

HB 100/Senate Bill Eight: **ESA summary**/Comparison

This comparison/Summary only compares/summarizes the ESA portion of the bill. HB 100 adds a significant number of teacher-based considerations that aren't associated with ESAS except for the fact that they are combined in a bill. Notable also, is the SPED portion which makes use of Regional Service Centers to provide supplementary special ed services to families in a reportedly 'parent directed way'.

Clarification:

Crossed-out text is part of the original summary of SB-8 that was connected to ESAS. All parental protections were stripped from SB-8 and only the ESA provision was left intact. There is, at least, in this stripped down version, an acknowledgement of eligibility for students who spent "90% of the previous school year enrolled in private school." Home Schools are considered private schools in Texas which seems to open the door for home-school families to participate as long as they fall into the economically disadvantaged/poor performing schools category. This seems suspect since Home Schools aren't graded.

"An Act relating to Public Education, including parental rights and public-school responsibilities regarding instructional materials and the establishment of an Educational Savings Account Program."

Pertaining to Parental Rights:

1. ~~No parental rights infringed unless necessary to further a compelling state interest like "Saving a Child's Life" and then narrowly tailored using the least restrictive means to achieve the compelling state interest.~~

~~Pertaining to Lawsuits or proceedings deemed "frivolous" against an ISD.~~

2. ~~Lawsuits deemed "frivolous" against an ISD or ISD Administration can entitle districts to have an award of costs or reasonable attorney's fees (except for those regarding *Individuals with Disabilities Act (IDEA)*)~~

Pertaining to Transfer of Students from one educational setting to another as per School Choice Who Qualifies:

Any child, other than a High School Graduate who is younger than 21 years is eligible for enrollment on 9/1 of any School Year may apply for transfer for in-person instruction annually from the child's school district of residence to another district in this state, including private schools.

Denial of Transfer Stipulations:

1. Can be denied transfer if target school is at full student capacity.
2. Can be denied if suspended or expelled from current school.
3. Can be denied if the request supersedes a court order of desegregation.
4. Cannot be denied transfer due to "Equity" Concerns

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Enrollment Pre-Requisites:

1. If a school has more applicants than openings, the school must fill the openings it has by use of a lottery.
2. Priority Enrollments: (in order of priority)
 - a. Students previously enrolled in the receiving district during the past year
 - b. Dependents of an employee of the receiving district
 - c. SPED Students
 - d. Military Dependents
 - e. Law Enforcement Dependents
 - f. Foster Care Children
 - g. Court-Ordered modifications of conservatorship when conservatorship is assigned within the district
 - h. Siblings of a student currently enrolled in the receiving district.

3. Other Requirements:

- a. Transfer students can't be charged tuition.
- b. Revocation of Alternative Enrollment
 - i. A transfer may be revoked if a transfer student fails to comply with the transfer plan outlined by the transfer setting.
 - ii. If code of conduct issue arises
 - iii. If transfer student is assigned disciplinary alternative Education (DAC)
 - iv. If student is expelled from receiving school
 - v. If a student lacks the required attendance

Parental Rights Reaffirmed:

Family Code 151.001:

A parent has the right to direct the moral and religious training of the parents' child, make decisions concerning the child's education, and consent to medical, psychiatric, and psychological treatment of the child without obstruction or interference from this state, any open enrollment charter school, or any other governmental entity.

Districts and/or their representatives may not withhold information from a parent regarding the parents' child.

Responsibilities of Board of Trustees

- ~~Recognize parents are partners with educators, administrators, and school district boards of trustees in their children's education.~~
- ~~Shall comply with parental rights as defined in the family code.~~
- ~~Provide procedures to consider complaints that a parent right has been denied.~~
- ~~Develop a plan for parental participation in the district to improve outcomes.~~
- ~~Provide parents of newly enrolled students, at the first of the school year, information about parental rights and options including the right to withhold consent or exempt the child from certain activities and instruction including:~~
 1. ~~Child's course of study~~
 2. ~~Supplemental instructional materials and library~~
 3. ~~Health education instruction (under 28.004)~~
 4. ~~Instruction regarding sexual orientation and gender identity under section 28.004~~
 5. ~~School options, including virtual and remote schooling options.~~
 6. ~~Immunizations under 38.001~~
 7. ~~Gifted and talented programs~~

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- ~~8.~~ Promotion, retention, and graduation
- ~~9.~~ Grade, class rank and attendance.
- ~~10.~~ State standards and requirements
- ~~11.~~ Data collection Practices
- ~~12.~~ Health Care Services, including notice and consent under section 26.0083.
- ~~13.~~ The Local Grievance Procedure under Section 26.011

Agency Expectations:

- ~~• The agency shall develop a form for use by school districts in providing information about parental rights that is easily accessible and publicly posted on the district's internet website.~~

