



August 20, 2020

Commissioner Mike Morath
Texas Education Agency
1701 N. Congress Ave.
Austin, TX 78701
Email: commissioner@tea.texas.gov

Dear Commissioner Morath,

We are writing to understand TEA's current position regarding what type of guidance it is willing to issue regarding COVID-19 and students experiencing homelessness as well as to urge TEA to issue guidance to support students experiencing homelessness, a population of students that is sure to increase as COVID-19 continues to upend our normal way of life and our economy.

Homeless liaisons around the state are working to ensure that students experiencing homelessness are connected with resources including food, hygiene products, educational supports, and the ability to connect virtually to their classrooms. Liaisons are conducting this work largely without direct guidance from TEA on crucial aspects of it, including when they can do in-person visits to students to check-in on them and to help identify whether students are homeless under McKinney-Vento, or how to accommodate students with special education needs who might also be experiencing homelessness.

In response to Texas Appleseed's inquiries, TEA indicated that these matters should be left up to Local Health Authorities (LHAs). Yet, while LHAs may be well-positioned to determine matters related to students' health and safety, they are poorly positioned to advise homeless liaisons on issues related to students' educational needs and rights. LHAs may understand the health implications of homelessness, but have little understanding of the particular education-related challenges that homeless students face. Furthermore, there appears to be tension between TEA's deference to LHAs¹ and recent guidance from Attorney General Paxton

¹ TEA Website, *Coronavirus Support and Guidance*, available at <https://tea.texas.gov/texas-schools/health-safety-discipline/covid/coronavirus-covid-19-support-and-guidance> (accessed Aug. 11, 2020).

related to the authority of LHAs to close schools due to COVID-19.² Regardless of what authority LHAs may have related to decisions associated with the safety of opening schools during the COVID-19 pandemic, deferring to them on guidance related to students' education needs simply makes no sense.

There are real gaps due to the guidance TEA has failed to provide. For example, the need for identifying and engaging students, particularly those experiencing homelessness, is pressing. School districts across the state have had a percentage of students with whom there has been little to no contact since school ceased convening in person. These students are most in need of support from schools to continue their education virtually. Overall, around 9% of students had no or little engagement from March 2020 until June 2020.³ Among the ten districts (Houston, Dallas, Arlington, Fort Worth, Ector County, Alief, Brownsville, Austin, Amarillo, San Antonio) with the highest number of students experiencing homelessness in the 2018-19 school year, the average percentage of no or lost contact with students was 2.87% (ranging from 0.7% in Amarillo ISD to 6.5% in Ector County ISD) and the average percentage of no or lost engagement was 10.77% (ranging from 1.9% in Brownsville ISD to 20.9% in Arlington ISD).⁴ TEA has not given districts or liaisons guidance on when and how to conduct in-person visits; this gap has led some districts not to reach out in person at all and others to leave it up to homeless liaisons themselves. Still others have forbidden in-person visits, which may almost guarantee that students experiencing homelessness fall through the gaps, particularly during remote learning.⁵

In some rural communities where schools are only providing remote instruction, schools have also halted enrollment completely. This interruption is a problem for students who might have lost housing during the pandemic and relocated, and is a violation of the legal rights of students experiencing homelessness under the McKinney-Vento Act. These same districts have also demanded documentation for proof of homelessness for students to enroll. TEA needs to provide guidance to districts on requirements for enrolling students, and how to enroll students if schools are closed, including McKinney-Vento students, during COVID-19. Most school districts have found that online-only enrollment often does not meet the needs of students in homeless and poverty situations. Given our years of research on these issues, we are particularly concerned that Black & Latinx students experiencing homelessness may be disproportionately facing the brunt of a lack of statewide guidance on this front. We know that they are disproportionately represented among students experiencing homelessness, as well among

² Swaby, Aliyya, *Gov. Greg Abbott says local health officials can shut down schools only in limited circumstances*, Tex. Trib. Jul. 31, 2020 (available at https://www.texastribune.org/2020/07/31/greg-abbott-texas-schools-reopening/?utm_campaign=trib-social-buttons&utm_source=email&utm_medium=social).

³ TEA Website, *Summary of Student Engagement in Virtual Learning in School Year 2019-2020*, available at <https://tea.texas.gov/sites/default/files/covid/covid19-Student-Engagement.pdf> (accessed Aug. 11, 2020).

⁴ Data requested from TEA and analyzed by Texas Appleseed (August 2020).

⁵ Martin, Brittney, *Many Students Couldn't Connect to Online Classes in the Spring. Will This Fall Be Different?* Tex. Monthly (Aug. 8, 2020), available at <https://www.texasmonthly.com/news/texas-schools-internet-access/>.

students who experience the digital divide without internet connectivity or consistent access to dedicated devices.

We are also deeply concerned about reports that some schools have halted evaluations of students for special education needs due to the pandemic due to the cessation of in-person schooling. These districts claim there is no way for them to evaluate students' needs. With the length of the pandemic uncertain, children with disabilities are effectively being denied access to their right to education. Based on this concern, we urge TEA to issue updated guidance for schools to screen students for the 2020-21 school year, and provide appropriate resources for Education Service Centers to assist their districts in evaluating and serving students requiring special education services both in-person and remotely. The lack of updated guidance has led to inconsistency at the school and district level.

The above examples are not comprehensive, and illustrate only some of the gaps where TEA's guidance and expertise is needed. We welcome the opportunity to explore the full list of areas where guidance is needed as homeless liaisons and others continue to help students during the pandemic.

We look forward to hearing from you.

Sincerely,

Brett Merfish
Director of Youth Justice
Texas Appleseed

Dustin Rynders
Supervising Attorney, Education Team
Disability Rights Texas

Chloe Latham Sikes, Ph.D.
Deputy Director of Policy
IDRA (Intercultural Development Research Association)

Cc:

Cal Lopez
McKinney-Vento State Coordinator
cal.lopez@tea.texas.gov