

July 7, 2015

Michael Williams  
Commissioner

John Craft, Superintendent  
Killeen Independent School District  
200 N.W. South Young Dr.  
Killeen, Texas 76543-4025  
[John.Craft@killeenisd.org](mailto:John.Craft@killeenisd.org)

**PRELIMINARY REPORT  
INFORMAL REVIEW REQUEST  
DUE: July 20, 2015**

**Response to Recommendation  
for Corrective Action due by  
July 20, 2015**

Dear Superintendent Craft:

The enclosed report presents the preliminary findings resulting from a Special Accreditation Investigation (SAI) conducted by the Texas Education Agency's (TEA) Division of Program Monitoring and Intervention (PMI) and the Special Investigations Unit (SIU) pursuant to the authority set forth under Texas Education Code (TEC) §39.057. The investigation related to noncompliance indicators in the Individuals with Disabilities Education Act (IDEA) accountability system's State Performance Plan (SPP) specifically SPP indicator 11. Killeen Independent School District (KISD) has reported annual noncompliance since 2007-2008 for the percentage of children who were evaluated for special education within the state-established timeline after receiving informed, written parental consent to evaluate. Additionally, KISD has neither responded in a timely manner to TEA's requests for documentation concerning complaints against the district nor has the district presented evidence to indicate that the district had completed corrective actions as a result of complaints or due process hearings.

This report covers only those allegations described in this preliminary report and investigated by PMI and SIU to date. These findings do not necessarily address all of the allegations raised before, during, or after our investigation. Additional investigative work may be conducted in the future to address any remaining allegations. Furthermore, other TEA divisions may be in the process of investigating KISD or issuing other investigative reports regarding the KISD.

This preliminary report is for your review and response related to the findings identified in the report. The school district or any person identified in this report as having violated a law, rule, or policy may request, in writing, an informal review of the preliminary report, Texas Education Code (TEC) §39.058 and 19 Texas Administrative Code (TAC) §157.1123. A request for an informal review must be received, along with any information or documentation the requestor would like the agency to consider during the informal review, on or before **July 20, 2015**, and addressed to the following postal mail or email address:

Mailing address: Judy Struve, Program Manager  
Texas Education Agency  
Division of Program Monitoring and Interventions  
1701 N. Congress Avenue  
Austin, Texas 78701  
Email address: [Judy.Struve@tea.texas.gov](mailto:Judy.Struve@tea.texas.gov)

TEA SAI #IR 2015-01-003  
Killeen Independent School District (CDN: 014-906)

If no formal review is requested by the deadline, this report will become final in accordance with 19 TAC §157.1123(d).

If you have any questions, please contact me at (512) 936-2582, or the primary investigators on the investigation, Judy Struve (512) 475-1790 or Jaime H. Reyes at (512) 936-2583.

Sincerely,



Jose Baca  
Team Lead Investigator  
Special Investigations Unit



Michael Greenwalt  
Director  
Program Monitoring and Intervention

Enclosures:  
Preliminary On-site Report of Findings

CC: Lizzette Gonzalez Reynolds, Chief Deputy Commissioner, TEA  
Von Byer, General Counsel, TEA  
Michael Berry, Associate Commissioner, Policy and Programs, TEA  
Alice McAfee, Associate Commissioner, Complaints, Investigations and Enforcement, TEA  
Sally Partridge, Associate Commissioner, Accreditation and School Improvement, TEA  
Judy Struve, Program Manager, Division of Program Monitoring and Interventions, TEA  
Ashley Jernigan, General Counsel, Legal, Complaints, Investigations and Enforcement, TEA  
Ron Rowell, Director of Governance, Complaints, Investigations and Enforcement, TEA  
Chris Cowan, Director of Enforcement, Complaints, Investigations and Enforcement, TEA  
Jaime H. Reyes, Investigator, Complaints, Investigations and Enforcement, SIU, TEA

Texas Education Agency  
Division of Program Monitoring and Interventions

## Preliminary On-site Report of Findings

### Section I: Overview: Overall History & Background

A special accreditation investigation (SAI) was conducted by the Texas Education Agency (TEA) of the Killeen Independent School District (KISD) on March 3-4, 2015 to determine the barriers for the district's lack of compliance with federal and state special education requirements.

In 2004, the US Department of Education Office of Special Education Programs (USDE/OSEP) implemented an accountability system for the Individuals with Disabilities Education Act (IDEA) that required each state to develop a performance plan that evaluates the state's efforts to implement the requirements and purposes of the IDEA. The State Performance Plan (SPP) identified five monitoring priorities and 20 indicators associated with these monitoring priorities. Under 34 Code of Federal Regulations (CFR) §300.600(d), the State must monitor districts using these quantifiable indicators to adequately measure performance in the priority areas.

