

CHAPTER 213

H.B. No. 2203

AN ACT

relating to educational programs for students with disabilities.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 1.04(c), Education Code, is amended to read as follows:

(c) Any educational institution supported either wholly or in part by state tax funds shall, if undertaking to provide educational services to any individual within the jurisdiction or geographical boundaries of the educational institution, provide equal educational opportunities to all individuals within its jurisdiction or geographical boundaries pursuant to the provisions of this code and pursuant to the provisions of regulations promulgated by the State Board of

Education to give effect to the intent of the legislature in its enactment of this code. No individual otherwise eligible for educational services through an educational institution supported either wholly or in part by state tax funds may deny services to any ~~handicapped~~ student *with disabilities* as defined in Section 21.503 of this code, but the educational institution shall instead be obligated to provide ~~handicapped~~ individuals *with disabilities* such special educational services as might from time to time be authorized by law or, where expressly authorized, to assist in and contribute toward the provision of appropriate special educational services in cooperation with other educational institutions and other appropriate agencies, institutions, or departments.

SECTION 2. Section 11.03(i), Education Code, is amended to read as follows:

(i) The Texas School for the Deaf shall:

(1) provide educational services on a day or residential basis to deaf students for whom adequate educational opportunities are unavailable in their local or regional programs;

(2) provide short-term services to deaf students so that they may be better able to benefit from educational services available in their local communities;

(3) provide services for ~~multiply handicapped~~ deaf students *with other disabilities* who cannot be effectively assisted through community programs but whose developmental capacities are such that they should not be admitted to residential institutions operated by the Texas Department of Mental Health and Mental Retardation;

(4) be a primary resource to school districts for promoting excellence in educational services for hearing-impaired students;

(5) be a training and staff development resource for those at the community level who are involved in providing educational and related services to hearing-impaired students; and

(6) be a research and demonstration facility to improve methods of providing educational services to meet the current and future needs of hearing-impaired students.

SECTION 3. Section 11.032(a), Education Code, is amended to read as follows:

(a) The Texas School for the Deaf shall provide the services listed in Subdivisions (1) through (3) of Subsection (i) of Section 11.03 of this code to any student ~~[who is an eligible handicapped student]~~ referred by a state agency or by the governing board of a school district through the agency's or district's admission, review, and dismissal committee and for whom the school is the appropriate placement.

SECTION 4. Section 11.052, Education Code, is amended to read as follows:

Sec. 11.052. EDUCATION FOR CHILDREN WITH VISUAL IMPAIRMENTS ~~[THE VISUALLY HANDICAPPED]~~. (a) The Central Education Agency shall develop and administer a comprehensive statewide plan for the education of ~~[visually handicapped]~~ children *with visual impairments who are* under 21 years of age which will ensure that the children have an opportunity for achievement equal to the opportunities afforded their peers with normal vision.

(b) The Central Education Agency shall be responsible for:

(1) the development of standards and guidelines for all special education services for *children with visual impairments* ~~[the visually handicapped]~~ which it is authorized to provide or support pursuant to the provisions of this code, including matters related to standards and accreditation;

(2) the supervision of such field offices as might from time to time be established to assist local school districts in serving ~~[visually handicapped]~~ children *with visual impairments* more effectively;

(3) the development and administration of special programs for children *with* ~~[handicapped by]~~ both serious visual loss and serious hearing loss;

(4) the evaluation of special education services provided for ~~[visually handicapped]~~ children *with visual impairments* by local school districts and the approval or disapproval of state funding of such services; and

(5) the maintenance of effective liaison between special education programs provided for *children with visual impairments* ~~[the visually handicapped]~~ by local school districts and

related initiatives exerted by the Texas Commission for the Blind, the Department of Mental Health and Mental Retardation, the Texas School for the Blind and Visually Impaired and other related programs, agencies, or facilities as appropriate.

