

**Stafford MSD**

# Special Education

## Operating Guidelines

WHY MAY I BREAK, YOU MAY SHATTER  
WHY MAY I USE IF YOU WILL,  
AND THE SCENT OF ROSES WILL  
LINGER AROUND IT STILL.

TRUTH AND REASON CONSTITUTE  
THAT INTELLECTUAL GOLD  
WHICH DEFIES DESTRUCTION.

EACH HEART HOLDS THE SECRET  
AND KINDNESS IS THE WORD.

WHATSOEVER THY HAND FINDETH  
TO DO DO IT WITH THY MIGHT.

IN TEMPERANCE IS A DANGEROUS  
COMPANION.

A MAN SHOULD NEVER BE ASHAMED  
TO OWN THAT HE HAS BEEN IN THE  
WRONG.

BY ATTENTION IDEAS ARE  
REGISTERED IN THE MEMORY.



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## INTRODUCTION

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The Stafford Independent School District is required to develop and implement policies, procedures and practices related to the provision of special education services to eligible students. Operating guidelines are the written guidelines developed locally which outline the implementation of these practices.

Furthermore, according to the requirements of IDEA (34 CFR 300.646(b) (1)), the State Education Agency must provide for review and, if appropriate, revision of the policies, procedures and practices related to serving student with disabilities. This process is conducted through the Special Education Monitoring unit of the Division of Program Monitoring and Interventions at the Texas Education Agency.

To assist in meeting the above requirement, the following Operating Guidelines document was directly aligned to the Legal Framework for the Child-Centered Special Education Process hosted at <https://framework.esc18.net> . Each section provides the legal requirements for the identified area.

Operating Procedures are reviewed on a yearly basis and updated as needed throughout the year.

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## I. CHILD FIND

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### **CHILD FIND DUTY**

Board Policy EHBAA; Board Policy EHBAC; 20 USC 1401, 1412, 1412(a)(3)(A); 42 USC 11434a; 34 CFR 77.1, 300.8, 300.13, 300.19, 300.34(a), 300.36, 300.37, 300.39(a)(1),(b)(3), 300.102 (a)(2), 300.111(a)(1)(i),(c), 300.130, 300.131, 300.132(a), (c), 300.133(b), 300.134, 300.135, 300.136, 300.137(a) – (c), 300.138, 300.139, 300.142, 300.148, 300.173, 300.324 (d); Texas Education Code 26.004(a), 26.0081, 29.004, 29.023; 19 TAC 89.1011(a), 89.1096.

#### What Is Required

All students residing within the District who have disabilities, regardless of the severity of their disabilities, and who are in need of special education and related services must be identified, located, and evaluated. This responsibility includes, but is not limited to:

- Homeless students;
- Students who are wards of the state;
- Highly mobile students (including migrant students); and
- Students who are suspected of being in need of special education but who are advancing from grade to grade.

District Special Education Personnel will also consult with private school representatives regarding the child find process and the provision of special education and related services to students enrolled in private schools in the District. See [CHILDREN IN PRIVATE SCHOOLS].

#### *Pre-Referral Support Services*

Before referring a student for possible special education services, the student should be considered for all support services available to all students such as:

- Tutorial;
- Remedial;
- Compensatory;
- Response to evidence-based intervention; and
- Other academic or behavior support services.

#### *Right to Information for Students with Learning Difficulties*

Each school year, Campus Personnel must provide notice to the parent of every non-special education student who receives assistance from the District for learning difficulties (including Section 504 students). This notice should be written in English or, to the extent practicable, in the parent's native language and be provided when the student begins to receive assistance for that school year. It should include the following:

- A reasonable description of the assistance the student may receive, such as any intervention strategies that may be used;
- Any information collected related to interventions that have been previously used with the student;
- An estimated duration for which the assistance will be provided;
- An estimated time frame for when the parent will receive reports on the student's progress; and
- A copy of the Texas Education Agency's explanation of the options and requirements for providing assistance to students who have learning difficulties or who need or may need special education (TEA's "Aiding Students Who Have Learning Difficulties or Who Need Special Education or Section 504 Services").

### *Notice of Rights for Referral*

The Texas Education Agency has developed a notice for distribution and posting on the agency's website that indicates:

- The change made from 2016 to 2017 in reporting requirements for school districts and open-enrollment charter schools regarding the special education representation indicator adopted in the Performance-Based Monitoring Analysis System Manual; and
- In plain language, the rights of a child under both federal and state law and the general process available to initiate a referral of a child for a full individual and initial evaluation to determine the child's eligibility for special education services.

The District must complete the customizable sections of this notice developed by TEA with information indicating where the local processes and procedures for initiating a referral for special education services eligibility evaluation may be found. The District was required to provide this notice to the parent of each child who attended school in the District or at the District at any time during the 2019-2020 school year. The District was required to affirm compliance with this requirement by April 30, 2020. The District must also make the notice available on request to any person. The notice must be available in English and Spanish, and the District must make a good faith effort to provide the notice in the parent's native language if the parent's native language is a language other than English or Spanish. This notice requirement expires on September 1, 2023.

### *Child Find for Children in Private Schools*

The District must locate, identify, and evaluate all students with disabilities who are parentally placed in private schools—including religious, elementary, and secondary schools—located in its jurisdiction. To do so, the District Special Education Administration must timely and meaningfully consult with representatives of private schools located within the District and conduct a thorough and complete child find process. The District must conduct the child find process for students parentally-placed in private schools in a manner comparable to that of

students with disabilities enrolled in District campuses. The District Special Education Administration must maintain records and provide information to TEA indicating the number of students parentally-placed in private schools within the boundaries of the District that have been evaluated, determined to be students with disabilities, and served. All child find efforts must comply with requirements related to proportionate share funding for students parentally-placed in private schools. See [PROPORTIONATE SHARE FUNDING FOR CHILDREN PARENTALLY-PLACED IN PRIVATE SCHOOLS].

If the District is the student's district of residence, rather than the district in which the private school is located, the District cannot refuse to conduct the evaluation and determine the student's eligibility for FAPE just because the student attends a private school in another District.

A home school in Texas may be considered a private school. In order to be considered a private school, a home school must provide elementary or secondary education that incorporates an adopted curriculum designed to meet basic educational goals, including scope and sequence of courses, and formal review and documentation of students' progress, but is not required to be a nonprofit entity.

When a student with a disability or a suspected disability is placed directly by the parent in a private school and is referred to the District, the District or Campus Special Education Assessment Personnel will evaluate the student in accordance with the evaluation procedures and hold an ARD Committee meeting to consider the evaluation and determine whether the District can offer the student FAPE. See [EVALUATION PROCEDURES].

However, the District is not responsible for providing FAPE until such time as the student's parent chooses to enroll the student in the District full time. Specifically, no student with a disability parentally-placed in a private school has an individual right to receive in the private school some or all of the special education and related services that the student would receive if enrolled in a District school.

A student with a disability parentally-placed in private school may receive some special education and related services if the District designates the student to receive service under a proportionate share services plan.

### Consultation

The District Special Education Administrator(s) must consult with parents and representatives of private schools regarding:

- The Child Find process, including how parentally -placed private school students can be involved in the process and how parents, teachers, and private school officials will be notified about the process;

- The determination of how much proportionate share funding will be made available for services;
- The consultation process between the District, private school officials, and the parent of a parentally -placed private school student to ensure meaningful opportunity to participate in the student's special education program;
- The provision of special education and related services which will be provided for students with disabilities parentally -placed in private schools, including the types of services and alternative service delivery mechanisms, how services will be apportioned if funds are insufficient; and how and when decisions regarding services will be made.

If the private school officials disagree with the District Special Education Administrator regarding the provision or types of services, the District Special Education Administrator will provide the private school a written explanation of the reasons why the District will not provide such services.

- The District Special Education Administrator will obtain a written affirmation signed by the private school officials stating that timely and meaningful consultation has occurred. If the private school fails to provide a written affirmation within a reasonable time, the District Special Education Administrator will forward documentation of the consultation process to TEA.

#### Right of Private School Official to Submit a Complaint

A private school official has the right to submit a TEA complaint that the District did not engage in consultation that was meaningful and timely or did not give due considerations to the views of the private school official. The complaining private school official must provide the basis of the complaint to TEA and the District Special Education Administration will provide appropriate documentation in response. If the private school official is dissatisfied with the response, the official may submit a complaint to the United States Secretary of Education.

#### *Child Find and Youth Who Are Incarcerated*

District Special Education Administration will maintain a record of incarcerated youth within the District. Except as explained above for individuals ages 18 -21, District Special Education Personnel will identify, locate, and evaluate incarcerated youth with disabilities within the District. To do so, District Special Education Personnel will communicate with individuals who are most likely to come into contact with incarcerated youth to identify students suspected of having a disability and ensure a timely evaluation is conducted where appropriate.



### *Definitions*

“Student with a disability” includes a student who was evaluated according to the FIE requirements and determined by an ARD Committee to have an intellectual disability, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance, an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services.

“Special education” means specially designed instruction, at no cost to the parents, to meet the unique needs of a student with a disability.

“Specially-designed instruction” means adapting, as appropriate to the needs of an eligible student under the IDEA, the content, methodology, or delivery of instruction:

- To address the unique needs of the student that result from the student’s disability; and
- To ensure access of the student to the general curriculum, so that the student can meet the educational standards within the jurisdiction of the District.

“Related services” means a wide array of developmental, corrective, and other supportive services that are required to assist the student to benefit from special education. Related services do not include a medical device that is surgically implanted, the optimization of that device’s functioning (mapping), maintenance of that device, or the replacement of that device. Special education and related services are based on peer-reviewed research to the extent practicable. Related services include, but are not limited to assistive technology, audiology services, counseling services, interpreting services, medical services, music therapy, occupational therapy, orientation and mobility services, parent counseling and training, physical therapy, psychological services, recreation, rehabilitation counseling services, school health services, social work services in school, speech-language therapy, and transportation.

“Intervention strategy” means a strategy in a multi-tiered system of supports that is above the level of intervention generally used in that system with all students. The term includes response to intervention and other early intervening strategies.

“Parentally-placed private school students with disabilities” includes students with disabilities enrolled by their parents in private, including religious, schools or facilities. “Private school” is a private elementary or secondary school, including any pre-school, religious school, and instructional day or residential school that:

- Is a nonprofit entity; and
- Provides elementary and secondary education that incorporates an adopted curriculum designed to meet basic educational goals, including scope and sequence of courses, and formal review and documentation of students’ progress.

### Additional Procedures

District Special Education Personnel will actively look to identify and locate all students with exceptional needs living in the District's jurisdiction by disseminating information to the community, including childcare centers, private schools, homeschools, residential treatment centers, day treatment centers, hospitals, mental health institutions, and detention and corrections facilities. District Special Education Personnel will document and maintain records of all efforts to identify, locate, and evaluate students who may be in need of special education services, including the date of each activity and the result of each activity. Child find activities include, but are not limited to, the following activities:

- Distributing written information to all schools, both public and private, in the area, as well as other agencies that may associate with students with special needs;
- Publishing information on the internet, including the District's website and individual campus websites;
- Offering training and information to private schools and homeschool parents regarding child find obligations and the intervention strategies utilized by the District;
- Drafting pamphlets about the availability of special education services and how to access them and post them in places where parents of a student with a disability are likely to be present, including doctor's offices, daycare centers, hospitals, therapy centers, treatment centers, detention and correctional facilities, etc.; and
- Otherwise providing outreach to the community through public service announcements, media advisories, or press releases.

Referral of students for possible special education services is part of the campus' overall regular education referral or screening system. For example, annual screenings will be performed by qualified personnel and may include general health screening (including social/behavioral health), vision screening, hearing screening, speech and language screening, screening for home language, academic screening to determine significance of academic delays (including dyslexia screening), and screening at the secondary level for students who are at-risk for dropping out or who have dropped out.

In addition, students experiencing difficulties in the regular education setting should have access to research based instructional interventions strategies provided in the general education program. The student's response to those intervention strategies is a critical component of information when a special education referral is considered. Each campus will have a student support team process for tiered interventions and special education referrals, which should include input from teachers, parents, and other individuals with relevant knowledge and should be used to address the student's specific needs including academic, behavioral, emotional, speech, or social difficulties ("intervention strategies").

### *Enrolled Students*

When a student is referred to the student support team and at least once every subsequent school year that the student is receiving interventions, the parent must be provided a description of the assistance the student may receive, all information collected related to interventions that have been previously used with the student; an estimated duration for which the assistance will be provided; an estimated time frame for when the parent will receive reports on the student's progress; and the District's Aiding Students Who Have Learning Difficulties or Who Need Special Education or Section 504 Services statement. In addition, the parent, upon request, will be provided with the TEA's Updates in Special Education, which describes the process for initiating a referral for special education services and includes the contact information and link on the District's website for the child find process. This information is also included in the Student Handbook and will be provided in the parent's native language, if at all possible.

Implementation of any intervention program or supports by the campus will not serve to delay or deny a referral for a special education evaluation when students are suspected of having a disability and a need for special education services. See [REFERRAL FOR POSSIBLE SPECIAL EDUCATION SERVICES].

District Special Education Administration will also ensure compliance with all state policies and procedures to prevent the inappropriate overidentification or disproportionate representation by race and ethnicity of students as students with disabilities. The District Special Education Department will monitor and collect data on the race and ethnicity of all students referred to the campus student support team as well as all students evaluated and identified as a student with a disability in need of special education services. The District Special Education Department will also provide training to campuses and special education personnel regarding the needs of students from different linguistic and cultural backgrounds.

The District will maintain documentation requirements of compliance associated with Texas Student Data System (TSDS), Public Education Information Management System (PEIMS), and State Performance Plan (SPP). District staff will provide training, with follow up, to ensure the documentation required is in place and compliant.

## General Education Responsibilities



- Stafford MSD utilizes the Response to Intervention (RTI) process. The **RTI Team** monitors student academics, behavior, speech and communication, health, and social/emotional supports. Stafford MSD utilizes the Response to Intervention process to consider all early intervening and support services available to students prior to referral for a special education evaluation. The **RTI Team** documents interventions prior to the referral for special education evaluation utilizing the *Success Ed software*.
- A Response to Intervention (RTI) Team Meeting is held for a student who requires interventions under Tier 1, 2, or 3. RTI meetings include the school counselor, classroom teacher, administrator, and other personnel if needed. Parents are not required but should be invited for Tier 2 and 3 interventions.
- **A CARE Team Meeting** is held **IF** the student continues to have trouble in the general classroom after the provision of Tier 3 interventions, *with implementation fidelity in the*

Student Name: \_\_\_\_\_  
 Date Received: \_\_\_\_\_  
 Date Returned: \_\_\_\_\_  
 Campus Counselor/Principal Designee: \_\_\_\_\_

**CARE TEAM CHECKLIST**

Documentation that must accompany complete CARE TEAM Packet.  
 \*Information is required BEFORE consent for testing is obtained. \*

- Intervention Log
- Referral Statement (Disability suspected; Reason for referral)
- Tier 1 Classroom Documentation of Parent Contact
- Report Card (current and previous year)
- Discipline Report
- Attendance Report
- STAAR AR/READY Results
- STAAR/EOC Scores
- Parent Information
- Work Samples
- Home Language Survey
- Copy of all CARE TEAM documentation
- Scantron/Cambridge Results
- Health Information
- Classroom Observation

Updated on 7/26/2021.

*areas of intensity and duration.* The district personnel will then refer the student for a full individual and initial evaluation (FIE.) CARE Team meetings include the counselor, classroom teacher, administrator, and other personnel if needed, such as the speech pathologist, diagnostician, and/ or LSSP. The primary purpose of the CARE Team is to determine if there is strong support for requesting special education testing. CARE Team led by the campus counselor or principal designee begins to build the referral packet.

- Student Review Committees are held once per month to review special education referral packets and parent requests for testing (scheduled by diagnostician and includes counselor, LSSP, speech language pathologist, administrator, and dyslexia specialist). *The campus counselor/principal designee prepares the special education referral packet.* The referral packet must be completed within ten (10) school days of the CARE Team meeting. The referral packet must include areas of intervention, intervention plan (intensity and duration), student work samples, student progress monitoring documentation and all other documents listed on the CARE TEAM Checklist.



