

Texas Charter Schools: Perpetuating the State's Historically Low Enrollment of Special Education Students

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The treatment of students with disabilities in the Texas public education system has all the ingredients for an emotional and disturbing HBO series. It involves politics, money, deception, denial, Federal investigations, lawsuits, questionable State contracts and the wrongful termination of a “whistleblower” at the Texas Education Agency (“TEA”). Unfortunately, it also involves the neglect of underprivileged students and families that rely upon and are guaranteed assistance from public schools.

Season 1 could share the heartbreaking stories of the thousands of students and families that have been denied special education services in public schools. Season 2 could focus on the media’s investigative reporting and a Federal investigation that exposed TEA’s efforts to limit the number of students receiving special education services. Season 3 may cover the multiple missteps within the State’s response and the reality that corrective actions have not been fully implemented. The content for Season 4 is included herein. It is a season that highlights the hypocrisy within the State’s public education policies. In this regard, Season 4 chronicles the State’s steadfast support for the expansion of privately managed charters that are enrolling a limited number of students with disabilities, while also having a Federal mandate to ensure all students with disabilities are properly and equally served. Thus, the title of Season 4 is: “*Texas Charter Schools – Perpetuating the State’s Historically Low Enrollment of Special Education Students*”.

Seasons 1-3: Summary

State’s Efforts to Limit Special Education Services - Exposed: An investigative report published by the *Houston Chronicle* in 2016 (<https://www.houstonchronicle.com/denied/>) broke the story that TEA had imposed an arbitrary cap to limit the number of students receiving special education services (“SPED”) in Texas public schools. To achieve a high score on TEA’s Performance-Based Monitoring Analysis System (“PBMAS”), school districts were incented to keep the percentage of SPED students below 8.5%. In the case of a low PBMAS score, school districts faced the threat of penalties, including a potential State takeover. For those that are not familiar with TEA’s authority, refer to the following: <https://therivardreport.com/state-to-take-over-houston-isd-by-replacing-school-board-and-superintendent/>.

In response to the *Houston Chronicle*’s reporting, the legislature passed a law to prohibit TEA from imposing an arbitrary cap to limit student services in 2017. But an investigation by The U.S. Department of Education – Office of Special Education Programs and Rehabilitation Services (“OSEP”) had already been initiated. In January 2018, OSEP released its findings that TEA’s arbitrary cap had denied or delayed thousands of students from obtaining special education services and corrective action was required (<https://www.ed.gov/news/press-releases/us-department-education-issues-findings-texas-individuals-disabilities-education-act-monitoring>).

TEA has prepared a “Corrective Action Plan”, but its implementation has not been smooth. As reported by numerous media outlets, the USDOE ordered TEA to pay restitution to its former Special Education Director that was wrongfully terminated in November 2017. In December 2017, a controversial “no-bid” contract to help develop a long-term SPED services plan was cancelled by TEA. Throughout 2018, TEA legally battled with the USDOE over the loss of Federal grant funding due to the State reducing the funding for special education services – which is a violation of the terms of the grant. The legal battle ended with the State paying penalties of \$223 million. As of May 2020, the State has not fully implemented its “Corrective Action Plan” nor has the legislature committed to fully reform SPED services.

To provide a glimmer of hope, the legislature did allocate additional funding for SPED and Dyslexia services in 2019 and interim studies have been ordered in preparation for the 2021 legislative session. But due to the State’s financial crunch from the depressed oil & gas sector and the COVID-19 pandemic, and the State’s special education track record, there are concerns that the needed reforms for students with disabilities will once again be cast aside.

SPED Enrollment in Texas: There are 521,908 students receiving special education services in Texas, which is 9.6% of the 5.4 million students enrolled in public schools. However, the “National Center for Education Statistics” (“NCES”) (“nces.ed.gov”) reports that the national average of students receiving SPED services is 14.0%. To match the national average, an additional 237,000 students would need to receive special education services in Texas – which is more than the total public-school enrollment in 11 states!

