Key Information to Know about SB 39 and HB 590

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The language from the two bills passed in the 2013 Legislative Session (HB 590 and SB 39) is now codified by the Texas Commissioner of Education and added to Texas Education Code, Sec. 30.002. Education for Children with Visual Impairments. It is available online at the following URL:

See the bolded and/or italicized areas that pertain to changes/additions to TEC §30.002 called for by bills passed during the 2013 Texas Legislative Session:

**SB 39 (referred to as the ECC bill):** TEC§30.002 (c)(4)(B)(i-ix)

**HB 590 (referred to as the O&M evaluation bill):** TEC§30.002 (c)(1)(c-1; c-2)

Additionally, I have bolded a part of this bill [TEC§30.002(e)(5)] that refers to the plans and arrangements of services being offered "beyond regular school hours to ensure that the student learns the skills and receives the instruction required". I often get calls from O&M specialists saying that they are not allowed to work with their students except during the regular school day. This section of the law addresses the need to offer instruction in the expanded core curriculum [Subsection (c)(4)(B)], of which O&M is a part, outside of the regular school day.

Texas Education Code (TEC) Sec. 30.002 EDUCATION FOR CHILDREN WITH VISUAL IMPAIRMENTS.

(a) The agency shall develop and administer a comprehensive statewide plan for the education of children with visual impairments who are under 21 years of age that will ensure that the children have an opportunity for achievement equal to the opportunities afforded their peers with normal vision.
(b) The agency shall:

1. develop standards and guidelines for all special education services for children with visual impairments that it is authorized to provide or support under this code;

2. supervise regional education service centers and other entities in assisting school districts in serving children with visual impairments more effectively;

3. develop and administer special education services for students with both serious visual and auditory impairments;

4. evaluate special education services provided for children with visual impairments by school districts and approve or disapprove state funding of those services; and

5. maintain an effective liaison between special education programs provided for children with visual impairments by school districts and related initiatives of the Department of Assistive and Rehabilitative Services Division for Blind Services, the Department of State Health Services Mental Health and Substance Abuse Division, the Texas School for the Blind and Visually Impaired, and other related programs, agencies, or facilities as appropriate.

(c) The comprehensive statewide plan for the education of children with visual impairments must:

1. adequately provide for comprehensive diagnosis and evaluation of each school-age child with a serious visual impairment;

2. include the procedures, format, and content of the individualized education program for each child with a visual impairment;

3. emphasize providing educational services to children with visual impairments in their home communities whenever possible;

4. include methods to ensure that children with visual impairments receiving special education services in school districts receive, before being placed in a classroom setting or within a reasonable time after placement:

   (A) evaluation of the impairment; and

   (B) instruction in an expanded core curriculum, which is required for students with visual impairments to succeed in classroom settings and to derive lasting, practical benefits from the education provided by school districts, including instruction in:
(Update related to HB 590 begins)

(i) compensatory skills, such as braille and concept development, and other skills needed to access the rest of the curriculum;

(ii) orientation and mobility;

(iii) social interaction skills;

(iv) career planning;

(v) assistive technology, including optical devices;

(vi) independent living skills;

(vii) recreation and leisure enjoyment;

(viii) self-determination; and

(ix) sensory efficiency;

(Update related HB 590 ends)

(5) provide for flexibility on the part of school districts to meet the special needs of children with visual impairments through:

(A) specialty staff and resources provided by the district;

(B) contractual arrangements with other qualified public or private agencies;

(C) supportive assistance from regional education service centers or adjacent school districts;

(D) short-term or long-term services through the Texas School for the Blind and Visually Impaired or related facilities or programs; or

(E) other instructional and service arrangements approved by the agency;

(6) include a statewide admission, review, and dismissal process;

(7) provide for effective interaction between the visually impaired child's classroom setting and the child's home environment, including providing for parental training and counseling either by school district staff or by representatives of other organizations directly involved in the development and implementation of the individualized education program for the child;

(8) require the continuing education and professional development of school district staff providing special education services to children with visual impairments;
(9) provide for adequate monitoring and precise evaluation of special education services provided to children with visual impairments through school districts; and

(10) require that school districts providing special education services to children with visual impairments develop procedures for assuring that staff assigned to work with the children have prompt and effective access directly to resources available through:

(A) cooperating agencies in the area;

(B) the Texas School for the Blind and Visually Impaired;

(C) the Central Media Depository for specialized instructional materials and aids made specifically for use by students with visual impairments;

(D) sheltered workshops participating in the state program of purchases of blind-made goods and services; and

(E) related sources.

