

"DESAPARECIDOS"

HOW THE SUPERINTENDENT AT EL PASO INDEPENDENT SCHOOL DISTRICT

MAKES STUDENTS “DISAPPEAR” TO INCREASE DISTRICT WIDE TAKS TEST SCORES

Over the last few weeks, many of you have asked questions about "desaparecidos" on how Superintendent Lorenzo Garcia ‘disappears’ students at EPISD. Here are answers to your most frequently asked questions.

Imagine a class of 100 freshmen coming to high school. During the spring semester of sophomore year, each student must take TAKS—a high stakes test that determines if the school passes strict laws about every child getting an education. Imagine that a superintendent and "priority school directors" then find a way to keep the bottom half of that class from taking the sophomore TAKS exam. How do they do it? With INOVA software, and student by student analysis, based mostly in limited English student populations (LEP), priority division personnel profile then target which students may not pass TAKS. Prior to the school year, targeted students are ‘reclassified.’ Some of the targeted students are then transferred to other schools. Some are classified as ‘special education’ students whose TAKS test will not count. Still other targeted students are kept back in the 9th grade while others are "moved" right into the 11th grade and bypass 10th grade altogether. For seniors, targeted students have attendance records changed and some are directed to online courses that are outside the TAKS system. Still others, in early morning visits to their homes are told by truant officers not to come to class during TAKS. During TAKS testing, several tests are ‘picked up’ for various reasons, so as not to count against TAKS scores.

What is the result? On TAKS test day, less than half of the class actually sits for TAKS. In other words, 55 percent of the class has "disappeared." We see this pattern in many low performing schools at EPISD. Simply put, here's the system: "disappear" the bottom half of the class, test the top half, then claim victory on TAKS. On its face, the raw data at Bowie, without witness testimony, shows that more students are disappeared than get educated.

Let's take a look at the data.

1. How did our Senate office first learn of the ‘disappeared’ students?

Several years ago, Bowie High School entered Phase Four of [No Child Left Behind](#) and faced [possible closure](#) without action from the community. With so many proud ‘osos orgullosos’, strong alumni and long time community activists behind reform at Bowie,

closing Bowie was not an option for anyone in our great community. As a result, our office organized [“Equipo Bowie”](#) along with dozens of community stakeholders to analyze student data from Head Start all the way to UTEP within the Bowie feeder pattern, identify ‘best practice’ solutions then reform the feeder pattern to achieve lasting student success. That’s when teachers, parents, educators and others called us to describe what Lorenzo Garcia and the priority division were doing at Bowie (and other priority schools) to ‘disappear’ students.

2. What are the numbers that caused concern?

Over the last few months, [teachers, counselors, administrators, educators and truant officers have delivered disturbing allegations about EPISD](#). Below please find the enrollment data for Bowie High School in Table 1. The figures, provided by the Texas Education Agency (TEA), differ slightly with the figures that we received from EPISD. For example, TEA figures show that 168 students were enrolled as sophomores in the spring of the 2008-09 school year, whereas EPISD stated that 167 students were enrolled. For the purposes of this memo, we will be relying on TEA-provided data unless otherwise noted.

Table 1: Fall and Spring Enrollment Count, Bowie High School

Grade	2002-03		2003-04		2004-05		2005-06		2006-07		2007-08		2008-09	
	Fall	Spring	Fall	Spring	Fall	Spring	Fall	Spring	Fall	Spring	Fall	Spring	Fall	Spring
9	414	374	442	420	472	438	399	394	383	386	381	348	388	367
10	310	304	307	301	340	317	369	355	347	302	303	277	170	168
11	229	198	237	204	268	233	273	257	317	303	271	258	271	224
12	262	272	224	228	209	218	243	246	276	262	318	300	221	253
Total	1215	1148	1210	1153	1289	1206	1284	1252	1323	1253	1283	1183	1050	1012

Source: TEA

These figures represent the enrollment count for the last week in October, labeled as Fall, and the number of students who had attendance records during the last six weeks of the school year, labeled as Spring. It should be noted that the Fall data is a snapshot count of students for one day in October, while the Spring data includes cumulative counts for students who were in attendance anytime during the last six weeks of the school year. In other words, if a student attended class one day during the last six weeks of the school year, they count towards the Spring enrollment figure.