<u>Process</u>	<u>Timeline</u>
<b>Response to Intervention</b>	The counselor will meet with teachers on a monthly basis to determine which interventions should be used for each child who is having educational difficulties and if the intervention plan is working. Intervention plans must be implemented immediately when a student need is determined. The Response to Intervention Team must meet regularly to measure student progress and make needed adjustments to the student intervention plan.
<b>CARE TEAM</b>	If deemed necessary, a special education referral packet must be completed by the campus counselor/principal designee within ten (10) school days of Student Review Committee decision.
<b>Child Find Duty</b>	A parent, teacher, or staff member may request testing at any time. Teachers should be maintaining detailed notes and data about each child's progress.
<b>Response to Parent/ Guardian Request for Testing</b>	The Diagnostician will schedule a <b>Student Review Committee Meeting</b> to respond to a written or verbal request for testing within 15 school days of the request.
<b>ECC Walk-ins</b>	When a parent of a child between the ages of 3 and 5 requests an evaluation, the diagnostician, speech pathologist, and licensed specialist in school psychology will meet with the parent and child to determine if further testing is warranted. A decision is made during the <b>Student Review Committee Meeting</b> .

### *Private School Students*

In regard to students in private schools, the District is responsible for identifying and locating students with disabilities attending private schools within the District's boundaries even if the student does not live within the District. The District is not responsible for serving district resident students who attend a private school outside of District boundaries, but is still responsible for identifying, locating, and, with parent consent, evaluating those students. At the start of each school year, District Special Education Administration will, to the extent possible, contact the parents of students with disabilities parentally-placed in private schools to notify them of the opportunity to receive an evaluation and possible special education services, including proportionate share services, for students who meet eligibility criteria.

Parents of students enrolled in a private school, or a representative or other individual otherwise qualified to make a referral, may contact the District Special Education Administration to initiate a referral for special education services. See [REFERRAL FOR POSSIBLE SPECIAL EDUCATION SERVICES]. The District Special Education Administration may request that the parent provide documentation related to the student's area of suspected disability, including, but not limited to, classwork, assessments, benchmark testing, health records, and information from the private school regarding the student's progress.

The District Special Education Personnel will maintain a list of all private schools, including home schools, within the District attendance boundaries. District Special Education Personnel will consult in a timely and meaningful way with appropriate representatives of eligible private school students using one or more of the following methods:

- District Special Education Personnel may send written correspondence to all private schools known to the District to be within its boundaries. In addition, written correspondence may be sent to parents of eligible private school students or known to the District to home school their students.
- District Special Education Personnel may schedule individual meetings with the representatives of eligible private school students.
- District Special Education Personnel may schedule a public meeting and invite representatives to provide input.
- District Special Education Personnel may, after notice through the news media and/or invitations to known private schools and private school parents, hold one or more group meetings with representatives of eligible private school students.
- Any other method appropriate for consultation.

Following the timely and meaningful consultation, District Special Education Personnel will obtain a written affirmation signed by the private school official of each of the private schools within the District's attendance boundaries. A signature on an attendance sheet is not a sufficient form of written affirmation.

District Special Education Personnel will keep adequate records of the consultation process, including, but not limited to, a record of all contacts to the private school and/or parent, a record of any response, a record of the agenda of the consultation, a record of the minutes from the consultation, a record of all input provided by the private school official or parent, a record of any disagreement, and a record of the District's response to the disagreement.

District Special Education Personnel will consult with representatives of eligible private school students on these issues as often as is necessary based on the current circumstances of the District, but at least once every year. The consultation will precede the design and development of the District plan to provide participation of private school students with disabilities in services.

### *Overidentification*

#### Evidence of Implementation

- Materials Related to Child Find Published and Distributed by the District
- Documentation of Meetings of Student Support Team
- Documentation of Interventions Used and Response
- Documentation for the state in TSDS, PEIMS, and SPP
- Notice to Parents of Interventions
- Aiding Students Who Have Learning Difficulties or Who Need Special Education or Section 504 Services Statement
- Referral for Special Education
- FIE
- ARD/IEP
- District Data Regarding Race and Ethnicity of Students Referred and Identified
- Private School Contact Database
- Database of Private School Students Evaluated and Identified as Students with Disabilities and Services Currently Received, if Any
- Child Find Documentation Provided to Private Schools or Parents
- A Record of all Private School Contacts and Response
- Consultation Agenda and Minutes
- Record of Disagreement and District Response
- Written Affirmation Statement
- Database of Incarcerated Youth
- Child Find Documentation Showing Contacts with Correctional Facilities in District

## Resources

[The Legal Framework for the Child-Centered Special Education Process: Child Find Framework - Region 18](#)

[The Legal Framework for the Child-Centered Special Education Process – Children in Private Schools – Region 18](#)

[The Legal Framework for the Child-Centered Special Education Process: Children Who Are Incarcerated – Region 18](#)

[Child Find - Texas Education Agency FAQ Regarding Notice for Children Receiving Interventions](#)

[Aiding Students Who Have Learning Difficulties or Who Need Special Education or Section 504 Services - Handbook Statement \(TEA\)](#)

[TEA Notice to Families – Updates in Special Education](#)

[OSEP Policy Documents Regarding the Education of Infants, Toddlers, Children and Youth with Disabilities: Child Find - U.S. Department of Education](#)

[Response to Intervention \(TEA\)](#)

[OSERS Letter to Morath with Monitoring Visit Letter \(Jan. 11, 2018\)](#)

[RTI Cannot Delay Evaluation \(OSEP Memorandum\)](#)

[SPEDTEX - Child Find \(TEA\)](#)

[Guidance on Parentally Placed Private School Children with Disabilities – Texas Education Agency](#)

[Special Education in Nonpublic Schools - Texas Education Agency](#)

[FAQ: Parentally – Placed Private School Children with Disabilities – TEA](#)

[ESSA Private School Equitable Services - Texas Education Agency](#)

[Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools \(Apr. 2011\) – U.S. Department of Education](#)

[OSERS Letter to Sarzynski \(July 6, 2015\) – U.S. Department of Education](#)

[OSERS Letter to Sutton and Rubel \(Sept. 29, 2014\) – U.S. Department of Education](#)

[OSERS Letter to Apostle \(Aug. 8, 2012\) - U.S. Department of Education](#)

[OSERS Letter to Corwell \(Feb. 4, 2013\) - U.S. Department of Education](#)

[OSERS Letter to Luger and Weinburg \(Dec 6, 2011\) - U.S. Department of Education](#)

[OSERS Letter to Eig \(Jan. 28, 2009\) – U.S. Department of Education](#)

## **District and Campus Improvement Plans**

Board Policy BQA; Board Policy BQB; Texas Education Code 11.251, 11.252, 11.253, 38.036, 39.053

### What is Required

#### *District Improvement Plan*

The Board of Trustees for the District must ensure that a district improvement plan is developed, reviewed, and revised annually by the Superintendent with the assistance of the district-level committee to improve the performance of all students.

The Superintendent shall work with the district-level planning and decision-making committee to develop and evaluate the district improvement plan. The plan must be reviewed and revised annually.

The district improvement plan should guide District and Campus Personnel in the improvement of student performance for all student groups to attain state standards.

The district improvement plan will include the following:

- A comprehensive needs assessment that addresses student performance on student achievement indicators for students across the District, as well as any other appropriate measures of performance. This performance data will be separated by all student groups served by the District, including categories of ethnicity, socioeconomic status, sex, and populations served by special programs, such as students in special education programs;
- Measurable performance objectives for the District for all appropriate student achievement indicators, and other measures of student performance that may be identified through the comprehensive needs assessment. These will include all student populations, including students in special education programs;



- Strategies for District and Campus Personnel to improve student performance, that include instructional methods for addressing the needs of student groups not achieving their full potential, evidence-based practices that address the needs of students for special programs including, suicide prevention, conflict resolution, violence prevention, dyslexia treatment programs, dropout reduction, integration of technology in instructional and administrative programs, positive behavior interventions and support including interventions related to grief-informed and trauma-informed care, staff development, career education, and accelerated education, and implementation of a comprehensive school counseling program;
- Strategies to provide information to elementary, middle school, junior high school, and high school students, their parents, and their teachers and counselors related to higher education admissions and financial aid opportunities, the TEXAS and Teach for Texas grant programs, and informed curriculum choices;
- Resources needed to implement identified strategies;
- Staff responsible for ensuring the accomplishment of each strategy;
- Timelines for ongoing monitoring of the implementation of each improvement strategy;
- A method for periodically determining whether strategies are successfully helping improve student performance;
- A policy addressing sexual abuse and other maltreatment of students; and
- A trauma-informed care policy.

The Board of Trustees shall evaluate the effectiveness of the plan to ensure that it is effectively structured to positively impact student performance at least once every two years.

At least once a year, the district-level committee must hold a public meeting after the District receives its annual performance report from the Texas Education Agency. The District's performance and its performance objectives shall be discussed at this meeting. The District must ensure that the community, parents, and staff can provide input towards the district improvement plan. The District should be transparent regarding any recommendations made by the district-level committee regarding the plan.

The Superintendent will regularly consult the district-level committee in the planning, operation, supervision, and evaluation of the District's educational program. The District must make this plan available to the Texas Education Agency upon request.

### *Campus Improvement Plan*

The District must ensure that each campus is effectively planning and making decisions appropriate to direct and support improved performance for all students through a campus improvement plan. The campus improvement plan should be designed to improve student performance for all student populations, including students in special education programs, with respect to the achievement indicators and any other appropriate performance measures for special needs populations.

Each campus should have campus-level planning and decision-making committees. The principal of each campus will work with the campus-level committee to develop, review, and revise the campus improvement plan once per year. The campus-level committee must be involved in any decisions related to planning, budgeting, curriculum, staffing patterns, staff development, and school organization and must approve any part of the campus plan addressing campus staff development needs.

Each campus improvement plan must:

- Assess the academic achievement for each student using the student achievement indicator system;
- Set the campus performance objectives based on the student achievement indicator system;
- Identify how the campus goals will be met for each student;
- Determine the resources needed to implement the plan;
- Identify staff needed to implement the plan;
- Set timelines for reaching the goals;
- Measure progress toward the performance objectives periodically to ensure the plan is resulting in academic improvement;
- Include goals and methods for violence prevention and intervention on campus;
- Provide for a program to encourage parental involvement at the campus; and
- Set goals and objectives for the coordinated health program on elementary, middle, or junior high school campuses.

The campus-level committee will be involved in decisions in the areas of planning, budgeting, curriculum, staffing patterns, staff development, and school organization, and must approve the portions of the campus plan addressing campus staff development needs. At least once a year, each campus-level committee must hold a public meeting after receiving the annual campus rating from the Texas Education Agency. The campus performance and campus performance objectives shall be discussed at this meeting. The District must ensure that the community, parents, and staff can provide input towards campus improvement plans.

Each campus principal will regularly consult the campus-level committee in the planning, operation, supervision, and evaluation of the campus educational program.

The District must make these plans available to the Texas Education Agency upon request.

### Additional Procedures

#### *District Improvement Plan*

District Special Education Administration will play an active role in the development of the district improvement plan. District Special Education Administration will serve on the district-level planning and decision-making committee and ensure that the district improvement plan implements appropriate measurable objectives and identified strategies for the special education population and addresses the unique needs of the District's special education population.

District Special Education Administration will meet with the Superintendent as needed, but no less than once per year, to review the district improvement plan. As a member of the district-level committee, District Special Education Administration will also attend the annual public meeting after the District receives its annual performance report from TEA.

#### *Campus Improvement Plans*

Each school year, the principal of each campus will work with the campus-level committee to develop, review, and revise a campus improvement plan to improve student performance for all student populations, including students in special education programs, with respect to student achievement indicators and any other appropriate performance measures for special needs populations.

Campus Special Education Personnel will serve on the campus-level committee to ensure that the campus improvement plan includes strategies for improving special education services based on data specific to their campus. As a member of the campus-level committee, Campus Special Education Personnel will attend the annual public meeting after the campus receives its annual campus rating from TEA.

The District will maintain documentation requirements of compliance associated with Texas Student Data System (TSDS), Public Education Information Management System (PEIMS), and State Performance Plan (SPP). District staff will provide training, with follow up, to ensure the documentation required is in place and compliant.

### **Evidence of Implementation**

- District Improvement Plan
- Campus Improvement Plans
- Record of Annual Public Meeting Related to District Improvement Plan
- Record of Annual Public Meeting Related to Campus Improvement Plan
- Membership of Committee for District Improvement Plan
- Membership of Committee for Campus Improvement Plan
- Record of Superintendent Consultation with the District-Level Committee
- Record of Superintendent Consultation with District Special Education Administration
- Records of Principal Consultation with Campus-Level Committees
- Response to Request from TEA for District Improvement Plan
- Response to Request from TEA for Campus Improvement Plan
- Documentation for the state in TSDS, PEIMS, and SPP

### **Resources**

[\*\*The Legal Framework for the Child-Centered Special Education Process: District and Campus Improvement Plans - Region 18\*\*](#)

[\*\*School Improvement - Texas Education Agency\*\*](#)

### **Parent and Notification and Personal Graduation Plan**

Board Policy EIF; Texas Education Code 28.0212, 28.02121, 28.022, 39.023, 39.024, 39.0241, 39.025, 39.034, 39.302–39.304

### **What is Required**

#### *Parent Notification of Performance*

Except for a student who is 18 years of age or older and living in a different residence than their parents, married, or who has had the disabilities of minority removed, Campus Personnel will notify parents of unsatisfactory student performance in accordance with Board policy.

Campus Personnel must:

- Provide written notice to a parent of a student’s performance in each class or subject at least once every 12 weeks;
- Give written notice to a parent or legal guardian of a student’s performance in English language arts, mathematics, science, and social studies, if the student’s performance is consistently unsatisfactory at least every 3 weeks, or during the fourth week of each 9-week grading period; and

- Hold a conference between parents and teachers for all students with unsatisfactory performance.

In accordance with Board policy, the student's parent must sign the written notice of unsatisfactory performance and return it to the specified Campus Personnel within the time stated on the notice.

If the District uses an electronic platform for communicating student grade and performance information to parents, the District may permit a parent to sign the required notice electronically, so long as the District retains a record verifying the parent's acknowledgement of the required notice. However, if the District accepts electronic signatures for the required notice of performance, the District must offer parents the option to provide a handwritten signature.

#### Annual Parent Notification of STAAR Performance

Campus Personnel must also provide written notice to the student's parent or guardian which includes a record of the comparisons of annual improvement of the student's achievement on the STAAR from one school year to the next. For those students who failed to perform satisfactorily on the STAAR, this notice should also include information on how to access on-line educational resources at the student's appropriate assessment level, including released STAAR exams.

#### *Personal Graduation Plan for Junior High and Middle School*

Campus Personnel must develop and implement a personal graduation plan for each student in junior high or middle school who has not performed satisfactorily on the STAAR or who is unlikely to receive a high school diploma before the fifth school year following the student's enrollment in the ninth grade.

The personal graduation plan must:

- Identify educational goals for the student;
- Include diagnostic information, appropriate monitoring and intervention, and other evaluation strategies;
- Include an intensive program of instruction;
- Address participation by the student's parent or guardian, including consideration of educational expectations for the student; and
- Provide innovative methods to promote the student's advancement, such as flexible scheduling, alternative learning environments, online instruction, and other interventions scientifically proven to improve learning and cognitive ability.



For students with disabilities who receive special education services through an IEP, the IEP may serve as the Personal Graduation Plan.

### *Personal Graduation Plan for High School*

Every high school student in the District must have a personal graduation plan. District Administration must publish in English and Spanish on the District website the information provided by TEA that explains the benefits of choosing a high school graduation plan that includes the distinguished level of achievement under the Foundation High School Program and includes one or more endorsements to enable the student to achieve a class rank in the top 10 percent of students at the campus and encourages parents, to the greatest extent practicable, to have the student choose these options. This information must be available to all high school students and their parents in the language in which the parents are most proficient only if at least 20 students in a grade level speak that language.

Each high school principal must choose a school counselor or school administrator to discuss personal graduation plan options with each student entering ninth grade, along with the student's parent. This plan must be confirmed and signed by both the student and the student's parent before the end of the student's ninth grade school year.

A personal graduation plan for a student in high school must identify a course of study that promotes college and workforce readiness and career placement and advancement. The personal graduation plan must also help the student transition from secondary to postsecondary education, where applicable. Campus Personnel cannot prevent the student and the student's parent or guardian from choosing a distinguished level of achievement or an endorsement. The personal graduation plan can be amended by the student as the student progresses through high school, but Campus Personnel must send written notice to the student's parent regarding the change.

### *Definitions*

"Parent" refers to a biological or adoptive parent, a foster parent, a legal guardian, a properly appointed surrogate parents, or other person who has legal authority to make educational decisions for a student.

"Satisfactory Performance" is the level of performance considered to be satisfactory on assessment instruments as determined by the State Board of Education. The ARD Committee of a student receiving special education services may determine, in accordance with law, the level of performance considered to be satisfactory on the assessment instruments administered to that student.