(Update related to SB 39)

(c-1) To implement Subsection (c)(1) and to determine a child's eligibility for a school district's special education program on the basis of a visual impairment, the full individual and initial evaluation of the student required by Section 29.004 must, in accordance with commissioner rule:

(1) include an orientation and mobility evaluation conducted:

(A) by a person who is appropriately certified as an orientation and mobility specialist, as determined under commissioner rule; and

(B) in a variety of lighting conditions and in a variety of settings, including in the student's home, school, and community and in settings unfamiliar to the student; and

(2) provide for a person who is appropriately certified as an orientation and mobility specialist to participate, as part of a multidisciplinary team, in evaluating data on which the determination of the child's eligibility is based.

(c-2) The scope of any reevaluation by a school district of a student who has been determined, after the full individual and initial evaluation, to be eligible for the district's special education program on the basis of a visual impairment shall be determined, in accordance with 34 C.F.R. Sections 300.122 and 300.303 through 300.311, by a multidisciplinary team that includes, as provided by commissioner rule, a person described by Subsection (c-1)(1)(A).

(Update related to SB 39 ends)
(d) In developing, administering, and coordinating the statewide plan, the agency shall encourage the use of all pertinent resources, whether those resources exist in special education programs or in closely related programs operated by other public or private agencies, through encouraging the development of shared services arrangements working relationships and by assisting in the development of contractual arrangements between school districts and other organizations. The agency shall discourage interagency competition, overlap, and duplication in the development of specialized resources and the delivery of services.

(e) Each eligible blind or visually impaired student is entitled to receive educational programs according to an individualized education program that:

1. is developed in accordance with federal and state requirements for providing special education services;
2. is developed by a committee composed as required by federal law;
3. reflects that the student has been provided a detailed explanation of the various service resources available to the student in the community and throughout the state;
4. provides a detailed description of the arrangements made to provide the student with the evaluation and instruction required under Subsection (c)(4); and
5. sets forth the plans and arrangements made for contacts with and continuing services to the student beyond regular school hours to ensure the student learns the skills and receives the instruction required under Subsection (c)(4)(B).

(f) In the development of the individualized education program for a functionally blind student, proficiency in braille reading and writing is presumed to be essential for the student's satisfactory educational progress. Each functionally blind student is entitled to braille reading and writing instruction that is sufficient to enable the student to communicate with the same level of proficiency as other students of comparable ability who are at the same grade level. Braille instruction may be used in combination with other special education services appropriate to the student's educational needs. The assessment of each functionally blind student for the purpose of developing the student's individualized education program must include documentation of the student's strengths and weaknesses in braille skills. Each person assisting in the development of a functionally blind student's individualized education program shall receive information describing the benefits of braille instruction. Each functionally blind student's individualized education program must specify the appropriate learning medium based on the assessment report and ensure that instruction in braille will be provided by a teacher certified to teach students with visual impairments. For purposes of this
subsection, the agency shall determine the criteria for a student to be classified as functionally blind.

(g) To facilitate implementation of this section, the commissioner shall develop a system to distribute from the foundation school fund to school districts or regional education service centers a special supplemental allowance for each student with a visual impairment and for each student with a serious visual disability and another medically diagnosed disability of a significantly limiting nature who is receiving special education services through any approved program. The supplemental allowance may be spent only for special services uniquely required by the nature of the student's disabilities and may not be used in lieu of educational funds otherwise available under this code or through state or local appropriations.


Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 505 (S.B. 39), Sec. 1, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 637 (H.B. 590), Sec. 1, eff. September 1, 2013. (Note: Shall be implemented not later than the beginning of the 2014-2015 school year.)