(c) The minimum components of the comprehensive statewide plan for the education of *children with visual impairments* [~~the visually handicapped~~] shall include but not be limited to the following:

(1) adequate provision for comprehensive diagnosis and evaluation of each school-age child having a serious visual impairment;

(2) procedures, format, and content of the individualized education program for each [~~such visually handicapped~~] child *with visual impairments*;

(3) emphasis on providing educational services to [~~visually handicapped~~] children *with visual impairments* in their home communities whenever possible;

(4) methods to assure that [~~visually handicapped~~] children *with visual impairments* receiving special education services in local school systems receive, prior to being placed in a classroom setting or within a reasonable time thereafter, the compensatory skills training, communicative skills, orientation and mobility training, social adjustment skills, and vocational or career counseling required in order for such students to succeed in classroom settings and to derive lasting benefits of a practical nature from the education obtained in local school systems;

(5) flexibility on the part of the local school systems to meet the special needs of [~~visually handicapped~~] children *with visual impairments* through:

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

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

(C) supportive assistance from regional service centers, field offices of the Central Education Agency, or adjacent school districts;

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

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

(F) any combination of the foregoing;

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

(7) provision for effective interreaction between the visually *impaired* [~~handicapped~~] child's classroom setting and his home environment, including provision for parental training and counseling either by local school personnel or by representatives of other organizations directly involved in the development and implementation of the individualized education program for the child;

(8) a requirement for the continuing education and professional development of local school district staff providing special education services to *children with visual impairments* [~~the visually handicapped~~];

(9) adequate monitoring and precise evaluation of special education services provided to [~~visually handicapped~~] children *with visual impairments* through local school districts; and

(10) a requirement that local school districts providing special education services to [~~visually handicapped~~] children *with visual impairments* develop procedures for assuring that staff assigned to work with the [~~visually handicapped~~] children have prompt and effective access directly to resources available through cooperating agencies in the area, through the Texas School for the Blind and Visually Impaired, through the Central Media Depository, the Comprehensive Diagnostic and Evaluation Center, sheltered workshops participating in the state program of purchases of blind-made goods and services, and related types of resources.

(d) In developing, administering, and coordinating the statewide plan for the education of *children with visual impairments* [~~the visually handicapped~~], the agency shall encourage the use of all pertinent resources, whether such resources exist in special education programs or in closely related programs operated by other public or private agencies, through encouraging the development of cooperative working relationships and by assisting in the development of contractual arrangements between local school districts and other organizations, and it shall

be the duty of the agency to discourage interagency competition, overlap, and duplication in the development of specialized resources and the delivery of services.

(e) Every eligible blind or visually *impaired* [~~handicapped~~] student shall receive the educational programs according to an individualized education program which:

(1) shall be developed following adequate diagnosis and evaluation of all pertinent medical, psychological, social, cultural, environmental, and related factors which bear on the individual's ability to benefit from educational programs;

(2) shall be jointly developed by a representative of an educational program who is qualified and experienced in working with individuals *with* [~~handicapped by~~] serious visual loss, by the blind or *visually impaired* [~~handicapped~~] individual and his parent or guardian, and by representatives of other public or private organizations providing or capable of providing specialized services which tend to assure greater effectiveness of the educational effort exerted in behalf of the blind or visually *impaired* [~~handicapped~~] individual;

(3) specifies in measurable terms the goals and objectives to be accomplished as a result of the educational and specialized services to be provided by the various organizations working with the blind or visually *impaired* [~~handicapped~~] individual;

(4) specifies the time by which each service is to be initiated, the anticipated duration of each service, and the time within which the objectives and goals of the services might be achieved;

(5) contains a procedure and schedule for periodic review and evaluation of progress toward established objectives and goals based on objective criteria and contains a record of the reviews and evaluations;

(6) summarizes the views of the blind or visually *impaired* [~~handicapped~~] individual, or as appropriate, his parent or guardian or other representative concerning his goals and objectives and the special services being provided;

(7) outlines the obligations undertaken by the individual's family in connection with the individualized education program, including family commitments regarding physical restoration services, procurement of optical aids, and related services;

(8) reflects that the individual has been provided a detailed explanation of the various service resources available to him within the community and throughout the state;