## Additional Procedures

### *Parent Notification of Performance for Special Education Students*

In addition to the notification requirements above applicable to all students, the ARD Committee of a student with a disability who receives special education services will discuss the student's unsatisfactory performance at the student's ARD meeting. Campus Special Education Personnel will determine whether it is necessary to convene an ARD meeting immediately after learning of the student's unsatisfactory performance or whether such information can be discussed at the student's annual ARD.

### *Personal Graduation Plan for Junior High and Middle School*

Campus Special Education Personnel will be responsible for implementing a personal graduation plan for each student in junior high or middle school receiving special education services who has not performed satisfactorily on statewide assessments or who is unlikely to receive a high school diploma before the fifth school year following the student's enrollment in the ninth grade.

The student's ARD Committee is responsible for developing and making decisions related to the student's personal graduation plan. The student's IEP itself will include all of the required elements of the personal graduation plan for general education students and will be used as the personal graduation plan for special education students. The ARD Committee will discuss and review the personal graduation plan annually at the ARD meeting. The Campus Counselor will attend the ARD meeting to discuss and share information about the Foundation High School Program, courses of study, and endorsements.

### *Personal Graduation Plan for High School*

The Campus Special Education Administrator will be responsible for reviewing the personal graduation plan options for each ninth-grade high school student receiving special education services, including the distinguished level of achievement option and endorsements. *See [GRADUATION]*. For a student with an IEP, the student's ARD Committee will develop and make decisions related to the student's personal graduation plan, with the input of the parent and the student and such information will be included in the student's IEP in a separate section related to graduation. The ARD Committee will work together to identify a course of study that promotes college and workforce readiness, promotes career placement and advancement, and facilitates the student's transition from secondary to post-secondary education.

The personal graduation plan will be discussed and reviewed at each annual ARD meeting, as well as upon request by the ARD Committee at any time, with the student's input. Campus Special Education Personnel will provide Prior Written Notice to the parent or guardian when any change to the student's personal graduation plan is made. The campus counselor will attend the ARD meeting to discuss and share information about the Foundation High School Program, courses of study, and endorsements.

The District will maintain documentation requirements of compliance associated with Texas Student Data System (TSDS), Public Education Information Management System (PEIMS), and State Performance Plan (SPP). District staff will provide training, with follow up, to ensure the documentation required is in place and compliant.

#### Evidence of Implementation

- Assessment Results
- Parent Notices of Unsatisfactory Performance Signed by Parent
- Parent Conference Documentation
- Notice of Comparisons of Student Performance
- ARD/IEP
- Personal Graduation Plan
- Prior Written Notice
- Documentation for the state in TSDS, PEIMS, and SPP

#### Resources

[The Legal Framework for the Child-Centered Special Education Process: Parent Notification and Personal Graduation Plan - Region 18](#)

[State Graduation Requirements - Texas Education Agency](#)

[Graduation Toolkit - Texas Education Agency](#)

### **Closing the Gap**

Board Policy EHBA; Board Policy EHBE; Board Policy EHBC; Board Policy EHAD; 20 U.S.C. 1400(c), 6314, 6315; 34 CFR 300.226; Texas Education Code 29.053(c)–(d), 29.055, 29.057(b), 29.059, 29.085, 29.086, 29.088, 29.090; 19 TAC 89.1050, 89.1203, 89.1205, 89.1210, 89.1226, 102.1041

#### What is Required

In 2015, Congress passed the Every Student Succeeds Act (ESSA), reauthorizing the Elementary and Secondary Education Act of 1965 (ESEA). Under ESSA, campuses must implement a targeted assistance school program to provide students identified as eligible for targeted assistance with methods and instructional strategies to strengthen the student’s academic program.

Each campus in the District should have a schoolwide program that includes a comprehensive plan related to the strategies that the campus will implement to address the needs of all students

in the school, especially the needs of students at risk of not meeting state academic standards. This includes, but is not limited to, the following services:

- Early intervention services
- A bilingual education program
- After-school and summer intensive instruction programs
- Basic skills programs for high school students
- Life skills programs for student parents

This may also include a schoolwide tiered model to prevent and address problem behavior and early intervention services and should be in coordination with similar activities and services under the IDEA.

#### *Early Intervention Services*

To reduce the need to label students as having a disability to the greatest extent possible, District Administration should provide incentives to campuses that provide a whole-school approach to early intervention services that address learning and behavior needs of all students. See [REFERRAL FOR POSSIBLE SPECIAL EDUCATION SERVICES]. In doing so, District and Campus Personnel will provide educational and behavioral evaluations, services, and supports to students whenever concerns arise, including scientifically – based literacy instruction. In addition, District Personnel should conduct professional development for Campus Personnel related to scientifically based academic instruction and behavioral interventions, including scientifically – based literacy instruction, and where appropriate, instruction on the use of adaptive and instructional software.

However, Campus Personnel may not provide early intervention services to avoid providing a student with a disability with a free appropriate public education under the IDEA. These services should not delay an appropriate evaluation of a student suspected of having a disability. See [REFERRAL FOR POSSIBLE SPECIAL EDUCATION SERVICES].

#### *Bilingual Education Program*

District Administration must develop a bilingual education or special language program if the District has more than 20 emergent bilingual students in any language classification in the same grade level.

If the District is required to offer a bilingual education program, campuses within the District must offer the following for emergent bilingual students:

- Bilingual education in kindergarten through the elementary grades;
- Bilingual education, instruction in English as a second language (ESL), or other transitional instruction approved by TEA in post-elementary grades through 8<sup>th</sup> grade; and
- Instruction in ESL in grades 9-12.

### *After-School and Summer Intensive Math & Science Instruction Programs*

District Administration may offer an intensive after-school or summer program to provide mathematics and science instruction to the following:

- Students who are not performing at grade-level in mathematics and/or science and require assistance to perform at grade-level;
- Students who are not performing successfully in mathematics and/or science courses and require assistance to successfully complete the course(s); or
- Any other student as determined by District policy.

Before implementing these programs, the District's Board of Trustees will adopt a policy to determine what grade level or course the student must be enrolled in to be eligible, decide whether teacher recommendations will be necessary for eligibility, ensure parents are provided notice of the program, ensure that eligible students are encouraged to attend the program, ensure that the program is offered at one or more locations in the District that are easily accessible to eligible students, and measure student progress on completion of the program.

District Administration must use funds appropriated by the state legislature for intensive instruction designed to help students satisfy state and local high school graduation requirements.

### *Basic Skills Programs for High School Students*

District Administration may apply to the Commissioner of Education to request funding for the basic skills programs for students in ninth grade who are at risk of not earning sufficient credit or who have not earned sufficient credit to advance to tenth grade and who fail to meet minimum skills levels. If the Commissioner approves the request, the District, with the consent of a student's parent or guardian, may assign a student to a basic skills program not to exceed 210 instructional days.

The goal of the program is to provide students the opportunity to increase credits required for high school graduation. The program will emphasize basic skills in English language arts, mathematics, science, and social studies. Campus Personnel must evaluate student progress annually and submit the results of the evaluation to the Commissioner at the end of each school year.



### *Life Skills Program for Students Parents*

Campuses may offer a life skills program to provide educational and support services for students who are pregnant or parents. If a campus offers a life skills program, it must include:

- Individual counseling, peer counseling, and self-help programs;
- Career counseling and job readiness training;
- Day care for the students' children on the campus or at a day care facility in close proximity to the campus;
- Transportation for children of students to and from the campus or day care facility;
- Transportation for students, as appropriate, to and from the campus or day care facility;
- Instruction related to knowledge and skills in child development, parenting, and home and family living; and
- Assistance to students in the program in obtaining available services from government agencies or community service organizations, including prenatal and postnatal health and nutrition programs.

Program Coordinators should also seek community support for the students and their children.

District Administration may enter into a shared services arrangement with a public or private entity to provide these programs. See [SHARED SERVICES ARRANGEMENTS].

### *Definitions*

“Bilingual education program” is a program provided to Emergent Bilingual students by teachers certified in bilingual education to help students attain full proficiency in English in order to participate equitably in school. It includes:

- Bilingual education in kindergarten through the elementary grades;
- Bilingual education, instruction in English as a second language (“ESL”), or other transitional language instruction approved by the Texas Education Agency for junior high or middle school; and
- Instruction in English as a second language in grades 9 through 12.

“Shared services arrangement” is a written contract that school districts may enter into to jointly operate their special education programs. The contract must be approved by the commissioner. Funds to which participating districts are entitled may be allocated to the districts jointly or in accordance with an agreement between the shared service arrangements.

## Additional Procedures

### *Early Intervention Services for Students Suspected of Having a Disability*

Where appropriate, Campus Special Education Personnel will ensure that early intervention services are provided in the general education setting prior to initiating a referral for possible special education services.

To determine which students require early intervention services, Campus Personnel should use student performance data from basic skills assessment instruments and achievement tests. Campus Administration will ensure that the general education teacher documents concerns related to the student's educational progress, as well as any supports provided to the student within the general education classroom and their level of success. The general education teacher should communicate the results of these efforts to the Campus student support team. The Campus student support team will review documentation related to the student's educational progress and any supports provided to the student within the general education classroom and their level of success.

If a student is still demonstrating a lack of educational progress in the general education setting with the implementation of early intervention services, the Campus student support team will initiate a referral for a special education evaluation. However, the Campus student support team will not encourage the provision of early intervention services to avoid providing a student with a disability with FAPE under the IDEA or delay an evaluation. Where a student is suspected of having a disability and an evaluation is requested, Campus student support team will commence the evaluation process while early intervention services are ongoing. See [REFERRAL FOR POSSIBLE SPECIAL EDUCATION SERVICES].

### *Bilingual Education Program for Special Education Students*

A student receiving special education services through an IEP may be identified as an Emergent Bilingual (EB) student. District Special Education Personnel shall evaluate students using assessment procedures that differentiate between language proficiency and a potential disability. The student's ARD Committee will be responsible for working with the language proficiency assessment committee ("LPAC") to determine appropriate entry and exit criteria for a bilingual education or ESL program. A District employee who is a member of the LPAC must be a member of the student's ARD Committee if the student is identified as an English language learner. A general education or special education teacher representative for the student's ARD Committee may also serve as the student's LPAC representative for this purpose.

The student with a disability will be identified as an Emergent Bilingual student if the student's ability in English is so limited or the student's disabilities are so severe that the English language proficiency test for identification cannot be administered. The student will not be denied placement in a bilingual education or ESL program solely because the student has a disability,

and the campus is responsible for providing such services despite limited staffing, scheduling issues, or other elements of administrative inconvenience.

The bilingual or ESL, special education, and general education teachers will consult regarding the student's progress regularly. While Campus Special Education Personnel may still review student progress and recommend an exit from bilingual education or ESL during the student's annual ARD meeting, such discussion must be in conjunction with the student's LPAC. Additionally, Campus Personnel may reclassify a student with a disability as English proficient only at the end of the school year and must still provide written notification to the student's parent and seek written approval if the student is reclassified as English proficient and will no longer participate in the bilingual education program. Campus Special Education Personnel will continue to monitor these students and consult with other Campus Personnel if it is determined that reenrollment may be necessary.

Additionally, the ARD Committee and LPAC may determine that the state's English language proficiency assessment for reclassification is not appropriate for a student with a significant cognitive disability. Where this is the case, these committees will meet to decide if the student should take the state's alternative English language proficiency assessment, determine an appropriate performance standard requirement for reclassification for the student, consider the results of a subjective teacher evaluation using the state's standardized alternate rubric.

#### *After-School and Summer Intensive Math & Science Instruction Programs*

If the District offers after-school and summer intensive mathematics and/or science instruction programs, such programs will be available to students with disabilities under the same policy and criteria as general education students. If such programs are available, at each annual ARD meeting, the ARD Committee will consider whether the student with a disability requires an intensive after-school or summer program in mathematics and science instruction. This will require an analysis of the student's performance on the most recent statewide assessments, where applicable, and performance in mathematics and science. If the student is eligible for these general education programs, the ARD Committee will also determine what accommodations or modifications are needed in order for the student to appropriately access these programs, if any.

This program is different from ESY services and thus requires a different analysis as to whether the student qualifies than the traditional regression/recoupment analysis under ESY. See [EXTENDED SCHOOL YEAR SERVICES]. Furthermore, instruction through an intensive instruction program is not designed to replace special education and related services required by the student's IEP.

### *Basic Skills Programs for High School Students*

If the District offers basic skills programs for high school students, such programs will be available to students with disabilities under the same policy and criteria as general education students. At the annual ARD meeting for a student in ninth grade, if the District offers a basic skills program for high school students, the ARD Committee will consider whether the high school student with a disability would benefit from such a program. This will require an analysis of whether the student is at risk or not earning or has not earned sufficient credit to advance to tenth grade and whether the student has met the minimum skills levels for a ninth-grade student. The basic skills program is separate and apart from any special education and related services provided to the student through the student's IEP and should not be provided as a replacement for such services.

The basic skills program may not be appropriate for a student depending on the student's unique needs. Should the ARD Committee determine that the basic skills program is beneficial for the student, the ARD Committee must also determine what accommodations or modifications are needed for the student to appropriately access the program, if any.

### *Life Skills Programs for Student Parents*

If the District provides a life skills program to offer educational and support services for students who are pregnant or parents, an eligible student with a disability who receives special education and related services may not be denied the opportunity to participate on the basis of disability. The student's ARD Committee will discuss whether this program is appropriate and necessary for the student based on the student's unique needs.

The District will maintain documentation requirements of compliance associated with Texas Student Data System (TSDS), Public Education Information Management System (PEIMS), and State Performance Plan (SPP). District staff will provide training, with follow up, to ensure the documentation required is in place and compliant.

#### Evidence of Implementation

- Written District or Campus Plan Regarding Targeted Assistance Program
- Professional Development and Trainings
- Documentation Regarding Early Intervention Services
- Parent and Student Communications Regarding Programs
- FIE
- Bilingual Education Program Documentation
- Campus Improvement Plans
- After-School and Summer Intensive Instruction Programs Documentation
- Basic Skills Programs Documentation
- Life Skills Programs Documentation
- Documentation for the state in TSDS, PEIMS, and SPP

## Resources

[The Legal Framework for the Child-Centered Special Education Process: Closing the Gap - Region 18](#)

[Requirements of Coordinated Early Intervening Services - Texas Education Agency](#)

[Response to Intervention - Texas Education Agency](#)

[Early Intervention - U.S. Department of Education](#)

[Early Childhood Intervention Services - Texas Health and Human Services](#)

[Bilingual Education Program Brochure - Region 20](#)

[Bilingual and English as a Second Language Education Programs - Texas Education Agency](#)

[Developing Programs for English Language Learners - U.S. Department of Education](#)

[Accelerated Instruction and Intensive Programs of Instruction for Students in Special Education Programs - Texas Education Agency](#)

[Guidance Related to ARD Committee and LPAC Collaboration - Texas Education Agency](#)

[Learning Support - Texas Education Agency](#)

[Pregnancy and Parenting Education Resources - Texas Education Agency](#)

[Applying for a Grant - Texas Education Agency](#)

## **Dyslexia Services**

Board Policy EHB; 34 CFR Part 104, Subpart D; Texas Education Code 26.0081(d), 38.003, 48.009(b)(1); 19 TAC 74.28; *The Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders*, Texas Education Agency (last updated September 2021)

### What is Required

The District's Board of Trustees is responsible for ensuring that campuses are implementing procedures for identifying and providing appropriate, evidence-based instructional services to all students with dyslexia or related disorders. The District's procedures must be implemented according to the approved strategies for screening, individualized evaluation, and techniques for treating dyslexia and related services as described in *The Dyslexia Handbook: Procedures*

*Concerning Dyslexia and Related Services* (“The Dyslexia Handbook”). The District must report through PEIMS the number of students enrolled in the District who are identified as having dyslexia.

#### *Parent Notification*

Parents or guardians of a student with dyslexia or a related disorder must be informed of all services and options available to the student, including general education interventions under response to intervention and multi-tiered systems of support models as well as the option for an evaluation and services under the IDEA and Section 504.

The District must provide written notification to the student’s parent or guardian at least five days before any evaluation or identification procedure is used with a specific student suspected of having dyslexia or a related disorder. This notice must be in English or in the parent or guardian’s native language and include the following:

- A reasonable description of the evaluation procedure to be used with the student;
- Information regarding instructional interventions or strategies provided to the student prior to the evaluation;
- An estimated time frame for completion of the evaluation; and
- Contact information for the Campus Dyslexia Personnel that the parent can contact regarding dyslexia services, relevant parent training and information projects, and any other appropriate parent resources.

