popularity. The same notions that emerged in criminal justice also began cropping up in school discipline. Most of us are familiar with how zero tolerance policies affect criminal proceedings for adult offenders. Less well-known, though, is the extension of zero tolerance policies to schools and the student offenders who run afoul of these policies.

Zero tolerance policies in schools mandate certain punishments for infractions, regardless of the circumstances.<sup>22</sup> The majority of infractions for which students receive zero tolerance punishments are non-violent, including abusive language; attendance issues, such as tardiness; disobedience or disrespect; and general classroom disruptions.<sup>23</sup>

Groundbreaking research by the [Council of State Governments \(CSG\) Justice Center](#), in partnership with the [Public Policy Research Institute of Texas A&M University](#), reveals some disturbing trends in school discipline in Texas. A study released in 2011, called [Breaking Schools' Rules: A Statewide Study of How School Discipline Relates to Students' Success and Juvenile Justice Involvement](#), revealed that zero tolerance policies have a disproportionate, negative impact on students from several minority groups, including students with disabilities.<sup>24</sup>

Breaking Schools' Rules demonstrated that:

[n]early three-quarters of the students who qualified for special education services during the study period were suspended or expelled at least once. The level of school disciplinary involvement, however, varied significantly according to the specific type of disability. For example, students coded as having an 'emotional disturbance' were especially likely to be suspended or expelled. In contrast, students with autism or [intellectual disabilities]—where a host of other factors was controlled for—were considerably less likely than otherwise identical students without disabilities to experience a discretionary or mandatory school disciplinary action.<sup>25</sup>

Students with disabilities deserve a thoughtful and proportionate response to their disciplinary infractions. Especially in instances when a student's misconduct is a manifestation of the student's disability, not of any bad intent, zero tolerance policies have the potential to punish the student for the disability, rather than the conduct.

Another recent phenomenon in school discipline is the gradual acceptance of the presence of law enforcement officials in Texas public schools. Currently, law enforcement officials can issue citations ("tickets") to children (ages 10-16) for Class C misdemeanors in schools. These citations usually send the students into the municipal and judicial court pipeline, not the juvenile justice system that was specifically designed to handle cases involving children. More children in Texas are adjudicated as criminals in municipal and justice courts than come into contact with juvenile probation and juvenile courts combined.<sup>26</sup> Sending children into municipal and judicial courts deprives them of many of the advantages and protections afforded to children in the juvenile justice system. It also has disproportionate, negative effects on children with disabilities.

Whether citations continue to be used or not, it is advisable to give local prosecutors more discretion and increased access to information in their interactions with students. Prosecutors should have access to information on whether a student is eligible for or receiving special education services and specifically whether the student has a disorder or disability related to culpability for the infraction prior to the filing of charges. This would allow prosecutors to take a

student's disability into account in the student's interactions with the justice system. Further, prosecutors should be able to ascertain from schools whether any disciplinary measures have already been taken against the child. This communication between the prosecutor and the school will help to ensure that the child receives proportional and fair punishment.<sup>27</sup>

### **Policy Recommendations:**

- **Recommendation 3.8:** Investigate the effects of zero tolerance policies on students with diagnosed emotional disabilities and whether modification of the application of zero tolerance policies would be appropriate for such students.
- **Recommendation 3.9:** Authorize prosecutors to request information related to a student offender's eligibility for special education services and information related to previous disciplinary actions already taken against the offender.

### ***Background and Purpose: Testing Accommodations***

In general, students with disabilities have the right to testing accommodations that suit their individual needs. Many provisions of federal and State law guarantee these rights. Often, test-taking accommodations are stipulated in a student's Individualized Education Program (IEP), but a lack of enforcement of the provisions of an IEP can result in the student not receiving necessary accommodations.

