DENIED
Sept. 11, 2016
First in a series

Texas Dems stick to basics

Education for Texas students: Ralph指

HOUSTON CHRONICLE

DENIED:
HOW TEXAS IS KEEPING PHOENIX OF CHILDREN OUT OF SPECIAL EDUCATION

Deny Texas's lead on education policies, with Paradise's complaint. It's a state that needs special education, but doesn't want to pay for it. They want to keep kids out of special education, even if it means they're not getting the help they need.

The Chronicle's investigation found that Texas's special education rates are among the lowest in the nation. Many students with disabilities are not getting the help they need, and are being denied the education they're entitled to.

In this series, we'll explore how Texas is keeping kids out of special education, and what it means for their future. We'll look at Texas's policies, and the impact they're having on students and their families.

Stay tuned for more from The Chronicle.
DENIED:
How Texas keeps tens of thousands of children out of special education

Heidi Walker hoped that school administrators would help her son Roanin adapt and cope when he entered kindergarten.
Heidi Walker was frightened, but as she hurried to the Humble school that day in 2014, she felt strangely relieved. She had warned school administrators months earlier that her 5-year-old had been diagnosed with a disability similar to autism. Now they would understand, she thought. Surely they would give him the therapy and counseling he needed. Walker knew the law was on her side. Since 1975, Congress has required public schools in the United States to provide specialized education services to all eligible children with any type of disability.

But what she didn’t know is that in Texas, unelected state officials have quietly devised a system that has kept thousands of disabled kids like Roanin out of special education. Over a decade ago, the officials arbitrarily decided what percentage of students should get special education services - 8.5 percent - and since then they have forced schools to comply by strictly auditing those serving too many kids.

Their efforts, which started in 2004 but have never been publicly announced or explained, have saved the Texas Education Agency billions of dollars but denied vital supports to children with autism, attention deficit hyperactivity disorder, dyslexia, epilepsy, mental illnesses, speech impediments, traumatic brain injuries, even blindness and deafness, a Houston Chronicle investigation has found.

More than a dozen teachers and administrators from across the state told the Chronicle they have delayed or denied special education to disabled students in order to stay below the 8.5 percent benchmark. They revealed a variety of methods, from putting kids into a cheaper alternative program known as “Section 504” to persuading parents to pull their children out of public school altogether.

“We were basically told in a staff meeting that we needed to lower the number of kids in special ed at all costs,”

-During the first week of school at Shadow Forest Elementary, a frail kindergartner named Roanin Walker had a meltdown at recess. Overwhelmed by the shrieking and giggling, he hid by the swings and then tried to escape the playground, hitting a classmate and biting a teacher before being restrained. The principal called Roanin’s mother. “There’s been an incident.”

By Brian M. Rosenthal

Texas has made special education harder to access for kids with virtually every type of disability. Those in big cities, where the need is greatest, have the smallest percentages of students in special ed. Students who don’t speak English at home have been hurt the most.
said Jamie Womack Williams, who taught in the Tyler Independent School District until 2010. “It was all a numbers game.”

Texas is the only state that has ever set a target for special education enrollment, records show.

It has been remarkably effective.

In the years since its implementation, the rate of Texas kids receiving special education has plummeted from near the national average of 13 percent to the lowest in the country - by far.

In 2015, for the first time, it fell to exactly 8.5 percent.

If Texas provided services at the same rate as the rest of the U.S., 250,000 more kids would be getting critical services such as therapy, counseling and one-on-one tutoring.

“It’s extremely disturbing,” said longtime education advocate Jonathan Kozol, who described the policy as a cap on special education meant to save money.

“It’s completely incompatible with federal law,” Kozol said. “It looks as if they’re actually punishing districts that meet the needs of kids.”

In a written statement, Texas
Big Texas cities, small special education enrollments

Large school districts typically have higher special education percentages because they have higher rates of risk factors like poverty and premature babies. But the opposite is true in Texas, where the bigger districts serve smaller percentages of children.

<table>
<thead>
<tr>
<th>School District</th>
<th>Total Number of Students</th>
<th>Special Education Students</th>
<th>Percentage</th>
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<tr>
<td>1. New York City Department of Education</td>
<td>1,133,963</td>
<td>212,036</td>
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<tr>
<td>2. Los Angeles Unified School District</td>
<td>639,337</td>
<td>83,913</td>
<td>13.1%</td>
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<td>3. Chicago Public Schools</td>
<td>392,285</td>
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<td>4. Miami-Dade County Public Schools</td>
<td>356,480</td>
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<td>5. (Las Vegas) Clark County School District</td>
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<td>24. (Marietta, Ga.) Cobb County School District</td>
<td>111,751</td>
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<td>25. Baltimore County Public Schools</td>
<td>111,127</td>
<td>12,780</td>
<td>11.5%</td>
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Source: Houston Chronicle analysis of data collected by the U.S. Department of Education and a survey of individual districts

Education Agency officials denied they had kept disabled students out of special education and said their guideline calling for enrollments of 8.5 percent was not a cap or a target but an “indicator” of performance by school districts. They said state-by-state comparisons were inappropriate and attributed the state’s dramatic declines in special education enrollments to new teaching techniques that have lowered the number of children with “learning disabilities,” such as dyslexia.

In fact, despite the number of children affected, no one has studied Texas’ 32 percent drop in special education enrollment.

The Chronicle investigation included a survey of all 50 states, a review of records obtained from the federal government,
state governments and three dozen school districts, and interviews with more than 300 experts, educators and parents.

The investigation found that the Texas Education Agency’s 8.5 percent enrollment target has led to the systematic denial of services by school districts to tens of thousands of families of every race and class across the state.

Among the findings:

- The benchmark has limited access to special education for children with virtually every type of disability. Texas schools now serve fewer kids with learning disabilities (46 percent lower than in 2004), emotional and mental illnesses (42 percent), orthopedic impairments (39 percent), speech impediments (27 percent), brain injuries (20 percent), hearing defects (15 percent) and visual problems (8 percent).

- Special education rates have fallen to the lowest levels in big cities, where the needs are greatest. Houston ISD and Dallas ISD provide special ed services to just 7.4 percent and 6.9 percent of students, respectively. By comparison, about 19 percent of kids in New York City get services. In all, among the 100 largest school districts in the U.S., only 10 serve fewer than 8.5 percent of their students. All 10 are in Texas.

- Students who don’t speak English at home have been hurt the most. Those children currently make up 17.9 percent of all students in Texas but only 15.4 percent of those in special education. That 15 percent difference is triple the gap that existed when the monitoring system began.

Spokesmen for numerous school districts, including Humble, Houston and Tyler, said they have not denied special ed to any children with disabilities. Several said their rates had declined because they had used early intervention programs to reduce the number of disabled kids. None named specific programs.

Education experts told the Chronicle that there is no evidence the instructional techniques being used in Texas - and in classrooms nationwide - lower special education percentages.

A Dallas ISD spokeswoman defended that district’s low percentage by noting it “falls within the Texas state acceptable range of 0%-8.5%.”

After receiving a list of the Chronicle’s findings, a U.S. Department of Education spokeswoman said her office would look into the Texas policy.

“It is important that states carry out their responsibilities under the law to ensure that all children who are suspected of having a disability are evaluated in a timely manner to determine eligibility for special education and related services,” said the spokeswoman, Dorie Nolt. “Once we have more information from state officials, we will determine if further actions are necessary.”

Moving the Number

There is no agreed-upon number for what percentage of kids have a disability that requires special education services.

On average, educating a special ed child is twice as expensive, and the federal government pays only one-fifth of the extra costs, leaving the rest to states — a cost that totaled $3 billion in Texas in 2002.
The best approximation may be 15.4 percent. That’s how many U.S. kids ages 2-8 whom doctors have diagnosed with a mental, behavioral or developmental disorder, according to a March 2016 study by the federal Centers for Disease Control and Prevention.

The U.S. has never served that many students in special education, but it has inched closer over time as society has become more aware of disabilities.

By 2000, according to data collected by the federal government, 13.3 percent of kids got some form of specialized education services - even if it was just 20 minutes of speech therapy per week.

In Texas, 12.1 percent of kids got services that year, the ninth-lowest rate in the nation.

Nevertheless, the Texas Education Agency decided the percentage was too high, according to interviews with dozens of former agency employees.

Several said the agency was worried about money. On average, educating a special ed child is twice as expensive, and the federal government pays only one-fifth of the extra costs, leaving the rest to states - a cost that totaled $3 billion in Texas in 2002.

“There was always a concern about over-identification of special ed students and the costs associated with that,” said Ron McMichael, the deputy commissioner for finance at the time.

The concern grew in 2003, when lawmakers cut the TEA’s budget by $1.1 billion, forcing it to lay off 15 percent of staffers.

The next year, the agency set the
target as one part of a new monitoring protocol known as the Performance-Based Monitoring Analysis System, or PBMAS. The instructions were clear: School districts could get a perfect score on that part of the scorecard by giving special ed services to fewer than 8.5 percent of students. If they served more, they would lose points.

Districts that scored poorly on the PBMAS could be fined, visited by regulators, compelled to complete “Corrective Action Plans” or taken over entirely, the system manual said.

The system was developed under Commissioner Shirley Neeley Richardson, an appointee of then-Gov. Rick Perry.

Richardson said in an interview that the special education target was a “first stab” at addressing the problem of over-identification. She said it was data-based and the product of a collaborative process.

But the TEA did not consult the federal government, Texas Legislature or State Board of Education before implementing the policy, records show.

The agency said in its statement that it convened focus groups while creating the PBMAS. But it was unable to produce any documentation of that. None of the educators and advocates interviewed by the Chronicle remembered focus groups.

The TEA also was unable to produce any records about why 8.5 percent was chosen as the target. It acknowledged in its statement that there is no research that establishes 8.5 percent as ideal.

Four agency officials set the benchmark, former employees said: special education director Eugene Lenz; his deputies, Laura Taylor and Kathy Clayton;
and accountability chief Criss Cloudt.

The only one who agreed to speak with the Chronicle, Clayton, said the choice of 8.5 percent was not based on research. Instead, she said, it was driven by the statewide average special ed enrollment.

Reminded that the statewide average was nearly 12 percent at the time, Clayton paused.

“Well, it was set at a little bit of a reach,” she said. “Any time you set a goal, you want to make it a bit of a reach because you’re trying to move the number.”

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**A SPECIAL CHILD**

Heidi Walker and her husband, Trevor, first suspected that their fourth child was different when he wandered out of their house early one summer morning in 2011.

He was 2 years old. The sun had just appeared behind the two-story home on the outskirts of Casper, Wyo., when Heidi heard the front door slam shut.

She found Roanin standing in his diaper on the sidewalk, his brown hair blowing in the wind as he stared into the distance. She called to him. He didn’t respond.

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“Research has shown that special ed does work. So by denying that to some students, we are creating an underclass of children.”

Padmina Sarathy, former Fort Bend ISD special ed manager
Heidi was terrified.

Soon, more trouble arose. Roanin constantly chewed on his clothes. He growled at strangers. He rarely made eye contact.

At home, he could be a normal kid. He loved playing Just Dance with his older sisters and Pokémon with his younger brother.

But in crowds and commotion, he broke down, often cowering on the ground and covering his eyes and ears. Sometimes, he became aggressive.

The issues intensified when the Walkers moved to Texas so Trevor could take a job as a maintenance manager at an oil company.

They put Roanin in a church preschool, allowing Heidi to fulfill a dream of starting a photography business. But he struggled.

At the school Christmas show, he got so overwhelmed that he jumped off the top row of the choral riser. A teacher caught him. He refused to let go and lay in her arms for the next hour, wide-eyed, rocking back and forth.

Afterward, a teacher suggested the family ask Humble ISD to put him in a therapy preschool. The district conducted a partial evaluation but deemed his problems too “inconsistent” for the program, school records show.

Eventually, the Walkers took Roanin out of preschool and paid for the therapy they could afford.

A psychologist hired by the family determined Roanin had ADHD, generalized anxiety and “significant sensory processing deficits,” a condition similar to autism, medical records show.

Heidi and Trevor were hesitant to put him on medication. Fearful of side effects, they tried natural remedies, including vitamins, oils and diet changes. Nothing worked.

As kindergarten approached, Heidi requested a meeting with Shadow Forest Elementary, where Roanin was to attend.

They met early in the summer of 2014, long before the beginning of the school year. Heidi brought medical records, hoping to persuade administrators to give her son extra help.

She did not formally request special ed. She didn’t know she had to. And the administrators did not offer to evaluate Roanin.

Still, the meeting seemed to go well. The administrators promised they would do everything they could to help Roanin. Heidi believed them.

Many Texas school districts have interpreted the Texas Education Agency monitoring system as a strict ban on serving more than 8.5 percent of students in special education, teachers and administrators said.

“We live and die by compliance,” said Haley Martin-Dean, the special education director in Seguin ISD, near San Antonio. “You can ask any special ed director; they’ll say the same thing: We do what the TEA tells us.”

Districts that have resisted the target have been forced to act by the state, which requires some districts with high special ed rates to write “Corrective Action Plans” detailing how they will reduce their enrollments.

In all, more than 96 percent of districts have reduced their special ed rates since 2004.
They have used a broad array of tactics, according to interviews and a review of hundreds of Corrective Action Plans and other district records.

Many districts have discouraged parents from formally requesting special ed eligibility evaluations, in part because federal law states that schools must respond to written requests.

In Marlin ISD, near Temple, for example, district leaders promised the state in a Corrective Action Plan that they would reduce their special ed numbers by creating a brochure telling parents about assistance available outside of special ed.

Districts also have deterred requests by falsely telling families they must pay for evaluations, that there’s a waiting list, or that kids can be tested only once every two years, according to parents and advocates.

Maritza Woodard said that when she approached Klein ISD about her 16-year-old daughter, who has bipolar disorder, they gave her a list of private schools they said could help her better.

Other parents have been ignored altogether.

Jocelyn Baty requested an evaluation from Houston ISD in May 2014. The district received the written request, school records show. But despite the law, it never responded, even after Baty’s daughter had to repeat second grade and third grade.

“I don’t understand why they won’t help,” said Baty, who lives in a southeast Houston housing project.
HISD declined comment on the case but attributed reductions in its special ed enrollment to improved instruction. Like parents, teachers also have found it harder to request special education evaluations.

Karnack ISD, in East Texas, responded to the PBMAS system by requiring teachers to hold three meetings with colleagues before requesting a student be evaluated, according to a Corrective Action Plan. In nearby Henderson ISD, the district took all of the evaluation-request forms out of the schools and put them in the central office, where they could be accessed only with permission from supervisors.

Some districts have created committees to review evaluation requests before processing them.

“They sit you down and basically interrogate you about whether this kid really needs to be evaluated for special ed services, and if you really think that, and if you’re sure,” said Melanie Urbis, a math teacher who dealt with a committee in West ISD.

In one district that set up a panel, Austin ISD, the number of evaluations dropped 52 percent in two years, records show.

Other districts have deployed more unusual tactics.

Morgan ISD, near Fort Worth, promised the state it would lower its rate by “thoroughly reviewing” all special ed kids who transfer in to see if they could manage without services.

In Galveston ISD, teachers have invited private therapists to come into class and provide for-fee services, internal district emails show.

And according to one speech therapist, Spring ISD came up with a new rule that almost defied belief: The inability to pronounce R’s, one of the clearest signs that speech therapy is required, was no longer enough to qualify for services.

“It was ridiculous,” said the therapist, Sabina Duhon.

LESSER ALTERNATIVES

One method that Texas has used to curtail special education has been specifically prohibited by the federal government.

It involves “Response to Intervention,” a new approach to teaching low-performing students.

