



April 13, 2021

[HB 1252, relating to the limitation period for filing a complaint and requesting a special education impartial due process hearing.](#)

Dear Chairman Dutton, Vice Chair Lozano, members of the House Public Education Committee, and Representative Moody:

Texas has had a long-standing policy in place that school districts and parents of students served by special education must request a due process hearing within one year of the date the parent or district knew, or should have known, about the alleged action that serves as the basis for the due process hearing request.

While this is a shorter timeframe than the maximum statute of limitations prescribed under federal law, extending this statute of limitations is not in the best interest of students, parents, or districts. We respectfully ask that, after hearing HB 1252, it not be voted out of this committee.

Currently in Texas, there are four formal options for resolving special education disagreements: state facilitation, mediation services, a special education complaint, and the due process hearing program. HB 1252 addresses the due process hearing program and would prohibit TEA from establishing a shorter statute of limitations than what is allowed under federal law, which is two years.

We oppose this bill for the following reasons:

- The law already provides exceptions to the one-year timeline if the school misrepresents to the parent that the school had resolved the problem at hand, or when the school withheld information from the parent that was required to be provided. Additionally, the timeline can be tolled if the parent is an active-duty member of the Armed Forces.
- It is critical for a student's success that a school know as quickly as possible if there is disagreement or if the parent feels that the school has violated its obligations under law. Considering that a statute of limitations of two calendar years can potentially extend into three separate school years, this in no way allows for expedient resolution. In order to respond to a due process complaint, a school will need to investigate all circumstances that are addressed in the due process complaint. The longer timeline makes this investigation and response difficult due to staffing changes, for example, and the student will have progressed through his or her academic career without timely corrective action.

Parents of students served by special education are given, at least annually, the state-developed and federally required notice of procedural safeguards, which describes their rights involving the resolution of disagreements. This notice describes the one-year statute of limitations and the process by which to request a due process hearing.

Rather than increase the statute of limitations to request a due process hearing in Texas, we ask that the committee consider what the impetus is behind such a request to increase it. If the impetus is that parents do not understand their rights when they disagree (or consider disagreeing) with a school decision, then it would be more appropriate to address how schools can more explicitly communicate those rights. It cannot be overstated how critical it is for a student's success for disagreements to be resolved as soon as possible.

In an effort to make parental rights known more explicitly and transparently regarding disagreements, we'd ask that the committee consider an alternative to the increased statute of limitations. Perhaps the committee could give a directive to TEA to develop a standard statement of parental dispute resolution rights that schools would be required to discuss with a parent prior to the parent signing his or her agreement or disagreement with the student's individualized education program (IEP).

In summary, TCASE and the undersigned organizations oppose this legislation because additional tools to mediate conflict rather than increasing timeframes are in the best interests of all involved stakeholders. Part of the partnership efforts between schools and parents of students served by special education must include timely resolution of concerns and complaints. Extending this statute of limitations contradicts this endeavor. Instead, we ask that schools be given a tool to assist parents in knowing more about their rights in the immediate timeframe in which concerns are felt.

Respectfully,

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The following organizations join TCASE in this statement:

Texas Association of School Administrators (TASA)
Texas Association of Community Schools (TACS)
Texas Elementary Principals and Supervisors Association (TEPSA)
Texas Association of School Boards (TASB)

TCASE is the not-for-profit association that inspires and empowers its membership of over 1,200 special education leaders and administrators to lead transformation in Texas public schools. TCASE provides educational training and resources to members and the broader community to advocate for the interests of students receiving special education services and the professionals dedicated to maximizing student outcomes.