A [report](#) from the [Texas Council for Developmental Disabilities](#) (TCDD) highlights this lack of enforcement of IEPs and the negative perceptions that many parents have of the effects of standardized testing on students with developmental disabilities. The TCDD's Biennial Disability Report, released in December 2012, includes a "Special Focus Section" on education and employment. As part of this report, TCDD included information from surveys conducted by the [Texas Office on the Prevention of Developmental Disabilities](#). TCDD summarized responses related to enforcement of IEPs:

[i]t was also pointed out that there is no mechanism for monitoring that IEPs are followed and no consequences when a school does not fully implement the IEP. One respondent suggested that an ombudsman get assigned to each family to even the playing field. Many parents wrote about 'receiving accommodations on paper.'<sup>28</sup>

Both surveyed groups, parents and consumers, and "key informants" – doctors, educators, and others who advocate on behalf of people with developmental disabilities -- were skeptical of the value of standardized testing for students with developmental disabilities. Fifty-nine percent of parents and consumers responded with "not at all" when asked "is standardized testing helpful to

children with disabilities?” When asked, “does standardized testing hinder children with disabilities?” 43 percent of consumers responded with “very much.” Key informants may have been even more negative on the subject of standardized testing, with 70 percent indicating that standardized testing did not help children with disabilities “at all.” Further, when asked about whether schools are following guidelines regarding special education, only 50 percent of key informants indicated that schools are following guidelines.

The need for testing accommodations is not restricted to the K-12 environment. Students in post-secondary and professional programs also deserve accommodations that level the playing field. A recent flurry of ADA litigation surrounding accommodations for test takers during the Law School Admission Test (LSAT) and the California State Bar Exam demonstrate the importance of testing accommodations at all levels of education and professional advancement.

### **Policy Recommendations:**

- **Recommendation 3.10:** Ensure that accommodations stipulated for a student in the student’s IEP are provided for in all test-taking scenarios.
- **Recommendation 3.11:** Explore creative ways to provide testing accommodations related to post-secondary programs and professional certifications.

### ***Background and Purpose: Health and Welfare of Students***

Texas students face several significant challenges to their health and wellness. Among these challenges are a lack of physical activity in their daily lives and a lack of access to quality health care. Both of these challenges could be met with small changes to school policies that would promote health and wellness among students.

While health and wellness are important for all Texas students, opportunities for physical activity in school are especially important for students with disabilities. Physical activity is 4.5 times lower for students with disabilities than it is for students without disabilities.<sup>29</sup> In 2001, in response to the need for more physical activity in schools, the Texas State Legislature passed [Senate Bill 19](#), amending the Texas Education Code to authorize the State Board of Education, after consulting with educators, parents, and medical professionals, to require public elementary school children to participate in 30 minutes of daily structured physical activity or 135 minutes of physical activity per week. The Committee supports all efforts to comply with this legislation and especially efforts that go above and beyond the existing requirements to encourage lifelong habits of healthy living among all students, including students with disabilities. Schools that go above and beyond could be rewarded with special recognition from the State, which would then encourage other schools to follow the example of the award-winning school. Another mechanism

that could be used to ensure that students with disabilities are provided with appropriate opportunities for physical activity is each student's Individualized Education Program (IEP).

A consistent theme of the data presented in the Committee's report is a need for access to quality healthcare for Texans. This need is present even among students and is especially pressing for students with disabilities who may have particular health care needs that are not being addressed. To partially address some students' lack of access to quality health care, the State could consider creating incentives for health care practitioners to provide their services in public schools as volunteers. The State of Florida enacted such a program in 2002. Through the program, licensed physicians, physician's assistants, nurses, pharmacists, dentists, physical therapists, speech pathologists, and other practitioners are eligible for a waiver of license renewal fees and 25 hours of continuing education credits if they meet certain criteria. The criteria include the passage of a background check and the volunteering of at least 80 hours in a school year if the practitioner has an active practice or at least 400 hours if the practitioner is retired.<sup>30</sup>

### **Policy Recommendations:**

- **Recommendation 3.12:** Explore ways to increase accessible physical activity for all students, incorporating outdoor and nature activities.
- **Recommendation 3.13:** Explore use of volunteer health care practitioners in Texas public schools.