The U.S. Department of Education has approved RTI but said schools cannot require teachers to try it before referring a student to be evaluated for special ed.

Many Texas schools have done just that.

In Gatesville ISD, near Fort Hood, officials told the state in a 2010 Corrective Action Plan that they had enacted a new policy to reduce special ed:

“No referral may proceed without documentation that RTI has been fully implemented.”

Teachers and administrators from across Texas said their districts have adopted similar policies. Some said RTI has helped some students, but others said it has been used to keep children out of needed services for years.

“What happens is there are kids that you know right from the beginning have challenges and need special ed, and you have to try all of these interventions that you know won’t work,” said Arleen Glancy, who retired from Lamar CISD in January. “It extremely slows up the
Limited access
Thanks to a policy set 12 years ago, Texas gives special education services to a lower percentage of students than any other state.

WHO'S AFFECTED
The policy has reduced special education for children with common impairments, such as learning disabilities, rare impairments, like blindness, and virtually everything in between.

ENGLISH-LANGUAGE LEARNERS
Students who do not speak English at home have been among the most shut out of special education.

Percentage of students in special ed
Texas is far below the national average and every other state.
process.”

Similarly, schools have averted special ed by giving disabled kids “Section 504 status.”

The status, created by the Americans with Disabilities Act, is intended only to prevent discrimination through accommodations, such as preferential seating or extra time on tests. It does not provide any services.

Records show that schools spend little on Section 504. Last year, Spring Branch ISD’s budget for Section 504 was $2,624 for 1,230 students - about $2 per kid, far less than the thousands spent on a typical year of special ed.

Also, unlike special ed, Response to Intervention and 504 plans are not legally binding and do not require parent input.

That is how Lilly Barrera ended up in RTI and 504 for four years without her mother knowing. The 11-year-old, who has a learning disability in reading, was put in both programs in first grade by Hallettsville ISD, in rural Central Texas. Her accommodations included preferential seating, leniency in grading and “verbal praise for accomplishments,” records show.

Neither RTI nor 504 worked. But instead of seeing if Lilly qualified for special ed, the district kept the same programs in place.

She entered sixth grade this fall with a third-grade reading ability - and a medical diagnosis of full-scale depression, caused by years of failing.

About 2.6 percent of Texas students now have Section 504 status, up from...
1.3 percent in 2004, according to federal estimates. The current national average is 1.5 percent.

Many kids in Section 504 in Texas have dyslexia. State officials have said that's appropriate because of the mildness of the disability. But many experts disagreed, saying kids with dyslexia need special ed to be able to read.

“All of the extra test-taking time in the world isn’t going to do anything about the fact that these kids’ brains cannot process the information,” said Paula Tallal, a professor at Rutgers University. “They need services.”

Heidi Walker arrived at Roanin’s school on the day of the playground incident feeling embarrassed but hopeful.

She left angry.

Shadow Forest Elementary administrators did not offer to provide any therapy or counseling. Instead, Heidi recalled, they implied she was a bad parent and urged her to medicate Roanin.

At home, the Walkers got in a fight. Trevor, who opposed medication, said Heidi just needed to be stricter with Roanin. Heidi said Trevor was at work too often to make that determination.

Ultimately, they agreed to try medication. But on the recommendation of a friend, they also formally requested a special ed evaluation, according to an October 2014 email.

Again, the school declined an evaluation and responded with a different suggestion: How about Section 504?

As they discussed the idea, Roanin’s teacher noted that she had already tried giving him preferential seating and advance warning before schedule changes. “None of the above efforts helped for any extended period of time,” she wrote in one memo.

Nevertheless, the 504 plan issued that month centered on those exact accommodations, in addition to giving Roanin “planned breaks” during the day.

Records show that teachers did not even bother to fully document the plan’s implementation. They were supposed to record their progress each week, but Roanin’s file included only a few forms, none fully completed.

Roanin’s meltdowns - and academic performance - worsened.

In the spring of his kindergarten year, Heidi again verbally requested a special ed evaluation.

Again, the school evaded her. Roanin’s IQ was too high for services, administrators claimed.

The federal government has said that is not a valid reason to deny special ed to a disabled child. But Heidi didn’t know that.

The Texas Education Agency special education target has affected disabled kids across the state, particularly those who live in big cities or in homes where English is not spoken.

Before the system began, English Language Learners were slightly less likely than others to be in special education.

Today, while 8.5 percent of Texas students are in special ed, only 7.3 percent of English Language Learners are receiving those services.

Graciela Reyes-McDonald, a bilingual psychologist who works with school districts in the Houston area, said the gap
has grown three-fold because parents who do not speak English have found it harder to navigate the new obstacles that schools have erected to reduce their special education numbers.

“There are so many more hoops to jump through before getting a special ed evaluation, and they don’t know how to jump through them,” she said.

The statistics on big cities are even more striking.

Urban areas have the most need for special ed because they have high rates of disability risk factors such as poverty, lead poisoning and prematurely born babies. That is why New York, Baltimore and Detroit serve about 20 percent of kids.

In Texas, however, large school districts now have among the state’s lowest rates. Many have pushed their percentages far beyond the 8.5 percent threshold.

Fort Bend ISD, for example, gave services to 10 percent of students before the PBMAS began. The district got down to 8.5 percent by 2007 and then kept going. Today, its rate is just 6.2 percent.

Deena Hill, who became Fort Bend’s special educator director in June 2015, said she had been troubled by the low rate ever since she started. She said some teachers were inappropriately using Response to Intervention to delay evaluations. She acknowledged that PBMAS was part of the reason.

“It’s something that’s always in the back of your mind,” she said. “You’re being graded.”

Hill said she was working to increase the number of special education students by improving training.

Overall, Texas has above-average rates of disability risk factors, making it even more surprising that it has the lowest special ed rate in the country.

What has happened to the kids who haven’t gotten services?

Parents have pulled thousands of them out of public school in favor of home schooling or expensive private schools, according to interviews and data.

Others have been left to languish in regular classrooms without the individualized help they need, advocates said.

Many have fallen behind, become depressed and been suspended or expelled, the advocates said. Some have even entered the criminal justice system or otherwise required intensive adult services that cost far more than special education, they said.

“Research has shown that special ed does work,” said Padmaja Sarathy, a former Fort Bend special ed manager who now works as a consultant. “So by denying that to some students, we are creating an underclass of children.”

When Heidi Walker saw the police outside Shadow Forest Elementary in February 2016, she knew they were there for her son.

Minutes earlier, she had gotten a frantic call from the principal:

Come here. Hurry.

When she arrived, she was told her first-grader had run away. Fortunately, a teacher located Roanin by the school track. The principal sent him home with an out-of-school suspension.

It was his eighth suspension of the year.

The next week, he was suspended twice more — for slapping another student and for banging a projector remote on a
DENIED

Records also show Roanin’s academic performance plunged.

Between the middle of kindergarten and the middle of first grade, Roanin went from scoring in the 67th percentile in letter knowledge to the 16th percentile. The suspensions and failures took a toll. Roanin became depressed. He stopped leaving his room. One afternoon, after getting in a fight with his brother over a video game, he began scratching himself in the face.

“I don’t deserve to live,” he cried.

Heidi and Trevor became scared. They felt they had only one choice.

They pulled their son out of school before first grade ended.

‘NO WAY’

Texas Education Agency officials have succeeded in keeping their special ed target from public view, according to records and interviews.

Almost nobody among those interviewed by the Chronicle knew about the 8.5 percent mark or even that Texas had the lowest special education rate in the country. Some couldn’t believe it.

“No way,” said Mike Moses, a former Dallas ISD superintendent and Texas education commissioner under Gov. George W. Bush who now teaches education at the University of North Texas.

Moses and fellow former Education Commissioner Lionel Meno both said they felt the policy clearly violated federal law.

The TEA said in its written comment that it has sought public input about the PBMAS. But the only place it has done that has been in the Texas Register, a little-known state agency journal. A typical entry appeared on Page 5,579 of the July 18, 2014 edition.

The agency has avoided scrutiny by claiming other factors have caused the special ed drop.

When asked about the drop at a 2010 state Senate Education Committee hearing, Lenz did not mention the target.

“We fundamentally believe it has a lot to do with improving general education,” he said.

People who have discovered the policy and complained have been ignored, records show.

At least four educators have contacted the agency to complain, emails show. The agency has not responded to any of them.

The TEA has responded to the only formal complaint it has received, which came from Disability Rights Texas, the only advocacy group that has found the policy. The agency response was it could not address the complaint unless there was proof a specific student had been treated illegally because of the policy.

Officials also appear to have shut down questions by blaming the federal government: Three school staffers appointed by the TEA to a task force that reviewed the PBMAS system after its implementation said they asked the agency about the special education target and were told that it was federally mandated.

“We were led to believe that it exists in every state,” said one of the staffers, Matt Underwood, superintendent of Stephenville ISD, near Abilene.

Underwood continued to believe that until he was contacted by the Chronicle,
he said. Still, in the years since the task force, he said he had already become worried about the policy.

Stephenville lowered its percentage of students receiving special ed services from 11 percent in 2004 to 8 percent today, a difference of more than 100 children, records show.

District officials have worked hard to find other ways to serve those students, Underwood said. But he still worries they missed some, shutting children with disabilities out of needed help.

“Some have probably fallen through the cracks,” he said. “I can’t say how many. Even one would be bad. One would be terrible.”

**TOO LATE**

On a hot afternoon late last month, Heidi and Trevor Walker built a school for their son.

Heidi cleared out her makeshift photo studio near the kitchen, putting her cameras and lights into storage. Trevor hammered a few slabs of cedar wood into an oversize desk.

Together, they hung a whiteboard on the wall and wrote in a name for their creation: the Walker Academy of Excellence.

Over the summer, the district had finally agreed Roanin needed special ed - two years after the Walkers formally asked for a special education evaluation during kindergarten in the fall of 2014. But the family decided it was too late.

Roanin had grown to hate school, and his parents were convinced he wouldn’t be treated fairly.

They wanted to put Roanin in private school, but the oil downturn had forced Trevor to take a lower-paying job, and the family could not afford tuition.

So Heidi was preparing to become her son’s math teacher, reading instructor and gym coach, in addition to her other responsibilities to Roanin and her other four children.

The Walkers were hopeful. They had seen home schooling work in Wyoming.

But they also knew there were some things they could not do. They could not offer electives. They could not help Roanin learn how to socialize. They could not give him a prom.

“We have special ed for a reason,” Heidi said. “It’s not like I want my kid to be in special ed. That’s not something I hoped for. I want my kid to get an education, to get a job, to have a family. I want him to be happy. I know that won’t happen if he doesn’t get what he needs. If he doesn’t get help, he won’t live up to his potential, by half. Nobody wants that for their kid.”

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**What you can do:**

If you think your child needs special ed services, request an evaluation in writing. Districts are required to respond. If you feel you have been wrongfully denied services, contact the Texas Education Agency or U.S. Department of Education.

For additional help:

- Disability Rights Texas (1-800-252-9108),
- The Arc of Texas (512-454-6694), Family to Family Network (713-466-6304)
Denied

Oct. 23, 2016
Second in a series

Disabled forced back into regular education

Official fights to restore special ed for autistic son
How schools weed out disabled kids, ignoring urgent needs

Clockwise from top left, Michael Crighton, Joseph Espinoza, Steven Smith and Marco Ruiz have all lost access to special education services that they needed.

By Brian M. Rosenthal

AREDO - A few days before school began here in 2007, district administrators called an emergency staff meeting.

The Texas Education Agency had determined that they had too many students in special education, the administrators announced, and they had come up with a plan: Remove as many kids as possible.
The staffers did as they were told, and during the school year, the Laredo Independent School District purged its rolls, discharging nearly a third of its special education students, according to district data. More than 700 children were forced out of special education and moved back into regular education. Only 78 new students entered services.

“We basically just picked kids and weeded them out,” said Maricela Gonzalez, an elementary school speech therapist. “We thought it was unfair, but we did it.”

Gonzalez’s account, confirmed by two co-workers and district documents, illustrates how some schools across Texas have ousted children with disabilities from needed services in order to comply with an agency decree that no more than 8.5 percent of students should get specialized education. School districts seeking to meet the arbitrary benchmark have not only made services harder to obtain but have resorted to removing hundreds and hundreds of kids, the Houston Chronicle has found.

In San Felipe Del Rio CISD, in West Texas, officials several years ago stopped serving some children with autism.

In Brazosport ISD, on the Gulf of Mexico, employees were instructed in 2009 to end tutoring for students with severe dyslexia.

In Northwest ISD, near Fort Worth, administrators told parents that they no longer gave speech therapy to high schoolers who stutter.

And in Alief ISD, two staffers recalled being directed to falsely suggest to parents that their kids had somehow been cured of serious disabilities.

“I was told to go into all these meetings with parents of kids with different disabilities and tell them ‘Oh, Johnny is doing so much better. So we want to try

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The Enrollments down sharply
While special education enrollments have remained relatively steady in the United States, they have plunged in Texas and plummeted even faster in Laredo ISD. Children who are learning to speak English have been the most hurt.

Source: Houston Chronicle analysis of data compiled by the Texas Education Agency and U.S. Department of Education. Houston Chronicle

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Purging the rolls
A year after the Laredo Independent School District was punished by the Texas Education Agency for providing special education to too many children, the district took services away from nearly 1/3 of its students with disabilities. More than 700 kids left special education in that 2007-08 school year, not including those who graduated. Just 78 entered. The removals continued in ensuing years.

Source: Laredo Independent School District

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<table>
<thead>
<tr>
<th>STUDENTS ENTERING SPECIAL ED</th>
<th>STUDENTS LEAVING SPECIAL ED</th>
</tr>
</thead>
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<td>711</td>
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<tr>
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<td>351</td>
</tr>
<tr>
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Source: Laredo Independent School District

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2004 14.0%
2003 13.5%
2002 12.5%
2001 11.7%
2000 11.4%
1999 11.0%
1998 10.7%
1997 10.4%
1996 10.1%
1995 9.8%
1994 9.5%
1993 9.2%
1992 8.9%
1991 8.6%
1990 8.3%
1989 8.0%
1988 7.7%
1987 7.4%
1986 7.1%
1985 6.8%
1984 6.5%
1983 6.2%
1982 5.9%
1981 5.6%
1980 5.3%
1979 5.0%
1978 4.7%
1977 4.4%
1976 4.1%
1975 3.8%
1974 3.5%
1973 3.2%
1972 2.9%
1971 2.6%
1970 2.3%
1969 2.0%
1968 1.7%
1967 1.4%
1966 1.1%
1965 0.8%
him in general education, and of course we’ll give him support,” said Christine Damiani, who served as Alief Middle School’s special education chair before retiring last year. “None of it was true.”

Overall, Texas special education students are now 55 percent more likely to be returned to general education than the national average, according to data collected by the U.S. Department of Education.

They are five times more likely to be expelled to a disciplinary school, the statistics show.

“It’s OK for a child to be moved from special ed to general education if they truly no longer need the services,” said former Deputy Secretary of Education Frank Holleman, noting that federal law encourages schools to re-evaluate special ed students every three years.

“But if a child is moved just to meet some arbitrary number, that’s the type of thing that can affect a child’s entire educational career and entire life. That needs to stop immediately.”

The purges explain part of how school districts have dramatically reduced their special education rates in the decade since the TEA created the 8.5 percent enrollment benchmark as part of a district monitoring system.

The percentage of students in special education has plunged from near the national average of 13 percent to exactly 8.5 percent, by far the lowest of any state.

The Chronicle disclosed the bench-
DENIED

mark last month and reported that the TEA quietly implemented it while fac-
ing a $1.1 billion state budget cut without consulting state lawmakers, the federal government or any research.