(9) reflects that the individualized education program has been reviewed as frequently as necessary, but in no event less than once annually, by competent educational authorities, representatives of cooperating organizations, the individual, and his parent or guardian and that the individualized education program has been modified, refined, or redeveloped in a manner consistent with determinations made through such review;

(10) describes in detail the arrangements made to provide the blind or visually *impaired* [~~handicapped~~] individual with orientation and mobility training, instruction in braille or use of large print, other training to compensate for serious visual loss, access to special media, and special tools, appliances, aids, or devices commonly utilized by individuals with serious visual losses; and

(11) sets forth the plans and arrangements made for contacts with and continuing services to the blind or visually *impaired* [~~handicapped~~] individual during periods in which he might not be involved in school programs.

(f) In the development of the individualized education program for a functionally blind student there is a presumption that proficiency in Braille reading and writing is 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 shall:

- (1) specify the appropriate learning medium based on the assessment report; and
- (2) ensure that instruction in Braille will be provided by a teacher certified to teach students with visual *impairments* [~~handicaps~~].

(g) For purposes of this section, the Central Education Agency shall determine the criteria for a student to be classified as functionally blind.

SECTION 5. Section 11.10(s), Education Code, is amended to read as follows:

(s) Operating costs for the program in each regional day school program for the deaf shall be determined and paid on the following basis:

(1) An estimated allocation of \$2,700 for each student enrolled in the program of the regional day school program for the deaf in any current year.

(2) Teachers, principals, supervisors, counselors, para-professional and supporting personnel shall be employed in such numbers as the Central Education Agency finds to be necessary to establish and operate the regional day school programs for the deaf, and such numbers shall not be less than student-professional ratios known to be requisite for success in education of deaf children. Salaries of all personnel employed in the regional day school programs for the deaf shall be determined in accordance with policies established by the State Board of Education.

(3) Local districts may receive allocations for transportation of students participating in the regional day school programs *determined in the same manner as allocations for the transportation of other special education students* [~~on the same basis as that provided for in Section 16.206 of this code~~].

SECTION 6. Sections 11.102 and 11.103, Education Code, are amended to read as follows:

Sec. 11.102. SUPPLEMENTAL ALLOWANCES FOR EXCEPTIONAL EXPENSES OF EDUCATING STUDENTS WITH VISUAL IMPAIRMENTS [~~BLIND EDUCATION~~].

From the Foundation School Fund there shall be made available a special supplemental allowance for each blind student or for each student with a serious visual *disability* [~~handicap~~] and another medically diagnosed *disability* [~~handicap~~] of a significantly limiting nature, who is receiving special education services through any approved program whatsoever. The amount of the special supplemental allowance for each blind student or for each [~~such multiply handicapped~~] student *with multiple disabilities* shall be equivalent to the special allocation for deaf students enrolled in regional day school programs, as authorized by Paragraph (1), Subsection (s), Section 11.10 of this code. The supplemental allowances may be expended only for special services uniquely required by the nature of the student's *disabilities* [~~handicap~~] and may not be used in lieu of educational funds otherwise available under this code and through state or local appropriations.

Sec. 11.103. COORDINATION OF SERVICES TO [~~HANDICAPPED~~] CHILDREN WITH DISABILITIES. (a) In this section "~~[handicapped]~~ children *with disabilities*" has the meaning *described in Section 21.503* [~~defined in Section 16.104(b)~~] of this code.

(b) The commissioner of education, with the approval of the State Board of Education, shall develop and implement a plan for the coordination of services to [~~handicapped~~] children *with disabilities* within each geographical area served by a regional education service center. The plan shall include, but may not be limited to, procedures for:

(1) identifying existing public or private educational and related services for [~~handicapped~~] children *with disabilities* in each region;

(2) identifying and referring [~~handicapped~~] children *with disabilities* who cannot be appropriately served by the school district in which they reside to other appropriate programs;

(3) assisting school districts individually and cooperatively to develop programs to identify and provide appropriate services for [~~handicapped~~] children *with disabilities*;

(4) expanding and coordinating services provided by regional education service centers which are related to programs for [~~handicapped~~] children *with disabilities*; and

(5) providing for special services such as special seats, books, instructional media, and other supplemental supplies and services required for quality instruction.