### ***Background and Purpose: Low Vision and Orientation and Mobility Evaluations***

For students to receive the services that most benefit them, the students' needs must be evaluated. Evaluations conducted by professionals familiar with accommodations related to the specific area being evaluated may result in recommendations beneficial to the student's continuing growth and development. There are two types of evaluations that the Committee has identified as particularly needed by our current Texas students: clinical low vision evaluations and orientation and mobility evaluations.

Some children who have low-vision read both print and braille. These students can particularly benefit from clinical low vision evaluations, which can identify the need for optical and electronic devices and lead to instruction in the use of these devices. Currently, clinical low vision evaluations are available to veterans and other adults in Texas undergoing rehabilitation, but are not available to most students. As a result, students with low vision are often accommodated through the one-size-fits-all provision of materials in large print, which do not take into account the variations in degrees of low vision. On the other hand, the case for

providing an optical device, which creates an image size that is individualized to the student, is compelling.<sup>31</sup>

First, from the student's perspective, an optical device can open up a wide world of materials. Without a device, when a student is assigned to read *The Great Gatsby* for literature class, he must wait for the teacher to manually enlarge a photocopied version or to order a large print version. With a device, the student can independently obtain a standard print version of *The Great Gatsby* from the library. Later, the student can comfortably read street signs to find his way to a local café, where he reads his book while drinking a coffee he ordered off a standard print menu with the help of his device. Inspired by the book, he can go on to read a biography of F. Scott Fitzgerald and a history book about life in the 1920s, all without having to wait or pay extra for a large print version. Later in life, being able to read standard print comfortably at a competitive reading speed may help the student obtain employment.

Second, the provision of optical devices may represent a cost-savings to the school district. A single optical device can last a student several years and provide access to hundreds of books and other printed materials during that period. Without a device, each textbook, handout, and test that the student had to read during the school year would need to be provided in large print. The provision of optical devices will save teachers' valuable time by preventing them from having to manually enlarge materials at a copy machine.<sup>32</sup>

The field of orientation and mobility (O&M) is the study and practice of teaching individuals who have visual impairments how to move about safely and efficiently in their environment. Professionals who work in this field are known as certified orientation and mobility specialists (COMS). COMS are employed by schools and state agencies serving both children and adults. One of the most important tasks of a COMS is conducting an O&M evaluation.

A COMS performs an O&M evaluation to assess a person's knowledge of spatial concepts and ability to move safely and effectively in various environments. The O&M evaluation will help the COMS determine if an individual who is visually impaired has a need for specialized instruction (i.e., developing safe and efficient movement and travel skills). If so, the COMS can recommend O&M instruction based on the evaluation results.

The amount and type of instruction will vary based on individual needs, including skills such as developing purposeful movement and spatial concepts for infants; learning how to become oriented to new areas for young children; managing travel using a wheelchair; using a long cane; crossing streets safely; or learning how to use magnification devices for viewing distant signage. Without this training, students who have moderate to significant vision loss will have profound difficulty moving about in various environments safely and independently.

At the present time, a large number of school-age children in Texas are not receiving O&M evaluations. According to the Texas Annual Registry of Students with Visual Impairments, only 54.5 percent of the 8,788 students receiving visual impairment services in the State have received

an O&M evaluation. Data from 2008 through 2011 reported in the Texas Annual Registry of Students with Visual Impairments show a one percent increase per year in the number of students receiving O&M evaluations. If this trend remains unchanged, then over 40 percent of students will not receive evaluations. As Texas's population of students with visual impairments continues to grow at an annual rate of three percent, it is necessary to identify new ways to provide O&M evaluations for students with visual impairments and to give instruction to those students who do need such services.<sup>33</sup>

### **Policy Recommendation:**

- **Recommendation 3.14:** Support efforts that will increase the number of clinical low vision and orientation and mobility evaluations for Texas students with the goal of eventually providing evaluations to all students with visual impairments in Texas.