Federal law obligates public schools to provide special education to all eligible children with disabilities. In response to the Chronicle investigation, the U.S. Department of Education on Oct. 3 ordered the TEA to end the target unless it can prove that no kids have been deprived of services. The department also directed state officials to report on how many districts may have denied services to students with disabilities and how they plan to “remedy the effect of such past practices.”

The TEA has said it does not think anybody has been deprived, although it has said it will review its policies. Prior to the Chronicle investigation, the agency attributed the decline in special education students to new teaching techniques that it said had lowered the number of kids with “learning disabilities,” such as dyslexia.

Agency officials also have said the 8.5 percent number is only an “indicator” of district performance and that districts are not seriously penalized for serving too many kids.

Documents show, however, that the TEA came down hard on Laredo ISD in 2007 in part for exactly that reason. The agency sent a team of regulators to Laredo and ultimately made the district hire consultants to fix several issues, including “potential over-identification,” because it was providing special education to 11 percent of students - well below the national average.

Steven Smith, 11, who is autistic and needed surgery to correct deformities in his hands, depends on computers to do schoolwork.
but above the state benchmark.

The district’s special education director at the time, Tracy Cartas, declined comment. The current director, Raul Gomez, a 24-year district veteran, said he did not recall any purges. Laredo reduced its numbers, he said, by improving its evaluation process.

But dozens of other current and former Laredo staffers said they felt tremendous pressure to reduce enrollment at all costs.

“TEA required us to do this,” said GeorgeAnne Reuthinger, who replaced Cartas as director while the purges were still going on. “There was no wiggle room.”

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**A LONELY FIGHT**

Every day, Joseph Espinoza’s parents send him to school without knowing if he will come home.

The 17-year-old, who was abused as a child and shuffled between foster homes before being adopted by the Espinozas six years ago, has been diagnosed with Asperger’s syndrome, post-traumatic stress disorder, bipolar disorder and schizophrenia, and every day is a struggle.

But it is now a struggle that his family fights alone.

For years, Joseph received counseling, tutoring and extra supports from College Station ISD, school records show. But in the spring of 2015, after the services helped him earn all passing grades for the first time, the district said those grades were evidence
that he no longer qualified for special education.

The district moved him into Section 504, a program for kids with disabilities who qualify for classroom accommodations but not services. The primary accommodation that Joseph got was a private room for tests.

“They said he would be just as successful in 504, and they would monitor him closely,” Joseph’s mother, Lisa Espinoza, said. “They didn’t do any of that, of course.”

Without any help, Joseph again failed his classes, records show. He also fell into a deep depression and decided to stop taking his medication.

Last month, after he started having frequent hallucinations, he ended up spending 12 days in a state psychiatric hospital.

College Station ISD declined to comment on Espinoza, who is back in school now - still not receiving services and still failing.

His parents are trying to get him back in.

TARGETING THE DISABLED

When the Texas Education Agency introduced its monitoring system in 2004, nearly 1,100 of the state’s 1,200 school districts were giving special education to more than 8.5 percent of students, state statistics show. More than 96 percent of those districts have since lowered their rates.

The districts that have purged their special education rolls have targeted a variety of children, according to interviews with educators, advocates and parents as well as a Chronicle review of “Corrective Action Plans” submitted to the state by districts cited for over-identification.

In Alief ISD, the focus was on Asian students with autism.

Damiani, the former special education chair, said she was repeatedly told Alief ISD was under TEA sanctions for having too many special education kids. Then, one day she was handed a paper with the names of a dozen of her students, she said.

“Someone somewhere had decided that we had too many Asians in our self-contained autism class,” said Damiani, whose story was confirmed by a colleague. “I was supposed to call the parents to schedule a (meeting) to move the children into another program or out of special ed altogether.”

Damiani said she did it, even though it felt illegal and immoral. She lost sleep for weeks afterward, she said, and eventually the incident helped drive her to retire after 21 years with
the district.

Craigh Eichhorn, a spokesman for Alief ISD, said that no teacher has ever been ordered to remove students from special education.

Several other districts also concentrated on children with autism, a spectrum of deficits including behavioral symptoms ranging from relatively mild social impairment to profoundly anti-social behavior that makes education highly challenging.

In San Felipe Del Rio CISD, officials used the 2013 update of the Diagnostic and Statistical Manual of Mental Disorders to dismiss students with Asperger’s syndrome, said Kerry Steiner, who worked with the district as part of a federally funded parent training project. The update eliminated the diagnosis of Asperger’s syndrome as a distinct disorder - but placed it on the autism spectrum. Still, the district used the change to say that children with that diagnosis no longer had a disability that qualified for special ed, Steiner said.

“The law requires that schools base their special ed decisions on need, not opinion, or space availability, or money, or teacher training or other subjective positions,” Steiner said. “It was heartbreaking to see schools not do that.”

A spokeswoman for San Felipe Del Rio CISD denied Steiner’s story. She said the decline in students with autism was most likely due to families coming and going from a nearby military base.

Brazosport ISD administrators worked to remove students with learning disabilities, said Dede Wilkinson, who taught special ed there between 2004 and 2015. Wilkinson said the district responded to TEA criticism about over-identification by adopting new policies saying children could be discharged if they made even the smallest amount of progress in a year.

Brazosport ISD said in a statement that it is “committed to providing quality education and outstanding learning experiences with caring and compassionate teachers for each of our students.”

In Northwest ISD, the target was kids who stuttered, said Jackie Edmonds, who taught special ed there before going to work for the American Federation of Teachers in 2012. That district decided it would no longer give speech therapy to those children after middle school, Edmonds said. One parent of a child who stuttered said administrators told her speech therapy had been eliminated for high school students who stutter.

Stuttering is a disorder whose causes are not well understood and for which there is no known cure, and, Edmonds
DENIED

said, services are important for helping all students learn to cope.

A spokeswoman for Northwest ISD said the district does not have a blanket ban on high schoolers receiving services for stuttering. She said district employees may have misunderstood directives about only giving services to children who actually have disabilities.

Several parents and advocates shared stories about districts that provide special education services through Preschool Programs for Children with Disabilities but remove services once children enter kindergarten.

One of those policies affected Michael Crighton, who was born weighing 1.6 pounds just 25 weeks into his mother’s pregnancy. In preschool in Pearland ISD, he was in an autism program and got occupational and speech therapy, school records show. But when he got to kindergarten in 2010, his parents said they were told he had been “cured of autism.”

Michael’s school put him in Section 504, which allowed him to sit close to the teacher, records show.

“It was a disaster. A complete disaster,” said his mother, Lisa Odom. “The seating was a joke because he usually hid under his desk, and he often was sent to the principal’s office because they felt him to be disruptive. I was called to the school every single day. And then the last two weeks of school, they just told me to keep him home.”

Michael got back into special education but not until 2013. The three years out of services have left him “extremely behind” academically and emotionally, his parents said.

Pearland ISD declined to comment. At least a dozen school districts, including Bellville ISD and Brenham ISD, have promised the TEA in Corrective Action Plans that they will closely scrutinize special education students who transfer into the district to see whether they can manage without services, records show.

“Records of transfer students will be thoroughly reviewed,” Morgan ISD vowed in a 2009 Corrective Action Plan, which included a blunt promise: “The number of students eligible for special education services at Morgan ISD will decline.”

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**EVANSTON, ILL. VS. AUSTIN, TEXAS**

When a job change led Steven Smith’s parents to move to Texas, they chose to send him to Austin ISD because they heard good things about its special education department.

Their 11-year-old son was born without functional hands and had been diagnosed with both autism and scoliosis, medical records show. He had gotten a classroom aide, social skills classes, a laptop and other special education services when the family lived in Evanston, Ill.

But when they arrived in 2014, Austin ISD told them that Steven no longer qualified for special education.

“I showed them all of the paperwork from Illinois,” said Steven’s mother, Anna Smith. “But I was told that from (Austin ISD’s) eyes, he didn’t have any need for special ed.”

Steven struggled immediately, according to his mother. He failed as-
signments, lost confidence and began to hate school. One day, he told his parents that he wanted to kill himself, leading them to pull him out of school. Austin ISD declined comment.

The family has since moved to nearby Leander ISD, seeking a fresh start.

**LAREDO’S PURGE**

Then there’s Laredo ISD, an impoverished school system on the Mexican border where 98 percent of students receive free or reduced-price lunch and 60 percent do not speak English as their native language.

The Laredo schools provide a unique window into how the Texas Education Agency enforces its special education enrollment benchmark.

For months, the TEA has refused to release any records or correspondence about the enforcement efforts other than some Corrective Action Plans submitted by some school districts in the past few years. Agency lawyers have argued that all other records are exempt because they were part of audits, and Attorney General Ken Paxton’s office has agreed.

The TEA turned over some documents about Laredo ISD only after the Chronicle found that those records had been shared with another requester five years ago.

The agency’s efforts in Laredo also are a good illustration of monitoring efforts across the state, according to three of the five TEA employees on the team that visited the district.

The documents show that the district caught the TEA’s attention because it scored poorly on the monitoring protocol, called the Performance-Based Monitoring Analysis System (PB-MAS).

As a result, the agency in March 2007 sent the five employees to spend nearly a week in Laredo, according to a letter summarizing the visit.

The regulators identified four systemic “issues/trends”: low participation and passing rates on state tests; a lack of inclusive practices; insufficient monitoring of student progress; and “potential over-identification,” particularly among non-English speakers.

TEA officials ordered 12 different corrective actions, including the hiring of consultants.

Over the past two months, Laredo ISD has ignored multiple requests for records related to its response to the sanctions. But dozens of current and former staffers said the penalties led to a big special education reduction.

Teresita Gutierrez, a longtime district staffer who was a vice principal at the time, recalled meetings in which she was ordered to make it hard to get into special education.

Because of the district’s poverty, the schools have historically had to teach parents about special ed, Gutierrez said. Suddenly, she said, schools were ordered not to tell parents that they can test children to see if they qualify for services.

“We just had to watch them fail,” Gutierrez said.

Catherine Rodriguez, who taught fourth grade in the district for 37 years before retiring last year, said the district began requiring teachers to go through several different cycles of interventions before requesting a child be evaluated for special ed.

“It was ridiculous because the whole year would go by, and you’d have to start it all again the next year,” she said.
Officials also ordered purges.

Even strong Laredo ISD supporters acknowledged that the district responded to TEA pressure by re-examining special ed students.

Criselda Alvarez, a consultant hired by the district, said she and others focused on testing non-English speakers to see if they actually had disabilities or had struggled in school only because of language barriers.

“We really had to look at that and exit some of those kids because at one point the numbers were really high,” Alvarez said.

In Laredo ISD in the mid-2000s, so-called English Language Learners did receive special ed services at a higher rate than English speakers - a situation that was not the case in the rest of the state. But their special education percentage was only slightly higher than the national average of 13 percent.

The number of English Language Learners in services in Laredo ISD has plummeted since then, state statistics show. Today, only 6.8 percent of those kids get services, far below the district, state and national averages.

The federal government has said it is especially concerned about the denial of special education services to English Language Learners in Texas.

Districtwide, the special education percentage has dropped from 11 percent to 7.8 percent. There have been dips in kids with learning disabilities (down 56 percent since 2004), visual impairments (down 46 percent) and mental illnesses (down 29 percent), but no drop has been more dramatic than in the speech-impairment category, which has plummeted 74.3 percent.

Just one in every 300 students in Laredo ISD now receives speech therapy services - seven times below the national average.

Numerous staffers said the district decided to provide services only to students who could not pass state tests. Since tests are written, not oral, kids with problems with pronunciation, stuttering and swallowing were deemed to no longer qualify.

Rossana Venecia, a former supervisor in the district’s speech-therapy department, defended that decision, saying special ed is not meant to help kids talk.

“If they are making A’s or B’s, they don’t have an educational need for special education,” Venecia said. “We’re not just here to teach them r’s and sh’s.”

But speech-therapy experts in Texas and across the nation said kids with pronunciation, stuttering and swallowing disorders do have educational needs. They often cannot communicate with their teachers, are afraid to speak in class and have few friends and low self-esteem, the experts said.

It is impossible to know what has happened to the discharged students because Texas does not meaningfully track children who leave special education.

The PBMAS system monitors the percentage of students who pass state tests in the year after they exit services, but that metric is flawed because it does not require schools to say how many kids took modified tests or did not participate at all.

Laredo ISD does not give state tests to most children who exit special education, statistics show.

In the 2008-09 school year - the year after more than 700 students left special ed - only 78 kids in grades 3-8
took the state math test, according to the TEA. Forty-five passed.

Only 15 children took the state social studies test. Eight passed.

Maricela Gonzalez, the speech therapist, said she is certain that many of the students have suffered academically, socially and emotionally.

She and other therapists tried to find time to check on the purged children in regular classes, but “a very, very, very high percentage of kids fell through the cracks,” she said.

Gonzalez does not work with Laredo ISD anymore. In 2008, she left to join a private company that provides for-fee pediatric therapy services.

She is haunted by the times that she wrote “Discharge” at the top of files of children with disabilities who still desperately needed help. She often wonders what happened to them.
Mentally ill lose out as special ed declines

Racial labels growing stronger

FEAR ON THE BORDER

Brady tackles ACA in dozens

Target reduces mentally ill enrollments by 42%

Desperate families fight schools for service
Mentally ill lose out as special ed declines

FRANKSTON - As the miles passed and the state psychiatric hospital faded into the rearview mirror, Alston Jeffus allowed himself to smile for the first time in five months.

The 16-year-old closed his eyes and savored his chance to get his life back. He thought about his brothers and his friends. He imagined returning to his school basketball team and becoming the star.

In the front seat, his mother snapped a picture and posted it on Facebook.
“Coming home,” she wrote. “Home and he gets to stay home.”

She, too, could not wait to get back to this railway town in East Texas. She wanted to call the high school and the mental health center, to create a support system to ease the return. Her oldest son would never again try to kill himself, she swore.

The Jeffus family was ready for a fresh start.

The Frankston Independent School District had other plans.

The Texas Education Agency’s decision to set an 8.5 percent target for special education enrollment has led school districts to cut services for children with all types of disabilities, but mentally ill students like Alston have been disproportionately affected, a Houston Chronicle investigation has found.

Federal law requires schools to provide counseling, therapy, protection from discipline and other support to children with “emotional disturbances,” including severe anxiety, depression, bipolar disorder and post-traumatic stress disorder. Today, however, Texas schools serve 42 percent fewer of those students, relative to overall

Experts said the state’s claims of new teaching techniques lowering special ed enrollments can’t explain the decrease in mentally ill children receiving services.
enrollment, than when the TEA set the benchmark in 2004.

It is a bigger drop than has occurred in almost any other disability category.

In all, an estimated 500,000 school-age children in Texas have a serious mental illness that interferes with their functioning in family, school or community activities, according to the state Health and Human Services Commission.

Only 30,034 receive special education services.

Nearly two dozen educators from across the state told the Chronicle that schools seeking to lower special ed enrollments below the benchmark have focused on denying services to mentally ill students because their needs are often hard to diagnose and expensive to address.

“They can get away with it, and it also saves them money,” said Shemica Allen, who explained how she was told to keep kids out while teaching in Crowley, Garland and Irving between 2004 and 2013.

Teachers in a dozen school districts, mostly in the Houston area, said they have been ordered to discipline children who consistently act out instead of determining whether they qualify for special education. The TEA itself has found evidence of that illegal practice in multiple districts, documents show.

As a result, Texas kids are now 31 percent less likely than the national average to receive services for mental illnesses, a disparity that has nearly quadrupled since 2004, according to data compiled by the U.S. Department of Education.

