LEGAL GUIDANCE

Under Section 29.081 of the Texas Education Code (TEC), compensatory education is defined in law as programs and/or services designed to supplement the regular education program for students identified as at-risk of dropping out of school.

The purpose is to increase academic achievement and reduce the drop-out rate of these at-risk students. Therefore, all direct instructional costs must relate specifically to the SCE program and must be adequately documented. Furthermore, schools and districts must be able to demonstrate the SCE programs were cost efficient and program effective.

The goal of SCE is to reduce any disparity in performance on assessment instruments administered under Subchapter B, Chapter 39 TEC [e.g., STAAR, EOC] or disparity in the rates of high school completion between students at risk of dropping out of school and all other students (TEC Section 29.081.)

State law, Section 29.081, TEC, requires districts to use student performance data from the state’s legislatively-mandated assessment instrument to provide accelerated intensive instruction to students who have not performed satisfactorily or who are at risk of dropping out of school.

SUMMARY/EXPLANATIONS

1. **Supplement** the regular education program means the use of SCE funds must provide programs or services that are in addition to the regular education program. [A regular education program applies to basic instructional services to which all eligible students are entitled.]
   a. It would be appropriate to provide an additional teacher/class to address the needs of your at-risk students (based on the students’ STAAR/EOC performance data).
   i. We would expect all students, for example to have a math class, so if you had a class of at-risk students in Mr. Math Teacher’s class that does not make that teacher’s salary an allowable SCE expense. However, you could have a group of at-risk 9th graders taking:
      1. Algebra I (their math teacher would be paid with local funds/a regular FTE) and
      2. a supplemental EOC support/intervention class to help prepare them to pass the EOC Algebra I test, the teacher of the supplemental EOC support/intervention Algebra I class could be paid with SCE funds/SCE FTE. This class could also contain, for example, sophomores who failed the Algebra I EOC in the prior year and now are enrolled in geometry (for their regular math class), and still need support to pass the Algebra I EOC.
   ii. If you double-blocked all math classes, then you could not charge any portion of those classes to SCE, since at-risk and non-at-risk students all receive the services (it would not be supplemental). However, if you double-blocked math for only the at-risk students (or select at-risk students) then the extra math class could be charged to SCE.
   b. It would be appropriate to provide an interventionist who would go into classes containing at-risk students (push-in model) and provide additional support for the at-risk students. SCE guidance discourages pull-out programs, because the at-risk student(s) would be missing out on what was occurring in their regular class if they were removed from the classroom.
      i. Consider the following issues that will need to be addressed, since the interventionist does not have a set class/roster... the SCE paid interventionist would need to:
         1. **Keep a daily roster** of all students served in each class period charged to SCE. (Data will be collected periodically.) We will be required to complete a SCE evaluation which will report:
            a. how many at-risk students were served,
b. what the teacher’s role was (e.g., math interventionist, writing interventionist, etc.)
c. did the students successfully master the corresponding required assessment

2. Meet with the teacher to plan which students will need assistance with which skills on which dates.
   a. SCE requires the instruction to be compensatory (compensating for the learners’ gaps in understanding), intensive, and accelerated.
   b. A SCE paid teacher cannot randomly go into a class and ask who needs help. (The SCE teacher/interventionist would have to go into the class knowing what skill was being addressed that day and which at-risk students were struggling with that skill.)

2. “Students at risk of dropping out of school” includes each student who is under 26 years of age and who:
   1. Was not advanced from one grade level to the next for one or more school years, unless the student did not advance from prekindergarten or kindergarten to the next grade level only as a result of the request of the student’s parent; [Students remain “at-risk” until they graduate.]
   2. If the student is in grades 7–12 did not maintain an average equivalent to 70 on a scale of 100 in two or more subjects in the foundation curriculum during a semester in the preceding or current school year, or is not maintaining such an average in two or more subjects in the foundation curriculum in the current semester;
   3. Did not perform satisfactorily on a state assessment instrument and who has not in the previous or current school year subsequently performed on that instrument or another appropriate instrument at a level equal to at least 110 percent of the level of satisfactory performance on that instrument;
   4. If the student is in prekindergarten, kindergarten, or grades 1–3, did not perform satisfactorily on a readiness test or assessment instrument administered during the current school year;
   5. Is pregnant or is a parent;
   6. Has been placed in a DAEP in accordance with Education Code 37.006 (mandatory placement) during the preceding or current school year;
   7. Has been expelled during the preceding or current school year;
   8. Is currently on parole, probation, deferred prosecution, or other conditional release;
   9. Was previously reported through the Public Education Information Management System (PEIMS) to have dropped out of school;
   10. Is a student of limited English proficiency, as defined by Section 29.052;
   11. Is in the custody or care of the Department of Family and Protective Services or has, during the current school year, been referred to the department by a school official, officer of the juvenile court, or law enforcement official;
   12. Is homeless, as defined by 42 U.S.C. 11302 and its subsequent amendments [see FD]; or
   13. Resided in the preceding school year or resides in the current school year in a residential placement facility in the District, including a detention facility, substance abuse treatment facility, emergency shelter, psychiatric hospital, halfway house, or foster group home. [A foster home is not the same as a foster group home.]

Education Code 29.081(d)–(d-1)

3. SCE funds/FTEs can only be used for a program specifically designed to serve students at-risk of dropping out of school, as defined by Texas Education Code Section 29.081.