Of significant concern are the figures highlighted in the chart: the decline of the freshman 2007-08 cohort from 381 students to only 167 (EPISD's number) students in the Spring of their sophomore year, 2008-09. To compare this drop to previous years, Table 2 examines the loss of students between the Fall of a cohort's freshman year and the Fall of the sophomore year.

Table 2: Percentage of student decline between Fall of freshman year and Fall of sophomore year, Bowie High School

Freshman cohort	Freshman (Fall) enrollment	Sophomore (Fall) enrollment	Amount of student decline	Percentage of student decline
2002-03	414	307	107	25.8%
2003-04	442	340	102	23.1%
2004-05	472	369	103	21.8%
2005-06	399	347	52	13.0%
2006-07	383	303	80	20.9%
2007-08	381	170	211	55.4%

Source: TEA

3. What happened to those 214 "disappeared" students who were no longer with their incoming cohort?

To determine what happened to the 214 'disappeared' students who were no longer with their incoming freshman cohort in Bowie by their sophomore year, TEA followed the students who were freshman at Bowie High School in either the 2007-08 or 2006-07 school years. In short, some students repeated 9th grade, some bypassed the 10th grade and were directed to 11th grade, and some were no longer enrolled at Bowie.

Table 3: Status of students in freshman cohorts by Fall of the next year, Bowie High School

	2007-08 cohort (% of cohort)	2006-07 cohort (% of cohort)
Repeat 9 th grade at Bowie HS	76 (19.9%)	55 (14.4%)
10 th grade at Bowie HS	156 (40.9%)	231 (60.3%)
11 th grade at Bowie HS	29 (7.6%)	7 (1.8%)
12 th grade at Bowie HS	+ 1 (0.3%)	+ 0 (0.0%)
Subtotal of students at Bowie HS Fall 2008	262 (68.8%)	293 (76.5%)
Total number of students not at Bowie HS the following Fall	119 (31.2%)	90 (23.5%)
Original size of freshman cohort	381	383

Source: TEA

4. What about other schools at EPISD?

Data from TEA revealed that this situation was not limited to Bowie High School. We found similar numbers at Austin High School (see tables below). Furthermore, we have received reports from teachers that a number of other EPISD 'priority' high schools with significant numbers of low performing students did not count students correctly for the TAKS test.

Fall and Spring Enrollment Count, Austin High School, El Paso ISD

Grade	2002-03		2003-04		2004-05		2005-06		2006-07		2007-08		2008-09	
	Fall	Spring	Fall	Spring	Fall	Spring	Fall	Spring	Fall	Spring	Fall	Spring	Fall	Spring
9	471	450	463	449	529	508	615	599	571	528	639	615	587	560
10	411	380	352	354	328	316	390	346	416	373	328	289	348	287
11	283	242	317	263	267	213	283	222	322	290	359	290	310	300
12	315	293	241	236	212	219	210	238	201	221	238	277	265	281
Total	1480	1365	1373	1302	1336	1256	1498	1405	1510	1412	1564	1471	1510	1428

Source: TEA

Percentage of student decline between Fall of freshman year and Fall of sophomore year, Austin High School

Freshman cohort	Freshman (Fall) enrollment	Sophomore (Fall) enrollment	Amount of student decline	Percentage of student decline
2002-03	471	352	119	25.3%
2003-04	463	328	135	29.2%
2004-05	529	390	139	26.3%
2005-06	615	416	199	32.4%
2006-07	571	328	243	42.6%
2007-08	639	348	291	45.5%

Source: TEA

Status of students in freshman cohorts by Fall of their sophomore year, Austin High School

	2006-07 cohort (% of cohort)	2007-08 cohort (% of cohort)
Repeat 9 th grade at Austin HS, EPISD	151 (23.6%)	131 (22.9%)
10 th grade at Austin HS, EPISD	267 (41.8%)	241 (42.2%)
11 th grade at Austin HS, EPISD	26 (4.1%)	22 (3.9%)
12 th grade at Austin HS, EPISD	10 (1.6%)	0
Subtotal of students at Austin HS	454 (71.0%)	394 (69.0%)
Total count of 9 th grade students not at Austin HS the following Fall	185 (29.0%)	177 (31.0%)
Grand Total	639	571