Right to Request Instructional Material: ~~(Section 26.0061)~~

- ~~• The Board of Trustees of each school district shall establish a process by which a parent of a student (as indicated on student registration form) may request an instructional material review under Section 31.0236 for a subject area in the grade level in which the student is enrolled.~~
 - ~~○ The board may not require more than one parent of a student to make the request.~~
 - ~~○ The process must provide the means for determining if the request will be granted (originally or through appeal)~~
 - ~~○ May permit requesting parents to review instructional material directly before the district conducts an instructional material review.~~
 - ~~○ If the parents of at least 25% of the students enrolled at a campus provide a petition for the board to conduct an instructional material review, the board shall conduct it, unless by a majority vote the board denies the request.~~
 - ~~○ If the parents of at least 50% of the students enrolled in the school district petition the board to conduct an instructional material review it shall be done.~~
 - ~~○ The review request petition will identify each subject area or grade level that will be reviewed by the board.~~

Right to Information Regarding Mental, Emotional and Physical Health and Health-related services

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- ~~District procedure shall be produced by which school districts will notify the parent of an enrolled student regarding any change in services provided to or monitored of the student related to the student's mental, emotional, or physical health or well-being.~~
- ~~No procedures allowed which will contradict parental rights.~~
- ~~Disclosure of information to a parent is not required if a reasonably prudent person would believe the disclosure is likely to result in the student suffering abuse or neglect (as per Section 261.001)~~
- ~~School District Employees may not discourage or prohibit parental knowledge of or involvement in critical decisions regarding Mental, Emotional and Physical Health-Related Services (MEPHRS)~~
- ~~Any student support services training developed or provided by a school district to district employees must comply with guidelines, standards and frameworks established by SBOE and the agency.~~
- ~~Before the first instructional day of each school year, school districts must provide to the parent written notice of each health related service offered at the attended campus as well as clear communication of the parent's right to withhold consent for or decline a health related service.~~
- ~~Before a well-being or health screening questionnaire can be administered to a child, a copy shall be provided to the parent and the parent's approval secured before the screening questionnaire can be given to the child.~~
- ~~The State Board of Education (SBOE) and the State Board of Education Certification (SBOEC) shall, by June 30th, 2024, review and revise frameworks, standards, practices, professional conduct principles and other related guidelines for compliance to the above.~~

Community Engagement Policy:

- ~~The School Board of Trustees must provide an internet portal through which parents can submit comments to campus or district administration.~~
- ~~The board must prioritize comments by presenting those comments at the beginning of each board meeting.~~
- ~~Board meetings must meet outside of typical work hours so that the public can attend.~~
- ~~Districts must provide full information about child activities on the campus.~~
- ~~Withholding information from a child's parent is grounds for discipline locally and state-wide.~~
- ~~Children can't participate in district activities without parent signed written consent for that activity.~~
- ~~School districts must procure a one-time permission at the start of the school year from enrolled student's parent to provide routine care throughout the year.~~

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- ~~School districts must secure first of year, written permission from parents about the authorized collection, use and storage of information. Must be in plain language.~~
- ~~Employees of the district are subject to disciplinary action if they allowed a child to participate in an activity if parental written consent wasn't secured before the event.~~
- ~~Grievances may be filed within six weeks of an incident but may have parental evidence added after first notifying of the grievance.~~
- ~~If the grievance was informally brought to the attention of the school district personnel during the six week period, it doesn't have to be formally recorded to be valid for that six week period.~~
- ~~Procedures for handling a grievance are outlined on pages 23-24 of the bill. As well as timeline and details for appealing the grievance.~~

Restriction on Instruction Regarding Sexual Orientation and Gender Identity

- ~~The bill prohibits instruction regarding sexual orientation and Gender Identity without parental permission.~~
- ~~Third parties may not be permitted to provide instruction, guidance, activities, or programming regarding sexual gender identity issues like orientation.~~
- ~~Students are not restricted from engaging in free speech or expressive conduct protected by the first amendment.~~

Clarification of Parental Rights Regarding Child Placement

~~(If child was eligible to attend the grade they are currently in during the previous year)~~

- ~~Parents/guardians may elect a student to repeat PK/enroll in PK.~~
- ~~Parents/guardians may allow their child to enroll/repeat kindergarten.~~
- ~~Parents may elect their child to repeat grades 1-8 (if the child was eligible for that grade the previous year.)~~

Amendments to Notice to Parent of Unsatisfactory Performance, Conferences.

- The Board of Trustees of each district shall adopt a policy that provides for at least two opportunities for in-person conferences during each school year.