### ***Background and Purpose: Transition Planning for Students with Disabilities***

When young people with disabilities transition from the supported environment of a high school special education program into the post-high school world, it can sometimes feel like the student fell off of a cliff. Unfortunately, some young people with significant disabilities go from attending school five days a week to an adult life in which they do not have any regular activities. A January 2012 study published in the American Journal on Intellectual and Developmental Disabilities concluded that many adults with intellectual or developmental disabilities “do nothing” all day.<sup>34</sup> The study reports another disconcerting trend: “[s]trikingly, the researchers said that adults with nothing to do had three times the number of unmet needs for services as compared to those who were working, volunteering or attending school”<sup>35</sup> In other words, the people most in need of services and supports are the ones who are most likely to fall through the cracks after high school.

Lack of adequate services and supports can take a toll on the family members of a person with a disability as well. In a survey of family members of adults with intellectual or developmental disabilities, one in five families (20 percent) reported that someone in the family had to quit a job to stay home and support the needs of the family member with a disability.<sup>36</sup> The toll is not just financial; the vast majority of caregivers report that they experience physical fatigue (88 percent), emotional stress (81 percent), and emotional upset or guilt (81 percent) some or most of the time.<sup>37</sup>

An important antidote to the challenges young people with disabilities face after high school is the effective use of transition planning. The term “transition planning” refers to planning that occurs as part of a student with a disability’s [Individualized Education Program \(IEP\)](#) in preparation for the time when the student will transition from high school into the next stage of

the student's life. Federal law requires that a transition plan address the person's post-high school goals, whether for continued education or employment, and may contain goals related to independent living.<sup>38</sup> Texas state rules related to transition planning are found in the [Texas Education Code](#) and the [Texas Administrative Code](#).

Currently, Texas law requires that transition planning consider the following issues, among others, for integration into the IEP when appropriate: postsecondary education options; a functional vocational evaluation; employment goals and objectives; independent living goals and objectives; and referrals to governmental agencies for services.<sup>39</sup> In recent years, the State of Texas has enhanced transition planning for students with disabilities. Specifically, in the 82<sup>nd</sup> Legislative Session, the legislature passed [Senate Bill 1788](#), which required that transition planning for each eligible student begin "not later than" when the student reaches 14 years of age.<sup>40</sup> In so doing, the State of Texas exceeded federal requirements found in the Individuals with Disabilities Education Act (IDEA) that state that transition planning must begin by the student's first IEP meeting at age 16.<sup>41</sup> By requiring that transition planning begin "not later than" when the student reaches age 14, the State law leaves the door open for transition services to begin earlier, a provision that could prove helpful to many students with disabilities and their families.

Despite this progress in the legal framework for transition planning, students still face significant challenges as they transition out of Texas high schools. Seventy-four percent of respondents to the 2012 Texas Governor's Committee Citizens' Input Survey indicated that "increased requirements for individualized, person-centered and meaningful transition planning" was of "high importance" and 16 percent indicated it was of "moderate importance."<sup>42</sup> In open-ended responses, respondents demonstrated the important role that transition planning plays through statements such as: "[t]ransition from school to community is a huge issue," "[t]ransition programs and readily achievable residential services are the most important issues for our family," and "[i]t is time that education be measured by its ability to transition students from high school to college, vocational training, to productive living"<sup>43</sup>

Survey respondents appeared to value transition planning that is individualized, person-centered, and takes each student's disability into account, rather than a one-size-fits-all approach. Planning that would address the distinct needs of students with autism came up in several survey responses, as did planning for students who are deaf or have a hearing disability.<sup>44</sup>

[The Arc of Texas](#) also noted the need for enhanced transition services in its [83<sup>rd</sup> Legislative platform](#). The Arc of Texas staff pointed out the differences between services provided in the public school system and those provided to adults outside of school:

[t]he structure, funding and operations of school districts is vastly different from adult service agencies, including [the Texas Department of Assistive and Rehabilitative Services (DARS), the Texas Department of State Health Services (DSHS), the Texas