In addition, before an initial FIE is conducted to determine whether a student, who is suspected to have dyslexia or a related disorder, has a disability under the IDEA, the Campus Special Education Personnel must comply with the special education procedures related to Prior Written Notice and Referral for Possible Special Education Services as well as provide the parent with all information indicated above. See [PRIOR WRITTEN NOTICE] and [REFERRAL FOR POSSIBLE SPECIAL EDUCATION SERVICES]. Campus Special Education Personnel shall also provide the parent a copy of the Notice of Procedural Safeguards and give the parent an opportunity to give written consent for an initial FIE. See [CONSENT FOR INITIAL EVALUATION] and [CHILD FIND DUTY].

#### *Universal Dyslexia Screening & Identification*

To comply with child find requirements, the District must screen or test all students for dyslexia and related disorders at appropriate times in accordance with The Dyslexia Handbook and state law. Specifically, the law requires that all kindergarten and first grade students be screened for dyslexia and related services. In addition, the law requires the District to administer to students in kindergarten, first grade, and second grade a reading instrument to assess student reading development and comprehension. This law also requires the District to administer a reading instrument at the beginning of seventh grade to students who did not demonstrate reading proficiency on the sixth-grade state reading STAAR.

Only District or Campus Personnel who are trained in valid, evidence-based assessments and can appropriately evaluate students for dyslexia and related disorders should conduct the screenings. This includes an individual who is certified/licensed in dyslexia or a classroom teacher who holds a valid certification and who is trained in instructional strategies that use individualized, intensive, multisensory, phonetic methods, as well as a variety of writing and spelling components.

The District is required to consider prior screenings and testing before rescreening or retesting a student determined to have dyslexia during a prior screening or testing.

The District may not use early intervention strategies, such as Response to Intervention systems or other multi-tiered systems of support, to delay or deny the special education evaluation of a student suspected to have a specific learning disability, including dyslexia or a related disorder.

#### *Dyslexia Services*

The District must provide a reading program for any student with dyslexia or a related disorder that is in accordance with the descriptors and implementation requirements found in The Dyslexia Handbook. All Dyslexia Providers must be trained in the instructional strategies that use individualized, multisensory, phonetic methods and a variety of writing and spelling components as described in The Dyslexia Handbook.

The District must provide each student identified as having dyslexia access to the District's dyslexia services with a provider trained in dyslexia and related disorders at the student's campus. Additional services can be offered at a centralized location if the parent or guardian agrees to the services, but centralized services must not prevent the student from receiving services at the student's campus.

#### *Parent Education Program*

Campus Personnel must provide parents or guardians of students suspected of having dyslexia or a related disorder a copy or a link to the electronic version of The Dyslexia Handbook as soon as the suspicion arises.

The District and/or Campus Personnel must also offer a parent education program for parents or guardians of students with dyslexia and related disorders. This program must include:

- Awareness and characteristics of dyslexia and related disorders;
- Information on testing and diagnosis of dyslexia and related disorders;
- Information on effective strategies for teaching students with dyslexia and related disorders;
- Information on qualifications of those delivering services to students with dyslexia and related disorders;



- Awareness of information on accommodations and modifications, including those for statewide assessments;
- Information on eligibility, evaluation requests, and services available to the student under Section 504 and IDEA, and information regarding intervention processes, such as Response to Intervention; and
- Contact information for the relevant regional and/or District specialists for dyslexia and related disorders.

### *Definitions*

“Dyslexia” is a disorder of constitutional origin manifested by a difficulty in learning to read, write, or spell, despite conventional instruction, adequate intelligence, and sociocultural opportunity.

“Related disorders” include disorders similar to or related to dyslexia, such as developmental auditory imperception, dysphasia, specific developmental dyslexia, developmental dysgraphia, and developmental spelling disability.

“Universal screening” is defined as a universal measure administered to all students by qualified personnel to determine which students are at risk for dyslexia or reading difficulties and/or a related disorder. Screening is not a formal evaluation.

### Additional Procedures

#### *Dyslexia Screening & Identification*

Campus Personnel are responsible for ensuring that all students in kindergarten and first grade are screened for dyslexia in an appropriate and timely manner. Before screening may take place, District or Campus Administration will select a screening instrument from the Commissioner’s List of Reading Instruments list for Campus Personnel to use that addresses the following skills:

- Kindergarten – Letter Sound Knowledge or Letter Naming Fluency; Phonological Awareness
- First Grade – Word Reading Accuracy or Fluency; Phonological Awareness,

Screenings for all kindergarten students should take place in the later part of the spring semester. Considerations for scheduling the kindergarten screener may include the following factors: (1) has adequate time for instruction been provided during the school year; (2) has adequate time been provided to compile data prior to the end of the school year; (3) how will the timing of the screener fit in with the timing of other required assessments; (4) has sufficient time been provided to inform parents in writing of the results of the reading instrument and whether the student is at risk for dyslexia or other reading difficulties; (5) has adequate time been provided for educators to offer appropriate interventions to the student and (6) has sufficient time been provided for decision making regarding next steps in the screening process.

Screenings for all first grade students should take place no later than the middle of the school year and must conclude by January 31 of each year. Results of the dyslexia and related disorder screenings for students in Kindergarten and Grade 1 shall be reported through the Texas Student Data System Public Education Information Management System (TSDS PEIMS).

All Campus Personnel conducting screenings must understand and be able to identify primary characteristics of dyslexia, including challenges with reading words in isolation, decoding, reading orally, and spelling. In addition, the individuals who administer the screening instrument must also document student behaviors observed during the administration of the instrument, including lack of automaticity, difficulty sounding out words left to right, guessing, self-correcting, inability to focus on reading, and avoidance behavior.

Campus Administration will verify that all Campus Personnel conducting screenings have undergone the required trainings and are properly certified to fill this role. Specifically, an individual who administers and interprets the screening instrument must, at a minimum, be an individual who is certified/licensed in dyslexia or a classroom teacher who holds a valid certification for kindergarten and Grade 1. Where possible, the student's current classroom teacher will administer the screening instrument for dyslexia and reading difficulties. Then, the teacher (or other Campus Personnel) conducting screenings will report the results of dyslexia and related disorder screenings required for each student in kindergarten and first grade through PEIMS. The results must also be provided to the parent of the student with an explanation of the scores.

Campus Personnel will continue to monitor students for common risk factors for dyslexia in second grade and beyond.

Based on the universal screener for reading and dyslexia, if a student is at low risk for reading difficulties, the campus will continue evidence-based core reading instruction and continue to monitor the student for reading difficulties in the future.

If the student is at risk for reading difficulties, Campus Personnel will gather both quantitative and qualitative information about the student. Quantitative information may include current dyslexia screening instruments, previous dyslexia screening instruments, formal and informal classroom reading assessments and/or other skill assessments, vision and hearing screening, state assessment reports, curriculum-based assessments, and attendance records. Qualitative information may include observations of student during screening, other observations of student progress, teacher observations and reports, parent/guardian input (e.g. family history, early language skills), current student work samples, academic progress reports, work samples from earlier grades, and/or accommodations and intervention history and data.

Both quantitative and qualitative information will be reviewed by a Student Support Team which should include individuals who have knowledge of the student, are appropriately trained in the administration of the screening tool, are trained to interpret the results, and recognize characteristics of dyslexia. The Student Support Team may consist of the student's classroom

teacher, the counselor, the campus or district dyslexia specialist, the individual who administered the screener, a representative of LPAC, assessment personnel, the parent, and/or an administrator. The Student Support Team is not the ARD Committee or a Section 504 Committee, although many of these individuals may be on a future committee if the student is referred for an evaluation and qualifies for services and/or accommodations. The Student Support Team shall analyze the data and make a decision as to whether the student's reading difficulties are or are not consistent with characteristics of dyslexia and related disorders.

If the Student Support Team determines that the data does not give the members reason to suspect that a student has dyslexia, a related disorder or other disability, the Student Support Team may decide to provide the student with additional supports in the classroom or through the Response to Intervention process or other Campus-based intervention system. However, the student is not referred for an evaluation at this time.

If the Student Support Team suspects that the student has dyslexia or a related disorder, the Student Support Team should refer the student for an initial FIE under the IDEA, as there is a reason to suspect that special education services are necessary for the student. See [REFERRAL FOR POSSIBLE SPECIAL EDUCATION SERVICES].

**It is important to remember that at any point in the process, a referral for a dyslexia evaluation may be made under IDEA if a disability and a corresponding need for special education services are suspected. Progression through the intervention process is not required in order to begin the identification of dyslexia.** For example, Campus Personnel should refer a student for a dyslexia evaluation if regular progress monitoring reflects a difficulty with reading, decoding, and/or reading comprehension or when a student is not reaching grade-level benchmarks due to reading difficulty. In addition, parents or guardians have a right to request a referral for a dyslexia evaluation under the IDEA at any time. While the use of tiered intervention may be part of the identification and data collection process for dyslexia, Campus Personnel must ensure that evaluations of students suspected of having a disability are not delayed or denied because of implementation of tiered interventions, especially when parent or teacher observations reveal the common characteristics of dyslexia.

#### *Referral for IDEA Evaluation*

If the Student Support Team determines that dyslexia or a similar disability is suspected and there is a suspected corresponding need for special education services, the Student Support Team must refer a student for an initial evaluation under the IDEA. The Student Support Team will make decisions regarding referrals on a case-by-case basis, carefully considering all data obtained from screenings and other sources. In addition, parents or guardians may also request a referral for an initial evaluation under the IDEA. District Assessment Personnel must seek parental consent for an FIE and follow all procedural safeguards required under the IDEA, including the provision of proper Prior Written Notice and a copy of the Notice of Procedural Safeguards to the parent. See [CHILD FIND DUTY] and [REFERRAL FOR POSSIBLE SPECIAL EDUCATION SERVICES] and [CONSENT FOR INITIAL EVALUATION]

### *Provision of Dyslexia Services*

If a student is evaluated under IDEA and the results of the evaluation show that the student has dyslexia or a related disorder, the student may be eligible for dyslexia services. If the student is determined to be eligible under the IDEA, and the ARD Committee determines the student requires specially designed instruction, the student will receive related services, supplementary aids and services, accommodations, or program modifications, as determined by his/her ARD Committee. If the student is determined to be eligible for dyslexia or a related disorder but does not require specially designed instruction as determined by the ARD Committee, the student is eligible for Section 504 services, standard protocol dyslexia instruction, accommodations and/or related aids as determined by his/her Section 504 committee.

Regardless of whether the student is receiving standard protocol dyslexia instruction under Section 504 or specially designed instruction under IDEA, the dyslexia services provided must address the following critical, evidence-based components:

- Phonological awareness
- Sound-symbol association
- Syllabication
- Orthography
- Morphology
- Syntax
- Reading comprehension
- Reading fluency

In addition to the above content, it is also critical that the way the content is delivered is consistent with research-based principles. Campus Administration and the Dyslexia Service Provider will ensure that all of the following principles of effective intervention for students with dyslexia are utilized:

- Simultaneous, multisensory
- Systematic and cumulative
- Explicit instruction
- Diagnostic teaching to automaticity
- Synthetic instruction
- Analytic instruction

The District Administration will ensure that dyslexia instruction is provided by individuals trained to deliver such instruction. Teachers, such as reading specialists, master reading teachers, general education classroom teachers, or special education teachers, who provide dyslexia intervention for students are not required to hold a specific license or certification. However, these educators must at a minimum have additional documented dyslexia training aligned to the requirements of The Dyslexia Handbook and must deliver the instruction with fidelity. In addition, educators who teach students with dyslexia should be trained in new research and practices related to dyslexia as part of their continuing profession education (CPE) hours. A provider of dyslexia instruction does not need to be certificated as a special educator when serving a student who also receives special education and related services if the provider is the most appropriate person to offer the dyslexia instruction.

District Administration will decide whether to purchase a reading program or develop its own evidence-based reading program for students with dyslexia and related disorders. If the District decides to develop its own reading program, District Administration must ensure that the program is aligned with the procedures in The Dyslexia Handbook, including the required components and principles above.

The District will maintain documentation requirements of compliance associated with Texas Student Data System (TSDS), Public Education Information Management System (PEIMS), and State Performance Plan (SPP). District staff will provide training, with follow up, to ensure the documentation required is in place and compliant.

#### Evidence of Implementation

- Cumulative Student Data
- Instructional Strategies Provided and Student Response
- Section 504 Evaluation
- FIE
- Evidence of Trainings for Campus Personnel Administering Screenings
- Certifications of Campus Personnel Administering Screenings
- Evidence of Training for Dyslexia Service Providers
- Certifications of Dyslexia Service Providers
- ARD/IEP
- Section 504 Plan
- Right to Information Provided to Parent
- Receipt From Parent of The Dyslexia Handbook
- Receipt From Parent of Procedural Safeguards Under IDEA and/or Section 504
- Approved Dyslexia Program
- Documentation of Dyslexia Services Provided to Student
- Documentation of Student Support Team Meetings
- Documentation for the state in TSDS, PEIMS, and SPP

## Resources

[The Legal Framework for the Child-Centered Special Education Process: Dyslexia Services - Region 18](#)

[Dyslexia and Related Disorders - Texas Education Agency](#)

[Texas Dyslexia Handbook 2021](#)

[Dyslexia Handbook FAQ \(Updated March 18, 2022\)](#)

[Provision of Services for Students with Dyslexia and Related Disorders - Texas Education Agency](#)

[Dear Colleague Letter: Guidance on Dyslexia \(October 23, 2015\) - U.S. Department of Education](#)

[To the Administrator Addressed: Updates to Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders \(Dyslexia Handbook\) - September 23, 2021](#)

[Dyslexia PEIMS Coding Overview](#)

## **Referral for Possible Special Education Services**

Board Policy EHBA; 34 CFR 300.33, 300.300(a), 300.301, 300.303, 300.309, 300.503(a); Texas Education Code 25.007(b)(10)(A), 26.0081(c), 29.0011(a); 19 TAC 89.1011(a), (c).

### What is Required

TEA will produce and provide District Administration a written explanation of the options and requirements for providing assistance to students who have learning difficulties or who need or may need special education. This includes the right of parents or guardians to request an evaluation for special education services at any time. Each school year, District Administration must provide this explanation to all parents in the student handbook or by another means. Referral of students for a special education evaluation must be part of the District's overall general education referral or screening system. See [CHILD FIND DUTY]. In addition, students who are enrolled in private school or home school by their parents may also be referred for a special education evaluation in accordance with these procedures.

### *Referral for Initial Evaluation*

Either the parent of the student, District or Campus Personnel, TEA, an educational service agency, or another political subdivision of the state that is responsible for providing education to students with disabilities may request an initial evaluation to determine whether a student is a student with a disability in need of special education services.

When a student is referred for an initial evaluation, the District must provide Prior Written Notice to the parent of its proposal to do the evaluation or its decision not to evaluate the student. *See* [PRIOR WRITTEN NOTICE]. For students who are homeless or in substitute care, the District must also provide this notice to the educational decision-maker and caseworker of the student.

Campus Personnel must refer a student for an initial evaluation if the student continues to have difficulty in the general education classroom after the provision of interventions and general education supports. *See* [CHILD FIND DUTY].

If a student is suspected of having a specific learning disability, Campus Personnel must promptly refer the student for an initial evaluation if the student has not made adequate progress after an appropriate period of time if:

- The student has been provided appropriate instruction in the general education setting, delivered by qualified personnel; and
- The student has been provided, data-based assessments of achievement at reasonable intervals, and a lack of adequate progress has been documented and provided to the student's parent or guardian.

District Assessment Personnel must promptly obtain consent for an initial evaluation prior to conducting an initial full and individual evaluation. *See* [CONSENT FOR INITIAL EVALUATION].

All documentation regarding a referral for an initial evaluation shall be maintained in the student's special education eligibility folder.

### Additional Procedures

For those students who are having difficulty in the regular classroom, Campus Personnel must consider tutorial, compensatory, and other academic or behavior support services that are available to all students.

Each school year, the Campus Special Education Administration will ensure that the written explanation of the options and requirements for providing assistance to students who have learning difficulties or who need or may need special education is included in the Student/Parent Handbook and on the District website in the form adopted by TEA. This notice as well as additional information about the interventions the student is receiving will also be provided to



the parent or guardian when the student first begins receiving assistance for the school year and every school year thereafter that the student receives interventions. See [CHILD FIND DUTY].

### *Referral for Initial Evaluation*

When a student has not made sufficient progress despite having been provided interventions and supports or a parental request for evaluation is received, the Student - Support Team will gather all relevant data.

A request for an initial special education evaluation referral will include the following:

- The reason(s) for the request and the areas of concern;
- Test results, records, or reports that support the referral which may include all or some of the following: parent information, outside evaluations, teacher information, counselor information, report cards, state assessment scores, work samples, dyslexia screening, communication skills checklist, home language survey, benchmark testing, criterion-based assessments, norm-referenced assessments, reading inventories, health information, hearing and vision screenings, behavior records, attendance records, LPAC information (if applicable), and/or Section 504 information (if applicable); and
- Description, implementation, and results documentation of intervention services, programs, or instructional methodologies provided to the student.