The Chronicle revealed the existence of the enrollment target in September and reported the TEA quietly implemented the goal without consulting any research.

TEA officials declined to comment for this story. They responded to questions by pointing to their letter to the federal government and promise to end the target.

In response to the investigation, the U.S. Department of Education last month ordered the TEA to end the policy unless it can prove no students have been deprived of services.

The TEA informed the federal government earlier this month that it would eventually end the target, but it said it did not have specific evidence that any student had been kept out of services.

The agency also vigorously defended its benchmark, saying it was not a “cap” on enrollment.

The agency has not given any explanation for why there has been such a dramatic decline in the category of mental illness. There has been a small nationwide drop, but enrollments in Texas have sunk much more precipitously.

TEA officials declined to comment for this story. They responded to questions by pointing to their letter to the federal government and promise to end the target.

John Allen, the superintendent of Frankston ISD, said he could not discuss Alston’s case. He said he opposed the TEA target, but added he did not think it was the reason for the 37 percent drop in special education students in the district.
over the past decade.

“I think we do a pretty good job at providing our kids an appropriate education,” Allen said. “But any time we get feedback of any kind, we use it to better our craft. I can promise you that we are going to continue to grow.”

□□□

Alston Jeffus was a happy child. Nicknamed “Little Dude” by his grandfather, he embraced the conservative culture of Deep East Texas. He loved to fish, hunt and camp. He was small, but he had a broad smile, and even at a young age, he saw himself as a ladies’ man.

In elementary school, he was diagnosed with attention deficit hyperactivity disorder and placed in Section 504, a program for kids with minor disabilities. The condition did not seem to seriously affect his performance in school.

It was not until sixth grade, after his parents had divorced, that problems arose. He failed the state reading test that year and was given detention for failing to do homework, school records show.

Gradually, Alston began to resent authority. He still got good grades, motivated by his desire to stay on the basketball team, but he grew out his hair, started to talk back to his teachers and regularly received detention for being disruptive in class.

A psychologist determined he had a “mood disorder” and prescribed medication. But the school did not evaluate him to see if he qualified for counseling or other specialized education services.

His mother, who knew nothing about the federal law mandating special education for kids with disabilities, was unaware she could request an evaluation.

Soon, Alston’s grades plunged. In January 2014, when he was in eighth grade, the school sent his parents a letter saying he was failing and at risk of being held back.

His behavior worsened, too, records show. At the beginning of ninth grade, he got suspended for shoving another student, and at the end of the year, he got suspended for threatening to bring a gun to school.

His parents were worried, but they didn’t know what to do. His mother, a correctional officer, and his stepfather, a maintenance worker, could not afford a private psychiatrist. They had to trust the school to help their son.

Then, in October 2015, Alston’s girlfriend broke up with him.

That night, he tried to overdose on his ADHD medication.

His mom caught him and took him to a hospital, where he was stabilized and eventually released.

He begged his parents to let him go to school the next day so he could attend basketball practice. They agreed, thinking a return to normalcy would be good for him.

Despite the suicide attempt, the school still did not test him for special ed.

A week later, he tried again.

His mother found him in the living room, his unconscious body draped over a beanbag chair.

She shook him awake and led him to the bathroom, where she forced him to throw up. For the rest of the night, she watched him.

In the morning, he seemed fine and again persuaded his parents to let him go to school.

But by lunch, the drugs in his system flared up, leaving him unable to walk or
talk normally. The school called 911.

At the Palestine Regional Emergency Room, Alston told doctors he had overdosed because of his girlfriend.

“I don’t have a reason to live,” he said, hospital records show.

His heart rate seesawed dangerously for hours, but, again, he survived.

Doctors weren’t willing to allow a third attempt. They diagnosed Alston with bipolar disorder, a manic-depressive illness that triggers drastic shifts in mood, energy and activity levels, and they ordered him sent to North Texas State Hospital in Vernon, near the Texas-Oklahoma border.

North Texas State Hospital is the state’s largest psychiatric facility, but it has only 24 beds for noncriminal children and adolescents.

Its low capacity illustrates the weakness of the Texas mental health system. Public and private providers are underfunded and understaffed, experts say, which increases the burden on schools.

“That’s where kids spend most of their time,” said Greg Hansch, a lobbyist for the Texas chapter of the National Alliance on Mental Illness. “And so (schools) are often the front lines for identifying needs and even providing services, especially for low-income children.”

School services also are important because mental illness affects academic performance, according to researchers and advocates in Texas and elsewhere.

Ignoring problems can have dire consequences, the experts said.

“What we’re looking at with these kids who don’t get services for so long is continued demoralization,” said David Anderson of the Child Mind Institute, a New York nonprofit. That can lead kids to give up and become part of the “dropout-to-prison pipeline,” he said.

Some experts said the reduction in special education services almost certainly has had fatal consequences.

For some Texas schoolchildren battling mental illness, a disciplinary school is a more likely outcome than special education.

“The goal of the education system is to educate our kids, and the schools love saying that their only job is to educate kids. But you can’t educate them if they’re dead,” said Candace Aylor, a consultant and appointee to the state health commission’s Behavioral Health Advisory Committee. “That may sound extreme. But I know students that have killed themselves because nobody was willing to pay attention.”

A few hours after driving Alston home to Frankston, his mother made a call she had been anticipating for months. She could not wait to tell Frankston High School her baby was back.

But after reaching the principal, her excitement quickly evaporated.

Alston would not be coming back,
the principal told her. At least, not until he spent three months at a disciplinary school 30 miles away.

“What?” she asked.

Alston had gone to school under the influence of drugs, the principal said. Nor did his parents recognize that his five-month stay in a psychiatric hospital and bipolar diagnosis were obvious signs that he should have been evaluated for special ed.

But Alston knew he would not go to the disciplinary school. He announced he would drop out, take the GED and find a job.

His mother was devastated. She hadn’t graduated college, but she had earned a high school diploma and seen its benefits. Without it, she worried her son would end up on the streets - or worse.

For some Texas kids battling mental illness, a disciplinary school is a more likely outcome than special education.

In the years since the TEA set the enrollment target, Texas schools increasingly have lowered their numbers by expelling special education students to those schools. The state now orders those expulsions at a rate five times higher than the national average, federal statistics show.

But discipline is even more common for students who have not yet been evaluated for special education.

Gayle Pitcher, a former psychologist at Cypress-Fairbanks ISD, the third-largest district in the state, said Cy-Fair responded to the TEA target by encouraging staffers to suspend or expel students instead of requesting evaluations.

“It’s a very intentional effort to get the individual to withdraw from school instead of access special ed programs,” said Pitcher, who retired last year.

Fellow former psychologist Heather Kaiser-Hahn saw the same thing while working in multiple Houston-area districts.

“Many districts pressure their discipline problems to pursue GED, online high school or home school to get them out of the system,” she said.

Last year, the TEA sanctioned four districts, including Houston ISD and Fort Bend ISD, for disciplining students instead of evaluating them, according to investigative reports obtained by the Chronicle.

A Houston ISD spokesman said the district has “undergone a drastic overhaul” since the TEA verdict. HISD is no longer zero tolerance, and teachers now can consider “the uniqueness” of students, he said.

Other districts have used other tactics to lower numbers, educators said.

Several teachers said they were required to put mentally ill kids through a months-long teaching program called “Response to Intervention” before requesting evaluations.

Brook Roberts, a West Texas psychologist and president of the Texas Association of School Psychologists, said many schools have responded to the 8.5 percent target by refusing to serve mentally ill kids unless they have failed out of classes.

“They may be placing their school’s rating above the needs of the individual students,” Roberts said.
DENIED

Over the summer, Alston’s mother saw an opportunity.

She had landed a job at the local mental health center, and at a training session, she heard about Disability Rights Texas, a group that helps special needs families. She called.

Eric Kwartler, a South Texas College of Law clinical teaching fellow who works with the group, decided to take the case. He wrote to Frankston ISD to ask that Alston be let back into high school and evaluated for special education.

When the district hesitated, Kwartler filed a legal complaint alleging the district had violated federal law by failing to conduct an evaluation when it clearly was warranted.

Faced with the possibility of an expensive fight, the district agreed to conduct the evaluation and to immediately let Alston back to school with counseling and tutoring, according to a settlement agreement. The district also agreed to train the entire Frankston High School staff on special education law.

The counselor promised to work with Alston to catch him up on his credits so that he might be able to graduate on time with his classmates next year.

Alston’s mother said she knows the district’s decision will not evict the demons inside him. But now, she said, he will have a support system.

He is hoping to go to college and become an underwater welder, she said.

“He wanted to walk across the stage. He wanted that diploma. He wanted the accomplishment of knowing that he did it,” the mother said. “Thankfully, he can, hopefully, because we found Mr. Eric.”

Last month, Alston returned to school for the first time in a year. Last Tuesday, he played in his first basketball game. He scored nine points.

He wasn’t the star, but it was a start.

St. John Bared-Smith contributed to this report.
DENIED

Dec. 11, 2016
Fourth in a series
VICTORIA - Refugees, immigrants and other kids who do not speak English are entitled to the same special education services as native speakers. But in this Southeast Texas city, they seldom get them.

Just 39 of the nearly 1,000 English Language Learners here receive services like tutoring, counseling and speech therapy, 70 percent fewer per capita than a decade ago.

Many more need help, but usually, teachers say, their pleas are ignored.

“It’s almost impossible to get my kids into special ed,” said Arlene De Los Santos of Patti Welder Middle School. “They have to have very, very severe needs for the school to even consider it.”

The situation in Victoria exemplifies a new reality playing out across Texas.

From Beaumont to El Paso, school districts facing pressure to lower their special education numbers have decided to do it by shutting out thousands of English Language Learners, the Houston Chronicle has found.

Districts have used a range of tactics, from refusing to conduct eligibility evaluations in other languages or accept medical records from other countries to blaming language barriers for problems caused by disabilities, according to data and interviews with dozens of current and former educators. Some have eliminated special education altogether from schools for international students.

Many districts have even held trainings to warn teachers that English learners are over-identified in special education, when statistics show the opposite is true.

The moves have taken place as immigration politics have become increasingly sensitive in Texas. Most English learners were born in the United States, studies show, but many have parents who are not American citizens.

The revelations add a civil rights dimension to the controversy over the Texas Education Agency’s decision to set a special education enrollment target.

Statewide, only 7.3 percent of English learners now get special education, compared to 8.7 percent for native speakers. That 20 percent difference is three times higher than the gap that existed when the target began in 2004.

“Even if the policy was not meant to be discriminatory, it has clearly had that effect,” said Gary Orfield, a prominent longtime social scientist and co-founder of the Civil Rights Project at Harvard University.
of The Civil Rights Project while at Harvard University, who called it the most outrageous education policy he’s ever seen. “If schools are creating systems in which students are not getting services simply because of the language they speak, that’s discrimination.”

The TEA target, which the Chronicle revealed earlier this year, set 8.5 percent as the ideal maximum rate of students who should be in special education. Agency officials have audited school districts for exceeding the benchmark and penalized districts for over-identification of minorities. But they have not levied any punishments for under-identification.

As a result, Texas has lowered its overall special education rate from near the longtime national average of 13 percent to exactly 8.5 percent. That is the lowest of any state, by far.

If English Language Learners were in special education at the same rate as they were in 2004, about 40,000 more of them would now be receiving those services.

The U.S. Department of Education, which is hosting public “listening sessions” in five Texas cities this week as
part of an investigation into the issue, has said it is particularly concerned about the low number of English learners in special ed.

In defending the benchmark to federal regulators last month, TEA officials acknowledged “some possible under-representation” of English learners.

They declined to answer questions for this story.

□ □ □

When Karen Aramburu moved from Mexico to Houston two years ago, she thought she would get help for her daughter, then 11 and dealing with autism, epilepsy and hypotonia, a muscle disorder.

But when she asked the Houston Independent School District for special education, she was told there was a “waiting list” for eligibility evaluations.

Ashley Rodriguez, 9, of Pflugerville has always struggled with the academic aspects of school, but until recently her school district had denied special education, causing her to fall further and further behind her classmates.

Aramburu, who cares for her daughter full time while her husband works as a candy distributor, did not get any information about the process in the only language she speaks - Spanish. She did not know there was no such thing as a waiting list. Or that she could compel the district to evaluate her daughter by filing a written request. HISD, which provides special education to 7.4 percent of students and just 5.3 percent of English learners, did not tell her or perform an evaluation, even as Alexia got failing grades, cried throughout classes and had bathroom accidents, records show.

More than a year later, an advocate
finally told Aramburu how to force HISD to do an evaluation, and Alexia was found eligible for extensive services.

“Nobody told me until it was so late,” Aramburu said in Spanish on a recent afternoon, grimacing as she gazed at her daughter. The family now lives in Katy.

An HISD spokesman said the district does give families information in Spanish and focuses on proper identification of disabled English learners.

Many educators said immigrants often do not understand how special ed works. Part of the reason for the dramatic drop among English learners, they said, is that parents are less able to fight the hurdles the TEA target has brought for all families seeking special education.

“These parents don’t understand the system,” said Iliana Benitez, a social worker at Baylor College of Medicine. “Culturally, they’re not inclined to speak up ... and nobody tells them they have rights.”

Many school districts have actively worked to keep English learners out of special education so they can keep their overall numbers low, the Chronicle has found.

Dozens of current and former educators said they were made to attend trainings in which they were told the TEA had concluded they were over-identifying English learners. Virtually all those districts were actually under-identifying them, data show.

At the trainings, the educators said they were told to assume struggles of English learners were the result of language issues and to request special ed evaluations only for failures lasting months or years.

“They always try to pass off deficits as due to language and cultural barriers,” former Fort Worth teacher Megan Houston said. “So (the kids) have to fail classes to get tested, even when the teacher, counselor, principal, etc., all can tell it’s more than a language problem.”

Parents reported more subtle dis-
Rosa Sanchez of El Paso said that when she asked that her kindergartner be tested for dyslexia, Canutillo ISD refused and only gave her information on how to appeal in English.

Evangelina Cardenas of Pflugerville, in Central Texas, said that when she noticed her shy daughter was struggling in school, she asked to observe her in class to see if she should request special education. She said she was turned away because “only parents with Social Security numbers” can observe.

Her daughter, Ashley, fell further and further behind. The district warned the family about it in 2013, school records show, and she got a 24 percent on her first state math test.

But the district did not put her in special ed until this fall, when an advocate intervened - four years after her issues first arose.

In Desoto ISD, near Dallas, former school psychologist Marcy Barlow said her school decided that students could be classified as either English Language Learner or special education - but not both.

And in Beaumont ISD, multiple current and former employees said the district does not accept medical records from other countries, does not conduct evaluations in other languages and only rarely allows English learners to also be in special ed.

A spokeswoman denied those allegations and said the district gives special ed to all who need it.

The district, which has been under scrutiny for poor performance and dysfunction, now serves just 4.2 percent of English learners in special ed. Its overall rate is 7.5 percent.

“It’s very important to the district to stay below the TEA cap,” said Janice Brassard, who taught at the district for 27 years and then served on the school board for nine, up until 2014. “(English learners) are getting language services, so they say, ‘Well, they’re already serviced.’ ”

Federal law requires schools to provide both language and disability services to disabled English learners, and experts say both are critical.

“Think of a student as a flower,” said Madeline Mavrogordato, an education professor at Michigan State University. “If you only give them language services and not disability services, you’re giving them only sun and not water. It’s not enough.”

Mavrogordato and other experts also said English learners are just as likely as native speakers to have disabilities.