(c) The commissioner may allocate appropriated funds to regional education service centers and may otherwise expend those funds, as necessary, to implement the provisions of this section.

SECTION 7. Section 11.33(c)(1), Education Code, is amended to read as follows:

(c)(1) The State Board of Education shall promulgate rules, in compliance with the approved statewide design for special education, to provide for a plan for the coordination of services to [handicapped] children *with disabilities* within each geographical area served by a Regional Education Service Center. Regional Education Service Centers, under the procedures set forth in this plan, may provide supplementary or technical assistance to school districts for:

(A) identification of existing public or private educational and related services for [handicapped] children *with disabilities* in each region;

(B) identification and referral of [handicapped] children *with disabilities* who cannot be appropriately served by the school district in which they reside to other appropriate programs;

(C) assistance to school districts individually and cooperatively to develop programs to identify and provide appropriate services for [handicapped] children *with disabilities*;

(D) expansion and coordination of services provided by Regional Education Service Centers which are related to programs for [handicapped] children *with disabilities*; and

(E) provision for special services such as special seats, books, instructional media, and other supplemental supplies and services required for quality instruction.

SECTION 8. Sections 12.03(a) and (b), Education Code, are amended to read as follows:

(a) The State Board of Education is authorized to acquire, purchase, and contract for free textbooks for the education of blind and visually *impaired* [handicapped] public school students. In addition, for a teacher who is blind or visually impaired, the board shall provide a teacher edition in braille or large type, as appropriate as determined by the teacher, for each textbook the teacher uses in the instruction of students. For each school year, the teacher editions must be available at the same time the student textbooks become available. The textbooks shall be acquired, purchased, or contracted for as provided by Subchapter B of this chapter and by any applicable rule adopted by the State Board of Education. The board may also enter into agreements providing for the acceptance, requisition, and distribution of books and instructional aids pursuant to Public Law 922, 84th Congress, or as amended, for use by students enrolled in public or private non-profit schools. The agreements may include the purchase of textbooks for blind and visually *impaired* [handicapped] students attending private, non-profit schools if no state funds except for administrative cost are involved.

(b) For purposes of this section, a blind and/or visually *impaired* [handicapped] scholastic means and includes any pupil whose visual acuity is impaired to the extent that he is unable to read the print in regularly adopted textbooks used in the subject class.

SECTION 9. Section 14.044(f), Education Code, is amended to read as follows:

(f) The activities of the center shall include the development of:

(1) new applications of technology specifically designed for education purposes;

(2) prototype educational applications of a technology originally developed for commercial or other purposes;

(3) prototypes of technological devices for [handicapped] students *with disabilities* and teachers;

(4) computer-based methods for diagnosing students' learning methods; and

(5) other applications of educational technology designed to improve the quality and efficiency of the educational process.

SECTION 10. Section 16.151(b), Education Code, is amended to read as follows:

(b) A special instructional arrangement for [handicapped] students *with disabilities* residing in care and treatment facilities, other than state schools, whose parents or guardians do not reside in the district providing education services shall be established under the rules of the State Board of Education. The funding weight for this arrangement shall be 5.0 for those

students who receive their education service on a local school district campus. A special instructional arrangement for [~~handicapped~~] students *with disabilities* residing in state schools shall be established under the rules of the State Board of Education with a funding weight of 5.0.

SECTION 11. Sections 16.155(a) and (c), Education Code, are amended to read as follows:

(a) For each full-time equivalent student in average daily attendance in an approved vocational education program in grades nine through 12 or in vocational education [~~for the handicapped~~] programs *for students with disabilities* in grades seven through 12, a district is entitled to an annual allotment equal to the adjusted basic allotment multiplied by a weight of 1.37.