To serve public-school students, the State deploys a “dual-education system” that is funded by taxpayers. The system consists of locally governed school districts that are required to serve all students and State approved, privately managed charters (“charters”) that target the enrollment of students with characteristics that will complement the charter’s attributes. In this respect, charters research the race, ethnicity, wealth levels and other community profiles to ensure that campuses are in the communities of their choice. If the enrollment at a charter campus does not meet the objectives of the charter, it may stop serving certain students by eliminating grade levels or voluntarily closing the campus. To paraphrase a charter Chief Executive Officer regarding the recent closure of a charter campus in a North Texas community: “it was just not the right clientele”.

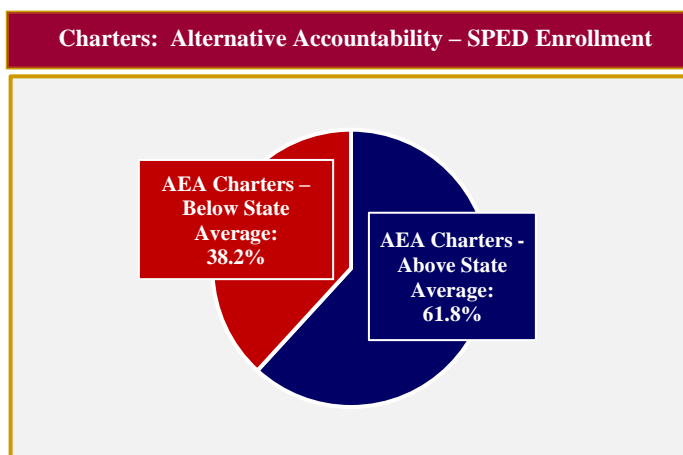
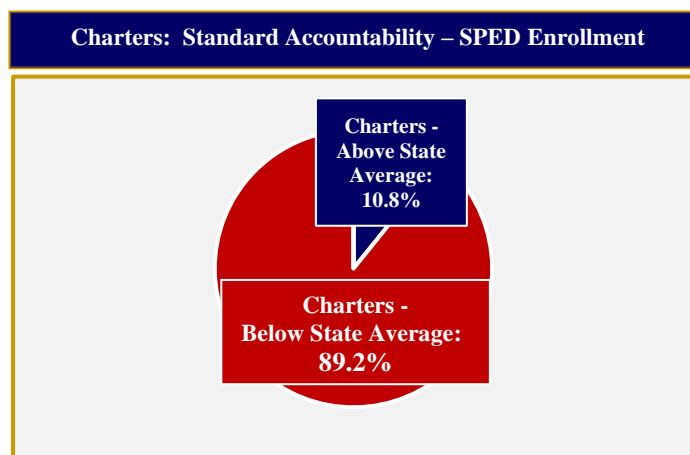
Season 4: Details

SPED Enrollment – School Districts and Charters: With locally governed school districts and privately managed charters comprising the State’s “dual education system”, it is logical to expect that both are enrolling a comparable percentage of SPED students. But as highlighted in Table 1, SPED students comprise 9.8% of the population in school districts and 7.1% in charters. In other words, charters would need to increase SPED enrollment by 38% to serve the same percentage of SPED students as school districts. Diving deeper, SPED students are served in 2 types of charters. These include charters enrolling the general student population that are subject to the State’s standard academic accountability provisions and charters enrolling students in “alternative education accountability” (“AEA”) charters that are subject to lower academic accountability standards. To assist primarily “at risk” students, AEA charters are designed as dropout recovery, credit recovery or academic schools of choice. Given the difference in the student populations at these 2 types of charters, it is important to emphasize that the SPED population at charters serving the general student population is 6.1% compared to 9.8% at school districts.

