



December 5, 2017

Via email and U.S. Mail

Mike Morath
Commissioner of Education
Texas Education Agency
1701 North Congress Avenue
Austin, TX 78701-1494

RE: Individualized Education Program Analysis Project

Dear Commissioner Morath:

The signatories to this letter are statewide organizations that are dedicated to the education of students with disabilities in Texas public schools. Today we are expressing our concerns about an initiative of the Texas Education Agency (TEA) known as the Individualized Education Program (IEP) Analysis Project. **We call upon you to immediately suspend the IEP Analysis Project. A temporary suspension of the project is the only appropriate action given the questions surrounding it at this time.**

IEP Analysis Project

As described by TEA, the IEP Analysis Project is an outsourced initiative to digitally analyze IEPs of students with disabilities from across the state.¹ According to official TEA correspondence to school districts and open-enrollment charter schools, the project will involve up to 350,000 students with disabilities.² This is a large scale initiative, potentially involving the records of almost three of every four students with disabilities receiving special education services in Texas.³

1

https://tea.texas.gov/Academics/Special_Student_Populations/Special_Education/Programs_and_Services/IEP_Analysis_Project_Information/

2

https://tea.texas.gov/About_TEA/News_and_Multimedia/Correspondence/TAA_Letters/Special_Education_Data_Sharing_Request_-_Eligibility_for_Reimbursement/

³ During the 2016-2017 school year, Texas public schools provided special education services to 477,281 students with disabilities. See *Enrollment in Texas Public Schools 2016-17* (https://tea.texas.gov/acctres/enroll_index.html).

Concerns about IEP Analysis Project and Grounds for Suspension

Documentation Regarding Compliance with Law

Unfortunately, there are too few financial resources available to educate and serve students with disabilities in Texas. This includes the federal resources at the disposal of TEA for statewide activities in special education under the Individuals with Disabilities Education Act (IDEA). TEA is using IDEA dollars earmarked for statewide activities to pay the vendor, SPEDx, to conduct the data mining and digital analysis of IEPs. It will be an expensive endeavor. According to Article IV of the TEA contract with SPEDx, \$4.4 million is pledged to that vendor alone.⁴ Even more will be expended by TEA on data sharing grants to participating districts and charter schools.⁵ Finally, for participating districts and charter schools, there will be local expenditures associated with participation to the extent that TEA's data sharing grants do not cover the full and true cost of pulling records and engaging in data transfers with the vendor.

In recent weeks, questions have arisen regarding the legality of TEA's contract with SPEDx. It appears that TEA has labeled the contract with SPEDx as a proprietary purchase under Texas Government Code, Title 10, Subtitle D, Chapter 2155, Subchapter B, Subsection 2155.067 by labeling it as such on its website listing the agency's current contracts. In other communications, TEA has labeled SPEDx as a sole source provider and links the contract to federal procurement guidelines. Because TEA states that the contract was secured with federal grant money, we can assume that federal procurement law controlled over state law. The community at-large deserves transparency in all fiscal matters of a state agency. To alleviate the concerns of various stakeholders, it is fiscally prudent and critical for TEA to put the project on hold until the agency provides more documentation related to the procurement process.

Failure to Obtain Stakeholder Input

While it is admirable that TEA has taken recent steps to improve special education, too much of the planning has felt by many to have occurred behind closed doors. We are not aware of any public vetting of the project and in particular of the vendor that was chosen. For example, the Special Education Continuing Advisory Committee, the statewide advisory panel to the Commissioner as mandated by the IDEA, was neither briefed about the IEP Analysis Project, nor provided the opportunity to comment on it. While we appreciate the effort to explain the project by TEA staff to various stakeholders after the contract had been secured, we are not aware of any stakeholder involvement prior to the decision to use SPEDx for this project.

When TEA appears to work in isolation, students with disabilities, parents, educators, and administrators ultimately pay the price. All stakeholders have contributions to make. It is far better to engage them early in the planning and development process of all statewide strategies and plans.

⁴ See contract amendment no. 1 to TEA contract no. 3723

(https://tea.texas.gov/About_TEA/Agency_Finances/Procurement/Current_Contracts/)

⁵ See, for example, TEA webinars to entice districts and charter schools to participate

https://tea.texas.gov/Academics/Special_Student_Populations/Special_Education/Programs_and_Services/IEP_Analysis_Project_Information/

Again, given the questions surrounding the project that have arisen in recent weeks, we feel it is necessary to address these concerns with stakeholders before moving forward with the project.

Request for Action

We respectfully request that you take the following actions regarding the IEP Analysis Project:

- Suspend the project – temporarily stop the work of the vendor and cease obligations imposed on school districts and open-enrollment charter schools.
- Allow districts and charter schools to reconsider their participation in the project and withdraw, without penalty, if they choose to do so. Note that this is a critical step if the agency is unwilling to halt the project.
- Review the purpose and benefits of the project with a wide range of stakeholders and reformulate the project as needed.
- Reassess the best methods and means to execute the project, including mitigating the local fiscal burden of the project.
- To alleviate concerns regarding the legality of the contract, engage in more transparent efforts to demonstrate the agency's compliance with law in seeking and securing the contract.
- To address privacy concerns and the accusation that student information is being sold, create a document in plain language describing the privacy protections built into the contract with the vendor.
- Adopt heightened notice and privacy protections for parents and adult students for the remainder of the project.

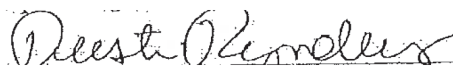
In conclusion, we find it unfortunate but necessary to call for at least a temporary halt of the IEP Analysis Project. It is certainly appropriate and necessary to review and consider how best to continue to improve special education services, support teachers and school districts, and empower children with disabilities and their parents. With independent assurances that the proper contracting procedures are being followed and with meaningful stakeholder engagement about purpose and desired outcomes, a systematic review of IEPs will be a promising part of the state's improvement strategy.

Please contact the individuals listed below for more information and to respond to this letter.

Respectfully submitted,



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