4. The count of FTEs and estimated expense is recorded in the DIP and CIPs.
5. We must evaluate the efficiency and effectiveness of the model we implement to determine which strategies are successful in raising academic standards. SCE resources must be redirected when evaluations indicate the services are unsuccessful in producing desired results for students at-risk of dropping out of school.

6. The goal of SCE is to reduce the gap of academic performance and dropout rates between at-risk and non-at-risk students. These data are reported in the DIP and CIPs.

7. Allocations of SCE funds are based on student performance data from the state’s legislatively-mandated assessment instruments. There is a direct correlation of your SCE FTEs to your count of students who failed the state assessment.

* TITLE I SCHOOLWIDE CAMPUS GUIDANCE

State law provides flexibility with the use of SCE funds on Title I, Part A campuses at which at least 40 percent of the students are educationally disadvantaged. At these schools, SCE funds can be used to benefit ALL students, particularly those who are low-achieving, and do not have to be limited to only at-risk students. SCE funds used to support a Title I, Part A program must be part of the campus budget and all SCE expenditures must be tracked back to the SCE fund code [FUND 199 – designated with a PROGRAM INTENT CODE (PIC) of 30], and all generally accepted accounting principles must be followed. As with Title I funds, SCE funds used to upgrade the educational program must also meet the same guidelines required of NCLB in that SCE funds may only be used to incorporate instructional strategies that scientifically-based research has shown are effective with teaching low-achieving students.

SCE CODING

- SCE at a non-Title I Schoolwide Program: Fund 199, Program Intent Code (PIC) 24
- SCE at a Title I Schoolwide Program: Fund 199, PIC 30
- SCE (supplemental) PK expenses at a non-Title I OR a Title I Program: Fund 199, PIC 34
  Note: non-supplemental PK expenses are PIC 32; Bilingual PK expenses are PIC 35; Special Ed PK expenses are PIC 33]

DOCUMENTATION/EVALUATION

The names, positions, description of duties and FTE counts for the Comp Ed FTEs must be documented. Each SCE paid teacher will sign a description of duty form BEFORE beginning their work. If during the year, the principal wishes to make changes to who is assigned to be coded to SCE, they will need to have the change approved before making the change to ensure the change is allowable and the documentation and coding are accurate.

Those staff members without an assigned roster will have to maintain a list of students served each day. This will allow us to (a) evaluate the effectiveness of our programs and (b) maintain documentation that only at-risk students are being served by the SCE paid staff.
Identifying if a position is an allowable State Compensatory Education (SCE) FTE

1. Is the position you are wanting to code to your allocated SCE FTE a “supplemental” position (i.e., is it beyond the positions you are expected to have at your school to meet local, state and federal requirements)?

   No. STOP, this is not an allowable SCE position.

   Yes

2. Have you conducted a needs assessment of your “at-risk” students to identify how you can best increase their performance on state testing and reduce their chances of dropping out of school?

   No. STOP, all staffing decisions for SCE positions must be based on the needs of your at-risk students.

   Yes

3. Is the position you are wanting to charge to your SCE FTE allotment, a position that you have had previously?

   Yes

   No

4. Did this position produce the desired results for improved academic achievement for your at-risk students?

   Yes

   No (or I don’t know) STOP, an evaluation must be conducted to ensure the strategy/position was effective (with a reasonable degree of certainty). If the desired results were not achieved, the use of the SCE FTE allotment must be redirected to another research-based strategy/position to assist at-risk students to improve their academic achievement and reduce their risk of dropping out of school.

5. For the portion of the day you are wanting to code the staff member to your SCE FTE allotment, is the individual serving ONLY students who are at-risk (based on the state’s at-risk criteria)?

   For elementary schools:
   All day = 1 FTE   Half a day = .5 FTE

   For secondary schools:
   1 class = .17 FTE
   2 classes = .34 FTE
   3 classes = .5 FTE
   4 classes = .67 FTE
   5 classes = .84 FTE
   6 classes – 1 FTE

   Yes

   No

6. Is the individual providing student instruction in reading, writing, math, science or social studies (which will increase the performance of at-risk students on state exams and increase their chances of graduating)?

   Yes

   No

7. Is the individual a supplemental (extra) counselor at your school who ONLY provides at-risk counseling services to at-risk students [and does not perform regular counseling duties that benefit the overall program (e.g., developing master schedules, general guidance, assessment, admin duties, development of personal graduation plans), AND do you have standard counselors who will still serve your at-risk students? [This at-risk counselor must provide guidance for at-risk students in addition to the guidance they get from their regular counselor.]

   Yes

   No

8. Contact your district SCE administrator to discuss the allowability of the position you are wanting to fill the SCE FTE position.

   Yes. This is an allowable SCE position.

   No

UNALLOWABLE POSITIONS:
- Any that are NOT supplemental
- Administrative
- Clerical (attendance clerk, secretary)
- In School Suspension (ISS)
- Non-instructional Paraprofessionals
- Non-core subject area teachers
- Non-supplemental positions (i.e., if you should have 1 bilingual teacher, then that 1 teacher cannot be paid from SCE funds . . . But you could hire a supplemental bilingual teacher.
- Staff who coach others in how to teach, but do not teach students
- Class-size reduction teachers (unless part of local criteria)
- Parent involvement liaisons
- Additional planning periods
- Crime prevention/truant officers
- Teachers overseeing a study hall class during the regular school day, where students typically catch up on assignments, get assistance with homework, or study for tests.

Dr. Jamie Bryson 2014