Table 1: SPED Students at Charters and School Districts				
Type of Accountability	Charter - Number	Percentage of Charter Enrollment	School District - Number	Percentage of School District Enrollment
Standard Accountability	19,207	6.1%	499,541	9.8%
Alternative Education Accountability	3,160	1.0%	--	--
Total	22,367	7.1%	499,541	9.8%

The graphs below further examine the SPED enrollment in Texas public schools and highlight the wide disparity in the percentage of SPED students served at standard accountability and AEA charters. For the 139 standard accountability charters that were reviewed and enroll the general student population, 89.2% enrolled a lower percentage of SPED students than the statewide average of school districts. The lowest percentage of SPED students was at Richland Collegiate High School, with only 0.5% of students receiving SPED services. In comparison, of the 34 AEA charters reviewed, 61.8% enrolled a higher percentage of SPED students than the statewide average of school districts. Ki Charter Academy enrolled the highest percentage of SPED students. Ki Charter Academy enrolls students with behavioral, academic, and developmental needs, and provides SPED services to 58% of its 172 students.

There may be many reasons for the consistently lower percentage of SPED students at charters serving the general student population. But with many AEA charters enrolling a higher percentage of SPED students than school districts, it does indicate that charters can serve a SPED student population that is comparable to school districts.



Enrollment of Students with a Disability - Section 504 Plans: For students with a mental or physical disability that do not qualify for SPED services, public schools are required to provide specialized services pursuant to Section 504 Plans. Students with Section 504 Plans can range from those diagnosed with ADHD or Dyslexia to students with other medical conditions or physical impairments. The purpose of Section 504 Plans is to ensure a student's disability does not prevent their access to an equal education. To remove any obstacles to learning, Section 504 Plans provide students with certain accommodations and/or therapy. Examples of accommodations can include providing additional time to complete assignments, individual tutoring afterschool, an audiobook in place of a textbook, verbal tests, or preferential seating in the classroom. In 2018/19, 367,038 students were enrolled in Section 504 Plans in Texas. However, the percentage of students with a disability that received Section 504 Plans in charters was once again lower than school districts (3.9% to 6.5%).

Enrollment of Students with a Disability – SPED Services and Section 504 Plans: To gauge the total enrollment of students with a disability that are receiving assistance in charters and school districts, a review of the students receiving either Section 504 Plans or special education services is necessary. It is important to emphasize that students cannot receive both Section 504 Plans and SPED services. The cumulative percentage of students with a disability that are receiving SPED or Section 504 Plans at charters and school districts is summarized in Table 2. As shown, Texas public schools are assisting 888,946 students with a disability. However, the percentage of students with a disability that are served at school districts and charters are not comparable. The percentage of students with a disability at school districts totals 16.3% and the percentage at charters is only 11%. **That being the case, State approved charters are underserving students with a disability by an alarming 48% in comparison to locally governed school districts!**

Table 2: Enrollment of Students with Disabilities – SPED and Section 504 Plans			
Description	State Enrollment	Percentage of Charter Enrollment	Percentage of School District Enrollment
Section 504 Plans	367,038	3.9%	6.5%
Special Education Services	521,908	7.1%	9.8%
Total – Students with Disabilities	888,946	11.0%	16.3%

Difference of 48%

School Districts Spend Significantly More Per Student to Assist SPED Students: The priorities of public schools can be determined, in part, by the amount of funding that is allocated to various student activities. A review of the per student expenditures within the State's "dual education system" revealed that school districts dedicate an average of \$2,733 more dollars to support each SPED student than charters. As shown in Table 3, school districts allocate an average of \$12,123 to serve each SPED student and charters allocate a lower average of \$9,417. The reasons for the lower expenditures dedicated to each SPED student by privately managed charters is unknown. **However, by spending an average of \$2,733 less per student, the cost of charters to serve existing SPED students is reduced by approximately \$61.1 million per year (\$2,733 x 22,367 SPED Students).**

Table 3: SPED Students – Per Student Expenditures				
Description	School Districts	Charters	Difference – Per Student	Difference - Percentage
Special Education – Per Student	\$ 12,123	\$ 9,390	\$ 2,733	29.1%

STAAR Results – SPED Students: Although school districts are providing special education services to a higher percentage of students, school districts are also producing better academic results for SPED students. Table 4 summarizes the SPED student results on the latest State of Texas Assessments of Academic Readiness ("STAAR") test. Considering the STAAR results for all subjects and grade levels, the percentage of SPED students that approached or exceeded grade level was 2 percentage points higher at school districts than the STAAR results at charters.

