

The Arc of Texas 2019 Policy and Advocacy Priorities

86th Legislative Session



The Arc of Texas promotes, protects and advocates for the human rights and self-determination of Texans with intellectual and developmental disabilities or (IDD).

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Community-Based Services for People with IDD

Improve access, delivery and quality of community-based services and supports for Texans with IDD.

Texans with IDD overwhelmingly choose to live in the communities where they call home. Many Texans lead independent and self-determined lives with the cost effective services and supports provided by Medicaid home and community-based waiver programs, yet the service delivery model has not kept pace with the demand. The Arc of Texas supports innovative, best practice approaches that prioritize community-based supports and shift Texas' institutional spending bias to meet the needs of the hundreds of thousands of Texans with IDD waiting for Medicaid community-based waiver services. Without the system of community-based support that Texas has built over many years, individuals would be forced to live in costly, restrictive facilities. Texas must invest in a system that delivers positive outcomes for people with IDD, reduces gaps in services and prevents unnecessary institutionalization.

Long Term Services and Supports Initiatives

- Invest in community infrastructure and provide funding that adequately supports individuals in the community without an unreasonable wait time and enhances capacity of community based intellectual and developmental disability services.
- Provide funding to reduce the Medicaid community-based waiver interest list. Last session, the Legislature did not allocate funding which forced Texans with disabilities to wait even longer than the average 13 years before receiving lifesaving services like personal attendant care, nursing, residential supports and employment services.
- Responsibly rebalance the IDD service system. Develop a realignment commission to study the impact of state supported living centers (SSLC) on Texas' IDD service system. The commission will make recommendations on how Texas can improve the SSLC and IDD service system and provide services to more Texans with IDD.
- Work to ensure there is adequate regulation of community providers to comply with the federal HCBS Final Rules.

Medicaid Managed Care Initiatives

- Extend the timeframe for long-term services and supports in the Medicaid community-based waivers to be carved into a managed care model. Fix the current managed care system before carving in more services.
- Redesign the managed care complaint system to streamline the complaint process and collect better complaint data. The complaint system must be easy to use and accessible to people with disabilities.
- Establish greater transparency with managed care services. Require HHSC to publicly report service approval and utilization data for each service delivered by a managed care organization as it currently does in the fee-for-service model.
- Reduce the burden and administrative red tape of accessing services through the managed care system. Establish a list of commonly used services that do not require MCO prior authorization to ensure Texans with disabilities receive all necessary services.
- Maintain the safeguards, including the protective provision, of Senate Bill 7 from the 83rd Legislative Session.
- Implement quality improvements recommended from the managed care evaluation.
- Improve the Medicaid managed care internal appeals and fair hearing process to make it accessible to members. Require service coordinators to receive training on internal appeals and fair hearings.

Please support the following HHSC Exceptional Items (EI)

- EI 4: Provide Transition/Diversion to the Community and Reduce Interest Lists
- EI 38: Support Medically Complex Individuals with IDD Living in Community Settings
- EI 22: Maintain and Expand IDD Crisis Continuum of Care
- EI 28: Comply with Federal Requirements for Community Integration for Individuals with Disabilities per HCBS Final Rule
- EI 35: Attendant Wage Increase
- EI 6: Maintain ECI Services for Children with Disabilities

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Public Education

Enhance Texas' public education system to provide evidenced-based, effective educational supports and services for students with disabilities in the least restrictive setting.

Students with IDD must be fully included and provided all necessary services and supports to ensure they are successful in school and are prepared for a meaningful life after high school. The structure, funding and operations of the Texas Education Agency (TEA), school districts and Education Service Centers must align and fully comply with the charges laid out in the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act to provide students with disabilities a free appropriate public education (FAPE).

Special Education Initiatives

- Hold the TEA accountable to fully implement and comply with the special education Corrective Action Plan and Special Education Strategic Plan that was developed in response to a federal investigation into the 8.5% performance-monitoring indicator.
- Improve student behavior and school safety by implementing statewide positive behavior intervention and supports (PBIS) and other evidence-based practices for all students. Provide schools with the resources they need to adequately train teachers and school district staff on PBIS.
- Ensure that students can be appropriately supported with an effective behavior intervention plan or behavioral improvement plan (BIP) that is data driven. Provide guidance that the BIP should be reviewed as needed and no less than once per school year to measure effectiveness of the BIP. The BIP should be based on person-centered planning and evidence-based practices that supports the student's needs.
- Ban the use of aversive techniques that physically and emotionally harm students, specifically students in special education.
- Ensure that all teachers are educated and prepared to teach students with disabilities in the general education classroom by increasing the requirements and expectations of both graduating and current teachers.
- Update Texas' transition standards and guidelines to ensure students and parents receive accurate information about self-determination, community transportation, independent living skills and services, state agency services, employment, work incentives, and voting. Require that the transition goals are reviewed and updated with the student.