In fact, research has found English learners and other minorities are more prone to disabilities because they are more likely to be born prematurely, at low weight or with fetal alcohol syndrome and to be malnourished or exposed to toxins like lead.

“There is absolutely no reason for them to be in special ed less often,” said Jarice Butterfield, the director of special ed for California’s Santa Barbara County and an expert on disabled English learners.

Nevertheless, unlike African-Americans, who have been put in special ed at higher rates than white students nationwide, prompting concern from some academics and officials, English learners have historically been un-
der-identified.

In the past, that has been partly due to difficulty in discerning whether student struggles were caused by linguistic problems or disabilities, but that issue has eased with new tests in other languages, said several experts, including Butterfield.

“That shouldn’t be a major issue,” she said.

In Texas, before the TEA benchmark, when about 12 percent of all students were in special ed, English learners had a lower rate (11 percent) and African-Americans had a higher rate (14 percent), according to state data.

After a decade in which the state has pressured school districts to cut special education - and has penalized districts for over-identification - little has changed for African-Americans. They are still more likely to get services than white students, and the divergence is almost exactly the same rate.

For English learners, however, there has been a significant decline.

Few places have been more affected than Victoria, a city near the Gulf of Mexico that is best known for hosting a country music festival called Bootfest.

The city gave special ed to 11.8 percent of students before the TEA target, including 13 percent of English learners.

Today, the rate for English learners has sunk to 4 percent, helping to drop

Evangelina Cardenas was able to get her daughter Ashley, a fourth-grader, into special education with the help of an advocate after years of fighting the district.
the overall district rate to 8.9 percent.

De Los Santos and others said the district often cautions teachers against requesting that English learners be evaluated, citing “over-identification.” That has led to a 78 percent decline in English learners identified as having “learning disabilities,” such as dyslexia, and a 55 percent drop in the speech impairment category.

In addition, according to Victoria ISD, none of its nearly 1,000 English learners has autism.

A spokeswoman said the district “has remained dedicated to addressing the needs of our ELL student population.” She added that Victoria ISD does not pay special attention to the TEA benchmark.

A review of school board meeting notes shows otherwise.

The benchmark has been described as a goal at several meetings. At one, in October 2014, special education director Michelle Goebel said the district’s special education rate had fallen to 8.6 percent, very close to the “TEA target” of 8.5 percent.

“We are definitely headed in the right direction,” she said.

In some Texas schools for English learners, special ed does not exist at all.

Austin ISD’s International High School, a new campus for foreign newcomers, had just one special ed student among its 368 kids and no special ed teachers in the 2014-15 year, state data show.

Similar dynamics now exist in many schools. Houston ISD’s Las Americas school only evaluated one of its 144 students for special education last year, according to the district.

In Austin, four current and former International High School employees blamed the TEA benchmark for the lack of services, saying administrators have blocked their school’s students from special ed to help keep the district’s overall numbers low.

“The district decided to make it extraordinarily difficult for our students to get special education,” said Peggy Robinson, who retired from the district in August 2015. “I think the cap is the reason.”

Austin ISD declined comment.

The lack of services has had disastrous consequences, educators said.

In August 2011, an International High School student named Marcos Cruz brandished a knife at several people, including two boys on their way to an East Austin bus stop. Cruz was arrested and charged with aggravated assault with a deadly weapon, which can result in a lifelong prison sentence.

Before the incident, Cruz’s teachers had tried to get him into psychiatric counseling. But administrators had turned them away, claiming he was struggling only because he could not speak English.

Five years later, former English teacher Melissa Arasin still wonders what would have happened if he had gotten special ed.

“It was clear it wasn’t just a language issue. This kid needed help,” she said. “Everybody knew it.”

For others, the suffering has unfolded more slowly.
When Andrés Hernández arrived from Matamores, Mexico, in 2006, it was obvious he had special challenges. He was diagnosed with dyslexia, and his family hoped his school would help.

But they were in Beaumont, where schools were cutting back on English learners in special ed.

The district did not even test to see if Hernández qualified for services, records show. Instead, according to his mother, Irene Aviles, the district told her it could not do evaluations in Spanish.

Aviles was a single mother working at two restaurants. She could not fight the district. Over the next few years, her son struggled. He had to repeat eighth grade. But he was never evaluated for special education.

Last year, he dropped out of school. Now, Hernández is about to turn 19. He is a friendly young man who loves to play the drums and wants to be a mechanic, but he is struggling to get a GED.

“I’m worried, and I feel guilty,” Aviles said in Spanish. “I wish there was something more that I could have done.”

Marie D. De Jesús contributed reporting to this story.
Jade didn't know any, Fuller realized. Jade had struggled with ADHD and learning disabilities, but it was painful to watch her struggle.

Jade's teacher acknowledged that Jade had made little progress with reading but was doing well in math. Jade was more likely than most special education students.

Jade was placed in RTI, a program called Corrective Reading, which included direct instruction and an intense scrutiny of her tests. Jade's problem came in decoding the program. It included Decoding Strategies for the Program called Corrective Reading.

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Part 3—Mentally ill lose out as Trump plans to dissolve charity

Part 1—Texas keeps tens of billions in federal funding

School district in Pa. takes different tack

For Jade, being in RTI meant having her mother's aid. She had received short-term, one-on-one tutoring. Her mother, Marie LeMay, bought a house near her daughters in 2006, but it was painful to watch her struggle.

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School district in Pa. takes different tack

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School district in Pa. takes different tack

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Fed up with special ed fight in Texas, family moves to Pa.

With help, girl goes from calling herself a ‘dummy’ to taking advanced classes

By Susan Carroll and Brian M. Rosenthal

STATE COLLEGE, Pa. - In the summer before their daughter started fifth grade at a new school in a new state, Ed Fuller and his wife met with the special education team.

Fuller, an associate education professor at Penn State University, explained that Jade had struggled with reading since kindergarten. She had been diagnosed with Asperger’s syndrome and attention deficit hyperactivity disorder. She had
started calling herself a “dummy” and begging to be home-schooled.

For years, Texas schools had refused to give her special education services, insisting she didn’t qualify.

Fed up, Fuller had taken the job at Penn State and moved his family halfway across the country.

At the meeting, he handed the teachers a 4-inch-thick stack of paperwork that included Jade’s psychological and neurological assessments and school records.

Give us a week to read all of that, the teachers said, and then we’ll sit down and talk.

Fuller tried not to feel skeptical.

“I don’t believe anybody anymore,” he thought.

B B B

A lot of kindergartners can recognize simple words, like cat. Jade didn’t know any, Fuller realized as she sat next to her at a low table in Marie LeMay’s Austin apartment.

Jade’s dad was out of the picture, and LeMay was raising Jade, who was in kindergarten, and her brother Jake, then 10.

Jade was petite for a 6-year-old and had a cascade of strawberry-blond hair and bright-green eyes. Fuller asked Jade to read some letters to him. She couldn’t.

It was then, about a month after he met Jade’s mom in 2005, that he first suspected something might be wrong with the child.

A year earlier, the Texas Education Agency had quietly and arbitrarily decided that no more than 8.5 percent of students in each school district should get special education services.

Neither Fuller nor LeMay - nor most anyone else in Texas, for that matter - knew anything about that policy decision, which would drive the state’s special education enrollments to the lowest in America over the next decade.

At first, Fuller kept his concerns about Jade’s reading to himself. He knew that children develop at different rates. Some kids don’t start reading until a little bit later and then they

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| Needs assistance | Special ed ranking from U.S. Department of Education | Meets requirements |

Note: Most recent available data is from the 2013-14 school year

Source: U.S. Department of Education
catch up quickly, he thought.

LeMay, who holds a master’s degree in occupational therapy, recognized that reading challenges hold potential for lifelong harm. Seventy-five percent of children with reading disabilities who are not identified before third grade continue to have trouble reading in ninth grade, according to a National Institutes of Health study.

She took Jade to a pediatric neurologist, who put her on ADHD medication and wrote out a note on a prescription pad:

“To school special ed dept., Jade has developmental problems including attention impulse control and language/speech fluency. She should be evaluated by school psychologist and speech therapist - including IQ and LD (learning disability).”

LeMay brought the note to the Austin Independent School District and pushed for a special ed evaluation.

Jade’s teacher acknowledged that she had weaknesses in reading fluency and comprehension. The girl also struggled to follow instructions, sit still and stay quiet.

“Student continues to have difficulty
in regular education classroom,” the evaluation noted.

Still, a committee concluded Jade did not have any “educational need” for special education.

Austin ISD spokesman Jacob Barrett said the state’s 8.5 percent benchmark has not affected district practices, saying special education determinations are “based on student need and state and federal regulations.”

But 10 current and former employees have told the Houston Chronicle that the district took the benchmark seriously and kept disabled students out of special education because of it.

Before Jade entered first grade in 2006, LeMay bought a house in Round Rock, a suburb north of Austin. At her new school, Purple Sage Elementary, her teachers quickly realized Jade was struggling, particularly with reading, and decided to put her in Response to Intervention.

RTI, which is now in use in nearly every school in the country, is a set of instructional techniques designed to help struggling students in general education.

For Jade, being in RTI meant she received short-term, one-on-one reading instruction for 30 minutes daily, her school records show. Her mother remembers her being pulled out of class only for a reading group with other students.

It helped some but not much. Jade loved her first-grade teacher, and she knew what she was doing, but “she just didn’t grasp the severity of Jade’s disability,” Fuller said.

Even with extra help, Jade still ended up at the bottom of her class in reading. She also couldn’t grasp the concept of coins or time, her mother said.

The school recommended that Jade repeat first grade. LeMay and Fuller agonized over the recommendation, but, eventually, they agreed.

During Jade’s second year in first grade, LeMay felt a rising sense of panic. Jade still couldn’t read fluently.

She brought Fuller to a meeting at the school to help her argue that Jade needed to be placed in special education. Jade was mixing up her letters, pulling out her eyebrows and calling herself a “dummy.”

Fuller was then an adjunct professor at the University of Texas at Austin. He had spent years teaching high school geometry, and he spoke the jargon of education. He understood what the school wanted to do: keep Jade in RTI.

But instead of siding with LeMay, Fuller found himself nodding along with the school officials.

“Why didn’t you back me up? I needed you!”

Fuller said he was operating on the most basic of assumptions, one ingrained in him from his years in the classroom. Educators always act in the best interest of their students, he believed back then.

In second grade in 2008, Jade started begging to be home-schooled.

LeMay and Fuller, who had just married, took her to a psychiatrist.
Jade’s overall cognitive ability fell within the average range, records show, but the psychiatrist diagnosed anxiety, depression, ADHD and a learning disability in written expression.

She loved books, Fuller said, but it was painful to watch her read. She’d slog through a page in 10 minutes, and then not understand what she had read because she was focused on reading correctly. She’d get tired and give up.

“Ed, can you read me a story?” Jade used to ask.

He’d read her “Junie B. Jones” while she soaked in the tub.

At the end of second grade, Fuller said, he and LeMay learned the school had failed to provide Jade with RTI services as it had promised. He said he was told the person in charge of the program had left and “it fell through the cracks.”

Fuller was livid. For him, it was a turning point.

“They just don’t care about our kid,” he remembers thinking.

They transferred Jade to Kathy Caraway Elementary, an affluent school 15 minutes from their home.

At Caraway, Jade was put on a so-called Section 504 plan for reading fluency. These plans let students with disabilities receive accommodations, such as extra time on tests and assignments. They do not, however, involve individualized services or robust accountability and are not supposed to be used as substitutes for special education.

Jade also was placed in RTI again and met with mentors four times a week and attended a small group. She earned mostly B’s her first semester but placed in the 45th percentile for reading and 21st percentile for writing on curriculum-based tests.

Several national education experts said Jade’s experience highlights a serious problem with RTI: It can delay critical special education services.

Toward the end of Jade’s third-grade year, LeMay and Fuller met with Caraway’s special education team, shared information on her diagnoses and pushed for her to be moved into special education.

The school said no.

“Although the student has a documented disability condition, the student does not demonstrate a need for special education resulting from the disability, therefore, it is recommended that the student is not currently eligible for special education services,” the school wrote.

By Jade’s fourth-grade year in 2010, Fuller, who was then working as a consultant for Round Rock ISD, had enough. He emailed the superintendent.

How could she be making so little progress with reading but still not qualify for special education, he asked.

The school responded by scheduling a new round of tests.

But by then, Fuller had applied at Penn State. His first question during his interview, he said, was, “How is the special education here?”

A colleague who had two kids on the autism spectrum told him about a few schools in State College with excellent reputations. He accepted the job.
After they told the school Jade would be moving, officials finally approved her for special ed. By the time her education plan was implemented, however, the school year was almost over.

Like Austin ISD, Round Rock ISD declined to comment on Jade’s case. The district’s special education director, Mary Cardiff, said the TEA benchmark “in no way impacts how we do our business.” She attributed the 15 percent drop in the district’s special education rate in large part to better early intervention.

For Fuller, the district’s stubborn refusal to put Jade in special education finally made sense after the Chronicle in September revealed the existence of the 8.5 percent benchmark, quoting dozens of educators who said that it had deprived thousands of disabled students of an appropriate special education.

He knew that in many ways, Jade was more likely than most to get special education: She attended wealthy, well-performing schools. She got good medical care, which led to early diagnoses. And her parents had money and time to fight for her, to say nothing of his own special knowledge about education. So he wondered how many other children have been robbed of their potential.

“The TEA folks should go to jail over this,” he said.
does, other than Texas - but it does fund special ed in an unusual way.

The state assumes that roughly 16 percent of students need special ed and funds all school districts at that rate, regardless of how many special ed kids they actually have.

The state’s rationale for choosing that number was simple - it was the state average at the time, according to Casey Smith, an education department spokesman. But before implementing the system, officials also called in experts and hosted public forums across the state, Smith said.

That approach is far different from what took place in Texas, when a small group of officials set a benchmark well below the state average without consulting the public, the federal government or any researchers.

The Pennsylvania system is good because it does not incentivize either under-identification or over-identification, said Paul Morgan, one of Fuller’s colleagues at Penn State.

Pennsylvania law also is praised for requiring schools to respond to verbal requests from parents for special education evaluations, instead of only written requests.

As a result, about 17 percent of students receive special education, a 1.5 percentage point increase from 2004, according to the latest federal data.

Fuller and LeMay returned to Ferguson Township Elementary School a week after they dropped off her paperwork in 2011 and met with a special education teacher and the principal.

We know what Jade’s problem is, the teacher said. We’ve seen it before. We’re confident we can address this.

Jade would be provided with direct reading intervention in the special education classroom. It was exactly what her parents had fought so hard for in Texas.

Charlotte Zmyslo, the principal at Ferguson Township Elementary, remembers trying to reassure Fuller and LeMay.

“We won’t let her fall through the cracks,” she told them.

Jade was placed in a reading program called Corrective Reading Decoding Strategies for the start of her fifth-grade year.

She received an hour of reading instruction a day. There were no more than two students in the instruction groups, which were taught by a teacher certified in elementary and special education, as well as reading instruction, or by a paraprofessional trained in the program. It included direct instruction in learning sounds, sound combinations, practice in reading fluency, spelling and comprehension skills. It used immediate correction techniques so that the students would practice correctly.

Zmyslo, who herself holds special education certifications, said the school selected the new direct reading program because Jade’s problem came in decoding words.

“Through that direct program, it helped her grow and to develop her vocabulary and work on skills of decoding words and putting words back together and develop meaning from what she was reading.”

The elementary school now has a special education enrollment of about
10.7 percent, the same as the district’s, although well below the state average. Zmyslo credited the lower numbers to early intervention programs, such as RTI.