Table 4: SPED Students – STAAR Results Percentage that Approaches or Exceeds Grade Level – All Grades and All Subjects	
Description	2019
Charters	44%
School Districts	46%

School Districts Graduate a Higher Percentage of SPED Students: In the Class of 2018, 25,962 SPED students were handed their high school diplomas in Texas, which equaled 7.5% of all graduates. As shown in Table 5 below, school districts produced 7.2% of all SPED graduates in the State’s Class of 2018. In comparison, SPED graduates from standard accountability charters totaled 0.1% of all graduates and AEA charters had 0.2% of all SPED graduates.

Table 5: Class of 2018 - Special Education Graduates

District Type	Charters: SPED Graduates	Charters: SPED Graduates as % of All Graduates	School Districts: SPED Graduates	School Districts: SPED Graduates as a % of All Graduates
Standard Accountability	424	0.1%	24,940	7.2%
Alternative Education Accountability	598	0.2%	--	--
Total	1,022	0.3%	24,940	7.2%

Table 6 shows that the AEA charters of Texans Can Academies, Premier High Schools and Richard Milburn Alternative H.S. delivered the most diplomas to SPED students attending charters. Among standard accountability charters, YES Prep Public Schools topped the list with 49 SPED graduates or 4.9% of all YES Prep graduates. While all SPED graduates deserve to be recognized, celebrated, and applauded, it should be concerning that in the State’s “dual education system”, every standard accountability charter serving the general student population had fewer than 50 SPED graduates in 2018.

Table 6: Class of 2018 – Charters with the Highest Number of SPED Graduates

Charter	Type of Charter	Total Charter Enrollment	SPED Graduates
Texans Can Academies	AEA	5,071	162
ResponsiveEd – Premier High Schools	AEA	5,059	152
Richard Milburn Alternative H.S.	AEA	1,948	58
YES Prep Public Schools	Standard	11,405	49
Uplift Education	Standard	18,709	43
Evolution Academy Charter School	AEA	827	43
IDEA Public Schools	Standard	42,478	39
Life School	Standard	5,703	29
Winfree Academy Charter Schools	AEA	1,314	28
El Paso Academy	AEA	363	21
Por Vida Academy	AEA	228	16
KIPP Texas Public Schools	Standard	27,047	14
ResponsiveEd – TCPA Charter	Standard	12,116	14

A High Percentage of SPED Students are Graduating from Low-Performing Charters: A high-quality education is essential for graduates to be successful after high school, especially for special education students that face unique and inherited challenges. For this reason, it is disturbing that in 2018, 20.7% of the SPED charter students graduated from a “low performing” charter with an academic rating of “D” or “F”. While still unacceptable, only 0.03% of SPED students graduated from locally governed school districts with a “D” or “F” academic rating.

Table 7: Class of 2018 - Special Education Graduates from Low Performing Charters/School Districts

Rating	Charters: SPED Graduates	Charters: Percentage of SPED Graduates	School Districts: SPED Graduates	School Districts: Percentage of SPED Graduates
Academic Rating of “A-C”	810	79.3%	24,852	99.7%
Academic Rating of “D-F”	212	20.7%	88	0.03%
Total	1,022	100.0%	24,940	100.0%

The Underserving of SPED Students by State Approved Charters is Widespread: It is easy to discount the lower enrollment of SPED students at charters by assuming that it only applies to a few charters. But that would be a wrong assumption. Table 8 lists the 20 largest operators of standard accountability charters in Texas. Collectively, these charters enroll 69% of all charter students and the State annually diverts over \$2.8 billion of taxpayer funding from school districts to fund these charters. Yet, every one of these charter operators enroll a lower percentage of SPED students than the 9.8% average in school districts.