Source: TEA

5. How do El Paso schools in other districts compare?

What about other El Paso high schools in other school districts? Is it state or federal laws that are causing 55 percent to be left behind? Is it TEA rules for example, that causes the 55 percent to be left behind, as some have alleged? If so, then Riverside, which has a student population similar to Bowie, should be the same. Let's take a look at Riverside High School. As the tables below demonstrate, about 20 to 25 percent of incoming freshmen are not included in the spring sophomore count. What's different at Riverside is that their numbers, untainted by manipulation, fall within reasonable ranges.

Fall and Spring Enrollment Count, Riverside High School, Ysleta ISD

Grade	2002-03		2003-04		2004-05		2005-06		2006-07		2007-08		2008-09	
	Fall	Spring	Fall	Spring	Fall	Spring	Fall	Spring	Fall	Spring	Fall	Spring	Fall	Spring
9	459	434	447	444	497	461	517	491	474	441	454	426	377	373
10	359	350	355	349	376	358	351	355	386	369	352	335	357	360
11	319	299	290	281	310	298	331	297	341	318	331	323	303	301
12	318	312	320	317	296	279	295	293	290	279	363	321	398	336
Total	1455	1395	1412	1391	1479	1396	1494	1436	1491	1407	1500	1405	1435	1370

Source: TEA

Percentage of student decline between Fall of freshman year and Fall of sophomore year, Riverside High School

Freshman cohort	Freshman (Fall) enrollment	Sophomore (Fall) enrollment	Amount of student decline	Percentage of student decline
2002-03	459	355	104	22.7%
2003-04	447	376	71	15.9%
2004-05	497	351	146	29.4%
2005-06	517	386	131	25.3%
2006-07	474	352	122	25.7%
2007-08	454	357	97	21.4%

Source: TEA

Status of students in freshman cohorts by Fall of their sophomore year, Riverside High School

	2006-07 cohort (% of cohort)	2007-08 cohort (% of cohort)
Repeat 9 th grade at Riverside HS, Ysleta ISD	20 (4.4%)	60 (12.7%)
10 th grade at Riverside HS, Ysleta ISD	318 (70.0%)	279 (58.9%)
11 th grade at Riverside HS, Ysleta ISD	17 (3.7%)	28 (5.9%)
12 th grade at Riverside HS, Ysleta ISD	1 (0.2%)	1 (0.2%)
Subtotal of students at Riverside HS	356 (78.4%)	368 (77.6%)
Total count of 9 th grade students not at Riverside HS the following Fall	98 (21.6%)	106 (22.4%)
Grand Total	454	474

Source: TEA

6. How does the Superintendent and his "priority division" benefit?

As of July 1, 2007, the Superintendent's contract substantially rewards the Superintendent if EPISD meets four of five annual goals for the TAKS test. If he does so, then [he receives a three percent increase in salary](#) (about \$8,400 with a salary of approximately \$280,000) [and a \\$15,000 annuity payment](#) (this is an addition to the \$20,000 contribution that the Board provides annually). In other words, the Superintendent stands to benefit greatly from gaming the system to ensure that only students who will pass the TAKS are the only ones who actually take the test.

In addition, our office has received reports that top administrators were given \$10,000 bonuses last year based on increased test scores.