Principals, she said, have to create a culture that makes it clear helping struggling students is the priority, regardless of any kind of outside pressure. “We’re in education,” she said. “It has to be about the kids. It’s not about what I want. It’s not about what the state wants. You give kids what they need. And you don’t back off from that. This is the rest of their lives. You are laying this foundation for who they’re going to be for the rest of their lives.”

With the intensive focus on decoding words, Jade made a year’s worth of growth in reading in her first semester, Fuller said. In the second semester, she progressed even more. “All it took was for someone to give her the right kind of assistance,” Fuller said.

In sixth grade, Jade attended a math class at Mount Nittany Middle School taught by both special education and general education teachers. It was taught at a slower pace and had supplemental work to help students boost their skills.

In seventh grade, Jade started out in a math class taught by a teacher certified in both special education and middle school math. Although this class used the general education curriculum, it was smaller than a traditional class and was taught at a slower pace, with reteaching as necessary.

Jade performed well from the start and didn’t seem to need the materials taught at a slower pace, her teacher recalled, and she really wanted to go into the larger general education class. So, around the end of the first grading period, the team decided to move her into the other class and monitor how she was doing.

She was able to stay for the remainder of the year.

By eighth grade in 2014, she was reading above grade level and making all A’s and B’s.

In her freshman year of high school, she took an advanced English class and scored as advanced in algebra on standardized tests. “That never would have happened in Texas,” Fuller said.

Jade is now 16 and has some minor accommodations, including extra time on tests. She has made slow but steady progress dealing with her Asperger’s, which is mild but sometimes makes it harder to fit in.

She still has an individualized education plan, a legally binding document that sets achievement goals and lays out a plan for services, supports and accommodations. The school is letting it follow her throughout high school, and her mother said she wouldn’t let the school take her off it at this point. If anything does come up again, her mother said, she won’t have to go through the whole entrance and evaluation process to get services.

She has not needed specialized reading or math instruction since middle school, but she does have a required study-skills class every day in which teachers assist her with organization and homework, and any social or emotional guidance she may need, her mother said.

This semester, her class is reading
DENIED

the book “Monster” by Walter Dean Myers. It’s written like a screenplay, and her teacher wanted the students to read it aloud in class.

Her teacher offered extra credit to anyone willing to take the part of the main character. Jade’s hand shot up into the air, and her teacher picked her.

□□□

She seems so much happier now, her mom said on a recent Saturday morning as Jade hiked through falling oak leaves and played with her pet bunny.

Afterward, Jade retreated into the warmth to paint with watercolors.

“Mom,” she said suddenly. “I want to do ballet again. And piano.”

“Will you practice and follow through with it?” her mom asked.

She nodded and jumped up and settled into the piano bench.

“I didn’t want to do it before because it felt like homework,” she said.

Her mom had put little stickers on the keys to make it easier for her to remember them. G was pink; D was green; A was yellow; and E was pink.

Jade played a few notes, hit a wrong key and stopped. And then she tilted her head slightly and started again, her fingers flowing slowly but smoothly. G-C-E-C-E...

Amazing grace...

D-C-A-G

how sweet the sound...
HISD keeps special ed rolls arbitrarily low

DENIED
Dec. 28, 2016
Sixth in a series
HISD keeps special ed rolls arbitrarily low

T Poe Elementary School in west Houston, former social worker Marsha Baumann says she was told repeatedly that students could not be evaluated for special education.

At Garden Oaks Montessori School in north Houston, retired assistant principal Kathy Drago says she was informed that only two kids could be evaluated per month.

And at Attucks Middle School in south Houston, longtime language arts teacher

By Brian M. Rosenthal and St. John Barned-Smith

Tra’Vris Williams, 14, has bipolar disorder and ADHD, according to his mother, Laterrica. But he repeatedly was denied evaluation for special ed, she says.
Thomas Iocca says he was ordered to remove children from special education at random.

“It became a nightmare,” Iocca said.

Houston schools provide special education services to a lower percentage of students than schools in virtually any other big city in America. Only Dallas serves fewer than Houston’s 7.26 percent. The national average is 13 percent.

For months, as special education has come under increasing scrutiny in Texas, Houston Independent School District officials have described their percentage as a good thing, saying it is the product of robust early interventions that have helped students without labeling them.

But a Houston Chronicle investigation has found that HISD achieved its low special education rate by deliberately discouraging and delaying evaluations in pursuit of goals that have clearly denied critical services to thousands of children with disabilities.

Records show the largest school district in Texas enthusiastically embraced a controversial state policy that has driven special education enrollments to the lowest in the U.S. In fact, after HISD officials reduced their enrollment rate from 10 percent to the Texas Education Agency’s 8.5 percent target, they set an even more restrictive standard: 8 percent.

To accomplish the objective, HISD officials slashed hundreds of positions from the special education department, dissuaded evaluators from diagnosing disabilities until second grade and created a list of “exclusionary factors”
that disqualify students from getting services, among other tactics described in district documents, court records and dozens of interviews.

HISD also pressured teachers to reduce “over-identification” of African-Americans in special education, despite research suggesting that black students may be more prone to disabilities. The district never made it a goal to fix the significant under-representation of Hispanics in special ed, records and interviews show.

In all, 41 current and former HISD employees told the Chronicle that the district has kept special education rates arbitrarily low. Almost all of them said they saw kids shut out of needed services.

The former superintendents who presided over the special education drop, Abelardo Saavedra and Terry Grier, denied trying to lower the numbers. Both deflected specific questions, saying they could not remember details.

Grier said he didn’t even remember the massive special education budget cuts he ordered in 2011.

At the time, he called the cuts “rightsizing” necessitated by years of drops in special education students. But a data analysis shows the cuts significantly increased the special ed student-to-teacher ratio - and hastened a further decline in students.

The year after the cuts, HISD officials evaluated almost 50 percent fewer students for special ed: They evaluated 2,943 in the 2010-11 year. They tested just 1,572 in 2011-12.

Current district officials, including newly hired Superintendent Richard Carranza, declined to comment.

In September, before the Chronicle first reported that the state had quietly set the 8.5 percent benchmark in 2004, HISD special education director Sowmya Kumar defended the target, saying in an interview that it helped indicate whether special ed was “an area that you need to do something about.”

After a public outcry over the benchmark, district officials said they opposed it, although they continued to defend their own practices.

Kumar, who was hired by Grier in 2010, has repeatedly said the district’s special education reduction is part of a nationwide trend, a claim contradicted by federal data.

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A reduction in special ed students

The reduction in special education services in HISD over the past 11 years has affected students with almost every type of disability, but some children have been hit harder than others.

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Table: LEARNING

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Enrollment in HISD</th>
<th>Special Ed Students in HISD</th>
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<tr>
<td>2004-05</td>
<td>211,056</td>
<td>21,422</td>
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<tr>
<td>2015-16</td>
<td>214,840</td>
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Source: Texas Education Agency

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<tr>
<th>Disability</th>
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<th>2015-16</th>
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<tr>
<td>Speech</td>
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<td>Intellectual</td>
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<tr>
<td>Mental</td>
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<td>Autism</td>
<td>709</td>
<td>642</td>
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<tr>
<td>Orthopedic</td>
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<tr>
<td>Hearing</td>
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<tr>
<td>Visual</td>
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</tr>
<tr>
<td>Other</td>
<td>2,247</td>
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</tr>
</tbody>
</table>

Houston Chronicle
She also said in September that special ed is actually harmful because teachers have lower expectations for kids with labels.

“If the disability label was going to produce better results for kids, then we should have all kids line up. Unfortunately, that's not the case,” Kumar said, noting that special ed students score worse on standardized tests than kids without disabilities. “Special education does not deliver better outcomes for kids.”

National education experts took exception to her statement about labeling and expressed concern over HISD’s low special education enrollment.

“Wow,” former Boston Public Schools Superintendent Carol Johnson said. “Seven percent is almost unfathomable.”

Several Houston school board members said they were outraged by the Chronicle’s findings. Anna Eastman, Michael Lunceford and Rhonda Skillern-Jones, as well as member-elect Anne Sung, all vowed to take action.

“We need to address this,” Eastman said.

Rebecca Amstutz will never forget the first time she heard about the Texas Education Agency’s 8.5 percent special education enrollment benchmark.

It was 2006, and Amstutz was teaching math at Hogg Middle School in the Heights. She had a sixth-grader who seemed bright but was struggling in her class, making her suspect a disability might be holding the student back. She approached a colleague to ask about the special education referral process. She was stunned by the response.

“ ‘Don’t bother,’” she was told. “ ‘They won’t even take the request. Remember the cap.’”

Federal law requires schools to evaluate all students suspected of having a disability. The law even requires districts to search out and screen potentially disabled children, including those in private school or not in school at all.

But Amstutz, who retired in 2013 after 27 years with HISD, said that in her final years in the district, her attempts to get students evaluated were routinely rejected because more than 8.5 percent of the school’s students were already in special ed.

Her experience spoke to how seriously HISD took the benchmark.

When the state set the target in 2004, about 21,000 of HISD’s 210,000 students were in special education, statistics show. It took HISD just four years to move from that 10 percent rate to below 8.5 percent, a difference of more than 3,000 kids.

Then HISD officials set a new goal.

In 2010, Grier hired a Harvard University professor to audit HISD’s special education department and then asked Kumar to write a strategic plan.

The audit noted HISD’s small special ed rate, but then defended it - by citing the TEA benchmark. “(HISD’s) percentage is also consistent with Texas Education Agency guidelines,” the audit said.

Kumar’s Comprehensive Program Improvement Plan, which she completed during the 2011-12 school year, included a goal similar to the TEA target but more restrictive.

“Maintain the percent of students
with disabilities at 8% of the district’s enrollment,” the plan said, according to a copy obtained by the Chronicle.

The goal was disseminated throughout the district and articulated to a Special Education Community Advisory Committee, two members said.

“They always had that magic number that they wanted to keep in (special ed),” committee member Sari Obermeyer said.

Most rank-and-file HISD educators interviewed by the Chronicle said they were not told specifically about a target percentage. But more than a dozen said they were.

At Attucks Middle School, everybody knew about the “cap,” said Iocca, the longtime language arts teacher. Teachers sarcastically referred to it as:

“TEA’s attempt to legislate the disappearance of special ed students,” he said.

“We had long, agonizing meetings where we tried to push as many special ed students as we could into general education just to meet TEA’s mandate,” said Iocca, who taught in HISD for 29 years before retiring. “You realize, this is not the best environment for these kids, but there’s nothing you can do about it.”

Teachers tried to fight back, but they soon realized that resistance would bring trouble, Iocca said.

“The principals and the other administrators had a pretty good idea of what was going on,” he said. “If teachers referred too many kids, they’d say, ‘Maybe it’s a classroom-management issue.’ Your efficiency as a teacher was questioned.”

HISD principals also have been punished for special ed “over-identification,” said Kristi Rangel, a former principal of Kashmere Gardens Elementary, a northeast Houston school where 99 percent of students are minorities.

Rangel recalled constant pressure to reduce special education rates. Once, when a fellow principal was fired, she was told by colleagues that it was because he refused to comply with the target.

“School districts have to do what the TEA tells them to do,” said Rangel, who left in 2015 to join the Houston Health Department. “It’s the reality.”

Only 5.7 percent of Kashmere Gardens Elementary students now receive special education.

Houston ISD’s effort to curtail special education began soon after the state set its 8.5 percent target. With months, Saavedra and his special ed director, Carolyn Guess, increased the paperwork required to get students evaluated and created committees to vet evaluation requests and decide whether

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**Special education rates by city**

Houston ISD provides special education services to a far lower percentage of students than almost any other big city school district in the country. Among the top 50 biggest cities, its rate ranks 49th. Another Texas city, Dallas, is 50th.

<table>
<thead>
<tr>
<th>City</th>
<th>Rate</th>
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<tbody>
<tr>
<td>Cleveland</td>
<td>22.5%</td>
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<tr>
<td>Milwaukee</td>
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<tr>
<td>Boston</td>
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<td>Indianapolis</td>
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<td>Minneapolis</td>
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<td>New York City</td>
<td>18.7%</td>
</tr>
<tr>
<td>Omaha</td>
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<tr>
<td>Detroit</td>
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<tr>
<td>Tulsa</td>
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<td>Baltimore</td>
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<td>Washington DC</td>
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<tr>
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<td>Seattle</td>
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<td>Kansas City</td>
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<td>Philadelphia</td>
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<td>Portland</td>
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<td>Phoenix</td>
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</tr>
<tr>
<td>Dallas</td>
<td>7.0%</td>
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</tbody>
</table>

Note: Data for Phoenix, Colorado Springs, and New Orleans were unavailable.

Sources: U.S. Department of Education, Texas Education Agency.
to approve them, among other moves.

“The process for getting an evaluation became very difficult and time-consuming,” said Claudia Anderson, who worked in a variety of roles over a 34-year HISD career and retired in June. “It was all about delay, delay, delay.”

Then, after enrollments started to fall, HISD rolled out a new evaluation request form. The form, which is still in use, prohibits teachers from filing a request until they certify that a student’s struggles in school could not possibly be explained by trauma, moving between different schools, “any variables related to the student’s medical history,” “any variables related to family history,” “the student’s cultural background” or other “exclusionary factors.”

Special education evaluations are supposed to check for the presence of those issues. But several experts said HISD’s form is so broad that it likely deters teachers from requesting evaluations. Some suggested it might be illegal.

“Such a criterion includes just about each and every student not only in HISD but in just about any school,” said John Lloyd of the University of Virginia. More recently, under Grier and Kumar, several diagnosticians said they were urged not to diagnose students with learning disabilities until second grade. Problems before then could be caused by a lot of things, the diagnosticians said they were told.

Employees also have testified about that in court cases involving special ed denials. Evaluation specialist Katherine Bell said in a 2013 case that she was “not supposed to identify dyslexia” before second grade, records show.

Federal law does not include any grade line and encourages schools to identify disabilities as early as possible.

Experts, including professor Barbara Pazey of the University of Texas, quoted research saying dyslexia can be diagnosed prior to second grade.

But the most harmful delay tactic, according to employees, has been Response to Intervention, a new set of regular-education teaching techniques in use across the country that have been championed in Houston by Kumar.

Federal officials have approved RTI, with one caveat: Schools cannot require teachers to try RTI before requesting a kid be evaluated for special ed.

That is exactly what has happened in HISD, according to current and former staffers.

**Steady drop in special ed rates**

HISD has kept its special education rate below the state average by setting internal goals even more restrictive than the Texas Education Agency’s enrollment target.

**Little progress on disproportionality**

The dramatic reduction in special education services in Houston ISD has done little to address the fact that African-Americans are more likely to receive services.
“RTI was a huge roadblock,” said Renee Tappe, who retired in 2015 after 35 years in special education at HISD. “Every now and again, it would help a kid a little bit, but when you look at the number of kids denied, it’s not even close to being worth it.”

When delay is no longer possible, several HISD staffers said they have been encouraged to suspend or expel students who act out instead of evaluating them for special ed. A 2015 TEA probe confirmed HISD has done that multiple times, including by charging kids with truancy, according to records obtained by the Chronicle.

The district also has started increasingly serving students with dyslexia in Section 504, a less robust and less accountable program than special ed.

Veteran employees also pointed to the budget cuts as a way that HISD has intentionally lowered special education rates. Officials have cut nearly 600 special ed positions over the past decade, a 40 percent drop that has been even sharper than the dip in students, statistics show.

Cuts in the number of diagnosticians have made it harder to get evaluations, while cuts in other areas have diminished the amount and quality of services available to disabled students, the staffers said.

Today, HISD - the seventh-largest school district in the country - does not employ a single Board Certified Behavior Analyst, a specialist certified to provide the therapy that is seen as the best way to serve autistic students.