Table 8: 20 Largest Standard Accountability Charter Operators – SPED Enrollment and Taxpayer Funding

Charter	SPED Enrollment	Total Enrollment – 2019/20	Taxpayer Funding – 2019/20
IDEA Public Schools	5.4%	49,320	\$ 497,901,367
Harmony Public Schools (7 Charters)	7.6%	34,562	\$ 348,900,567
KIPP - TEXAS	7.6%	28,577	\$ 283,341,215
Uplift Education	7.2%	19,973	\$ 203,538,985
International Leadership of Texas	5.4%	19,210	\$ 189,569,002
ResponsiveEd – TCPA Charter	7.2%	12,562	\$ 166,569,642
YES Prep Public Schools	5.9%	12,049	\$ 124,949,038
Jubilee Academies	6.9%	6,459	\$ 64,500,751
Life School	9.4%	5,540	\$ 56,168,245
School of Science and Technology (2 Charters)	7.6%	5,469	\$ 54,609,157
Great Hearts Texas	5.7%	4,738	\$ 42,856,113
Vanguard Academy	4.6%	4,447	\$ 37,733,956
Trinity Basin Preparatory	7.9%	3,796	\$ 37,747,143
Brooks Academies of Texas	6.7%	3,260	\$ 32,848,933
Newman International Academy	5.7%	3,045	\$ 29,033,825
Texas Leadership	8.3%	2,827	\$ 27,652,223
BASIS Texas	1.8%	2,523	\$ 21,184,789
Houston Gateway Academy, Inc.	3.0%	2,232	\$ 23,006,276
Universal Academy	2.5%	2,202	\$ 19,663,182
Southwest Schools	7.4%	2,019	\$ 20,605,955
Total – Largest 20 Charter Operators	6.5%	224,810	\$ 2,282,380,354

SPED Enrollment is Dramatically Lower Than Projections in Original Charter Applications: Privately managed charters receive a State contract or “charter” through the submission and approval of an application. The applications describe the mission, vision, curriculum, business plan, recruitment strategy and the estimated student demographics of the charter. Each charter also provides assurances that it will not discriminate based upon race, color, religion, or disability. However, once a charter is awarded, the State does not impose policies and procedures to ensure that the demographics of students enrolled are comparable to the projections relied upon at the time of State approval.

With the absence of State enforcement, many charters are enrolling a much lower percentage of SPED students than proposed during the approval process. Table 9 is a representative listing of charters with a SPED population that is at least 40% below the SPED enrollment cited in their original applications. This includes some of the largest and more prominent charters such as: IDEA Public Schools, KIPP Texas Public Schools, YES Prep Public Schools, Great Hearts Texas, and BASIS Texas. In the case of BASIS, the approved charter application projected that SPED students would comprise 10.7% of total enrollment. But SPED enrollment at BASIS is only 1.8% at this time.

Table 9: Enrollment of SPED Students - Charter Application Versus 2018/19 Enrollment

Charter	Special Education Enrollment: Application	Special Education Enrollment: Actual	Percentage Difference: Application vs. Actual
The Varnett Public School	25.0%	3.7%	85.2%
KIPP Texas	15.0% - 20.0%	7.6%	49.0% - 62.0%
BASIS Texas	10.7%	1.8%	83.2%
Great Hearts Texas	10.7%	5.7%	46.7%
IDEA Public Schools	10.0%	5.4%	46.0%
YES Prep Public Schools	10.0%	5.9%	41.0%
Houston Gateway Academy	10.0%	3.0%	70.0%
A.W. Brown Leadership	10.0%	4.8%	52.0%
Advantage Academy	10.0%	6.0%	40.0%
Arlington Classics Academy	10.0%	3.7%	63.0%

Despite Low SPED Enrollments – State Continues to Approve the Expansion of Charters: With the State facing a Federal mandate to enhance the availability of services for students with disabilities, the State has simultaneously continued to approve the rapid expansion of privately managed charters with low SPED enrollments. By approving the expansion of charters with low SPED enrollments, the State is once again limiting the services that are provided to students with disabilities, an action that directly conflicts with the mandate of the OSEP. For example, Table 10 is a representative list of charters with an average SPED student population of only 4.5% in the 2015/16 school year. But despite enrolling fewer SPED students, TEA has approved these charters to increase their enrollments by 183% in the last 4 years. Two of the most egregious examples include IDEA Public Schools that have been able to more than double enrollment with a 4.7% SPED population and BASIS Texas with a SPED population of 1.2% (not a typo) in 2015/16. The current SPED populations at IDEA Public Schools and BASIS Texas are 5.4% and 1.8%, respectively.