7. What does the Superintendent say?

In direct conversations with Superintendent Garcia he has admitted that EPISD numbers reported above are [absolutely correct](#). In fact, the numbers are from EPISD files. He then says that [‘most of the students had been accounted for.’](#) Further, Board trustees have stated in various interviews that [‘we always room for improvement’](#) and that [‘right now, we are following the rules of the district.’](#)

What this means is that the Superintendent has "coded" students based on various classifications and has each one tracked in EPISD records. We do not believe that any interpretation of NCLB permits what is described below, and have [requested that the U.S. Department of Education and US Justice Department, Division of Civil Rights investigate, document and prosecute any violations of law or regulations.](#)

8. What does TEA say?

While Superintendent Garcia has told reporters that TEA staff has told him that our "disappeared student" claims are [‘unsubstantiated’](#), the Commissioner of Education [confirmed to our office on July 1, 2010](#), that TEA had not performed any investigation whatsoever with respect to EPISD and TAKS. Further, on several occasions, in meetings with principals, Garcia has told staff that ‘TEA personally called me and said to stay calm and we will put out information that will make you look good,’ and related similar claims to reporters. Due to TEA contacts before any investigation, we have asked the U.S. Department of Education and U.S. Attorney General, Civil Rights division to conduct an objective, independent investigation of alleged violations of federal NCLB laws and regulations. We should note there that [TEA has been sued in U.S. District Court of the Eastern District of Texas by MALDEF alleging violations in the enforcement of ELL education standards.](#) Further, TEA Commissioner Robert Scott is now embroiled in a serious controversy over the [“Texas Projection Measure” which has allowed 500,000 student TAKS tests](#) that had been marked as 'failed' to count as 'passing' for the purpose of the Texas school rating system. For these reasons, we believe that TEA can not perform an independent investigation where such facts may involve the TEA itself.

9. How are targeted students ‘disappeared?’

Based on calls and letters to us by dozens of teachers, administrators, truant officers, educators, and counselors, here are the methods deployed at EPISD to ‘disappear’ students so that scores are not counted against TAKS:

*Prior to the school year, priority division directors use [INOVA](#) and LEP data to profile students and target which students are not likely to pass TAKS;

*targeted students are then 'reclassified' so as to remove them from their class cohort for the taking of the TAKS tests; under NCLB, class cohorts are the key to testing as all classes and categories of students in a class cohort must pass basic minimum scores in order to avoid imposition of sanctions; further, keeping class cohorts together is an important value in NCLB and quality education because research shows that students that stay at grade are much more likely to graduate and succeed;

*certain 'targeted' students are kept back in the 9th grade, so that they will not take the TAKS test in the spring semester of sophomore year;

*other 'targeted' students are moved from the 9th grade directly into the 11th grade so as to bypass the 10th grade TAKS altogether;

*during TAKS week, squads of truant officers are dispatched to homes of targeted students to inform them to stay away from school on TAKS day; normally, residency challenges occur during the first week of school, and must by law include five day appeal letters to both the school and district. Based on information provided to us, due process was not afforded to targeted students and parents;

*other targeted students are transferred out of their high school to charter or different feeder patterns altogether;

*seniors who fail TAKS are [enrolled in 'online accredited' schools that operate outside the TAKS system entirely](#), so that no [TAKS scores are recorded](#) for these students;

*seniors who lack required attendance credits have transcripts changed to make them eligible for graduation;

*other students have TAKS tests 'picked up' due to allegations of cheating or failure to follow protocols, so that these 'picked up' tests are then not counted in TAKS scores.

Other methods may be deployed but the ones described above have been described to us by teachers, counselors, truant officers, and administrators and form the basis of our letter to the Secretary of Education.

10. What are "turbo-mesters" and how do they affect graduation rates?

One of the 'disappearing' methods that our office has received reports about are "turbo-mesters." For seniors who miss many days in a semester, schools offer "credit recovery," which consists of [a one-day mini-semester](#), which some teachers call a "turbo-mester." Students are then given credit for the entire semester so they can graduate. EPISD teachers have told our office that even students who have missed 30 school days still graduate because of these "turbo-mesters."

11. What about these truant officer visits—how did that work?

[By law, school districts must ensure attendance and residency requirements.](#) To attend a District, a parent or guardian of a student who meets age requirements under state law must [show utility contracts](#) in their names within District boundaries to establish residency. If students miss class, or are chronically tardy, truant officers are dispatched by school assistant principals and registrars to check on students. Residency checks are done after a complaint and usually within the first few days of a semester. If a student has issues with residency, by law, the District must give the parent or guardian a five day notice letter to appeal a residency decision at the school and another five day letter at the District.