The district also has set an arbitrary threshold that forbids special education students from receiving the most intensive types of supports unless their IQ is below 60 in two different areas, records show.

“The teachers pretty much knew that (special ed students) wouldn’t get any services. So they thought, ‘Why would I go through all this to get the kid identified?’ All the paperwork and the rigmarole,” said diagnostician Mary Ann Ryerson, who retired in 2015.

Ryerson and others said they were particularly upset with the IQ threshold, in part because the commonly accepted national standard for when a student needs help is an IQ of 70. Setting the threshold at 60 was “shocking” and “illegal,” Ryerson said.

Together, the moves have helped drop HISD’s special education population by 5,000 students, even as the district’s total enrollment has grown.

HISD’s percentage is now so low that most major cities provide special education services at a rate twice as high.

If the district provided special ed at the national average, more than 12,000 more children would be getting services.

Nevertheless, HISD has continued to focus on an alleged problem of “over-identification.”

Dozens of current and former employees said they were led to believe that the district was in trouble with the federal government for having too many special ed students.

“We were told that several times,” said Simon Babin, a 40-year teacher who retired from Scarborough High in 2013.
DENIED

The pressure made teachers feel like they would get in trouble for referring students to special ed – especially if the child was African-American, said teacher Ron Doak, who retired from Hartman Middle School in 2013.

Laterrica Williams, who is African-American, was among many parents who told the Chronicle that they felt their kids were kept out of special ed.

Her son, Tra’Vris, is a lanky 14-year-old who has been diagnosed with bipolar disorder and ADHD. He sings in his church chorus and dreams of a career in the military, but his disabilities hinder his ability to pay attention in class, which sometimes gets him in trouble, his mother said.

He had to repeat first grade and sixth grade, school records show.

His mother said she asked HISD three times in five years to evaluate him for special education. Each time, the district said no.

Now, she’s worried that if her son doesn’t get the help he needs, he’ll get frustrated and drop out.

“For them, they see he has a problem, but it’s going ignored,” said Williams, who works as a cashier and maid. “It’s very aggravating as a parent who wants their child to progress. If they need help, help them. And this child clearly needs help.”

The district only recently agreed to conduct an evaluation after Williams contacted a nonprofit disability-rights lawyer. She hopes it’s not too late.

Ericka Mellon contributed to this report.
Families flee public schools when special ed withheld

City closes 2016 in red

Special ed denials a common factor in withdrawals

Taxpayers on the hook for developer’s bankruptcy

Severely disabled children often can’t get services

DENIED
Dec. 31, 2016
Seventh in a series
JENNIE Grau didn’t realize that it would be hard to find a private school. She didn’t know that the nearest good one was an hour away. She certainly didn’t know that it cost $50,000 per year, an expense that would turn her life upside down.

All she knew was that the public school system had failed her family.

For years, the Conroe Independent School District had refused to evaluate her identical twins for special education services, even after the otherwise
bright boys tested in the second percentile in reading and began showing other clear signs of dyslexia.

So when a teacher told her on a cold December morning four years ago that she was not likely ever to get dyslexia services in Conroe ISD, Grau decided on the spot to pull her second-graders out of school.

She asked just one question before signing the paperwork:

“Can we stay until lunch so the boys can say goodbye to their friends?”

It’s a scene that has played out across Texas, where a target limiting special education enrollments to 8.5 percent has led many frustrated families to leave the public schools and turn to private schools or homeschooling, the Houston Chronicle has found.

A data analysis comparing 15 years of special education enrollments with parent withdrawal rates in all 1,200 Texas school districts as well as all other states that had available data shows that many more families are leaving Texas public schools and suggests that limitations on special ed are part of the reason.

Among the findings:

• It has become increasingly common for Texas parents to move their children from public school to private school or schooling at home. About 33,000 students are now pulled out annually, which is about 30 percent higher, relative to overall enrollment, than when the target took effect in 2004.

• The phenomenon has defied national trends. Nationwide, the number of children educated outside public schools is dropping, and no other state that tracks withdrawals has experienced a significant increase.

• The Texas surge in parent withdrawals has occurred primarily in school districts that have drastically cut their special education rates since 2004. In the 20 major districts with the biggest special ed declines, withdrawals have soared by 44 percent. In the 20 major districts where special ed rates haven’t changed much, withdrawals have actually dropped by 18 percent.

To be sure, many factors affect rates of withdrawals from public schools, including white flight, overcrowding, religious beliefs and school performance. Still, four independent educational statisticians said the Texas data suggested that the cutting of special education was most likely a factor in the withdrawal increase.

“There is something there,” said Gibbs Kanyongo, an associate professor of educational statistics at Duquesne University in Pennsylvania.

School employees and advocates said they were not surprised by the data.

Dozens said they had seen an increase in parents leaving public schools after being denied special ed.

For many, the trend was evidence that the Texas Education Agency policy had led the state to abandon some of its most vulnerable children.

“You look at these kids and they clearly need services, but you can’t give it to them because you’re already at 8.5, and you know that some of (those families) are going to give up. … They’re going leave the system,” said Desha Mills, who has taught in San Antonio ISD for 16 years. “We’re abandoning them.”

Rudy Crew, a former Oregon state education director and superintendent of the public school systems in New York City; Miami; and Sacramento, Calif., called the TEA policy an example of officials “turning a blind eye to children with disabilities” and said the withdrawal numbers were...
among the clearest evidence of its failure.

“All that this has done is exacerbate gaps in our society,” Crew said. “It’s leaving parents to shoulder the burden on their own, which means some are going to be able to do it, and some are not.”

The TEA, which has denied that any child has been deprived of special ed, declined to answer questions about the data.

In a statement, Conroe ISD said it “works with all families to provide the best learning experiences for each student in the least restrictive environment.”

The district’s special ed rate has dropped from 10.6 percent in 2004 to 8.2 percent. In that time, an average of 513 kids have been pulled out in favor of private school or homeschooling each year — twice the average in the years before 2004. In all, more than 5,000 students have left.

Jennie Grau called her husband from the car, her voice bouncing among anger, excitement and fear.

“We put our trust in this school,” she vented as she raced away from Buckalew Elementary with the twins that December day.

In many ways, the one-story brick building had shaped the previous decade of all of their lives. Jennie and her husband, David, had moved from The Heights to The Woodlands in search of a quality school for Benner and Hayden. They chose
Fleeing the public school system

Every year, thousands of parents give up on the public school system and put their children in private school or homeschooling. It happens in every state. But in Texas, it has become much more common. An unprecedented reduction in special education is partly to blame, according to data and experts.

An exodus from public schools, but only in some districts

There has been a surge in Texas parents withdrawing their kids from public schools, but it has not happened everywhere. The districts that have seen the largest increases in the percentage of their students being pulled out have also had the biggest reductions in special education students. Experts say this suggests the trend is, in part, a reaction to a reduction in the availability of services.
Buckalew because it had a great reputation and seemed like a good fit.

At first, it was. The Graus found a house a mile away from the school and close to David's family. The boys, who were both outgoing, easily made friends. Benner joined the school lacrosse team, and Hayden took up soccer.

David worked 10 miles down the road from the school, allowing him to serve as an assistant coach for both of his sons’ teams.

The family adopted two “morkies” — Yorkshire terrier /Maltese mixes — and settled in to a comfortable suburban life.

Benner and Hayden initially got good grades, records show, but they performed better on assignments that did not involve reading. On one report card, for example, Benner got 90s in math and science but a 70 in language arts, barely enough to pass.

On the recommendation of a private therapist, Jennie and David requested special education evaluations in 2011, when the boys were in first grade.

But Buckalew Elementary, which at the time gave special ed to just 6.3 percent of its students, said no, arguing the boys did not need help because they were passing.

They asked again throughout 2011 and 2012, they said, but the answer was always the same.

Then, in September 2012, the boys tested in the second percentile in reading, records show. And at about the same time, a teacher did a “Dyslexia Checklist” that found Benner was showing 20 of the 28 signs of the disability.

Benner also was showing signs of anxiety and depression, records show, a likely result of frustration and failure.

Both boys were falling further behind in school, and their parents worried their problems could spiral into irreparable damage.

The parents felt sure their sons would soon receive services. But in November 2012, they got a stunning letter: The school still would not even evaluate Benner or Hayden, administrators said, because they were “making academic progress.”

The Graus were incensed. They thought about hiring a lawyer, but they could not afford one.

Jennie found the principal to demand answers, but that conversation ended with yet another shock.

“We’re not really sure if dyslexia is real,” Jennie says she was told.

In the days after leaving Buckalew, the Graus toured several schools and visited the Neuhaus Education Center, which specializes in helping children with reading disabilities.

The search was disheartening. Few places had openings, and even fewer offered dyslexia services. The ones that did were private schools that were astronomically expensive.

“We were terrified. Absolutely terrified,” Jennie said. “We knew we were running out of options.”

They had already ruled out homeschooling, reasoning that if professionals could not help their sons in public school, they could not do it on their own.

Eventually, Jennie and David decided it would be best to enroll the boys in a well-respected campus almost an hour away and supplement the in-school supports with services at Neuhaus and the Texas Reading Institute.

The family couldn’t afford it, though. Together, the tuition and extra supports for both came to more than $50,000 annually,
not including additional recommended vision therapy.

Insurance would not cover any of the costs.

The Graus scraped together as much as they could. David borrowed money from his family. Jennie took a part-time job as a substitute teacher. Benner and Hayden sold belongings on eBay.

Still, it wasn’t enough.

Finally, just as things looked dire, an opportunity came. A health care technology company offered David a job that would pay enough to cover everything the boys needed.

The catch: The job was based in Dallas. David would have to work there five days every week. He would see his wife and kids only two days a week.

The Graus are not the only ones to have faced such a decision.

Of the more than 700 Texas families that have shared stories with the Chronicle about being denied special education, nearly 100 have said they ended up leaving public schools or leaving the state altogether. Many said the moves forced them to take new jobs or to leave jobs, to move or to put off graduate school. They did it anyway.

David took the job.

Four years later, Benner and Hayden are doing much better.

Within two years of entering private school, both were reading at grade level. Today, thanks to the one-on-one help and other services they should have received in public school, they are performing above grade level — in all subjects.

Benner is planning to become a lacrosse-equipment designer. Hayden wants to be a geologist.

Both boys love the outdoors, and they happily spend much of their time playing sports or camping with the Boy Scouts.

They frequently miss their dad, though. They wish he could coach their sports teams again. They still cry when he leaves long before the sun comes up on Monday mornings.

On the Sunday after Thanksgiving, the Graus picked up a Christmas tree, but by the time they got home, it was too late to decorate it. The boys begged their father to stay another day. But he couldn’t, so the tree remained undecorated until David got back. For that whole week, the boys cried nearly every time they saw it.

The parents sometimes think about going back to their old lives.

Both are products of public schools and strongly support public education. Jennie’s grandparents both spent their careers as teachers in Arkansas. Her mother taught English in Alabama. Her sister was an elementary teacher in Missouri. And her cousin teaches special ed in Pearland.

But the Graus will never go back.

“We would never really consider it,” Jennie said on a recent afternoon. “Our children were treated as second-class citizens, and so were we.”
Feds order Texas to comply with special ed laws

Public Education Committee, in a 50-48 vote, approved $1.1 billion in funds to pay for Texas school districts to address special education needs. The decision ended a months-long battle that saw several members of the House and Senate vote to strip the funding.

Mental health officials alarmed

The state's special education system is under scrutiny once again as more children than ever are receiving services. The decision was made after a lengthy debate over whether to enact a new law that would make it easier for school districts to identify children with special needs and provide them with necessary services.

Energy jobs aren't likely to rebound soon

A new study by the Center for Economic Planning shows that the oil industry is not likely to recover soon. Jobs in the industry have declined by 20% since the start of the year, and the study predicts a continued decline in the coming months.

Judge cites lack of clarity in state code, blames lawmakers

A federal judge has ruled against the state of Texas in a case involving special education. The judge said that the state's code is unclear and that lawmakers need to clarify it.

Economic espionage is a federal crime and on the rise in U.S.

As the U.S. economy continues to grow, so does the threat of economic espionage. The Department of Justice has been working to combat this threat, but there is still much work to be done.

Feds' response earns praise of advocates

The federal government has been praised for its response to the recent school shooting in Texas. Advocates say that the government has been quick to respond and that it is taking the necessary steps to keep students safe.

Corporate spying, theft hit Oil Patch

The oil industry is facing a new threat: corporate spying and theft. Companies are being targeted by foreign entities, and the threat is growing.

Trump's empire nearly led to ruin

Donald Trump's empire nearly led to ruin in 2016. The mogul's business empire was under investigation by the FBI, and he was facing a possible prison sentence.

DENIED

With $1 billion in new funding, officials outline plan to fight Zika

Officials have outlined a plan to fight Zika, the mosquito-borne virus that can cause birth defects. The plan includes new funding and increased efforts to control the mosquito population.
AUSTIN - The federal government on Monday ordered state officials to eliminate an 8.5 percent benchmark on special education enrollment enforced in Texas’ 1,200 school districts unless they can show that it had not kept children with disabilities from receiving appropriate educational services.

The U.S. Department of Education directed the state to report back in 30 days on the benchmark’s impact and on which school districts across the state may have relied on it to deny special education services to children. Its findings on those districts should include “the
specific steps the State will take to remedy the effect of such past practices.”

“It appears that the State’s approach to monitoring local educational agency compliance may be resulting in districts’ failure to identify and evaluate all students suspected of having a disability and who need special education,” Sue Swenson, the department’s acting assistant secretary for special education, wrote in a three-page letter to Mike Morath, head of the Texas Education Agency.

“Depending on TEA’s response,” Swenson wrote, the federal government “will determine whether additional monitoring activities or other administrative enforcement or corrective actions are necessary.”

The TEA, which has denied that children with disabilities have been kept out of special education but has promised to review the issue, wrote in a statement that it “welcomes the opportunity” to discuss its policies.

The Houston Chronicle revealed the existence of the arbitrary enrollment target last month, reporting that the TEA quietly implemented the 8.5 percent benchmark without consulting the Texas Legislature, State Board of Education, federal government or any research.

The agency has required some school districts that serve more than 8.5 percent of children to create “Corrective Action Plans,” and schools have responded to the policy by making special education much harder to access, the Chronicle found.

When the policy began in 2004, about 12 percent of Texas students received some form of special education services such as tutoring, therapies and counseling. That was close to the longtime national average of roughly 13 percent.

In the years since, the Texas percentage has plummeted to the lowest in the United States - by far. In 2015, for the first time, it reached exactly 8.5 percent. The special education enrollment in the Houston Independent School District was even lower, at 7.4 percent.

Swenson, in her letter, noted that the state’s identification rate for students in need of special education “has declined by more than three percentage points” since the 8.5 percent benchmark went into effect.

The decline has saved the Texas Education Agency billions of dollars but denied services to children with autism, attention deficit hyperactivity disorder, dyslexia, epilepsy, mental illnesses, speech impediments, and blindness and deafness, the Chronicle found.

If Texas provided services at the same rate as the rest of the country, more than 250,000 more children here would be receiving services.

**Target was discussed in 2014**

Since 1975, federal law has mandated that public schools provide specialized

- TEA must discontinue any cap placed on special education enrollments statewide.
- The state must determine which districts should remedy prior exclusions.
- Districts must identify, evaluate and serve all disabled children in need of special education.
DENIED

education services to all eligible children with any type of disability.

TEA officials have said state-by-state comparisons are inappropriate and have attributed the dramatic declines to new teaching techniques that they say have lowered the number of children with “learning disabilities,” such as dyslexia.

