



## **TLEC Testimony on House Bill 22**

### **Before the Senate Education Committee, May 17, 2017**

Dear Chairman Taylor and Committee Members,

Thank you for hearing our testimony today. The Texas Latino Education Coalition (TLEC) is a collaborative of organizations that advocates for the rights of Latino students at the local, state and national levels. The coalition was organized to focus on critical educational issues in Texas and to improve the state of education for Latino students in public schools.

Accountability systems can hold schools responsible to the local communities and children they serve without using punitive and dysfunctional consequences for individual students. **Research shows that a strong accountability system must be: fair, meaningful, transparent, effective and supportive.**

HB 22 takes some steps in the right direction by de-emphasizing the role of testing in a school's or district's rating, adding discretion to administer student surveys as part of the accountability system, and expanding college readiness factors, among others.

However, there are also some major civil rights concerns TLEC has with the bill as follows.

1. Page 11, TEC § 39.053(b), Performance Indicators, alters the requirement that performance indicators must be based on race, ethnicity, and socioeconomic status by qualifying the law with: **"To the extent feasible, the [The] indicators must be based on information that is disaggregated by race, ethnicity, and socioeconomic status."**

Under the *Every Student Succeeds Act* (ESSA), performance indicators must allow for disaggregation by subgroup, (Sec. 1111(c)(4)(B)). Subgroups are defined as "(A) economically disadvantaged students; "(B) students from major racial and ethnic groups; "(C) children with disabilities; and "(D) English learners." (Sec. 1111(c)(2)).

**Accordingly, TLEC asks that this committee amend this provision of HB 22 as follows:**

- a. **Strike the language "To the extent feasible."**
- b. **Add "English learners" to the list of disaggregated subgroups.**

2. Page 20, TEC § 39.053(c)(3)(A)(vii), School Climate Indicators, importantly gauges teacher quality. However, authorizes the commissioner to attribute results based on student performance up to 25 percent. The research shows that the science of relying on value-added measures for evaluating teachers is highly imperfect.

**Accordingly, TLEC asks that this committee amend this provision of HB 22 as follows:**

**a. Delete subsection (vii).**

3. Page 25, TEC § 39.0531, School Climate Survey, authorizes the commissioner to develop a school climate survey for administrators, students and parents across the state. TLEC agrees that the survey is a good step to getting consistent information on school climate. However, there are no guardrails for the quality of the survey, which can vary greatly.

**Accordingly, TLEC asks that this Committee amend this provision of HB 22 as follows:**

**b. Add in the opening section the terms “valid, reliable and research-based” to describe the quality of the school climate survey.**

4. Page 30, TEC § 39.054(a-1), Domain Ratings and Subgroups, authorizes the commissioner to “adjust a domain performance rating disaggregated by race, ethnicity, socioeconomic status or another factor by increasing the rating one level.” Allowing the commissioner to exercise such authority would undermine the civil rights protections built into ESSA and could misrepresent to the public the actual performance of schools and districts under the accountability system. This provision further seemingly restricts evaluating the performance of English learner students (ELs) as a subgroup to English language proficiency. However, as noted above, changes to ESSA require states to incorporate the performance of ELs as a subgroup both for English proficiency and academic performance.

**Accordingly, TLEC asks that this committee amend this provision of HB 22 as follows:**

**a. Delete § 39.054 (a-1)(1)(b).**

**b. Revise § 39.054 (a-1)(1)(a) to reflect “students of limited English proficiency as defined by Section 29.052 and other performance indicators reflected in the accountability system.”**

5. Page 29, TEC § 39.054, Letter Grades, requires that domains be assigned letter grades. Rather than promoting transparency and efficiency, the A-F letter grading system continues the punitive accountability system under the previous *No Child Left Behind Act*'s provisions. Importantly, research shows that assigning overly simplistic A-F letter grades to school campuses and districts obscures any real assessment of actual student performance and campus improvement (Tanner, 2016).