A copy of all referral information and data will be maintained by the campus and included in the referral section of the student's special education eligibility folder. See [SPECIAL EDUCATION ELIGIBILITY FOLDER].

When a referral for an initial evaluation is submitted, District Assessment Personnel will communicate with Campus Personnel to decide the scope of the evaluation. District Assessment Personnel will seek and obtain written consent for the evaluation from the parent or guardian prior to conducting an initial evaluation. The initial evaluation will be completed no later than 45 school days from the day the school receives written consent. See [EVALUATION PROCEDURES]. If a student is absent for three or more school days during the 45 school days, this period will be extended by the number of school days equal to the number of school days the student is absent. However, this exception does not apply for students who are under the age of 5 by September 1 of the school year, for students not enrolled in public school, or for students enrolled in a private or home school setting.

### *Parental Request for Evaluation*

A parent may submit a written request for an initial evaluation to Campus or District Administration by hand delivery or through mail, email, or fax. The request from the parent does not need to include any specific language or magic words. If the parent requests an evaluation or is requesting special education or related services, the District will consider that a request for an initial evaluation.

For requests received via hand delivery, mail, email or fax, District or Campus Special Education Personnel receiving the documents will stamp the request with the school day it was received (or opened). If the request is received after 5pm, the request should be stamped the following school day. If the request is sent on a weekend or on a school staff holiday, the date stamp should reflect the next school day that is not a weekend or a school staff holiday.

Should a parent or guardian make an oral request for an initial evaluation to District or Campus Personnel over the phone or in person, Campus Special Education Administration will promptly advise the parent or guardian regarding how to submit a proper written request. Campus Personnel should be trained to connect the parent to a Campus or District Administrator who can assist the parent with the written request. If a parent does not follow an oral request for an initial evaluation with the written request, the staff to whom the oral request was made will document this information and immediately submit it to the District or Campus Special Education Administration. Follow up to this request will occur in a timely manner. District or Campus Special Education Administration will train all District staff on this process each year.

District Special Education Personnel will respond no later than fifteen (15) school days after a written request from the parent or guardian is received by the Campus or District Administration whether the District agrees to or refuses to evaluate the student. School day does not include a day that falls after the last instructional day of the spring school term and before the first instructional day of the subsequent fall term (i.e. summer break).

If District Special Education Personnel proposes that an evaluation should be completed, the Campus Special Education Personnel will provide the parent with a Prior Written Notice, a copy of the Notice of Procedural Safeguards and a copy of the Parent's Guide to the Admission, Review, and Dismissal Process and give the parent an opportunity to give written consent for the evaluation no later than 15 school days after the written request was received.

If District Special Education Personnel decide that an evaluation is not warranted at this time, Campus Special Education Personnel shall provide the parent with a Prior Written Notice and a copy of the Notice of Procedural Safeguards by the 15-school day deadline. In addition, Campus Personnel shall refer the student to the Support Team and/or Campus Administration to address the parent concerns and monitor student progress.

The Campus Special Education Personnel must ensure that the parent signs written acknowledgement of receipt of the Prior Written Notice, the Notice of Procedural Safeguards,

and the Parent's Guide to the Admission, Review and Dismissal Process. Such documentation will be kept in the Referral section of the student's special education eligibility folder if the student is referred for an initial evaluation or, if an evaluation is refused. If written acknowledgement of receipt of the Prior Written Notice and Procedural Safeguards is unable to be attained, the manner in which the Notice and Procedural Safeguards was provided will be documented and kept in the folder. See [PRIOR WRITTEN NOTICE] and [SPECIAL EDUCATION ELIGIBILITY FOLDER].

### *Referrals from Other Sources*

District and Campus Special Education Personnel will follow the same process outlined above for an initial referral from an authorized source that is not a District employee or parent/guardian of the student. District and Campus Special Education Personnel should contact District Special Education Administration to confirm that the referral is from an authorized source before initiating the referral.

### *Consideration of Alternative Supports*

Before referring a student for an initial special education evaluation, District and Campus Personnel will consider the following:

- All support services available to all students, including, but not limited to, tutorial, remedial, compensatory, response to intervention, classroom accommodations or other academic or behavior support services;
- Instructional methodologies; and
- Medical information related to the student, including vision and hearing tests, to determine if additional supports are necessary.

This consideration should involve a consultation with the student's general education teacher(s) and other professionals within the District familiar with the student as well as consultation with the parent.

District and Campus Special Education Personnel will also consider if community-based services are available that could benefit the student and/or the student's family. Note that the availability of such support does not diminish the District's obligation to provide FAPE if the student is eligible as a student with a disability. Furthermore, District and Campus Administration will provide professional development and/or supports to general education teacher(s) where appropriate to benefit the student.

However, Campus and District Personnel may not delay making or recording the initial referral for an evaluation, obtaining parental consent for the initial evaluation, or commencing the initial

evaluation process in considering these alternative support services. This process will occur in addition to and at the same time as the special education initial referral process.

#### *Trainings Related to Special Education Referral Process*

District or Campus Special Education Administration will provide yearly training related to the special education referral process to all Campus Personnel.

The District will maintain documentation requirements of compliance associated with Texas Student Data System (TSDS), Public Education Information Management System (PEIMS), and State Performance Plan (SPP). District staff will provide training, with follow up, to ensure the documentation required is in place and compliant.

#### **Evidence of Implementation**

- Aiding Students Who Have Learning Difficulties or Who Need Special Education or Section 504 Services
- Student Support Team Documentation
- Referral Documents Date-Stamped with School Day Received
- Documentation of General Education Interventions and Supports and Results
- Documentation of Parental Input or Request for Referral
- Prior Written Notice
- Notice of Procedural Safeguards and Receipt of Same
- Parent’s Guide to the Admission, Review, and Dismissal Process and Receipt of Same
- Written Consent for Initial Evaluation
- Professional Development and Supports for General Education Teachers
- Yearly Trainings for Campus Personnel Regarding Referrals (Presentation Materials and Sign-in Sheets)
- Documentation for the state in TSDS, PEIMS, and SPP

#### **Resources**

[The Legal Framework for the Child-Centered Special Education Process: Referral for Possible Special Education Services - Region 18](#)

[Parent's Guide to the Admission, Review, and Dismissal Process - Texas Education Agency](#)

[Requirements of Coordinated Early Intervening Services - Texas Education Agency](#)  
[Response to Intervention - Texas Education Agency](#)

[Notice of Procedural Safeguards - Texas Education Agency](#)

[Letter to Ferrara \(Feb. 29, 2012\) - U.S. Department of Education](#)

[Memorandum: Response to Intervention and Evaluation for Preschool Special Education Services \(Apr. 29, 2016\) - U.S. Department of Education](#)

[Right to Information Concerning Special Education of Students with Learning Difficulties](#)

[FAQs on SB 1153 - Texas Education Agency](#)

## **Ages 0-5**

Board Policy EHB; Board Policy EHBA; Board Policy EHBAC; 20 U.S.C. 1436; 34 CFR 300.101, 300.124, 300.24, 300.344, 303.126, 303.13, 303.20, 303.209, 303.26, 303.321, 303.344, 303.420; Texas Education Code 29.009; 19 TAC 89.1035, 89.1050(b), 89.1096, 89.63(c)–(d); Texas Government Code 29.003, 392.002

### What is Required

The District must provide FAPE to all eligible students with disabilities ages 3 through 21. *See* [CHILD FIND DUTY]

District Special Education Administration must develop a system to inform parents of students from ages 3 to 5, including those students placed in private preschool or daycare, who are eligible for enrollment in a special education program of the availability of the program. *See* [CHILD FIND DUTY]

Students with visual impairments, or who are deaf or hard of hearing, must have FAPE made available as set out in an Individualized Family Service Plan (IFSP) from birth through 2 years of age and an Individualized Educational Program (IEP) for those students age 3 and older. *See* [VISUAL IMPAIRMENT] and [DEAF OR HARD OF HEARING] and [DEAF-BLINDNESS]

### *Noncategorical Early Childhood*

In addition to the other eligibility categories under the IDEA, students between the ages of 3 through 5 may qualify for special education services as having a noncategorical early childhood disability. *See* [NONCATEGORICAL EARLY CHILDHOOD]. “Noncategorical early childhood disability” may apply to a student between the ages of 3 to 5 that is evaluated as having an intellectual disability, and emotional disturbance, a specific learning disability, or autism.

### *Individualized Family Services Plan (“IFSP”) for VI and AI Students*

An IFSP should be held in place of an ARD meeting for students from birth through two years of age with a visual impairment and/or who is deaf or hard of hearing. See [VISUAL IMPAIRMENT and DEAF OR HARD OF HEARING]. The IFSP team must include the student’s parent or guardian and other Campus and District Special Education Personnel.

The IFSP team must determine the appropriate setting for providing the services based on the student’s outcomes that are identified by the IFSP team at the IFSP meeting. Home instruction may be appropriate for students ages 0 through 2. The appropriate instructional setting for students ages 0 through 2 will be determined in accordance with the IFSP, current attendance guidelines, and the MOU between TEA and Early Childhood Intervention (ECI) services.

The IFSP must include:

- The student’s present levels of physical development—including vision, hearing, health status, cognitive development, communication development, social or emotional development, and adaptive development based on the information from the student’s evaluation and assessments;
- A statement about the family’s resources, priorities, and concerns relating to the student’s development;
- Expected measurable results or measurable outcomes that are developmentally appropriate for the student and the family, as well as the criteria, procedures, and timelines used to determine progress and whether modifications or revisions to the expected results or outcomes, or early intervention services, are necessary;
- Any specific early intervention services needed to meet the unique needs of the student or family, including the length, duration, frequency, intensity, and method of delivering the services;
- A statement that the early intervention services are provided in the student’s natural environment to the maximum extent possible—as well as the location of the early intervention services and payment arrangements, if any—or an explanation as to why they cannot be;
- An educational component promoting school readiness that includes pre-literacy, language, and numeracy skills (for those students ages 3 through 5 only);
- The date services will begin;
- The anticipated duration of each service; and
- The name of the service coordinator responsible for implementing the services;
- Steps and services that will be taken to encourage a smooth transition from IDEA-C services to IDEA-B services, if appropriate, or other appropriate services.

Where appropriate, the IFSP should also include:

- Any medical and other services that the student or family needs and is receiving through other sources not required or funded under Part C of IDEA; and
- Any steps that the service coordinator or family can take to help the student and family obtain such services if not currently provided.

#### *Transition from ECI to Preschool Programs*

District Special Education Personnel must ensure a smooth and effective transition for students receiving ECI services under Part C of the IDEA to preschool special education programs under Part B of the IDEA.

Unless the student with a disability's parent has notified the Health and Human Services Commission ("HHSC") in writing of the decision to opt out, the HHSC will notify District Special Education Administration not fewer than 90 days before the student's third birthday that the student will soon reach the age of eligibility under Part B of the IDEA. If a student is determined to be eligible for services under Part C of the IDEA more than 45, but less than 90, days before the student's third birthday, HHSC will notify District Special Education Administration as soon as practicable. If a student is referred for special education services under Part C of the IDEA fewer than 45 days before the student's third birthday, HHSC will obtain parental consent to refer the student to District Special Education Administration but is not required to conduct an evaluation, assessment, or initial IFSP meeting.

Notification from HHSC will abide by state policies related to confidentiality of personally identifiable information—including the ability of a parent to object to disclosure of personally identifiable information—and early intervention records. Unless a parent objects to the HHSC notification, the notification must include the student's name and date of birth, as well as contact information for the parents.

Upon approval of the family, HHSC will convene a transition conference with the family not fewer than 90 days but not more than nine (9) months before the student's third birthday to discuss whether the student will receive services under Part B of the IDEA. The transition conference may be combined with initial and annual IFSP meetings where appropriate. District Special Education Personnel will participate in transition conferences arranged by HHSC to fully inform families of the possible services available under Part B and support family involvement in the transition planning process prior to the child's third birthday.

In the case of a student who was previously served under Part C services, District Special Education Personnel will send an invitation to the initial ARD Committee meeting at the request of the parent to the student's service coordinator of Part C services or other appropriate representatives to assist with a smooth transition.



### *Individualized Education Program (“IEP”)*

District and Campus Special Education Personnel must ensure that an IEP is implemented by the third birthday of all eligible students with disabilities. The ARD meeting and the IEP developed at the ARD meeting must meet all requirements under state and federal law. See [ADMISSION, REVIEW, AND DISMISSAL COMMITTEE] and [PRIOR WRITTEN NOTICE].

The IEP must provide special education and related services in the student’s least restrictive environment. See [LEAST RESTRICTIVE ENVIRONMENT]. The ARD Committee may agree to provide home instruction for students ages 3 through 5 if it is determined to be the student’s least restrictive environment. The student’s ARD Committee must determine the date services will begin for a student turning three (3) years old during the summer.

### *Dual Enrollment*

A student ages 3 or 4 may be dually enrolled in both public and private school beginning on the student’s third birthday until the end of the school year in which the student turns five or until the student is eligible to attend the District’s kindergarten program, whichever comes first. If the parent of a student residing within the District chooses dual enrollment, District Service Providers must provide special education and related services to the student. See [CHILDREN IN PRIVATE SCHOOLS].

### *Definitions*

“Individualized family service plan” or “IFSP” means a written plan for providing early intervention services to an infant or toddler with a disability and the infant’s or toddler’s family that is based on an evaluation and assessment, includes the content required by law, is implemented as soon as possible once parental consent for the early intervention services in the IFSP is obtained, and is developed in accordance with the procedures outlined in law.

“Private school” is a private elementary or secondary school, including any pre-school, religious school, and instructional day or residential school that is a nonprofit entity and provides elementary and secondary education that incorporates an adopted curriculum designed to meet basic educational goals, including scope and sequence of courses, and formal review and documentation of students’ progress.

“Noncategorical early childhood disability” means a condition of developmental delay where a student between the ages of three to five has been identified as having an intellectual disability, an emotional disturbance, a specific learning disability or autism.

### Additional Procedures

At the beginning of each school year, the District must have in effect an IEP for students identified with disabilities, ages three through five. The District utilizes its child find process to locate, identify and evaluate students in the community and District who are at least three years of age, but younger than 6 years of age. See [CHILD FIND].

#### *Noncategorical Early Childhood*

Following a referral for possible special education services for a student ages 3 through 5 or upon notice from HHSC, District Special Education Personnel will conduct an evaluation that assesses a student ages 3 to 5 [or about to turn 3] in all areas of suspected disability to determine if the student has a disability and is in need of special education and related services. See [EVALUATION PROCEDURES]. For students ages 3 to 5, the group of qualified evaluation professionals that collects or reviews evaluation data may determine that the student qualifies as noncategorical early childhood disability. See [NONCATEGORICAL EARLY CHILDHOOD]. A student may be eligible for special education services based on the noncategorical early childhood (NCEC) disability category if the student has a condition or developmental delay and meets eligibility criteria for an intellectual disability, an emotional disturbance, a specific learning disability, or autism.

If the student is identified as eligible to receive special education and related services based on a noncategorical early childhood disability, the ARD Committee will develop an IEP providing special education and related services in the student's least restrictive environment and meet annually to review and revise the plan. Noncategorical Childhood Disability eligibility may not be used after a student turns 6. Therefore, if a student is identified as eligible with a Noncategorical Early Childhood Disability, the ARD Committee will need to conduct a REED, and if formal evaluation is necessary, the student will need to be evaluated and an ARD Committee meeting held prior to age 6 to determine if the student is eligible under another disabling condition and is still in need of special education and related services.

#### *IFSP for VI and AI Students*

For a student from birth through two years of age with visual impairments and/or who are deaf or hard of hearing, an individualized family services plan IFSP meeting will be held in place of an ARD Committee meeting in accordance with the law and the memorandum of understanding between the Texas Education Agency and the Department of Assistive and Rehabilitation Services. The District will make special education services available to a student from birth to age 2 who has a visual impairment or who is deaf or hard of hearing, and whom an IFSP committee has determined to be eligible for special education services. Such a student is eligible for average daily attendance (ADA) based on the amount of time that they receive special education services.

### *Transition from ECI to Preschool Programs*

For those students already receiving ECI services, District Special Education Administration will communicate on a regular basis at least monthly with the HHSC regarding students that will soon reach age 3. A time will be set monthly for the ECI service provider to schedule a transition planning conference with a District Special Education representative and the parent(s) of a student served by ECI. A planning conference can occur when the student is 27 months of age, but no later than 33 months of age. If the parent(s) do not attend a Transition Planning Conference but do desire their student to transition to the District for services, the ECI agency may provide referral information data to the District Special Education Administration. The District Special Education Administration will then contact the parent in order to initiate the referral.