Killeen ISD has been reporting district data for the SPP since the 2007-2008 school year. Indicator 11 reviews the district's compliance with Child Find, measuring the percent of students who are evaluated within the state-established time frame. For seven consecutive years, the district has reported noncompliance for the percentage of children who were evaluated within the state-established timeline after receiving informed, written parent consent to evaluate. *The result of this noncompliance is that special education services for eligible students have been delayed.*

Additionally, for the past nine years, the district has not responded in a timely manner to the agency's requests for documentation concerning complaints against the district or evidence to indicate that the district has completed corrective actions as a result of complaints or due process hearings.

Conducted under the authority of the Texas Education Code (TEC) §39.057, agency staff engaged in staff interviews, record reviews, and campus visits. The agency determined that the following findings resulted in KISD's lack of compliance with federal and state requirements.

### Section II: Findings

#### Topic 1: SPP Indicator 11 Noncompliance

##### ➤ *Data Integrity*

Each year, the Division of Federal and State Education Policy collects data from all school districts and charter schools to submit to the USDE/OSEP. Districts collect and report initial evaluation data for all students, ages 3-21, who were evaluated, had an eligibility determination, and had an individualized education program (IEP) developed between July 1 and June 30 of each year. Each district is required to determine who will assume the role of district certifier, who is responsible for ensuring that the data are accurate. Specific information and instructions are on the TEA website at [http://tea.texas.gov/Curriculum and Instructional Programs/Special Education/Data and Reports/General Information - SPP Indicator 11/](http://tea.texas.gov/Curriculum_and_Instructional_Programs/Special_Education/Data_and_Reports/General_Information_-_SPP_Indicator_11/).

Since 2007-2008 school year, Killeen ISD has reported noncompliance for the percentage of children who were evaluated for special education within the state-established timeline after receiving informed, written parent consent to evaluate. The following chart indicates the percentage of students who were evaluated within timelines:

## Section II: Findings

### Topic 1: SPP Indicator 11 Noncompliance

Year	Percentage of Compliance for Indicator 11
2007-2008	65.1
2008-2009	94.6
2009-2010	71.2
2010-2011	84.8
2011-2012	91.3
2012-2013	77.9
2013-2014	52.7

The chart reflects that the district has never reached compliance (100%) for this indicator.

For the 2013-2014 year, the district reported that 806 special education referrals had been received, with only 425 being conducted within required timelines and 381 not conducted within timelines. However, when reporting the reasons for delays in evaluations, the district reported that 149 late evaluations were due to scheduling problems and that 566 late evaluations were due to the lack of available assessment personnel. The numbers reported in the explanation for delay do not match the number of evaluations reported.

For the past two years, after the initial submission of the data, the agency has allowed districts to review the data to correct mistakes and/or provide clarifying data to the agency. Killeen ISD has not taken advantage of these opportunities.

During the entry conference, the superintendent and special education director reported that the data submitted for the 2013-2014 year were inaccurate. Agency staff had communicated the information from the collection to the special education director prior to the visit. She was unaware of the data that had been submitted. Before TEA's arrival, district special education staff reviewed all initial referrals for the previous year and found that the data were incorrect. The director explained that, during the 2013-2014 year, the district used a software for managing individualized education programs (IEPs) and data. The vendor did not support the updating of the software for the entire year; thus, the report from that software was not calculated correctly. The district provided agency staff with a corrected report that indicates that, out of 806 evaluations, 75 had not been conducted within timelines. The new report reflects that the district's percentage of compliance should have been 90.7 percent.

The superintendent asked if they could resubmit the data and was informed of the missed opportunity for correcting/clarifying the data.

The special education director reported that the submission of data to the TEA for the SPP was the responsibility of the compliance coordinator and that the coordinator had waited until the last day to submit. The compliance coordinator certified that the information was correct without anyone else reviewing the information. It is usually the responsibility of the special education director to review and certify the data before submitting it to the agency.

The compliance coordinator reported that there is no tracking system for knowing why an initial evaluation is not conducted within timelines. When agency staff asked how she arrived at the reasons for delayed evaluations, she reported that everything can be contributed to lack of staff.

The compliance coordinator further reported that, of the many responsibilities she has, she has no assistance in her position. However, the special education director reported that the compliance coordinator has been

## Section II: Findings

### Topic 1: SPP Indicator 11 Noncompliance

informed that she may use the director's administrative assistant whenever needed and that she does not take the opportunity to ask for assistance.