**Accordingly, TLEC asks that this committee amend this provision of HB 22 as follows:**

**a. Modify the rating system to reflect “met standard” and “improvement required.”**

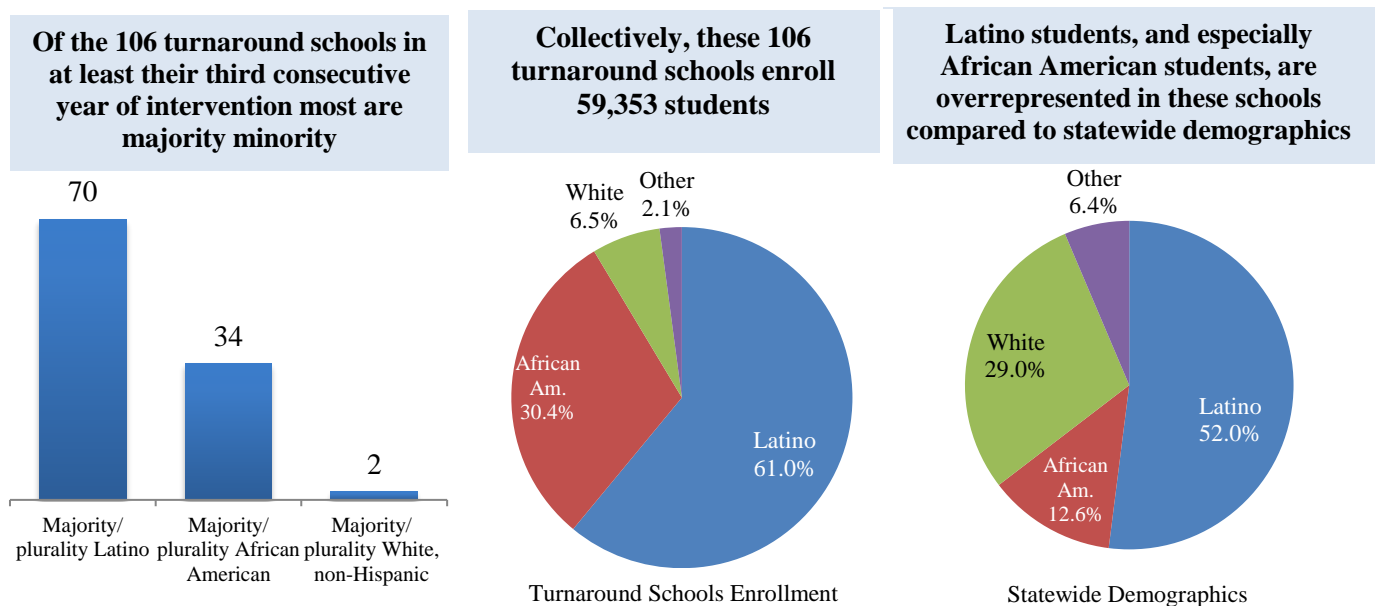
6. Page 21, TEC § 39.053(c-3), Newly Enrolled Students, allows the commissioner to determine by rule a method of excluding the performance “of a student newly enrolled in a school district or at a campus...in determining the performance rating of the district or campus under § 39.054(a). In this subsection, ‘student newly enrolled’ means a student who transfers to a school district or campus in this state from another state or country and who has not been previously enrolled in a school district or at a campus in this state.” This is much improved language from the language in the original HB 22. However, because students who are not counted in the accountability system are at-risk of receiving less attention, there still remains a concern.

**Accordingly, TLEC asks that this committee amend this provision of HB 22 as follows:**

**a. Modify the language to reflect that such “newly enrolled students” are students first entering Texas schools during after the beginning of the school year.**

7. Page 38, TEC § 39.102(a), Interventions and Sanctions, authorizes the commissioner to take one of several actions in response to a district rated as “unacceptable.” These actions include reasonable actions such as issuing public notice of the deficiency to the board or trustees and ordering the preparation of an improvement plan that addresses the indicators needing attention. However, it also entails highly invasive and unreasonable measures that fall more in line with the former, highly punitive *No Child Left Behind Act*, including the appointment of a board of managers or conservator to oversee the district. These extreme measures are not warranted. Instead the state should intervene with such measures only after three years of unacceptable ratings and the state should proscribe an analysis of “opportunity-to-learn” metrics in order to determine how lack of access to those may be impacting student performance in the school or district.