Department of Aging and Disability Services (DADS) and the Texas Workforce Commission (TWC)]. For youth with significant support needs to effectively access and utilize the services of the adult service system, reduce dependency on high cost services and increase community employment and living success, [the Texas Education Agency] TEA must implement strategies for effective transition.<sup>45</sup>

This commentary from The Arc of Texas highlights one of the areas of potential improvement for transition services in Texas. As it is, young people and their family members face a patchwork of service providers with divergent eligibility criteria. Transition coordinators could serve as a kind of clearing house, providing relevant information and assisting with applications for services across issues areas, including education, employment, housing, and independent living. For transition coordinators to be realistically expected to provide this information may require increased collaboration between school districts, State agencies and private institutions, and may also require enhanced training for transition coordinators. For example, the University of Kansas Department of Special Education has developed a [Masters of Science in Education with an emphasis in Transition Education and Services](#), a 30-credit hour graduate program offered online.

Students with disabilities and their families deserve planning that provides complete, relevant, and accessible information. A survey respondent summarized current transition planning in Texas in this way: “[s]earching for available and appropriate resources after graduation is akin to going on a scavenger hunt, but no one tells you what you are supposed to find”.<sup>46</sup> Students and family members would benefit from a comprehensive guide, periodically updated, that would provide information on relevant services, including information on how to apply for the services. Finally, for transition planning to truly serve Texas’s young adults with disabilities, the system needs to be accountable to the people and families that it serves. The Texas Education Agency (TEA) should develop outcome-based transition standards that will build in accountability.

### **Policy Recommendations:**

- **Recommendation 3.15:** Promote collaboration between school districts and State agencies related to comprehensive transition planning, including planning related to further education, employment, housing, and independent living, for young adults with disabilities.
- **Recommendation 3.16:** Direct the Texas Education Agency to create a Transition Specialist Training Program that is consistent across all districts and that provides comprehensive training across issue areas relevant to transitioning students.
- **Recommendation 3.17:** Create a comprehensive guide for transitioning students with disabilities and family members, updated biennially, that outlines the services provided by Texas State agencies and private partners, includes information on applying for services, and is presented in a print version and an online, accessible version.
- **Recommendation 3.18:** Develop outcome-based transition standards which build in accountability on the delivery of services.

## ENDNOTES

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<sup>1</sup> Gates, B. (September 2012). *Fulfilling Technology's Promise to Education*. Retrieved from the Council of State Government website:

[http://www.csg.org/pubs/capitolideas/sept\\_oct\\_2012/technologyineducation\\_gates.aspx](http://www.csg.org/pubs/capitolideas/sept_oct_2012/technologyineducation_gates.aspx)

<sup>2</sup> Bill and Melinda Gates Foundation. (2010). *Next Generation Learning*, p.1. Retrieved from:

<http://www.gatesfoundation.org/postsecondaryeducation/Documents/nextgenlearning.pdf>

<sup>3</sup> Ibid, p.2

<sup>4</sup> Lewin, T. (2011, November 29). *Official Calls for Urgency on College Costs*. Retrieved from the New York Times website: [http://www.nytimes.com/2011/11/30/education/duncan-calls-for-urgency-in-lowering-college-costs.html?\\_r=0](http://www.nytimes.com/2011/11/30/education/duncan-calls-for-urgency-in-lowering-college-costs.html?_r=0)

<sup>5</sup> United State Government Accountability Office. (May 2009). *Government Accountability Report, GAO-09-709T – Seclusions and Restraints: Selected Cases of Death and Abuse at Public and Private Schools and Treatment Centers Additional Monitoring of Polling Places Could Further Improve Accessibility*, p.1. Retrieved from GAO website:

<http://www.gao.gov/htext/d09719t.html>

<sup>6</sup> Ibid, p. 1

<sup>7</sup> Ibid, pp. 7-8

<sup>8</sup> 19 Tex. Admin. Code § 89.1053 (Education; Texas Education Agency; Adaptations for Special Populations; Commissioner's Rules Concerning Special Education Services; Clarification of Provisions in Federal Regulations and State Law) at Section 89.1053(c)