At EPISD, at certain high schools, up to five truant officers were dispatched prior to TAKS week to check on "hundreds" of student homes at 5:00 a.m. and to station themselves at international bridges to tell students that they did not meet residency requirements. At EPISD, checking student homes at 5:00 a.m. during TAKS testing with patrols to international bridges with a target list over 100 students without any five day letters as required by law is unprecedented. [Federal law](#) requires districts to confirm residency requirements and expressly bars districts from review of legal status as Districts do not have the authority, personnel or training to enforce immigration or customs laws.

12. What happens to teachers who report these violations?

During my 13 years as El Paso's Texas Senator, we have intervened in two Districts—YISD when the State Master was appointed; and now at EPISD to address ‘disappearing students.’ Our office has never witnessed such fear in a district as we now see at EPISD. Teachers report that they have been told ‘to never say anything about what is going on,’ and that ‘they will lose their job,’ or ‘be reassigned if they do not cooperate.’ Truant officers describe the 5:00 a.m. truant officer patrols as ‘secret missions’ about which they were told to ‘keep quiet.’

All EPISD employees should know that retaliation for reporting a violation of the law is not permitted under [the Texas Whistleblower Act](#). However, the report of such a violation must be delivered to an appropriate law enforcement authority or an employee will not be protected by the Whistleblower Act. We urge any employee with a report of violations of state or federal law to contact our office to make an official report, and to advise our office of any retaliation that any employee may get for reporting such violations.

13. Why is this issue so important?

As Dr. Zollie Stevenson, Director of Student Achievement and School Accountability Programs has stated, ["allegations of cheating on TAKS testing are serious and require further investigation."](#)

During our tenure in the Texas Senate, our office worked on hundreds of education issues from teacher performance pay, to computers in classrooms, from equity in state funding to best practice two way dual language programs. Among the many issues on which we worked was [reconstitution based](#) on school performance which is the key to reforms included in NCLB.

If a school does not make the grade in TAKS for three years straight, that school can be closed, transferred to another district or taken over by a charter school, or re—opened by the Commissioner with new teachers and administrators. With this ‘enforcement option’ NCLB was intended to direct resources and quality education practices to students who need it the most.

Under the ‘disappearing’ model, the very students who need extra help the most are the ones who are being profiled, then surgically removed from their incoming class cohort to manipulate TAKS scores.

14. What's the bottom line?

What Garcia is doing is [teaching the town to cheat, not compete](#). More money for a deeply flawed model will not make for better schools. Several years ago, working with Senator Shapiro, our office wrote the Texas reconstitution statute based on Bel Air High School's climb from a non-performing to blue ribbon school. That concept was adopted in *No Child Left Behind* and is intentionally based on testing **every** child in a class cohort, not disappearing students on test day. *No Child Left Behind* was created to help students get the resources they need to succeed in today's globally competitive world, not to get them out of class on test day. What killed Garcia's tax increase was almost 10,000 teachers, parents and taxpayers who ["don't like the way the district is being run,"](#) (their words, not mine) and who sent a strong message of no confidence to District administrators. That [teachers will vote against their own pocketbooks to help kids get a better district](#) is what the TRE election was all about.

15. What do we go from here?

For now, we strongly advocate a thorough professional investigation of each of these allegations at EPISD, by the US Department of Education and US Department of Justice, Civil Rights Division. [TEA conflicts at EPISD and lax enforcement of NCLB bar it from doing the job](#). Our community has seen what happens when state agencies like the TCEQ fail to enforce the law. Our community needs clear guidelines on what a federal NCLB law requires from federal authorities.

We need to focus on hope, not fear; students, not the superintendent; teachers, not 'directors'; accountability, not retribution; fidelity, not cheating; inclusion, not exclusion; transparency, not secrecy.

We must gather around one of our most valued institutions (our largest school district), to pull together as we always do and as we must, to diagnose what has happened, what we can do to make it better, I have faith that from an improved foundation the district can be re—built. Having been through some tough times over the years, we all know that it is hard, patient, but essential work. It is the only way great communities build the lasting values, relationships and institutions that will leave a true legacy of education excellence. Our children, our community and our future depend on it.