District Special Education Personnel will complete the student-centered process, including evaluation and ARD. A review of existing evaluation data, timelines and referral requirements will be conducted as follows:

- The District Special Education Administration will receive referrals from an ECI agency no less than 90 days or no more than 9 months prior to the student's third birthday. When referrals are received less than 90 days before the student's third birthday, the ECI agency should provide documentation of the reason for the delay to the District.
- Special Education Administration will contact the parent to obtain the parent intake information needed for the referral, including signed parent consent to evaluate.
- An evaluation and the ARD process will be completed within the required timelines.
- The ARD Committee will determine eligibility. To ensure a smooth transition of services, District Special Education Personnel will invite the student's service coordinator of Part C services or other appropriate representatives to the initial ARD meeting if the parent requests it.
- An IEP that provides services in the least restrictive environment will be developed for students who meet eligibility requirements. The ARD Committee may provide home instruction for a student ages 3 to 5 if there is agreement that home instruction is the student's least restrictive environment.
- Eligible students who transition from Part C to Part B will receive services, as determined by the ARD Committee, beginning on or by their third birthday, with parental consent for placement.
- If an eligible student's birthday occurs during the summer, the ARD Committee will determine the date services under the IEP will begin.

### *Students Not Previously Served by an ECI Program*

Referrals for students age 3 to 5 who have not previously received ECI services may be initiated in a variety of ways. See [CHILD FIND DUTY]. Parent/guardians, medical personnel or other concerned individuals may make a referral to the District's Special Education Department on behalf of a student who is suspected of having a disability and who is in need of special education services.

If the District is contacted about a student, ages birth through two, with a suspected developmental delay, the parent/guardian or other concerned party will be referred to an ECI program within the District attendance boundaries. For students referred between the ages of 2 years, 9 months and 5 years of age prior to September 1 of the current school year, the District will complete the referral and evaluation process in a timely manner by following the required initial evaluation timelines. See [EVALUATION PROCEDURES]. District Special Education staff members will contact the parent by phone, obtain the information required for a referral and complete the referral form. Information collected will include the parent's concerns, medical information, screening information and the results of any additional assessments the student may have been administered. A review of referral information by the Special Education evaluation staff is utilized to identify evaluation needs. The student's case is assigned for evaluation based on the needs and the suspected area of disability (developmental, communication, atypical behavioral). These procedures will also apply to students placed in private preschool or daycare.

### *Dual Enrollment*

Parents of an eligible student ages 3 or 4 may choose to be considered for a services plan or may choose to dual enroll their student in both the District and a private school beginning on the student's third birthday. The District will then be responsible for providing special education and related services to the student. The ARD Committee will develop an IEP for the student that is designed to provide the student FAPE in the least restrictive environment. The ARD Committee will determine which special education and/or related services will be provided to the student and whether the services will be provided on a District campus or at the private school. Services may be provided on the premises of a private school, including a religious private school, to the extent consistent with the law.

Unless the parent or guardian choose to end the dual enrollment period early, District Special Education Personnel will continue to provide special education and related services in the location determined by the ARD Committee until either the end of the school year in which the student turns five or when the student is eligible to attend the District's kindergarten program, whichever comes first.

The District will respond to any TEA complaint by the parent regarding the implementation of the student's IEP in dual enrollment, but the District will not be required to participate in a due process hearing related to such complaints.

If the parent chooses a services plan in lieu of dual enrollment, the student may receive limited services, as determined by representatives of the school district and private school. No parentally placed private school student with a services plan has a right to receive some or all the services the student would receive if enrolled in a District school. See [CHILDREN IN PRIVATE SCHOOLS].

The District will maintain documentation requirements of compliance associated with Texas Student Data System (TSDS), Public Education Information Management System (PEIMS), and State Performance Plan (SPP). District staff will provide training, with follow up, to ensure the documentation required is in place and compliant.

#### Evidence of Implementation

- ARD/IEP
- Individualized Family Service Plan
- Written Consent for Initial Evaluation
- Evidence of Consultation with Private School Representatives
- Individualized Services Plan
- Documentation of Services Provided to Students Participating in Dual Enrollment
- Documentation of Child Find Efforts
- Initial FIE
- Documentation for the state in TSDS, PEIMS, and SPP

#### Resources

[The Legal Framework for the Child-Centered Special Education Process: Ages 0-5 - Region 18](#)

[Early Childhood Intervention Services - Texas Health and Human Services](#)

[Guidance on Parentally Placed Private School Children with Disabilities - Texas Education Agency](#)

[Early Childhood Special Education \(ECSE\) - Texas Education Agency](#)

[Key Elements of Early Transition - Texas Education Agency](#)

[Early Transition Memorandum of Understanding - Texas Education Agency](#)

[Transition from Part C to Preschool - Early Childhood Technical Assistance Center](#)

[Questions and Answers on Response to Intervention and Early Intervening Services \(January 2007\) - U.S. Department of Education](#)

[Non-Categorical Early Childhood - SPEDTEX](#)

[Student Attendance Accounting Handbook – Texas Education Agency](#)

## **Children Who Transfer**

Board Policy EHBAA; Board Policy EHBAB; 20 U.S.C. 1414; 34 CFR 99.31, 99.34, 300.301(d)–(e), 300.304(c), 300.323; Texas Education Code 25.002; 19 TAC 89.1011(f), 89.1050

### What is Required

District and Campus Special Education Personnel must ensure that students with disabilities transferring to and from another LEA (public school district, public charter school, or other public school system) located within Texas or outside of Texas continue to receive FAPE at all times.

### *Transmittal of Records*

When a student with a disability transfers into the District from another LEA, Campus Personnel and/or Campus Special Education Personnel must take reasonable steps to promptly obtain the student's special education records, including all ARD documents, any evaluation information, and any other records relating to the provision of special education or related services to the student. The previous LEA is responsible for providing such records promptly, which is defined in Texas law as not later than the tenth working day after the date the request is received. Campus Personnel and/or Campus Special Education Personnel are not required to obtain parental consent before requesting the student's special education records if the records are requested for purposes related to the student's enrollment in the District.

When a student with a disability transfers from the District to another LEA, Campus Personnel and/or Campus Special Education Personnel must take reasonable steps to promptly respond to a request from the student's new school for the student's special education records, including all ARD documents, any evaluation information, and any other records related to the provision of special education or related services to the student. Campus Personnel and/or Campus Special Education Personnel should provide these records within ten (10) working days after the date the District receives the request. Campus Personnel and/or Campus Special Education Personnel are not required to obtain parental consent before providing the student's special education records to the new school if the records are requested for purposes related to the student's enrollment in the new school.

### *Pending Initial Evaluations*

To ensure that evaluations of students who transfer from another LEA are completed in a timely manner, District or Campus Special Education Assessment Personnel must coordinate with the previous LEA, as necessary. District or Campus Special Education Assessment Personnel are responsible for completing an evaluation that the previous LEA was in the process of completing at the time the student enrolled in the District, and must comply with all consent and evaluation procedures, including relevant timelines. See [CONSENT FOR INITIAL EVALUATION] and [EVALUATION PROCEDURES].

However, the 45-school day timeline required by the IDEA for completing an evaluation will not apply if the District is making sufficient progress to ensure the evaluation is completed in a timely manner and the parent and District Special Education Personnel agree to a specific timeframe for completion of the evaluation.

### *In-State Transfers During the School Year*

District and Campus Special Education Personnel must continue to provide special education services for a student who transfers to the District from another LEA within Texas during the school year if:

- The student's parent or guardian verifies that the student received special education services in the previous LEA; or
- The previous LEA confirms in writing or by telephone that the student received special education services.

The ARD Committee has 30 school days from the date the student's eligibility for special education is confirmed to either:

- Adopt the student's IEP from the previous LEA; or
- Develop, adopt, and implement a new IEP.

In the interim, District and Campus Service Providers, in consultation with the parents, must provide the student with FAPE, including services comparable to those described in the IEP from the previous LEA.

### *Transfers from Another State During the School Year*

District and Campus Special Education Personnel must continue to provide special education services for a student who transfers to the District from another district outside of Texas during the school year when:

- The student's parent or guardian verifies that the student received special education services in the previous LEA; or
- The previous LEA confirms in writing or by telephone that the student received special



education services.

If District or Campus Special Education Assessment Personnel determine that an evaluation is necessary, District Special Education Assessment Personnel must complete the initial FIE within 45 school days of receipt of written consent for the evaluation from the student's parent or guardian. The ARD Committee must then meet to develop an IEP for the student within 30 calendar days from the date of completion of the evaluation.

If District or Campus Special Education Assessment Personnel determine that an FIE is not necessary, the ARD Committee must develop, adopt, and implement a new IEP within 30 school days from the date the student's eligibility for special education is confirmed.

In the interim, District or Campus Service Providers, in consultation with the parents, must provide FAPE to the student including services comparable to those described in the IEP from the previous district.

#### *Enrollment During the Summer*

A student with a disability who has an IEP in place from a previous in- or out-of state school district and who enrolls in the District during the summer is not considered a transfer student. For students who enroll in the District during the summer, the District must either (1) implement the student's IEP from the previous school district in full on the first day of class of the upcoming school year or (2) convene an ARD Committee meeting during the summer to revise the student's IEP for implementation on the first day of class of the upcoming school year.

#### Additional Procedures

##### *Transmittal of Records and Confirmation of Special Education*

Upon enrollment, the Campus Registrar or other Campus Personnel will review all information provided by the parent and notify the Campus Special Education Personnel if any information, including parent information, report cards, or other enrollment records, indicate that the student received special education services at his/her previous school. Campus Special Education Personnel will then contact the student's previous school within a reasonable time of enrollment (no more than 3 days) to confirm that the student participated in a special education program at the previous school and to request in writing or verbally the type and amount of special education and related services the student received.

For students transferring into the District, Campus Special Education Personnel will request special education records from the prior school within a reasonable time of enrollment and ensure that all records are received within 10 school days of the prior district receiving the record request by following up at regular intervals. This includes:

- All ARD documentation/copies of all IEPs;
- All evaluations, including the most current FIE;
- Any progress data; and
- Any other records relating to the student's disability and the provision of special education services.

For students transferring from the District to a new public school in Texas, Campus Personnel and Campus Special Education Personnel will send documentation through the Texas Record Exchange System (TREx) within 10 school days of the request. Any additional special education documentation may be mailed or hand delivered to the receiving school. For students transferring from the District to a public school not in Texas, Campus Personnel and Campus Special Education Personnel will respond to all requests for records, including special education records, by mailing the records via U.S. mail or confirmed email, to the school within 10 school days of the request. However, Campus Personnel must ensure that any method used sharing special education documentation is done through a secure system to ensure confidentiality.

Should the District utilize another method for sharing special education documentation electronically, it must ensure that it is done through a secure system to ensure confidentiality.

#### *Pending Initial Evaluations*

District Special Education Administration will carefully review the records of all transfer students to determine if an evaluation is pending and communicate with the parent or guardian or the previous school if more information is needed.

Where an evaluation is pending for a student transferring into the District, District or Campus Special Education Assessment Personnel will coordinate with the student's previous district to ensure the evaluation is completed in a timely manner and to gather any and all information about the pending evaluation.

District or Campus Assessment Personnel will meet with the student's parent or guardian to obtain consent and establish a new timeframe for completing the evaluation, which shall not exceed 45 school days from the date of the consent. The evaluation must be completed within the timeframe established. District or Campus Assessment Personnel will Document all student absences during the evaluation process.

#### *In-State Transfers During the School Year*

Within a reasonable time following enrollment of a student with a disability who transfers during the school year to the District from another school in Texas and it is verified in writing or by telephone that the student was receiving special education services from the previous school, Campus Personnel shall initiate and hold a Transfer Meeting for the student with the parents, and appropriate Campus Special Education Personnel, Administration, and District or Campus

Assessment Personnel present. This Transfer Meeting is not an ARD Committee meeting. Instead, at the Transfer Meeting, appropriate District and Campus Special Education Personnel, in consultation with the parent, will determine the special education and related services the campus will provide during the interim period that are comparable to those described in the previous IEP.

The United States Department of Education has declined to define “comparable services” because the Department interpreted “comparable” to have the plain meaning of the word, which is “similar” or “equivalent.” As applied with respect to a student who transfers to the District from a previous LEA, “comparable” services means services that are “similar” or “equivalent” to those that were described in the student’s IEP from the previous LEA, as determined by the student’s newly-designated ARD Committee in the District.

At the Transfer Meeting, District or Campus Assessment Personnel shall review the evaluation information received from the prior school. An evaluation from another district within the state of Texas is acceptable if the evaluation is current and appropriate. If the evaluation from the prior school is not accepted by the District or Campus Assessment Personnel or if the evaluation is not received within ten calendar days, the Campus Special Education Personnel shall obtain consent from the parent and conduct its own evaluation. However, the District only has 30 school days to complete the evaluation and conduct the initial ARD meeting. If for some reason the evaluation from the previous school is received after ten calendar days and is found to be current and appropriate, the District or Campus Assessment Personnel can choose to accept the evaluation and not continue the additional evaluation.

Within 30 school days from the date the student is confirmed to be eligible for special education services, an initial ARD Committee Meeting must be held in which the student’s ARD Committee will either (1) adopt the student’s IEP from the previous LEA or (2) develop, adopt, and implement a new IEP based on the District’s own evaluation or the evaluation information received from the prior school.

#### *Transfers from Another State During the School Year*

Within a reasonable time following enrollment of a student with a disability who transfers during the school year to the District during the school year from another school outside of Texas, Campus Special Education Personnel shall initiate and hold a Transfer Meeting for the student with the parents and the appropriate Campus Special Education Personnel, Administration, and Campus or District Assessment Personnel present. This Transfer Meeting is not an ARD Committee meeting. Instead, at the Transfer Meeting, District and Campus Special Education Personnel, in consultation with the parent, will determine the special education and related services the campus will provide during the interim period that are comparable to those described in the previous IEP.

At the Transfer Meeting, District or Campus Assessment Personnel shall review the evaluation information received from the prior school. An evaluation from another school outside of Texas

may be acceptable if the evaluation is current and meets all TEA disability condition requirements. See [EVALUATION]. However, if the student enrolls in the District without an FIE, with an eligibility that is not recognized by TEA, or with a FIE that is in other ways inappropriate, the District will conduct its own evaluation. If the evaluation from the prior school is not accepted by the District or Campus Assessment Personnel or if the evaluation is not received within 10 calendar days, the Campus Special Education Personnel shall obtain consent from the parent and conduct its own evaluation. If an evaluation is required for a student transferring from another state, the evaluation is considered an initial evaluation and the 45-school day timeline is in effect. After obtaining consent and conducting the FIE, the student's ARD Committee must hold an initial ARD meeting within 30 days of the completion of the FIE to develop, adopt, and implement an appropriate IEP. See [EVALUATION].

If an FIE is not necessary and the prior evaluation is accepted by the District or Campus Assessment Personnel, the District and Campus Special Education Personnel will complete a Review of Existing Evaluation Data ("REED") and hold an initial ARD meeting to develop, adopt, and implement an appropriate IEP within 30 days of the date the student is confirmed to be eligible for special education services. See [REVIEW OF EXISTING EVALUATION DATA].

#### *Enrollment During the Summer*

A student who enrolls in the District during the summer is not considered a transfer student. For students who enroll in the District during the summer, the District must either **(1) implement the student's IEP from the previous school district in full on the first day of class of the upcoming school year or (2) convene an ARD Committee meeting during the summer to revise the student's IEP for implementation on the first day of class of the upcoming school year.**

The District will maintain documentation requirements of compliance associated with Texas Student Data System (TSDS), Public Education Information Management System (PEIMS), and State Performance Plan (SPP). District staff will provide training, with follow up, to ensure the documentation required is in place and compliant.