(c) Funds allocated under this section, other than an indirect cost allotment established under State Board of Education rule, must be used in providing vocational education programs in grades nine through 12 or vocational education [~~for the handicapped~~] programs *for students with disabilities* in grades seven through 12 under the provisions of Sections 21.111, 21.1111, and 21.112 of this code.

SECTION 12. Sections 16.156(b) and (g), Education Code, are amended to read as follows:

(b) As used in this section:

(1) "Regular eligible pupil" means a pupil who resides two or more miles from his or her campus of regular attendance, measured along the shortest route that may be traveled on public roads, and who is not classified as a [~~an eligible handicapped~~] pupil *eligible for special education services*.

(2) "Eligible special education [~~handicapped~~] pupil" means a pupil who is *eligible for special education services under* [~~handicapped as defined in~~] Section 21.503 of this code and who would be unable to attend classes without special transportation services.

(3) "Linear density" means the average number of regular eligible pupils transported daily, divided by the approved daily route miles traveled by the respective transportation system.

(g) A school district or county that provides special transportation services for eligible *special education* [~~handicapped~~] pupils is entitled to a state allocation paid on a previous year's cost-per-mile basis. The maximum rate per mile allowable shall be set by appropriation based on data gathered from the first year of each preceding biennium. Districts may use a portion of their support allocation to pay transportation costs, if necessary. The commissioner of education may grant an amount set by appropriation for private transportation to reimburse parents or their agents for transporting eligible *special education* [~~handicapped~~] pupils. The mileage allowed shall be computed along the shortest public road from the pupil's home to school and back, morning and afternoon. The need for this type transportation shall be determined on an individual basis and shall be approved only in extreme hardship cases.

SECTION 13. Section 21.113(b), Education Code, is amended to read as follows:

(b) The master plan design must include the provision of vocational programs through public school districts and public postsecondary institutions and the support of those programs by private employers and proprietary schools. The vocational programs must be designed to meet the needs of new and emerging occupations listed on the State Board of Education priority list of occupations and to meet the needs of special population groups such as [~~handicapped~~] persons *who are disabled, disadvantaged persons, and adults*.

SECTION 14. Section 21.301(d), Education Code, is amended to read as follows:

(d) Except as provided by this subsection, removal to a supervised alternative education setting may not extend beyond the end of the semester during which the conduct that directly led to the removal occurred. If the conduct occurred during the final six-week reporting period of a semester, the removal may extend beyond the end of that semester but may not extend beyond the end of the next semester. The board may permit the student to remain in the alternative program for an additional period agreed on by the student, the student's parent or guardian, the supervisor of the alternative program, and the principal of the student's home school if they agree that the additional period would best serve the student's

educational interest. This subsection does not apply to the placement of a [handicapped] student *with disabilities* in an alternative program in accordance with the decision of an admission, review, and dismissal committee.

SECTION 15. Section 21.3011(l), Education Code, is amended to read as follows:

(l) A rehabilitation district that admits [handicapped] delinquent children *with disabilities* shall admit a child referred by a juvenile court located in the district if the ARD committee of the district has determined that the district has sufficient facilities and personnel available.

SECTION 16. Section 21.455(c), Education Code, is amended to read as follows:

(c) The language proficiency assessment committee may classify a student as limited English proficiency if one or more of the following criteria are met:

(1) the student's ability in English is so limited or the *student's disabilities are so severe* [student is so handicapped] that assessment procedures cannot be administered;

(2) the student's score or relative degree of achievement on the agency-approved English proficiency test is below the levels established by the agency as indicative of reasonable proficiency;

(3) the student's primary language proficiency score as measured by an agency-approved test is greater than his proficiency in English; or

(4) the language proficiency assessment committee determines, based on other information such as (but not limited to) teacher evaluation, parental viewpoint, or student interview, that the student's primary language proficiency is greater than his proficiency in English or that the student is not reasonably proficient in English.

