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**IMMEDIATE ACTION
REQUESTED**

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February 29, 1996

UPDATE

Action Needed on Readoption of Special Education Rules

The Commissioner of Education has released his draft of the special education rules he plans to keep and those he plans to eliminate by allowing them to expire. Many of you who called TEA after receiving our first alert were frustrated when you couldn't get the information you wanted from the Commissioner's office. If you instead called the Office of Special Education Programs, you may have received by now a copy of the Commissioner's proposal. If not, call TEA's Office of Special Education Programs (512-463-9414) and ask for the **Commissioner's Proposed Rules for Special Education**.

Enclosed is a summary of the Commissioner's draft recommendations on those rules we highlighted in our first alert. Many of those we identified as important are recommended to keep. In our summary we have used the citations (rule numbers) found in the **current** SBOE rules. The numbers will NOT match those in the Commissioner's proposal.

Please read the summary carefully. We suggest you then get with other parents/advocates with similar concerns and decide how you want to respond. Those of you with particular concerns about rules involving discipline will notice those rules are omitted from the Commissioner's proposal. We have been told he will make his proposal on discipline rules at a later date.

Also enclosed is a copy of the Commissioner's schedule of public hearings on his draft recommendations. If there is one near you, please attend. If not, write a letter. The address is:

Dr. Mike Moses,
Commissioner of Education
Texas Education Agency
1701 N. Congress Avenue
Austin, TX 78701

Do not assume because the Commissioner's draft proposes keeping a particular rule you care about that you do not need to do anything more. Those who oppose your position and want the same rule eliminated are likely to come to the hearings and ask the Commissioner to change his proposal. **Take the time to thank Commissioner Moses for his proposal to keep any rules you believe are important.**

You may also disagree with him on plans to eliminate or change some rules. If so, clearly state your reasons in your letter or testimony.

Good attendance at these hearings is our opportunity to show this Commissioner, as well as others, the widespread support for quality education for students who receive special education.

As always, thanks for your continued advocacy on behalf of students who receive special education and their families.

Denise Brady, The Arc of Texas
Kay Lambert, Advocacy, Inc.
Claude Wilson, Texas Planning Council for Developmental Disabilities

Dr. Mike Moses
Commissioner of Education
Texas Education Agency
1701 N. Congress Avenue
Austin, TX 78701

HIGHLIGHTS OF COMMISSIONER'S PROPOSAL

PART I: UPDATES ON ITEMS INCLUDED IN OUR FIRST ALERT

The Commissioner's draft proposal recommends the following rules be **KEPT**:



89.211 (a) Eligibility - Allows district to use a label of "non-categorical early childhood eligible" for certain 3-5 year old children, rather than requiring them to assign the child a specific "handicapping condition" in order to receive special education services.



89.224 (e) Local District Procedures Required - Requires districts to give regular education teachers relevant portions of a student's IEP. Also requires districts to have procedures ensuring that teachers have opportunities to provide input regarding the implementation of a student's IEP.



89.221 (f) (1-7) ARD Committee - 10-day Recess - Implements the state requirement for a process of handling disagreements of an ARD Committee by providing for a 10-day recess.

Note: The intent of this rule is to emphasize the ARD as a collaborative process, and to hopefully reduce litigation by providing additional time to settle disagreements.



89.222 (f) Parent Participation in the ARD - Requires a school district to seek mediation from TEA if it refuses a parental request for an ARD meeting other than the required annual meeting.


NOTE: Many parent advocates believe this to be one of the most important rules. Without it, parents would be forced to file a complaint or request a due process hearing if the district refuses to schedule an ARD meeting they believe is needed.




89.235 (e) (1-9) Graduation Requirements - Specifies graduation requirements a special education student must meet in order to graduate before age 22.

NOTE: Prior to this rule, many students were "graduated" at 17 or 18 even though they had no job or job skills.


The Commissioner's draft proposal recommends the following rules be **ELIMINATED**.

 89.221 (h) (2) The Admission, Review and Dismissal Committee - Clarifies that both a special and regular education teacher can be invited to the ARD meeting of a student who will be spending some of the day in a regular education classroom.


NOTE: TEA believes this rule is not needed because federal regulations already allow both teachers to participate. The rule was adopted several years ago, however, because regular educators were not invited because many administrators thought it was not allowed.

 89.233 (g) (3) (A) Vocational Assessment - Requires every special education student to have a vocational assessment by age 14 or before entry to high school.


NOTE: TEA believes this is no longer needed since an individual transition plan (which should include a vocational assessment) is required by age 16. However, there is concern that without this rule many schools would not even begin the vocational assessment process until it was needed to develop the ITP, thus delaying the planning process. Additionally, many Texas students still lack ITP's, despite the federal and state requirements.

 89.244 (c) Local Special Education Advisory Committees - Requires each local district to have its own committee. The IDEA only requires a state-level committee.

NOTE: TEA wants to give local districts the flexibility to decide whether they want such a committee. Many parents are concerned that, since they are not yet well-represented on site-based or other campus planning teams, there will be no way to give input into local decisions about special education programs and services.

 89.218 (a) (b) Right of Students to Participate in Regular Education - SBOE rule repeats and emphasizes the right of a special education student to participate in regular education classes and programs.

NOTE: TEA wants to eliminate this rule since it repeats federal requirements. Many people concerned about the number of special education students still not included in general education believe we need to continue repeating this requirement in rule.

 89.225 (a-b) Assistive Technology - Clarified that assistive technology needs must be considered by the ARD committee.

NOTE: The draft proposal eliminates the entire section on assistive technology. Instead, it includes two citations to the federal requirements.

The Commissioner's draft proposal recommends the following rule be **KEPT, BUT MODIFIED**.

89.223 (c) (1-7) IEP Requirements for Students with Autism -Requires the ARD committee to "address" seven additional items for students with autism.

The Commissioner's proposal would require ARD committees to "consider information" about these seven items, and "when appropriate" include them in the IEP.

NOTE: Many believed the entire rule would be eliminated and are pleased the draft proposal retains them. However, the phrase "when appropriate" is of concern to parents.

PART II: ITEMS NOT IN OUR FIRST ALERT, BUT OF INTEREST

Following are some other recommendations in the Commissioner's draft:

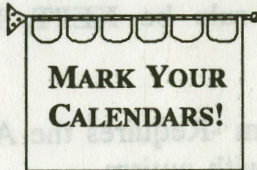
...**Keeps** rule stating "orientation and mobility training" is a related service.

...**Keeps** rule defining "reasonable notice" to parents as five school days.

...**Keeps** requirement for EYS programs to follow IEPs.

...**Eliminates** rule stating the parent's right to tape record ARD meeting.
(NOTE: This is a federal requirement)

...**Eliminates** the requirement that certain certified personnel be present at ARD meetings and instead requires the participation of persons "knowledgeable" about the disability.



**Schedule for Public Hearings On
the Commissioner of Education's
Rules for Special Education**

Unless noted, all hearings will be held at the regional Education Service Center. Hearing times are not yet set. Please call your ESC for specific information.

March 25, 1996	El Paso	Region 19 (915/779-3737)
March 25, 1996	Richardson	Region 10 (214/231-6301)
April 1, 1996	Austin*	Region 13 (512/929-1313)
April 2, 1996	Edinburg	Region 1 (210/383-5611)
April 3, 1996	Lubbock	Region 17 (806-792-4000)
April 4, 1996	Houston	Region 4 (713/462-7708)

* *The Austin hearing is scheduled for the Stouffer Hotel which is located at 9721 Arboretum Blvd.*