The updated report that district staff generated made it possible for the district to know which staff were responsible for missed timelines. In previous years, the district had not reviewed the data in a way as to know which staff was responsible for the noncompliance.

#### ➤ **Staffing**

Through information submitted by the district before the on-site review, agency staff learned that the district employs 38 diagnosticians, eight licensed specialists in school psychology (LSSPs), and 19 speech pathologists, who conduct evaluations at 56 campuses. A focus group was conducted with all evaluation staff. When asked to identify the barriers to completing initial evaluations and initial admission, review, and dismissal (ARD) committee meetings within established timelines, staff identified the following:

- Lack of staff;
- Over-referrals;
- Miscalculation of the dates for the time frame;
- Having a place to test at some campuses;
- Testing time vs. ARD committee meeting time;
- Having to cover for evaluation staff who are on leave;
- ARD committees being scheduled past the timeline;
- Schedule constraints by some campuses (ARD committees only scheduled for certain times/dates);
- Multiple evaluators involved in the evaluation;
- Interruptions to planned time scheduled for testing;
- Access to students; and
- Quality of referrals.

The special education director reported that the district has trouble finding evaluation staff due to the pay scale for these positions being lower than surrounding districts. Further, she reported that the district has not added any new evaluation staff because of a shortage of funding. She also reported that there is no backup staff available if someone is on leave for an extended period of time.

Diagnosticians have either one or two assigned campuses. Some diagnosticians reported that what was more of a barrier than having a high caseload, was having to assist at campuses where the diagnostician may be out for an extended time. Diagnosticians also reported a concern about being supervised by coordinators who were not certified diagnosticians. They did not feel that coordinators understood the work of a diagnostician and that coordinators who were diagnosticians could help out when more staff was needed.

In reviewing staffing allocation guidelines for several districts of similar size, agency staff found that diagnosticians and LSSPs usually work with a caseload of 110-125 students. As of February 19, 2015, the district reported 4,796 students with disabilities, with a total of 38 diagnosticians and eight LSSPs. Using these numbers, evaluation staff members at the district have an average caseload.

#### ➤ **Lack of Accountability**

## **Section II: Findings**

### **Topic 1: SPP Indicator 11 Noncompliance**

The special education director, coordinators, and campus principals were asked how evaluation staff members are held accountable for completing evaluations within timelines. All reported that steps are taken to assist staff when they fall behind. However, no one reported what action is taken for staff who consistently miss timelines. There does not seem to be a process in place to hold staff accountable for not meeting timelines.

Staff reported that both campus principals and a special education coordinator evaluate diagnosticians. Speech pathologists, as well as LSSPs, are evaluated by central office special education staff. When asked how principals and special education coordinators would know if timelines had been missed, there was not a clear-cut answer. There does not seem to be a system for tracking dates of completed evaluations and dates of initial ARD committees and for documenting reasons that timelines are missed.

#### **➤ Lack of Effective Processes and Procedures**

District staff reported that there is a process for referrals to special education. A special education aide is responsible for receiving and calculating evaluation timelines and communicating with evaluation staff. The special education aide reported that she knew that the timeline for evaluations had changed to 45 school days.

Evaluation staff, as well as special education central office staff, reported that mistakes are often made in calculating time frames or in communicating the specific dates. No one works with the aide to provide quality control and, when the aide is absent, there is no one to continue with tasking out referrals; therefore, days are lost to complete evaluations.

Many evaluation staff reported that they do not check the dates provided by the aide to ensure accuracy. Some evaluation staff members were unclear about the new state provisions for special education initial timelines. Some did not understand that, if a student is absent for 3 or more days within the time frame for evaluations, the number of days absent does not count toward the 45-day timeline.

Campus staff reported that there are several ways in which ARD committee meetings are scheduled. The campus may utilize central office "schedulers," however, some campuses choose to schedule their own ARD committee meetings, utilizing the assistant principal, diagnostician, secretary, or special education teacher. Some campus staff members were unsure of the specific timelines for students and, at times, have scheduled the meeting beyond the timeline period.

#### **➤ Appropriateness of Special Education Referrals**

District staff reported that, of the 806 initial referrals made during the 2013-2014 year, approximately 40 percent of students did not qualify as students with disabilities. Many inappropriate referrals are being made that take up valuable evaluation time. Evaluation staff reported that teachers have learned that if parents request that their child be evaluated for special education, the evaluation will be conducted faster due to bypassing the RtI process. Staff reported that the district rarely refuses to evaluate.

One campus administrator reported that a very small percentage of her campus referrals actually qualify for special education services. She reported that it is hard to tell parents no, when the school does not believe that an evaluation is needed.