SECTION 17. Sections 21.501 and 21.502, Education Code, are amended to read as follows:

Sec. 21.501. STATEWIDE PLAN. The State Board of Education shall develop, and modify as necessary, a statewide design for the delivery of services to [handicapped] children *with disabilities* in Texas which includes rules for the administration and funding of the special education program so that a free appropriate public education is available to all of those [handicapped] children between the ages of three and 21. The statewide design shall include, but may not be limited to, the provision of services primarily through local school districts and special education cooperatives, supplemented by a regional delivery structure. The board shall further develop and implement a statewide plan with programmatic content which includes procedures designed to:

(1) ensure state compliance with requirements for supplemental federal funding for all state-administered programs involving the delivery of instructional or related services to [handicapped] students *with disabilities* [as defined in this section];

(2) facilitate interagency coordination when state agencies other than the Central Education Agency are involved in the delivery of instructional or related services to [handicapped] students *with disabilities*;

(3) assess statewide personnel needs in all areas of specialization related to special education on a periodic basis and pursue strategies to meet those needs through a consortium of representatives from regional education service centers, local education agencies, and institutions of higher education and through other available alternatives;

(4) ensure that regional education service centers throughout the state maintain a regional support function, which may include direct service delivery and a component designed to facilitate the placement of [handicapped] students *with disabilities* who cannot be appropriately served within their resident districts;

(5) allow the Central Education Agency to effectively monitor and periodically conduct site visits of all local districts to ensure that rules adopted under this section are applied in a consistent and uniform manner, to ensure that districts are complying with those rules, and to ensure that annual statistical reports filed by the districts are accurate and complete;

(6) ensure that appropriately trained personnel are involved in the diagnostic and evaluation procedures operating in all local districts and that those personnel routinely serve on local district admissions, review, and dismissal teams;

(7) ensure that an individualized education plan for each [handicapped] student *with a disability* is properly developed, implemented, and maintained in the least restrictive environment which is appropriate to meet the student's educational needs;

(8) ensure that, when appropriate, each [handicapped] student *with a disability* is provided an opportunity to participate in vocational and physical education classes, in addition to participation in regular or special classes; and

(9) ensure that each [handicapped] student *with a disability* is provided necessary related services.

Sec. 21.502. DEFINITIONS. As used in this subchapter, "special services" means:

(1) "special teaching," which may be provided by professional and paraprofessional personnel in the following instructional settings:

- (A) resource room;
- (B) self-contained classroom, regular or special campus;
- (C) hospital or community class;
- (D) homebound or bedside;
- (E) speech or hearing therapy class; or

(2) "related services," which are developmental, corrective, supportive, or evaluative services, not instructional in nature, that may be required for the proper development and implementation of a [handicapped] student's individualized educational plan, including but not limited to special transportation, school health services, counseling with students or families, psychological services, audiological services, visual training, medical or psychiatric diagnostic services, occupational therapy, physical therapy, recreational therapy, social work services, parent counseling and training, adaptive equipment, special seating, orientation and mobility training, speech therapy, music therapy, and corrective therapy.

SECTION 18. Section 21.503, Education Code, is amended to read as follows:

Sec. 21.503. ELIGIBILITY CRITERIA. (a) The commissioner, with the approval of the State Board of Education, shall develop specific eligibility criteria based on the general classifications established by this section with reference to contemporary diagnostic or evaluative terminologies and techniques. Eligible [handicapped] students *with disabilities* shall enjoy the right to a free appropriate public education, which may include instruction in the regular classroom, instruction through special teaching, or instruction through contracts approved under this section. Instruction shall be supplemented by the provision of related services when appropriate.