Table 10: Charters with Low SPED Enrollment – Approved to Expand by TEA

Charter	2015/16 SPED Enrollment	2015/16 Enrollment Cap	2020/21 Requested Enrollment Cap	Enrollment Increase – Number	Enrollment Increase - Percent
IDEA Public Schools	4.7%	45,000	97,985	52,985	118%
KIPP Texas Public Schools	5.5%	8,500	43,000	34,500	406%
IL Texas	5.3%	6,192	29,340	23,148	374%
Uplift Education	6.1%	5,000	24,000	19,000	380%
YES Prep	5.7%	10,000	22,500	12,500	125%
Great Hearts Texas	3.3%	3,930	9,325	5,395	137%
BASIS Texas	1.2%	3,750	7,000	3,250	87%
Total (7 Charters)	4.5%	82,372	233,150	150,788	183%

Conclusion: Privately managed charters dedicate millions of dollars each year to recruit students through marketing via social media, billboards, newspapers, direct mailers, radio, and television. Some charters supplement these marketing efforts by employing teams of full-time student recruiters to engage targeted families and promote the charter in local communities. Other charters utilize the services of privately funded, school choice organizations to handle their recruiting efforts. These marketing efforts have proven to be successful as over 325,000 students are currently enrolled at charters and many charters promote student “wait-lists”. But despite the success of charters to recruit students and the success of AEA charters to recruit SPED students, charters that serve the general student population continue to enroll a significantly lower percentage of students with disabilities. In fact, the percentage of students with a disability that receive special education or Section 504 Plan services among charters is 48% below the rate at school districts.

The actions of TEA to limit the percentage of students receiving special education services to no more than 8.5% were exposed in 2016. The State has received a Federal mandate to take correction actions to ensure that all students with a disability are identified, evaluated, and provided the appropriate services. In response, the State has promised to improve special education and promised that TEA will ensure that SPED students are receiving the services they deserve. But simultaneously, the State and TEA have been perpetuating the historically low percentage of students receiving SPED services by approving the rapid expansion of privately managed charters that are enrolling a low percentage of SPED students. Based upon these contradictory actions, it certainly appears that the State believes “promises are made to be broken” and that privatizing public education is more important than the needs of its most vulnerable students and families.

For too long, the State’s public education policies have denied SPED services to students in need. For too long, State approved charters have been allowed to enroll a lower percentage of students with disabilities. For too long, the State has perpetuated the suppression of SPED services by approving the expansion of privately managed charters. For too long, charter operators, charter advocacy organizations and the private foundations that support the growth of charters have not taken responsibility for underserving students with disabilities. For too long, the most underprivileged students in our public schools have been underfunded, underserved, and underappreciated.

Season 5: The Final Season

We all have a responsibility to support the needs of students with disabilities. This includes the State, school districts, local communities, and charters. But in the interests of every student with a disability and to ensure that all taxpayer funded schools provide equal opportunities for all students, it is time for the State and charters *“to show more love in their hearts and more heart in their souls”*. It is time for the State and charters to embrace the needs of students with disabilities. The final season of the series relating to SPED services in Texas is still to be produced. I hope it has a happy ending for the students that need us the most!

DISCLOSURES: *The author is a voluntary advocate for public education and this material solely reflects the opinions of the author. The author has not been compensated in any manner for the preparation of this material. The material is based upon information reported by the Texas Education Agency, TXschools.gov, tpeir-Texas Education Reports, the Houston Chronicle, The Texas Tribune, and the National Center of Education Statistics. It is important to note that none of these organizations participated in the preparation of this material and while the author believes these sources to be reliable, the author has not independently verified the information. All readers are encouraged to complete their own review and make their own independent conclusions.*