#### Evidence of Implementation

- Communication with Previous District for Student Transferring into the District
- Records on Texas Records Exchange System
- Records Received from Prior Schools
- Documentation of All Contacts to Prior School
- Documentation of All Contacts with Parent
- Consent for Initial Evaluation
- Documentation of Timeline for Evaluation
- FIE
- ARD/IEP
- Prior Written Notice

- Notice of Procedural Safeguards
- Documentation for the state in TSDS, PEIMS, and SPP

### Resources

[The Legal Framework for the Child-Centered Special Education Process: Children Who Transfer - Region 18](#)

[OSERS Letter to State Directors of Special Education \(July 19, 2013\) - U.S. Department of Education](#)

[OSERS Letter to Finch \(Aug. 5, 2010\) - U.S. Department of Education](#)

[OSERS Letter to Champagne \(Nov. 17, 2008\) - U.S. Department of Education](#)

[Questions and Answers on Individualized Education Programs \(IEPs\), Evaluations, and Reevaluations \(Sept. 2011\) - U.S. Department of Education](#)

[Notice of Procedural Safeguards - Texas Education Agency](#)

## **Children Who Are Incarcerated**

### What is Required

The obligation to make FAPE available to all students with disabilities, including the child find obligations, does not apply to individuals ages 18 through 21 who, in the last educational placement prior to their incarceration in an adult correctional facility were not identified as having a disability and who did not have an IEP. This exception to FAPE does not apply to individuals with disabilities ages 18 through 21 who (a) had been identified as a student with a disability and had received services in accordance with an IEP, but who left school prior to his/her incarceration or (b) did not have an IEP in their last educational setting, but who had been identified as a student with a disability under the IDEA.

### *Students in Adult Prisons*

For students with disabilities who are convicted as adults under state law and incarcerated in adult prisons the requirements related to state and districtwide assessments do not apply; and the requirements related to transition services do not apply with respect to students whose age eligibility under the IDEA will end before they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release.

If the state has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated, the student's ARD Committee may modify the student's IEP or placement notwithstanding LRE and IEP content requirements of the IDEA.

#### *Transfer of Parental Rights*

All rights provided to parents under the IDEA transfer to adult students at age 18 who are incarcerated in an adult or juvenile federal, state, or local correctional institution, unless the parent or other individual has been granted guardianship under Texas law. See [TRANSITION].

#### *Definitions*

"Correctional facility" is a place designated by law for the confinement of a person arrested for, charged with, or convicted of a criminal offense.

"Bona fide security or compelling penological interest" includes a state interest relating to the treatment of the student convicted of the crime(s).

#### Additional Procedures

The ARD Committee will determine the special education services to be provided to incarcerated special education students to ensure that the students continue to receive FAPE in a special education setting. The ARD Committee will ensure that a student with a disability in a correctional facility is not placed in classes that include only other students with disabilities, if that is not the student's LRE.

#### *Provision of FAPE to Students Age 18 – 21*

District Special Education Administration will maintain a database of all students between the ages of 18 and 21 that have been identified as a student with a disability that are currently incarcerated. District Special Education Personnel will ensure that FAPE is offered to any student that has received special education services in accordance with an IEP from the District and left school prior to incarceration. District Special Education Personnel will also ensure that FAPE is offered to any student that did not have an IEP while last enrolled in a District campus but who had been identified by the District as a student with a disability.

District Special Education Personnel will document all services provided to students with disabilities in correctional facilities.

#### *Child Find and Youth Who Are Incarcerated*

District Special Education Administration will maintain a record of incarcerated youth within the District. Except as explained above for individuals ages 18-21, District Special Education

Personnel will identify, locate, and evaluate incarcerated youth with disabilities within the District. To do so, District Special Education Personnel will communicate with individuals who are most likely to come into contact with incarcerated youth to identify students suspected of having a disability and ensure a timely evaluation is conducted where appropriate.

### *Students in Adult Prisons*

The ARD Committee of an incarcerated youth with a disability who is in an adult prison will hold an ARD meeting to develop an appropriate IEP at the beginning of the period of incarceration. The ARD Committee may modify the student's IEP or placement notwithstanding the LRE and IEP content requirements under the IDEA if a bona fide security or compelling penological interest cannot be accommodated. For example, the District will not violate the IDEA if it cannot provide special education services to an incarcerated student with a disability if it is prevented from accessing the student due to safety concerns.

The ARD Committee may incorporate the services necessary to obtain a GED into the student's IEP where a bona fide security or compelling penological interest prevents the student from receiving a high school diploma.

### *Transfer of Parental Rights*

District Special Education Personnel will provide the parent and the incarcerated student with a disability the notice of the transfer of parental rights not later than one year before the student's 18th birthday. See [TRANSITION].

The District will maintain documentation requirements of compliance associated with Texas Student Data System (TSDS), Public Education Information Management System (PEIMS), and State Performance Plan (SPP). District staff will provide training, with follow up, to ensure the documentation required is in place and compliant.

#### Evidence of Procedure

- Database of Incarcerated Youth
- Child Find Documentation Showing Contacts with Correctional Facilities in District
- ARD/IEP
- FIE
- Communications Between the District and the Correctional Facility
- Transfer of Rights
- Documentation for the state in TSDS, PEIMS, and SPP

#### Resources

[The Legal Framework for the Child-Centered Special Education Process: Children Who Are Incarcerated - Region 18](#)

[OSERS Dear Colleague Letter \(Dec. 5, 2014\) - U.S. Department of Education](#)

[OSERS Letter to Yudien \(Aug. 19, 2003\) - U.S. Department of Education](#)

[OSERS Letter to Mahaley \(Mar. 2, 2011\) - U.S. Department of Education](#)

[Supporting Youth with Disabilities in Juvenile Corrections - U.S. Department of Education](#)

[Notice of Procedural Safeguards - Texas Education Agency](#)

[Guide to the ARD Process - Texas Educational Agency](#)

## **Children In Private Schools**

Board Policy EHBAA; 20 USC 1412; 34 CFR 77.1, 300.13, 300.36, 300.37, 300.130, 300.131(a), 300.132(a),(c), 300.133(b), 300.134, 300.135, 300.136, 300.137(a)-(c), 300.138, 300.139, 300.142, 300.148; 19 TAC 89.1096

### **What is Required**

#### *Child Find*

The District must locate, identify, and evaluate all students with disabilities who are parentally placed in private schools—including religious, elementary, and secondary schools—located in its jurisdiction. To do so, the District Special Education Administration must timely and meaningfully consult with representatives of private schools located within the District and conduct a thorough and complete child find process. The District must conduct the child find process for students parentally-placed in private schools in a manner comparable to that of students with disabilities enrolled in District campuses. *See* [CHILD FIND DUTY]. The District Special Education Administration must maintain records and provide information to TEA indicating the number of students parentally-placed in private school students within the boundaries of the District that have been evaluated, determined to be students with disabilities, and served. All child find efforts must comply with requirements related to proportionate share funding for students parentally-placed in private schools. *See* [PROPORTIONATE SHARE FUNDING FOR CHILDREN PARENTALLY-PLACED IN PRIVATE SCHOOLS].

If the District is the student's district of residence, rather than the district in which the private school is located, the District cannot refuse to conduct the evaluation and determine the student's eligibility for FAPE just because the student attends a private school in another District.

A home school in Texas may be considered a private school. In order to be considered a private school, a home school must provide elementary or secondary education that incorporates an



adopted curriculum designed to meet basic educational goals, including scope and sequence of courses, and formal review and documentation of students' progress, but is not required to be a nonprofit entity.

#### *Referral to District*

When a student with a disability who has been placed directly by the parent in a private school is referred to the District, the District or Campus Special Education Assessment Personnel will evaluate the student in accordance with the evaluation procedures and hold an ARD Committee meeting to consider the evaluation and determine whether the District can offer the student FAPE. See [EVALUATION PROCEDURES].

However, the District is not responsible for providing FAPE until such time as the student's parent chooses to enroll the student in the District full time. Specifically, no student with a disability parentally-placed in a private school has an individual right to receive in the private school some or all of the special education and related services that the student would receive if enrolled in a District school.

A student with a disability parentally-placed in private school may receive some special education and related services if the District designates the student to receive service under a proportionate share services plan. See *Proportionate Share Services below*.

#### *Consultation*

The District Special Education Administrator(s) must consult with parents and representatives of private schools regarding:

- The Child Find process, including how parentally-placed private school students can be involved in the process and how parents, teachers, and private school officials will be notified about the process;
- The determination of how much proportionate share funding will be made available for services;
- The consultation process between the District, private school officials, and the parent of a parentally-placed private school student to ensure meaningful opportunity to participate in the student's special education program;
- The provision of special education and related services which will be provided for students with disabilities parentally-placed in private schools, including the types of services and alternative service delivery mechanisms, how services will be apportioned if funds are insufficient; and how and when decisions regarding services will be made.

If the private school officials disagree with the District Special Education Administrator regarding the provision or types of services, the District Special Education Administrator will provide the private school a written explanation of the reasons why the District will not provide such services.

The District Special Education Administrator will obtain a written affirmation signed by the private school officials stating that timely and meaningful consultation has occurred. If the private school fails to provide a written affirmation within a reasonable time, the District Special Education Administrator will forward documentation of the consultation process to TEA.

#### *Developing the Proportionate Share Services Plan*

After consultation, the District Special Education Administration is the final decision-maker regarding the services to be provided to a parentally-placed private school student with a disability. If the District or Campus Special Education Administration decides that a parentally-placed private school student is eligible to receive special education and related services, District or Campus Special Education Personnel will convene a meeting to develop, review, and revise an Individual Services Plan (“ISP”) for the student based on services that the District has agreed to provide the student. A representative of the private school will be in attendance at the meeting or participate through another method, such as through a telephone call. The District is not required to provide the same amount of services to the parentally-placed private school student as it would to students with disabilities enrolled in a District campus.

#### *Implementation of the Proportionate Share Services Plan*

Should the District decide to provide services through an ISP, such services may be provided at the private school, including religious schools, either by District Special Education Personnel or through a contract with an individual, association, agency, organization, or other entity. Such services will be implemented in accordance with proportionate share funding and equipment rules. See [PROPORTIONATE SHARE FUNDING FOR CHILDREN PARENTALLY-PLACED IN PRIVATE SCHOOLS] and [ADMINISTRATION OF EQUIPMENT]. The District may use special education funds to make Campus Special Education Personnel or District Special Education Personnel available to the extent necessary to provide services to a parentally-placed private school student so long as those services are not normally provided by the private school. The District may also use Part B funding to pay for services provided by a private school employee if the services are performed outside of the employee’s regular hours of duty and under public supervision and control. See [USE OF IDEA PART B FORMULA AMOUNTS IN GENERAL].

#### *Transportation Services*

Where transportation is necessary for the parentally-placed private school student to benefit from or participate in the services offered by the District, the District will provide transportation (a) from the student’s school or the student’s home to a site other than the private school; and (b) from the service site to the private school, or to the student’s home, depending on the timing of the services. The District is not required to provide transportation from the private school to the student’s home.

### *Right of Private School Official to Submit a Complaint*

A private school official has the right to submit a TEA complaint that the District did not engage in consultation that was meaningful and timely or did not give due considerations to the views of the private school official. The complaining private school official must provide the basis of the complaint to TEA and the District Special Education Administration will provide appropriate documentation in response. If the private school official is dissatisfied with the response, the official may submit a complaint to the United States Secretary of Education.

### *Dual Enrollment*

The parent of an eligible student ages 3 or 4 may dual enroll their student in both public and private school beginning on the student's third birthday until either: (1) the end of the school year in which the student turns 5 or when the student is eligible to attend the District's kindergarten program. For more information on Dual Enrollment, see [AGES 0-5].

### *Private School Placemen When FAPE is An Issue*

If a parent elects to place a student with a disability in a private school or facility due to disagreements about FAPE, the parent has additional protections set out in the *Notice of Procedural Safeguards*.

### *Definitions*

"Parentally-placed private school students with disabilities" includes students with disabilities enrolled by their parents in private, including religious, schools or facilities.

"Private school" is a private elementary or secondary school, including any pre-school, religious school, and instructional day or residential school that:

- Is a nonprofit entity; and
- Provides elementary and secondary education that incorporates an adopted curriculum designed to meet basic educational goals, including scope and sequence of courses, and formal review and documentation of students' progress.

"Individual Services Plan" or "ISP" means a written statement that describes the special education and related services the district will provide to a student with a disability parentally-placed in a private school who has been designated to receive services, including the location of the services and any transportation necessary.

### Additional Procedures

The District is responsible for identifying and locating students with disabilities attending private schools within the District's boundaries even if the student does not live within the District. The District is not responsible for serving district resident students who attend a private school

outside of District boundaries, but is still responsible for identifying, locating, and, with parent consent, evaluating those students. Preschool students ages 3 to 4 are still covered under dual enrollment, served under an IEP and are not considered private school students unless the parent has rejected dual enrollment. In that case, the student may have a service plan instead of an IEP.

At the start of each school year, District Special Education Administration will, to the extent possible, contact the parents of students with disabilities parentally-placed in private schools to notify them of the opportunity to receive an evaluation and possible special education services, including proportionate share services, for students who meet eligibility criteria.

Parents of students enrolled in a private school, or a representative or other individual otherwise qualified to make a referral, may contact the District Special Education Administration to initiate a referral for special education services. See [REFERRAL FOR POSSIBLE SPECIAL EDUCATION SERVICES]. The District Special Education Administration may request that the parent provide documentation related to the student's area of suspected disability, including, but not limited to, classwork, assessments, benchmark testing, health records, and information from the private school regarding the student's progress.

#### *Proportionate Share Services*

The District will use a portion of the federal money it receives each year under the IDEA for participation in the District's special education and related services by eligible private school students. If the parent chooses to voluntarily enroll the student in a private school, the student has no individual right or guarantee to special education and related services provided by the District. Instead, the student will be considered for participation in the District's special education services along with all eligible private school students.

The District will develop a District-wide plan for use of the proportionate share amount that identifies the type of service, or range of services, to be provided. If an eligible private school student is designated to participate in the District's special education services in a specific school year, Special Education Personnel will hold a meeting to develop, review, and revise an ISP for the student. Representatives of both the private school and District Special Education Personnel, as well as the parent or representative of the parent, may be present at this meeting, and the parent should be given a meaningful and timely opportunity to express their views before developing the plan. The ISP will include the specific special education and/or related services that the District will offer to the student, including the location of the service and whether transportation will be provided. The ISP may provide for direct services or indirect services such as equipment, instructional materials, or consultation and training. The content of the ISP will vary from student to student and may contain one or more of the components included in an IEP.

The ISP will be implemented as soon as possible after the services plan meeting and will be available to any District staff and/or private school staff who implement any portion of it. The

ISP will be reviewed at least annually by the services plan team. An eligible private school student with an ISP in one school year has no right to a services plan in a subsequent school year.

### *Consultation*

The District Special Education Personnel will maintain a list of all private schools, including home schools, within the District attendance boundaries. District Special Education Personnel will consult in a timely and meaningful way with appropriate representatives of eligible private school students using one or more of the following methods:

- District Special Education Personnel may send written correspondence to all private schools known to the District to be within its boundaries. In addition, written correspondence may be sent to parents of eligible private school students or known to the District to home school their students.
- District Special Education Personnel may schedule individual meetings with the representatives of eligible private school students.
- District Special Education Personnel may schedule a public meeting and invite representatives to provide input.
- District Special Education Personnel may, after notice through the news media and/or invitations to known private schools and private school parents, hold one or more group meetings with representatives of eligible private school students.
- Any other method appropriate for consultation.

Following the timely and meaningful consultation, District Special Education Personnel will obtain a written affirmation signed by the private school official of each of the private schools within the District's attendance boundaries. A signature on an attendance sheet is not a sufficient form of written affirmation.

District Special Education Personnel will keep adequate records of the consultation process, including, but not limited to, a record of all contacts to the private school and/or parent, a record of any response, a record of the agenda of the consultation, a record of the minutes from the consultation, a record of all input provided by the private school official or parent, a record of any disagreement, and a record of the District's response to the disagreement.

District Special Education Personnel will consult with representatives of eligible private school students on these issues as often as is necessary based on the current circumstances of the District, but at least once every year. The consultation will precede the design and development of the District plan to provide participation of private school students with disabilities in services.

The District will maintain documentation requirements of compliance associated with Texas Student Data System (TSDS), Public Education Information Management System (PEIMS), and State Performance Plan (SPP). District staff will provide training, with follow up, to ensure the documentation required is in place and compliant.