(b) *The following students are eligible to participate in a school district's special education program:*

(1) *a student not more than 21 years of age with a visual or auditory impairment that prevents the student from being adequately or safely educated in the public schools without the provision of special services; and*

(2) *a student at least three but not more than 21 years of age with one or more of the following disabilities that prevents the student from being adequately or safely educated in the public schools without the provision of special services:*

- (A) *physical disability;*
- (B) *mental retardation;*
- (C) *emotional disturbance;*
- (D) *learning disability;*
- (E) *autism; or*

(F) *speech disability.* ~~[The following classifications of handicapped students shall serve as the general eligibility criteria for participation in a district's special education program:~~

~~(1) "Handicapped students" means students between the ages of 3 and 21, inclusive:~~

~~(A) with educational handicaps (physically handicapped, auditorially handicapped, visually handicapped, mentally retarded, emotionally disturbed, learning disabled, speech~~

handicapped, autistic, or multiply handicapped); and children leaving and not attending public school for a time because of pregnancy; and

[(B) whose disabilities are so limiting as to require the provision of special services in place of or in addition to instruction in the regular classroom.

[(2) "Physically handicapped students" means students whose body functions or members are so impaired from any cause that they cannot be adequately or safely educated in the regular classes of the public schools without the provision of special services.

[(3) "Auditorially handicapped students" means students whose hearing is so impaired that they cannot be adequately educated in the regular classes of the public schools without the provision of special services.

[(4) "Visually handicapped students" means students whose sight is so impaired that they cannot be adequately or safely educated in the regular classes of the public schools without the provision of special services.

[(5) "Mentally retarded students" means students with significantly subaverage general intellectual functioning existing concurrently with deficiencies in adaptive behavior and manifested during the developmental period such that they cannot be adequately educated in the regular classes of the public schools without the provision of special services.

[(6) "Emotionally disturbed students" means students whose emotional condition is psychologically or psychiatrically determined to be such that they cannot be adequately and safely educated in the regular classes of the public schools without the provision of special services.

[(7) "Learning disabled students" means students:

[(A) who demonstrate a significant discrepancy between academic achievement and intellectual abilities in one or more of the areas of oral expression, listening comprehension, written expression, basic reading skills, reading comprehension, mathematics calculation, mathematics reasoning, or spelling;

[(B) for whom it is determined that the discrepancy is not primarily the result of visual handicap, hearing impairment, mental retardation, emotional disturbance, or environmental, cultural, or economic disadvantage; and

[(C) for whom the inherent disability exists to a degree such that they cannot be adequately served in the regular classes of the public schools without the provision of special services other than those provided under compensatory education programs.

[(8) "Speech handicapped students" means students whose speech is so impaired that they cannot be adequately educated in regular classes of the public schools without the provision of special services.

[(9) "Autistic students" means students whose disturbances of speech and language, relatedness, perception, developmental rate, and motility are such that they cannot be adequately educated in the regular classes of the public schools without the provision of special services.

[(10) "Multiply handicapped students" means students handicapped by any two or more of the handicapping conditions described in Subdivisions (2) through (9) of this subsection that may result in multisensory or motor deficiencies and developmental lags in the cognitive, affective, or psychomotor areas such that they cannot be adequately educated in the regular classes of the public schools without the provision of special services.]

SECTION 19. Section 21.504, Education Code, is amended to read as follows:

Sec. 21.504. PERSONNEL CONTRACTS. Special education personnel may be employed on a full-time, part-time, or consultative basis. Any school district may employ special education personnel on a 10-, 11-, or 12-month basis. *Teachers* [~~Handicapped students' teachers~~], paraprofessional personnel, or related service personnel employed on an extended basis shall, during the extended period of their contract, only be engaged in pupil evaluations or in direct service delivery to [~~handicapped~~] students *with disabilities* for which the disruption of continuous services may result in severe regression.

SECTION 20. Section 21.5042, Education Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) The governor shall appoint a continuing advisory committee, *composed of 17 members*, under 20 U.S.C. Section 1413(a)(12). The appointments are not subject to confirmation by the senate. Members of the committee are appointed for *staggered terms of four [two] years with the terms of eight or nine members* expiring on February 1 of each odd-numbered year.

