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Legislature unanimously approves bill designed to end special ed cap

By [Andrea Zelinski](#)

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The Texas State Capitol building stands in Austin. Photo: David Williams / Bloomberg
David Williams/Austin Ridesharing

AUSTIN – Texas lawmakers have sent Gov. Greg Abbott a bill banning the state from ever setting a target on the number of students who can enroll in special education, formally rejecting the state’s decade-old practice of capping how many students with disabilities would receive services.

The Texas House passed Senate Bill 160 on a 145–0 vote Tuesday, following a unanimous vote in the Senate last month. The bill next heads to the governor, who has indicated he would sign the bill.

The measure is the first to pass out of both chambers in reaction to a 2016 [Houston Chronicle](#) investigation that found tens of thousands of students with disabilities were denied access to special education under an arbitrary target set by the [Texas Education Agency](#). The TEA has since discontinued the policy.

“SB 160 symbolizes the thousands of children who were denied access to their rights, as well as the parents, advocates, and teachers who fought tirelessly for them only to be stymied by a misguided TEA policy,” read a statement from Disability Rights Texas, which first discovered the cap. “However, the bill is more than a symbol – it also statutorily holds TEA officials to their promise. The bill ensures that future TEA commissioners have no latitude to disregard students with disabilities, thereby protecting students for generations to come.”

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The “Denied” series revealed the TEA set a de facto 8.5 percent cap for special education enrollments and punished school districts that exceeded the cap. While the nation averages 13 percent of students receiving special education services, Texas now serves the lowest percentage of special education services of any state in the country.

Although the TEA has already said it would no longer use the policy, the bill would ban the state from ever again using a monitoring standard that limits a school district’s or charter school’s number or percentage of students enrolled in special education services. The bill does not ban the collection of data on special education, such as race

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or ethnic background students, tracking types of impairments, placements of students in certain special education settings and types of disciplinary actions taken against students.

The series found that students with disabilities were turned away for services like tutoring and therapy due to the policy, which the TEA quietly enacted in 2004 while dealing with a \$1.1 billion state budget cut. The agency imposed the policy without telling lawmakers, federal officials or the public.

As many as 250,000 more students with dyslexia, autism, speech impairments and other disabilities would have received special education services had the state stayed at the national average.

The U.S. Department of Education is in the midst of an investigation of the state's special education operations.

Abbott tweeted last month that "Texas will fix flaws in special education." Should he approve the bill, the measure would take effect immediately.

The bill is one of 16 filed in reaction to "Denied," including measures to offset the cost to school districts that see a significant increase in special education evaluations, assemble a parent advisory committee and require additional teacher training. Lawmakers in the House have since voted on a school funding bill that would give schools more money to address students with dyslexia, although that bill appears to be in jeopardy in the Senate.

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Andrea Zelinski is a state bureau reporter focusing on education, politics, social issues and the courts. She previously covered the Tennessee legislature and local education for the Nashville Scene where she was news editor. She also wrote for the Nashville Post, the now defunct Nashville City Paper and TNReport news service, covered the Illinois statehouse and reported for the Associated Press and Small Newspaper Group. A Chicago-area native, she has a master's degree in Public Affairs Reporting from the University of Illinois at Springfield and earned her undergraduate degree at Northeastern Illinois University.

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