Please support the following TEA Exceptional Items (EI)

- EI 1: Safe and Healthy Schools Initiative (\$54 million for the biennium)
- EI 2: Special Education Supports (\$50.5 million for the biennium). The Arc of Texas and professional organizations concerned for the education of students with disabilities very much appreciate TEA's request for this exceptional item. However, we respectfully request that the Legislature increase the amount for this exceptional item.

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Employment

Support competitive, integrated employment opportunities for transition age youth and adults with IDD.

The desire to work and earn a living is universal among all people, including individuals with IDD. A majority of Texans with IDD express a desire to work in the community for competitive wages and share their talents and passions with employers across Texas. Texas needs to build the employment infrastructure and align public and corporate workforce needs with the skills, capabilities and desires of Texans with IDD. Texas must fully embrace the Texas Employment First Policy, promote existing employment services through outcome-based monitoring, provide education to state agencies, individuals with IDD and family members about work incentive programs, and dispel misinformation at every level that prolongs the myth that Texans with IDD cannot work for competitive wages in the community.

Employment Initiatives

- Implement recommendations from SB 2027 of the 85th session that establish and expand career-training programs across the state to prepare Texans with intellectual and developmental disabilities to enter the competitive and integrated workforce.
- Require all new and current individuals enrolled in a 1915c Medicaid Waiver and the STAR PLUS Waiver to complete a questionnaire that gauges their desire to work and informs them about the services available that can help them obtain competitive, integrated employment without losing their waiver services.
- Implement state performance standards for employment of individuals with disabilities enrolled in 1915c Medicaid Waivers and the STAR PLUS Waiver.
 - 15% of individuals enrolled in a 1915C Medicaid Waiver and the STAR PLUS Waiver are utilizing employment services by 2021.
 - 100% of individuals who indicate a desire to work are referred to receive employment services.
 - Report to the Governor's Office and the Legislature on the number of individuals enrolled in a 1915c Medicaid Waiver and the STAR PLUS Waiver who are utilizing employment services and who obtained competitive, integrated employment broken out by waiver type and level of need if applicable.

- Transition the Purchasing for People with Disabilities Program (State Use Program) away from paying people with disabilities less than minimum wage.
- Expand Community Partner Work Incentives Counselors (CWIC) to all 39 Local Intellectual and Developmental Disability Authorities (LIDDA).
- Implement a moratorium on any new applications for a 14c Waiver that would allow organizations to pay people with IDD less than minimum wage.

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Criminal Justice

Advance criminal justice best practices to remove the barriers to justice that Texans with IDD face when they come into contact with the criminal justice system.

People with IDD are overrepresented in both the juvenile and adult criminal justice systems, which in part, is a result of the failure of the justice system to identify their disabilities, provide legally required accommodations, and provide appropriate sentencing and sentencing alternatives. Additionally, people with IDD are more likely to be victims of violence and sexual assault—up to six times more likely than people without disabilities. Texas’ criminal justice system, including law enforcement, attorneys and judges, victim service providers and first responders, must understand the unique needs and characteristics of people with IDD to ensure everyone receives a pathway to justice without falling through the cracks.

Criminal Justice Initiatives

- Expand and create opportunities to train law enforcement, first responders, legal professionals and service providers on how to identify and support individuals with IDD.
- Develop statewide jail standards and best practices that jails and correctional facilities in Texas can implement to fairly support individuals with IDD who are admitted.
- Clarify domestic violence statutes to give law enforcement officers greater discretion to arrest when the home is provider owned and specifically designed to support individuals with IDD.
- Clarify in Texas statute that an adult with IDD who is under guardianship does not require the guardian’s permission to receive a sexual assault exam. This aligns with Texas laws for consent of a minor.
- Codify in Texas statutes that an individual with an intellectual disability cannot be sentenced to death. This complies with U.S. Supreme Court Decision, Atkins V. Virginia.
- Utilize Promoting Independence diversion waivers to create a pilot to divert individuals with IDD from prison.

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