<sup>9</sup> 19 Tex. Admin. Code § 89.1053 (Education; Texas Education Agency; Adaptations for Special Populations; Commissioner's Rules Concerning Special Education Services; Clarification of Provisions in Federal Regulations and State Law) at Section 89.1053(c)(3)-(4)

<sup>10</sup> 19 Tex. Admin. Code § 89.1053 (Education; Texas Education Agency; Adaptations for Special Populations; Commissioner's Rules Concerning Special Education Services; Clarification of Provisions in Federal Regulations and State Law) at Section 89.1053(e)

<sup>11</sup> 19 Tex. Admin. Code § 89.1053 (Education; Texas Education Agency; Adaptations for Special Populations; Commissioner's Rules Concerning Special Education Services; Clarification of Provisions in Federal Regulations and State Law) at Section 89.1053(d)

<sup>12</sup> 19 Tex. Admin. Code § 89.1053 (Education; Texas Education Agency; Adaptations for Special Populations; Commissioner's Rules Concerning Special Education Services; Clarification of Provisions in Federal Regulations and State Law) at Section 89.1053(c)(4)

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<sup>13</sup> Tex. Educ. Code Ann. § 37.0021 (Education Code; Public Education; Safe Schools; Discipline, Law and Order; Alternative Settings for Behavior Management) at Section 37.0021(c)

<sup>14</sup> Tex. Educ. Code Ann. § 37.0021 (Education Code; Public Education; Safe Schools; Discipline, Law and Order; Alternative Settings for Behavior Management) at Section 37.0021(b)(2)(A)-(B)

<sup>15</sup> Tex. Educ. Code Ann. § 37.0021 (Education Code; Public Education; Safe Schools; Discipline, Law and Order; Alternative Settings for Behavior Management) at Section 37.0021(b)(3)(A)-(B)

<sup>16</sup> 2012 Texas Governor's Committee Citizens' Input Survey

<sup>17</sup> AbilityPath.org. (February 2011). *Walk a Mile in Their Shoes*, p. 19. Retrieved from: website: <http://www.abilitypath.org/areas-of-development/learning--schools/bullying/articles/walk-a-mile-in-their-shoes.pdf>

<sup>18</sup> Ibid, p. 10

<sup>19</sup> Ibid, p. 24

<sup>20</sup> Young, J. (2011, March 9). *Bullying and Students with Disabilities*. Retrieved from the National Council on Disability website: <http://www.ncd.gov/publications/2011/March92011>

<sup>21</sup> AbilityPath.org. (February 2011). *Walk a Mile in Their Shoes*, pp. 27-38. Retrieved from: <http://www.abilitypath.org/areas-of-development/learning--schools/bullying/articles/walk-a-mile-in-their-shoes.pdf>

<sup>22</sup> Rausch, M. and Skiba, R. (Fall 2006). *Discipline, Disability, and Race: Disproportionality in Indiana Schools*, Volume 4, Number 10. Retrieved from the Center for Evaluation and Education Policy website: [http://www.indiana.edu/~equity/docs/discipline\\_disability\\_race\\_indiana.pdf](http://www.indiana.edu/~equity/docs/discipline_disability_race_indiana.pdf)

<sup>23</sup> Losen, D. and Skiba, R. (2012). *Suspended Education: Urbana Middle Schools in Crisis*. Retrieved from the SPL Center website: [http://www.splcenter.org/sites/default/files/downloads/publication/Suspended\\_Education.pdf](http://www.splcenter.org/sites/default/files/downloads/publication/Suspended_Education.pdf)

<sup>24</sup> The Council on State Governments Justice Center and Public Policy Research Institute. *Breaking Schools Rules: A Study of How School Discipline Relates to Students' Success and Juvenile Justice Involvement*, p.5. Retrieved from Justice Center website: [http://justicecenter.csg.org/resources/juveniles#rpt/Breaking\\_Schools\\_Rules\\_Report\\_Final.pdf](http://justicecenter.csg.org/resources/juveniles#rpt/Breaking_Schools_Rules_Report_Final.pdf)