(a-1) *Members of the advisory committee appointed in 1993 shall draw lots for nine four-year terms and eight two-year terms. Thereafter, all members shall be appointed for four-year terms. This subsection expires February 1, 1995.*

SECTION 21. Sections 21.506(a) and (b), Education Code, are amended to read as follows:

(a) Any local district, special education cooperative, or regional education service center may contract with any public or private facility, institution, or agency within or outside of this state for the provision of services to ~~handicapped~~ students *with disabilities* under rules adopted by the State Board of Education. Contracts for residential placements, including placements with the Texas Department of Mental Health and Mental Retardation and its community facilities, Texas School for the Blind and Visually Impaired, Texas School for the Deaf, and other public or private agencies, institutions, or facilities, shall be approved by the commissioner. The rules shall provide for approval of residential placement contracts only after at least a programmatic evaluation of personnel qualifications, adequacy of physical plant and equipment, and curriculum content. Either the whole or a part of a facility or program may be approved. Rules relating to the residential contract approval process shall include provisions designed to ensure that no contract is approved which:

(1) involves the delivery of unapproved services;

(2) involves the delivery of services which the district is capable of providing or is developing the capability to provide; or

(3) is not cost-effective when compared with other alternatives.

(b) Except as provided by Subsection (c) of this section, contracts for residential placements when approved may be paid for from a combination of federal, state, and local funds. The local share of the total contract cost per pupil is that portion of the local tax effort (total dollars generated by debt service and maintenance taxes) which exceeds the district's local fund assignment, divided by the average daily attendance in the district. If the contract involves a private facility, the state share of the total contract cost is that which remains after subtracting the local share. If the contract involves a public facility ~~[other than a program or facility administered by the Central Education Agency]~~, the state share is that which remains after subtracting the local share from that portion of the contract which involves the costs of instructional and related services. ~~[If the contract involves a program or facility administered by the Central Education Agency, there is no state share paid from this program.]~~

SECTION 22. Section 21.509(a), Education Code, is amended to read as follows:

(a) The Central Education Agency shall monitor school district compliance with federal and state laws relating to special education by inspecting each school district at the district's facilities ~~[at least every five years]~~. The agency may determine the appropriate *schedule for and extent of the inspection.*

SECTION 23. Section 21.512, Education Code, is amended to read as follows:

Sec. 21.512. **NONEDUCATIONAL COMMUNITY-BASED SUPPORT SERVICES FOR CERTAIN ~~HANDICAPPED~~ STUDENTS WITH DISABILITIES.** (a) The Central Education Agency shall establish procedures and criteria for the allocation of funds appropriated pursuant to this section to school districts for the provision of noneducational community-based support services to certain ~~handicapped~~ students *with disabilities* and their families so that those students may receive an appropriate free public education in the least restrictive environment.

(b) The funds shall be used solely for eligible ~~handicapped~~ students *with disabilities* who would remain or would have to be placed in residential facilities primarily for educational reasons without the provision of noneducational community-based support services.

(c) The support services may include in-home family support, respite care, and case management for families with a student who otherwise would have been placed by a school district in a private residential facility.

(d) The provision of services under this section does not supersede or limit the responsibility of other agencies to provide or pay for costs of noneducational community-based support services to enable any [handicapped] student *with disabilities* to receive a free appropriate public education in the least restrictive environment. Specifically, services provided under this section may not be used for a [handicapped] student *with disabilities* who is currently placed or who needs to be placed in a residential facility primarily for noneducational reasons.

SECTION 24. Section 21.920(c), Education Code, is amended to read as follows:

(c) Suspension of a [handicapped] student *with a disability that [whose handicap]* significantly interferes with the student's ability to meet regular academic standards shall be based on the student's failure to meet the requirements of the student's individual education plan. The determination of whether a *disability* [handicap] significantly interferes with a student's ability to meet regular academic standards shall be made by the student's admission, review, and dismissal committee. For purposes of this subsection, "[handicapped] student *with a disability*" means a student who is eligible for a district's special education program under Section 21.503(b) of this code.

SECTION 25. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on April 23, 1993, by a non-record vote; passed by the Senate on May 10, 1993: Yeas 31, Nays 0.

Approved May 19, 1993.

Effective Aug. 30, 1993, 90 days after date of adjournment.