In response to criticism from lawmakers, school board members, superintendents, advocates and parents, the TEA also has said the policy was adopted in response to a federal effort to reduce over-representation in special education.

Swenson’s letter disclosed that Texas and the U.S. Department of Education have previously discussed the target, in 2014. In that exchange, according to the letter, TEA special education director Eugene Lenz said the districts that exceeded 8.5 percent were not penalized but merely monitored to ensure compliance with the law. He also assured the federal government that the state ensures that all children with disabilities get services.

“However, the information presented in the Chronicle’s investigative article raises serious questions about Texas’s compliance” with federal law and about “the implementation of the approaches Texas described to (the U.S. Department of Education) in 2014,” Swenson wrote.

“According to information in the article, some districts view the 8.5 percent (benchmark) as a cap on the number of children with disabilities that may be identified in a district, and in some instances if a district exceeds the cap, the district will be required to develop a corrective action plan demonstrating how it will reduce its special education identification rate.”

The six-month Chronicle investigation, which included a survey of all 50 states, an examination of thousands of pages of records and over 300 interviews with parents, educators and officials, determined that no other state has ever set a target for what percentage of students should get special education.

‘Texas must do better’

Swenson’s letter also ordered the TEA to require all school districts “to inform their staff and the parents of students enrolled in the district’s schools of the steps TEA is taking to ensure that all children suspected of having a disability and who need special education and related services are identified, located and evaluated.”

Swenson noted that she was notifying the Department of Education’s top official for elementary and secondary education and its assistant secretary for civil rights, which has purview over issues of discrimination, saying that other benchmarks put forth by the state for evaluating districts’ special education programs “may lead to denial of identification of children with disabilities from specific racial/ethnic or language groups.”

“We will be following up with you on these indicators as well,” Swenson wrote.

Special education advocates applauded the federal government’s decisive stand.

Disability Rights Texas, which was the only advocacy group to discover the target, said in a statement that it “welcomes the U.S. Department of Education’s proactive investigation of this misguided and harmful state monitoring standard.”

“The Department’s demand for a response from the Texas Education Agency is a first step toward resolving this issue,” the group said. “However, there remains much more work to
ensure that children with disabilities are not wrongfully excluded from a free and appropriate public education. Oversight of TEA's monitoring system is necessary not only by the federal government but also by the Texas Legislature.”

Lawmakers on both sides of the aisle also applauded.

“Special needs kids need this help,” state Rep. Armando Walle of Houston wrote on Twitter. “Every day, parents across Texas entrust us with providing their children the education and services they need to succeed,” said state Rep. Rick Galindo, R-San Antonio, a member of the House Public Education Committee, in a statement. “Texas must do better.”
Denied
Nov. 3, 2016

Advocates disappointed with TEA letter

Obama urges young people, African-Americans to back Clinton

Baylor sets up website to counter criticism about policies

Obama faults FBI chief on emails

Sinking oil prices dampen spirits

Baylor accuser turns up volume

Tenets of Trump voters

Fighting Cancer? Only Kelsey-Seybold Cancer Center Has the Edge. Learn more about "Kelsey Edge" video series in Kelsey-Seybold.com/CancerEdge.
AUSTIN - The Texas Education Agency has agreed to stop auditing school districts that give specialized education to more than 8.5 percent of students, officials announced Wednesday, cheering experts, advocates and lawmakers outraged by the policy.

In a letter to the U.S. Department of Education, which had ordered the state to eliminate the arbitrary decade-old enrollment benchmark, officials promised to suspend it and work to eventually end it altogether.

“TEA will send a letter to all school districts in the state reminding them of the requirements of IDEA (the federal law on special education),” wrote Penny Schwinn, the agency’s deputy commissioner of academics. “In addition, TEA will ... not use (the policy) for the purposes of interventions staging moving forward.”

But the agency also vigorously defended the policy, saying it was not a “cap” on enrollment, was not meant to save money and did not seriously punish districts for failing to comply. Officials also said they had no evidence that the policy had kept any disabled students out of special education, and they did not offer any plan for identifying and helping children who may have been shut out.

As many as 250,000 children with autism, attention deficit hyperactivity disorder, dyslexia, epilepsy, mental illnesses, speech impediments, blindness and deafness have been denied needed services, the Houston Chronicle found in an investigation. Texas now has by far the lowest percentage of its students in special education of any state in the country.

Some advocates for children with disabilities, who earlier in the day had urged the TEA to respond to the federal government in good faith, expressed disappointment in the agency’s letter.

State Sen. Jose Menendez, D-San Antonio, said he still planned to file legislation to force the state to end the policy.

“I think it’s preposterous that they refuse to own up to this arbitrary cap,” said Menendez. “And if they can’t own up to it, how can I trust them when they say they’re going to eliminate it? If they can’t admit that it was wrong, how can I trust that they’ll fix it?”

The Chronicle revealed six weeks ago how TEA officials quietly imposed the 8.5 percent target as part of a school
district monitoring system while facing a $1.1 billion state budget cut in 2004. The officials did not publicly disclose the target or consult with lawmakers, the federal government or any research.

Under the monitoring system, school districts have received a perfect score on one indicator for providing services to 8.5 percent of students or fewer. Serving a higher percentage has led to a worse score.

Over the past 12 years, the TEA has aggressively penalized school districts that get low scores on the system, and many districts have been required to write Corrective Action Plans describing how they will lower their special education enrollments.

Federal law obligates all public schools to provide special education to all eligible children with disabilities. No other state has ever set an enrollment target.

Enrollment plummets
When the policy began in 2004, about 12 percent of Texas students received some form of special education services such as tutoring, therapies and counseling. That was close to the longtime national average of roughly 13 percent.

In the years since, the Texas percentage has plummeted to exactly 8.5 percent. The rate in the Houston Independent School District was even lower, at 7.3 percent. The national average has remained at 13 percent.

Last month the U.S. Department of Education sent the TEA a letter asking for an explanation of the policy. State lawmakers from both political parties also have condemned the benchmark and called for changes. Last week, Texas House Speaker Joe Straus asked the TEA to suspend the policy to give the Legislature time to make changes.

Schwinn, the agency official, described the target as an “indicator for reporting purposes to provide districts, TEA, and the public with information about the range of performance at the district, region, and state level on all of the PBMAS (performance-based monitoring analysis system) indicators in both the current year and longitudinally.”

“If some district staff erroneously viewed the indicator’s lowest performance range as a target rather than a data point and felt discouraged to initiate special education referrals, we believe the actions

“I think it’s preposterous that they refuse to own up to this arbitrary cap. And if they can’t own up to it, how can I trust them when they say they’re going to eliminate it?”
State Sen. Jose Menendez, D-San Antonio

The TEA, which responded to the investigation by promising an in-depth review of the target, issued its most complete defense of its special education policies Wednesday.

The agency said it believes that the state’s special education enrollment has dropped due to federal laws that it said had tightened the evaluation process and prohibited schools from putting students in special education just to exempt them from tests.

It said it had sought stakeholder input before implementing the benchmark, listing several dates on which stakeholders were convened. It also said it was not implemented to save money, noting that federal law prohibits states from reducing spending on special education from year to year.
that we outline in this letter will address that,” she said.

**Students were left out**

Dozens of current and former school officials who were interviewed during the newspaper’s investigation said they viewed the 8.5 percent as a strict cap. Many of them admitted that they delayed or denied special education to children who desperately needed services.

The investigation also published examples in which districts were penalized for serving too many kids.

One district, Laredo ISD, was cited for “potential over-identification” when it was providing services to 11 percent of students - above the state standard, but well below the national average. Administrators in that district responded by ordering speech therapists and other employees to purge the special education rolls, leading more than 700 kids to be removed from services in one school year.

Advocates criticized the state’s letter, saying that “stakeholder input” is not the same as public input, that the policy still saved money by preventing spending increases as more students have entered the state, and that the state’s explanation for the enrollment drop did not make sense because federal laws have affected all states, while only Texas has had a large drop.

“Disability Rights Texas is disappointed by the Texas Education Agency’s defensive response filed with the U.S. Department of Education today,” the group said in a statement. “Students’ futures are held in the balance while TEA refuses to claim any responsibility for the dramatic decline in services to children with disabilities.”

Earlier in the day, 22 national disability advocacy groups wrote to the TEA to say they were “deeply troubled” by the Chronicle’s findings.

After the TEA released its letter to the federal government, Straus said in a statement that the agency’s decision to suspend the target was “good news for Texas families.”

A spokeswoman for the U.S. Department of Education said the department would review the TEA letter. “Texas addressed multiple questions and issues and included a number of attachments,” said the spokeswoman, Jessica Allen. “The Education Department will carefully review the state’s response and, after the review is concluded, determine appropriate next steps.”
AUSTIN - At least 150 rambunctious and angry parents, educators and advocates packed a government service center in East Austin Thursday night to tell federal education officials in no uncertain terms that Texas’ cap on special education has unlawfully harmed thousands of disabled children and should be rigorously investigated.

Christopher Dennis, the district attorney of Hockley County and the father of two special needs children, helped set the tone early on when he described how hard it had been to obtain appropriate educational services for his kids and called special education in Texas “a culture of avoidance - and what it
avoids is the truth.”

“You said you’re trying to figure out what the appropriate next steps are,” Dennis, who had traveled 350 miles to attend the forum, said to loud applause. “Let me tell you what the appropriate next steps are. I’m a district attorney. I know what the next steps are.”

He recommended appointment of an independent counsel and the immediate preservation of all documents on file at the Texas Education Agency. “The numbers themselves show a per se denial of civil rights to Texas children,” he said.

With over 100 people signed up to speak at a session that was scheduled for two hours and went well beyond four, at least four of the first 30 speakers urged the federal officials to bring criminal charges against the TEA.

The throng had come for the last of five highly unusual “listening sessions” held by federal officials across the state this week as part of a probe they launched in October in response to a Houston Chronicle investigation that revealed the TEA arbitrarily decided in 2004 that only 8.5 percent of students should get special education services such as counseling, tutoring and therapy.

In the years since, the agency has audited school districts for serving too many children and required many to file “corrective action plans.” Faced with such aggressive enforcement, most of the state’s 1,200 school districts have responded by dramatically curtailing services, dropping the percentage of students in special education from near the national average of 13 percent to exactly 8.5 percent, by far the lowest of any state in the country.

End the benchmark

In response to the revelations, the U.S. Department of Education ordered the TEA to end the benchmark unless it could prove that no children with disabilities have been deprived of services.

The TEA later told the federal government it immediately would suspend and eventually eliminate the benchmark. But it also vigorously defended the policy, saying it was not a “cap” on students allowed to get special education services, it was not designed to save money and the agency did not seriously punish districts that gave services to more than 8.5 percent of students.

At one point during the forum, David Beinke, a special education advocate and disability specialist at Cirkiel & Associates, a law firm in the Austin suburb of Round Rock, spotted Gene Lenz, a top TEA special education official who helped create the 8.5 percent target in 2004. “Mr. Lenz, will you resign tonight?” Beinke asked.

Beinke also blasted the federal officials, including Ruth Ryder, the head of special education at the U.S. Department of Education who was in attendance, for not taking action until prompted to do so by the Chronicle investigation. He wondered aloud about the future of their investigation, with the new administration of President-elect Donald Trump about to take office.

Birgit Fisher, an advocate for Austin-area special needs parents, expressed similar pessimism about the likelihood for federal action, calling the series of listening sessions a “kumbayah tour a week before the school districts go on vacation.” She noted that “not a single ISD that I’m aware of has actually put the information about these sessions on their website.”

TEA supporter heckled

Jim Walsh, the most influential lawyer
representing school districts in the state, took the microphone as the first to speak in support of TEA. He said there was public input on the school district monitoring system that included the 8.5 percent special education benchmark back in 2004, although he acknowledged that notification of its implementation came in an arcane manual for state regulations.

“It’s true that nobody reads the Texas Register unless they’re paid to do so. But that (notification) is what the law requires,” Walsh said. “There is no evil plot at work here.”

But throughout his remarks, parents heckled him. “We do not need a lecture,” shouted one.

“How many more TEA plants will there be?” said another.

Eventually, Gregg Corr, the federal official running the meeting, said: “Mr. Walsh, would you like to submit your comments in writing?”

He did so, then left.

‘The cap exists’

Far more typical of those in attendance was Lisa Flores, whose 10-year-old son was denied special education at Austin Discovery School, a charter school.

“I just want to be very clear - the cap exists. We know it exists, and you’re not fooling anybody,” she said.

“I don't want to come off as angry. What I want to do is create possibility. But when there is defensiveness, when there is denial, there is no room for change. I'd like to create the possibility with everyone in this room to cease this cap, to remove those who participated in the formulation of this in conference.”

Angela Garvin talks about her son, who has cerebral palsy, at the “listening session” Thursday in Austin.
and enforcement of it, that they never make the same restriction again and that they be prosecuted for breaking the law.

“If the TEA just admits that this cap exists, I have a feeling that most people would forgive it. But it’s the cover-up that bothers me, because it diminishes everyone’s experience. Own it. Apologize. And make a pledge, a legally-binding pledge, that it will never ever happen again.”

In the Central Texas region, where many influential advocacy groups and lobbyists are based, the percentage of students receiving special education services has closely mirrored the state average for decades. It dropped from 12 percent in 2004 to 9.1 percent in 2009 before rebounding to its current rate, 9.3 percent, which is above the state average but still far below the national average.

Percentages have varied across the region, with schools south of Austin typically having lower rates and the more affluent schools to the north having higher rates.

In the region’s biggest district, Austin ISD, the fourth largest in the state, the percentage dropped abruptly from 12.5 percent in 2004 to 10.9 percent in 2006, a dip fueled by a 52 percent decline in the number of evaluations conducted each year, according to records obtained by the Chronicle. The rate is now 10 percent.

Despite Austin ISD being above the state average, it remains well below the national average and far below enrollment rates in major cities such as New York (18.7 percent) and Tampa, Fla. (14 percent).

Many advocates and educators have described significant problems in trying
to obtain special education services. Seven current and former district employees have said in interviews that they thought the enrollment target was interpreted as a strict ban on providing services to more than 8.5 percent of students, and all seven of them said they have seen children with disabilities not get services that they desperately needed. Austin ISD has denied those claims.

**Struggle in San Antonio**

Ronda Gottlieb had come from San Antonio to speak. She said her son, Evan, was in kindergarten in North East ISD, the city’s largest school district, when his teacher pulled her aside and belittled her. Evan, a little boy who loved puzzles and sports, couldn’t read, and it was her fault, the teacher told her.

Evan grew to dislike school, Gottlieb said. The next Christmas, Evan wanted Santa to teach him how to read, she explained. He just wanted to be normal, still reading on a kindergarten level by the end of first grade. It was the first-grade teacher who told her Evan might be dyslexic. But don’t tell anyone, Gottlieb remembered the teacher telling her, or she’ll get fired.

Gottlieb was well-acquainted with the disability. Her father suffers from severe dyslexia, got beaten by his father because he couldn’t read, and ultimately couldn’t cut it in college.

So she quit her white-collar job and sought out testing for Evan only for the district to tell her no.

“I keep being told, ‘He doesn’t have a disability. He’s just dyslexic,’” she said. “It’s so emotional at first when nobody cares.”

It wasn’t until she walked into a special education meeting with an advocate that officials granted her son services under a program called Section 504 of the disabilities act, which grants classroom accommodations for disabled children like extra time for tests but falls far short of special education.

Gottlieb said she has spent $50,000 between testing, advocates and private services to make sure Evans gets what he needs, but still hasn’t been able to secure for him what she believes he needs and is entitled to under federal law: special education.