Indeed, IDRA’s analysis of TEA intervention data shows intervention patterns that tend to strip control from schools that enroll high numbers of students of color.



Furthermore, the TEA has appointed several conservators and monitors over school districts for various reasons, including financial mismanagement and poor academic performance. These conservators and monitors are often White and oversee a strong majority of school districts enrolling students of color. IDRA’s analysis of TEA enrollment data and data showing the race-ethnicity of conservators and monitors appointed<sup>1</sup> from 2009-10 through the 2015-16 shows that of the 207 conservators/monitors appointed, 171 (83 percent) are White; only 20 are African American, and 16 are Latino.

**Accordingly, TLEC asks that this committee amend this provision of HB 22 as follows:**

- a. **Delete subsections (a)(6)-(10)**
- b. **Revise this section to reflect those extreme intervention measures to occur only in serious, grave circumstances including unacceptable ratings for three consecutive years and require the return to local management and control as soon as the problem is rectified and no later than one year from assuming control. In the event that one year expires, the commissioner must show good cause in a public hearing in**

<sup>1</sup> Of these, 12 were appointed both as a monitor and conservator for the same district in consecutive years.

**the district as to why control should not be returned to the locally-elected officials and administrators.**

8. Page 44, TEC § 39.107, Campus Turnaround Plans. Under ESSA, campus turnaround plans are required to include an evidence-based, needs-based improvement plan that identifies resource inequities. Neither current law nor HB 22 reflects these important measures.

**Accordingly, TLEC asks that this committee amend this provision of HB 22 as follows:**

- a. **Revise TEC § 39.107(a) to ensure the turnaround plans meet the “evidence-based” standards and incorporate a meaningful analysis of resource inequities, including funding, teacher quality and other measures, as required under ESSA.**
9. Various sections authorizing the inclusion of “completion rates” as a performance indicator should be struck. *Completion rates* are not synonymous with graduation rates and misrepresent data to the community as students having completed school when they fail to graduate with a high school diploma.

**Accordingly, TLEC asks that this committee amend this provision of HB 22 as follows:**

- a. **Revise HB 22 as necessary to ensure that graduation rates used for accountability purposes reflect those students who receive a high school diploma.**
10. Under TEC § 39.053, et al., there are several different indicators in HB 22 that may be used for accountability. This is a step in the right direction; however, access to many of these measures across schools and across districts has not been measured, much less ensured. Under ESSA, indicators of school quality or student success must “allow for meaningful differentiation in school performance [and must be] valid, reliable, comparable and statewide (with the same indicator or indicators used for each grade span, as such term is determined by the State).”

**Accordingly, TLEC asks that this committee amend this provision of HB 22 as follows:**

- a. **Add a clause to HB 22 that ensures the tenants of ESSA are met for each indicator. An example includes: After public notice and hearing, the commissioner has the authority to disapprove the use of any accountability indicator of school quality or student success that fails to meet the “meaningful differentiation” and “valid, reliable, comparable and statewide” components required under ESSA.**

HB 22 has made some great strides, but there is still room to ensure that Texas achieves its goal of providing a public education system that allows all students to demonstrate exemplary performance in each of the core subjects through an asset-based approach that weighs all the various areas of progress in Texas schools. For questions, please contact David Hinojosa, J.D., at [david.hinojosa@idra.org](mailto:david.hinojosa@idra.org) or 210-444-1710.

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## Resources

Texas Latino Education Coalition website: [http://www.idra.org/education\\_policy/texas-latino-education-coalition/](http://www.idra.org/education_policy/texas-latino-education-coalition/)  
“The A-F Accountability Mistake,” by John Tanner, Texas Association of School Administrators (November 2016)  
<http://www.tasanet.org/cms/lib07/TX01923126/Centricity/Domain/393/A-F-Essay.pdf>