Agency staff learned that the district does have a response to intervention (RtI) process; however, data concerning interventions used are not clearly documented in order for evaluation staff members to have clear information to determine if referrals are appropriate. A district can refuse to evaluate a student by providing

## **Section II: Findings**

### **Topic 1: SPP Indicator 11 Noncompliance**

parents with prior written notices; however, the district would want to make that decision based on clear, precise data.

## **Section II: Findings**

### **Topic 2: Documentation for Complaints and Due Process Hearings**

For the past nine years, Killeen ISD has been involved in numerous special education complaints. In order for the TEA to investigate a complaint, agency staff must request documentation from a district to conduct the investigation. Many times, despite agency staff members' repeated requests for required documentation, Killeen ISD has often refused to provide the agency with the documentation within the timelines established by the agency. There also have been times when the district was out of compliance with the one-calendar-year timeline for correcting noncompliance determined as a result of special education complaints or due process hearings. For one complaint, the district took two years to complete the corrective action plan, despite numerous requests by the agency for documentation.

The district has disregarded the agency's repeated requests for documentation or has reported that it will submit information, but does not do so. The special education director reported that the district's breakdown in providing information to the agency is happening with the compliance coordinator.

The compliance coordinator reported that the primary barrier to getting information to the agency on time is a lack of staff. She reported that she is responsible for providing documentation, but, as previously stated, that she has no support staff available to help her. The director reported that there are staff members available to help the compliance coordinator, but that the coordinator does not permit anyone to help her and reports that she will not ask for help. The director reported that the compliance coordinator is not organized, and this prevents timely submission of information to the agency.

## **Section II: Summary**

The TEA staff found that Killeen ISD does not have an effective process in place to meet federal and state requirements. While the district has a knowledgeable, capable staff, there is a lack of effective systemic process and procedures that prevent compliance for timely evaluation of students. The integrity of submitted data is lacking, and staff members responsible for reporting accurate data, as well as responding to complaints and due process hearings, are not complying with TEA requirements.

It is the recommendation of the agency team members from the Division of Program Monitoring and Interventions and the Division of Complaints, Investigations, and Enforcement that a special purpose monitor be assigned to assist the district in solving the issues outlined in this report. However, since the superintendent has already contracted with a consultant for this purpose, it is recommended that the district be required to continue the contract with the consultant until the agency is able to verify that the noncompliance has been corrected and that the district has effective systemic procedures to sustain the compliance. The agency will expect the district to respond to all agency requests in a timely manner, and will engage the district in monthly phone conferences to discuss actions the district is taking to improve the efficiency and effectiveness of the special education department.

### Section III: Next Steps

The LEA will:

- Develop a targeted improvement plan;
- Develop a corrective action plan (CAP) that outlines steps and procedures the LEA will take to correct all findings of noncompliance;
- Inform the board of trustees in a public meeting of the noncompliance with statutory requirements identified in this report, and of actions the district will take to correct the noncompliance;
- Report to the TEA each month of the implementation and progress of activities in the targeted improvement plan throughout the district. This reporting will consist of written, as well as oral descriptions of the data and implementation of activities.
- Submit the targeted improvement plan with CAP to the TEA by **June 22, 2015**.

The targeted improvement plan and progress reports must be submitted through the *Intervention Stage and Activity Manager* (ISAM) application within the *Texas Education Agency Secure Environment* (TEASE) according to the due dates listed above. The TEASE link is: <https://sequin.tea.state.tx.us/apps/logon.asp>.

#### **Required Corrective Actions for Noncompliance Findings:**

***The LEA is required to correct any noncompliance finding as soon as possible, but in no case may the correction take longer than one calendar year from the date of notification of noncompliance. Failure to correct noncompliance within required timelines will result in elevated interventions or sanctions***

***Corrective actions must be completed within one year of receipt of findings.***

The agency also will require documentation verifying that:

- *Policies and procedures, including operating guidelines and practices, have been changed, as necessary, and implemented as written;*
- *The LEA has notified the public of any changes to policies and procedures, including operating guidelines and practices, related to disproportionality, discipline, and/or child find issues, as appropriate to the LEA;*
- *Decision-making frameworks/guidelines have been implemented;*
- *The LEA has systems to ensure that students with disabilities are receiving all special education and related services consistent with the child's needs; and*
- *The LEA conducts initial ARD committee meetings as necessary to ensure the provision of a free appropriate public education to the students in question and considers compensatory services, if appropriate, to the students' individual circumstances if the student's initial evaluation is not completed within timelines and/or if the student's initial ARD committee is not convened within timelines.*