<sup>25</sup> Ibid, p. xi

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<sup>26</sup> Turner, R. (2012, June 29). *Ticketing, Confidentiality, and Special Education Issues*, Chapter 5, p. 1 [Texas State Bar - CLE Special Education and Juvenile Justice materials]

<sup>27</sup> Ibid, p.4

<sup>28</sup> Texas Council on Developmental Disabilities (December 2012). *2012 Texas Biennial Disability Report*, p. 64. Retrieved from: [www.t addedd.texas.gov/wp-content/.../2012/12/2012\\_biennial\\_report.pdf](http://www.t addedd.texas.gov/wp-content/.../2012/12/2012_biennial_report.pdf)

<sup>29</sup> U.S. Department of Education (August 2011), *Creating Equal Opportunities for Children and Youth with Disabilities to Participate in Physical Education and Extracurricular Activities*, p. 1. Retrieved from <http://www2.ed.gov/policy/speced/guid/idea/equal-pe.pdf>

<sup>30</sup> 2012 Florida Statutes, Title XXIX, Chapter 381, Public Health: General Provisions. Retrieved from: [http://www.leg.state.fl.us/statutes/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=0300-0399/0381/Sections/0381.00593.html](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0381/Sections/0381.00593.html)

<sup>31</sup> Dr. Anne L. Corn, Ed.D., letter to the Texas Governor's Committee on People with Disabilities, December 20, 2012

<sup>32</sup> Ibid

<sup>33</sup> Dignan, Ph.D., KC. (2008-2011). *2008-2011 Summary of Need for VI Professionals in Texas*. Retrieved from the Texas School for the Blind and Visually Impaired website: [www.tsbvi.edu/attachments/2011AnnualNeedsSummary.doc](http://www.tsbvi.edu/attachments/2011AnnualNeedsSummary.doc)

<sup>34</sup> Diament, M. (February 15, 2012). *Many Adults with Disabilities Do Nothing All Day*. Disability Scoop, citing Lounds J. T. & Hodapp R. M. (January 2012) *Doing Nothing: Adults With Disabilities With No Daily Activities and Their Siblings*. (117)(1), pp. 67-79 cited from American Journal on Intellectual and Developmental Disabilities.

<sup>35</sup> Ibid

<sup>36</sup> The Arc. (June 2011). *Still in the Shadows with Their Future Uncertain: A Report on Family and Individual Needs for Disability Supports*, p. 6. Retrieved from ARC website: <http://www.thearc.org/document.doc?id=3672>

<sup>37</sup> Ibid

<sup>38</sup> Individuals with Disabilities Education Act of 1990

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<sup>39</sup> Texas Administrative Code §89.1055(g)(1)-(9)

<sup>40</sup> Texas Education Code, §29.011

<sup>41</sup> Individuals with Disabilities Education Act of 1990

<sup>42</sup> 2012 Texas Governor's Committee Citizens' Input Survey

<sup>43</sup> Ibid

<sup>44</sup> Ibid, e.g., "school districts can do a better job in the areas of social skills training for students on the autism spectrum and transition planning prior to high school graduation," "[w]e need assistive living centers for Deaf Young adults in transition from home to independent living," "Deaf students, for example, receive an education only to land in poverty or with college degrees and unemployed. This is a group that is capable of learning and working, but they are being disabled by the education system"

<sup>45</sup> Arc of Texas. (2012). *83<sup>rd</sup> Legislative Platform*, p. 1. Retrieved from:  
[http://www.hearcotexas.org/site/DocServer/83rd\\_Legislative\\_Agenda\\_LONG\\_FINAL.pdf?docID=1605](http://www.hearcotexas.org/site/DocServer/83rd_Legislative_Agenda_LONG_FINAL.pdf?docID=1605)

<sup>46</sup> 2012 Texas Governor's Committee Citizens' Input Survey