Providing for Local Reviews of Classroom Instructional Material

- ~~The agency shall adopt rules governing a process by which a school district may conduct a review of instructional materials used by a classroom teacher in a foundation curriculum course for the following:~~
 - ~~Compliance with instructional materials adopted by the school district.~~
 - ~~Appropriate Rigor~~
 - ~~Rubric Guidance developed by the agency and approved by the SBOE.~~

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Agency Limitations in Providing for Local Reviews of Classroom Instructional Material

- ~~Shall minimize, to the extent possible, the time a classroom teacher is required to spend complying with a review conducted under this section.~~
- ~~Shall not require teachers to spend more than 30 minutes on a single review unless the teacher believes it's necessary.~~
- ~~Shall permit a regional education service center to conduct the review for a school district.~~
- ~~The agency shall provide to regional education centers appropriate training for reviews.~~

Pages 11-12: Outlines the details of open enrollment charter school (OECS) accountability.

- ~~Summary: (OECS) must allow parental access to instructional materials and curriculum. They must develop a community engagement policy and must abide by parental rights laid out in previous subchapters.~~

Educational Savings Accounts (ESAs)

- Provides definitions, guidelines, and clarifies provision of the ability of a school/organization to execute ESAs.
- States that schools must aid parents/families in utilizing ESAs as needed.

Child Eligibility for ESAS

- Child must attend public school or [attended private school at least 90% time previous year](#).
- Young child must at least be eligible for enrollment in Pre-K
- Child must have attended Public School for at least 90% of the previous school year.
- Child must be enrolling in Pre-K or Kindergarten for the first time, including a child who was Home-Schooled before enrollment.
- Child is a member of a household with a total annual income that is at or below 200% of the federal poverty guidelines.
- Length of child's eligibility is to include graduating from High School, until no longer eligible to attend a public school.

Child ineligibility:

- The child of a representative or Senator is not eligible.

Application Eligibility/Application Priority (If not enough funding)

- [For not more than](#) two-thirds of application approvals to transfer to another school district, children who are currently residing in low performing school districts (rated either C, D or F) shall be given priority.
- [The Rest](#) may come from A or B rated schools.

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- Applications are to be considered in the order in which they were received unless the order is superseded by the two-thirds priority designation above.

Internal Guidelines for Comptroller/Certified Educational Assistance Organizations (See Actual Bill)

- Learning Pods or Home-Schools will not qualify as an approved education provider or vendor of educational products.

Approved Education-Related Expenses:

- Tuition/Fees, textbooks, Costs of academic assessments, fees for services/tuition, fees for transportation, fees for educational therapy or services

Excluded from Education-Related Expense:

- No payments to family members within the third degree for services.

Other ESA Guidelines:

- Payment for expenses not allowed does not affect the validity of other allowed expenses.
- Provision made for comptroller to make payments to related organizations for approved services.
- Account balance may not be exceeded.
- Provision for unused balance to be rolled over into next year's balance as needed.
- The ESAs will not use federal funding, funding from the available school fund, or funding from the instructional materials fund.
- Deadlines/Guidelines for comptroller actions related to school choice are outlined.
- Responsibilities and deadlines for certified educational assistance organizations providing services to the comptroller relating to ESA enrollment/execution.

ESA Audits

- Random ESA Audits will be conducted.
- Violations to be reported and ESA accounts suspended if not in good standing by failing to comply with applicable law.
- 30 business days after notification; if unresolved, suspension
- The Comptroller has authority to close accounts, suspend and temporarily re-instate or remove them.

Special Education Guidelines

- Notifications to parents of SPED students and rights under federal law will be required for alternative educational programs so that parents will understand that federal

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funding for SPED students will not be available through Educational Savings Accounts. A private school is not subject to federal and state laws regarding provision of educational services to a child with a disability in the same manner as a public school.

- The absence of federal funding is a safeguard against government interference with private schools; but services typically available to students with disabilities in a public school will not be available in a private school.

Program Participant, provider, and Vendor Autonomy

- Participants, providers, and vendors of educational products that receive funding under this program are not recipients of federal funding and may not be an agent of state government based on receiving that money.
- A rule adopted, or other governmental action taken related to the program may not impose requirements that are contrary to or limit the religious or institutional values or practices of an education service provider (ESP).

Student Records and Information

- If parent requests student records and information in a private school or charter school environment, it shall be provided and can be used to verify a child's eligibility for the program to the agency, district, school, or certified educational assistance organization regarding the child in question.
- Laws regarding confidentiality and protection of student information are included in the bill.

Annual Report

- In this section, the comptroller is given permission to require each certified educational assistance organization to comply with appropriate and lawful expectations to fulfill obligations under this program.

Judicial Review and Amendment of Educational Code

- In this section the rules/procedures and guidelines for the proper and lawful execution of judicial review are clarified.
- Amendment to the educational code is made to facilitate execution of the program.
- The Comptroller is given permissions for pre-approving educational services and procuring criminal background check information.
- Deadlines are given for the controller's compliance with the execution of the program.