### Evidence of Implementation

- Private School Contact Database
- Database of Private School Students Evaluated and Identified as Students with Disabilities and Services Currently Received, if Any
- Child Find Documentation Provided to Private Schools or Parents
- Proportionate Share Amount Calculation
- District-wide Plan for Proportionate Share Amount
- A Record of all Private School Contacts and Response
- Consultation Agenda and Minutes
- Record of Disagreement and District Response
- Written Affirmation Statement
- Consent for FIE
- FIE
- ISP or ARD/IEP for Private School Student
- Documentation for the state in TSDS, PEIMS, and SPP

### Resources

[The Legal Framework for the Child-Centered Special Education Process: Children in Private Schools - Region 18](#)

[Guidance on Parentally Placed Private School Children with Disabilities - Texas Education Agency](#)

[Special Education in Nonpublic Schools - Texas Education Agency](#)

[FAQ: Parentally-Placed School Children with Disabilities - TEA](#)

[ESSA Private School Equitable Services - Texas Education Agency](#)

[Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools \(Apr. 2011\) - U.S. Department of Education](#)

[OSERS Letter to Sarzynski \(July 6, 2015\) - U.S. Department of Education](#)

[OSERS Letter to Sutton and Rubel \(Sept. 29, 2014\) - U.S. Department of Education](#)

[OSERS Letter to Apostle \(Aug. 8, 2012\) - U.S. Department of Education](#)

[OSERS Letter to Corwell \(Feb. 4, 2013\) - U.S. Department of Education](#)

[OSERS Letter to Luger and Weinberg \(Dec. 6, 2011\) - U.S. Department of Education](#)

[OSERS Letter to Eig \(Jan. 28, 2009\) - U.S. Department of Education](#)

## Parent

Board Policy EHBAB; Board Policy EHBAR; 20 U.S.C. 1401, 1415, 1143(a); 42 U.S.C. 11434a(6); 34 CFR 99.3, 300.30(a), 300.519; Texas Education Code 25.007(b), 29.001(10), 29.015, 29.0151; Texas Family Code 107.031(c), 263.0025; 19 TAC 89.1047

### What is Required

The parent plays an active role in making educational decisions related to the student's special education program and must be ensured the opportunity for meaningful participation.

For the purpose of special education decision-making, a parent includes a biological or adoptive parent of the student as well as:

- A foster parent of the student who meets the requirements for a foster parent to act as a parent;
- A guardian, but not the state itself, if the student is a ward of the state;
- An individual acting in the place of a biological or adoptive parent, including a grandparent, stepparent, or other relative, with whom the student lives, or another individual who is legally responsible for the student's welfare; or
- An individual assigned to be a surrogate parent.

The Department of Family and Protective Services ("DFPS") itself is not considered the parent.

### *Requirements for Foster Parent to Act as Parent*

A foster parent may act as a parent if DFPS is appointed as the temporary or permanent managing conservator of the student, as long as there is no court order limiting the rights and duties of DFPS to make educational decisions on behalf of the student. The foster parent must agree to be the educational decision maker for the student. Furthermore, the foster parent must complete the required training program for foster and surrogate parents before the next scheduled ARD meeting for the student but not later than the 90<sup>th</sup> day after the date the foster parent begins acting as the parent for the purpose of making special education decisions. See [TRAINING PROGRAM FOR FOSTER AND SURROGATE PARENTS]. District or Campus Special Education

Administration must ensure that the foster parent has received the training and, although the District may offer additional training, the District may not require that a foster parent take additional training in order to serve as the parent for the student.

Not later than the 5<sup>th</sup> day after the date a student with a disability is enrolled in a school, the DFPS must inform the District or Campus Special Education Administration if the student's foster parent is unwilling or unable to serve as the student's parent.

In addition, the District or Campus Special Education Personnel may deny a foster parent the right to serve as a parent, but written notice of such refusal must be provided to the foster parent within 7 calendar days after the decision is made and must specifically explain why the foster parent is being denied the right to serve as the student's parent and informs the foster parent of the right to file a complaint with TEA.

#### *Appointment of a Surrogate Parent*

A surrogate parent is a person who is legally entitled to take the place of a parent under certain circumstances to make educational decisions for a student with a disability. The appointment of a surrogate parent applies to students with disabilities for whom the DFPS is appointed as the temporary or permanent managing conservator of the student and the rights and duties of the DFPS to make educational decisions for the student have not been limited by court order. In some situations, a judge will appoint a surrogate parent. However, the District Special Education Administration must make reasonable efforts to appoint a surrogate parent not more than 30 days after the District Special Education Administration determines that the student needs a surrogate parent if the judge has not appointed a surrogate. The District Special Education Administration must assign a surrogate parent for students when:

- A parent for the student cannot be identified;
- A parent for the student cannot be located, after reasonable efforts;
- The foster parent of the student is unwilling or unable to serve as a parent;
- The student does not reside in a foster home setting;
- The student is a ward of the state; or
- The student is an unaccompanied homeless youth.

The District Special Education Administration may not appoint the following individuals as a surrogate parent of a student:

- An employee of the state;
- An employee of TEA;
- An employee of the District;
- An employee of any other agency that is involved in the education or care of the student;  
or
- A person with any interest that conflicts with the interest of the student the surrogate parent represents.



District Special Education Administration must screen the potential surrogate parent to determine whether he/she has an interest that conflicts with the interests of the student. This does not include issues concerning quality of care of the student, although concerns regarding quality of care must be communicated to DFPS. District Special Education Administration are required to consult with DFPS regarding the possibility of appointing another individual to serve as the surrogate parent if District Special Education Personnel determine that a court-appointed surrogate parent is not properly fulfilling this role. District Special Education Administration may appoint a person who has been appointed to serve as the student's guardian ad litem or as a court-certified volunteer advocate as the student's surrogate parent.

District Special Education Administration is responsible for ensuring that any District-appointed surrogate parent is willing and able to serve in that capacity and exercises independent judgment in pursuing the student's interests. District Special Education Administration must appoint a surrogate parent that will not violate the student's due process rights under applicable state and federal laws. Furthermore, District Special Education Administration must ensure that the surrogate parent visits the student and the student's school, reviews the student's educational records, attends ARD meetings, and consults with individuals involved in the student's education, including, but not limited to teachers, caseworkers, court-appointed volunteers, guardians ad litem, attorneys ad litem, foster parents, and caregivers.

Finally, District Special Education Administration must ensure that an appointed surrogate parent completes a training program for foster and surrogate parents before the student's next scheduled ARD meeting but no later than 90 days after the date of initial appointment as the student's surrogate parent. See [TRAINING PROGRAM FOR FOSTER AND SURROGATE PARENTS]. While District Special Education Administration may choose to offer additional trainings for the surrogate parent, they cannot require the surrogate parent to take additional training before serving as a surrogate parent of a student with disabilities.

#### *Students Who Are Homeless or in Substitute Care*

For students who are homeless or in substitute care, District or Campus Special Education Personnel must provide notice to the student's educational decision-maker and caseworker related to any ARD meetings, manifestation determination reviews, and the appointment of a surrogate parent.

#### *Training Program for Foster and Surrogate Parents*

All individuals seeking to become a foster or surrogate parent must participate in a mandatory training that outlines federal and state laws, rules, and regulations related to special education before the foster parent can act as the parent or District Special Education Administration can

appoint the individual to be a surrogate parent for the purpose of making educational decisions on behalf of the student. Specifically, this training must explain:

- The identification of the student with a disability – *see* [CHILD FIND];
- The evaluation and reevaluation process – *see* [EVALUATION];
- The ARD process – *see* [ADMISSION, REVIEW, AND DISMISSAL COMMITTEE];
- The process for developing and implementing an IEP, as well as transition services for a student ages 16 or older – *see* [TRANSITION SERVICES];
- The determination of Least Restrictive Environment – *see* [LEAST RESTRICTIVE ENVIRONMENT];
- The *Notice of Procedural Safeguards*;
- Resources for the surrogate parent to seek assistance in understanding the provisions of federal and state laws, rules, and regulations related to special education; and
- The duties and responsibilities of surrogate parents under state law.

The training must be provided in the potential surrogate or foster parent’s native language or other mode of communication used by the individual, where practicable. The training may be conducted or provided by the DFPS, District Personnel, an education service center, or any other entity receiving federal funding to provide special education training to parents.

#### Additional Procedures

District and Campus Special Education Personnel will ensure that the parents of students with disabilities are provided meaningful opportunity to participate at every stage of the special education process. District or Campus Special Education Administration will seek to obtain documentation verifying that the parent, or the individual representing themselves as the parent, has legal authority to make educational decisions for the student. District or Campus Personnel should presume that a student’s birth or adoptive parent is the parent for the purposes of special education decision-making unless the District or Campus is aware that the parent does not have legal authority to make such decisions. However, it will not be presumed that the individual with whom the student lives is automatically a parent with the legal authority to make educational decisions for the student, even if that person is a relative.

District and Campus Special Education Personnel will ensure that an individual representing themselves as the parent has legal rights to make education decisions for the student before obtaining consent for an evaluation or conducting an ARD. Furthermore, should a concern regarding the legal rights of an individual assumed to be the parent or educational decision-maker arise after consent has been obtained for an evaluation or after an ARD has commenced, District or Campus Special Education Personnel must immediately stop the evaluation or ARD process and determine if a surrogate is needed.

#### *Appointment of a Surrogate Parent*

District Special Education Administration will make and document efforts to identify or locate the parent or an individual who can be considered a parent. This may include, but is not limited to, telephone calls, emails, mailings, home visits, and contact with caseworkers.

District Special Education Administration will ensure that an individual appointed to be a surrogate parent is not employed by any of the prohibited agencies. Additionally, District Special Education Administration will create and implement a process for determining whether a potential surrogate parent has interests that conflict with the interests of the student.

District Special Education Administration will ensure that the surrogate has received the required training and provide a Designation of Surrogate Parent form to the surrogate parent once the training has been completed and it has been determined that the individual meets all of the requirements to serve as a surrogate parent for the student with disabilities.

Campus Administration will maintain a surrogate parent visitation log for each student on the campus with a District-appointed surrogate parent. Furthermore, Campus Special Education Personnel will maintain a surrogate parent communication log which documents all involvement by the surrogate parent in the student's special education program, including, but not limited to: phone calls with Campus Special Education Personnel, reviewing educational records, attending the student's ARD meetings, reviewing and receiving progress reports, etc.

#### *Training Program for Foster and Surrogate Parents*

District Special Education Administration will determine whether District Special Education Personnel, the DFPS, an education service center, or another entity receiving federal funding for special education will conduct the training for foster and surrogate parents.

Regardless of the entity providing the training, District Special Education Administration will ensure that the training program is provided in the individual's native language or other mode of communication and addresses the required areas. Where appropriate, District Special Education Administration will offer optional ongoing or supplemental training so long as it is not mandatory for surrogate parents of students with disabilities. For a training program conducted outside of the District, the District will require the potential surrogate parent to have the agency providing the training program to verify completion of the program. District Special Education Administration will maintain documentation of the parents who have completed the required training program for foster and surrogate parents and provide certificates of completion to those who have done so.

The District will maintain documentation requirements of compliance associated with Texas Student Data System (TSDS), Public Education Information Management System (PEIMS), and State Performance Plan (SPP). District staff will provide training, with follow up, to ensure the documentation required is in place and compliant.

### Evidence of Implementation

- Documentation of a Parent’s Legal Authority to Make Educational Decisions for the Student
- Communication Between the District and a Student in Foster Care’s Caseworker or Foster Care Agency
- Documentation Related to the Training Program Provided
- Certification of Completion of Training for Each Foster Parent or Surrogate Parent
- Determination of Conflict of Interest Form
- Designation of Surrogate Parent Form
- Surrogate Visitor Logs
- Surrogate Parent Documentation Logs
- ARD/IEP
- Prior Written Notice
- Notice of Procedural Safeguards
- Documentation for the state in TSDS, PEIMS, and SPP

### Resources

[The Legal Framework for the Child-Centered Special Education Process: Parent - Region 18](#)

[Foster Care & Student Success - Texas Education Agency](#)

[Parent And Family Resources - Texas Education Agency](#)

[Parent Resources for Students in Special Education - Texas Education Agency](#)

[OSERS Letter to Cox \(Aug. 21, 2009\) - U.S. Department of Education](#)

[Questions and Answers on Individualized Education Programs \(IEPs\), Evaluations, and Reevaluations \(Sept. 2011\) - U.S. Department of Education](#)

[OSERS Letter to Ward \(Aug. 31, 2010\) - U.S. Department of Education](#)

[OSERS Letter to Serwecki \(Feb. 28, 2005\) - U.S. Department of Education](#)

[Surrogate Parent Information - Region 20](#)

[Surrogate Parent Training - TEXASCASA](#)

[Education For Children Resource Guide - Texas Department of Family and Protective Services](#)

[Notice of Procedural Safeguards - Texas Education Agency](#)

[Guide to the ARD Process - Texas Education Agency](#)

## Surrogate Parent Training - SPEDTEX

### **Adult Student and Transfer of Rights**

#### What is Required

Except for a student who has been determined to be incompetent under state law, a student with a disability who is 18 years of age or older has the same rights to educational decision-making as a student without a disability. Therefore, when a student with a disability turns 18 years old, all rights under the IDEA transfer from the parent to the adult student, except that Campus Special Education Personnel must provide any notice required under the IDEA to both the adult student and the parent.

In addition, all rights under the Family Education Rights and Privacy Act (FERPA) transfer from the parent to the adult student except that consent is not required to disclose information to the parent if the adult student is a dependent student, or when another exception applies. See [WHEN CONSENT IS NOT REQUIRED TO DISCLOSE INFORMATION].

Campus Special Education Personnel must provide both the student and the student's parent written notification of the transfer of rights under the IDEA, as well as information and resources regarding guardianship and alternatives to guardianship, at least one year before the student's 18<sup>th</sup> birthday. The student's IEP must include a statement that Campus Special Education Personnel provided the required notice, information, and resources within the required timeframe.

This written transfer of rights notice must inform the student and the parents that:

- The student with a disability who is age 18 or older or whose disabilities of minority have been removed will have the same right to make educational decisions as a student without a disability;
- All rights granted to the parent under the IDEA will transfer to the student unless the parent or other individual has been granted guardianship, except that Campus Special Education Personnel must provide any notice required under IDEA to the adult student and the parent; and
- All rights granted to the parent under the IDEA will transfer to an 18-year-old who is incarcerated in an adult or juvenile state or local correctional institution unless the parent or other individual has been granted guardianship.

Campus Special Education Personnel must also provide information and resources regarding guardianship and alternatives to guardianship—including supportive decision-making—and other supports and services that may enable the student to live independently at least one year before the student's 18<sup>th</sup> birthday. Campus Special Education Personnel must also provide this information upon request by the student or student's parent at any time.

Additionally, upon the student turning age 18, Campus Special Education Personnel must also provide the student and the student's parents written notice related to the transfer of rights, information and resources regarding guardianship and alternatives to guardianship, and contact information about where to seek additional information.

Campus Special Education Personnel must continue to provide any notice required by the IDEA to both the adult student and the parent after the transfer of rights. However, providing the parent Prior Written Notice of an ARD meeting does not constitute an invitation or create a right for the parent to attend the meeting. Prior Written Notice also does not create a right for the parent to consent to or participate in the proposal or refusal reflected in the Prior Written Notice. However, the adult student or Campus Special Education Personnel may invite the parent, as an individual with knowledge or special expertise regarding the adult student, to be a member of the ARD Committee. In addition, an adult student who holds rights under the IDEA is not prohibited from executing a supported decision-making agreement or a valid power of attorney after the transfer of parental rights.

### *Definitions*

“Guardianship” is a legal process that removes rights and privileges from a person aged 18 and older who is considered incapacitated under state law. The process involves the court system and an attorney. Unless parents have gained guardianship of their student with a disability or made other legal arrangements, all rights including signing and agreeing to the IEP will be transferred to the student upon turning 18.

“Supportive decision-making agreement” is an alternative to guardianship that involves supporting and accommodating an adult with a disability to enable the adult to make life decisions. In a supported decision-making agreement, the 18 year old student chooses someone (called a “supporter”) they trust to help them get information they need to make an informed decision, consider their options, understand the risks and communicate their decisions to others. The law does not place any restrictions on who may become a supporter. Typically, the supporter may be a family member, relative or friend. But, the adult with a disability may only enter a supported decision-making agreement voluntarily, without being influenced by others. The student and the supporter fill out and sign a legally valid supported decision-making agreement form and have it witnessed or notarized, as required by law.

“Power of attorney” is a legal document that gives someone else the legal power to act on your behalf. The power of attorney must be signed before a notary public and it must be executed by someone 18 years of age or older who is of sound mind and who knows what he/she is doing when they sign the document.

### Additional Procedures

Campus Special Education Personnel will keep track of the birthdays for those students on their caseload turning 17 and 18 years old during that school year.

Where possible, Campus Special Education Personnel will provide written notice regarding the transfer of rights and resources regarding guardianship and alternatives to guardianship during the student's ARD meeting closest in time before the student's 17<sup>th</sup> birthday. If Campus Special Education Personnel are unable to provide this notice for some reason during the ARD meeting closest in time before the student's 17<sup>th</sup> birthday, it should be provided at another time no later than the student's 17<sup>th</sup> birthday.

Prior to the student's 18<sup>th</sup> birthday Campus Special Education Personnel will discuss guardianship options or alternatives to guardianship (including supported decision making agreements and power of attorney documents) with the parent or guardian to determine whether the parent or guardian plans to seek appointment as the student's guardian or obtain other legal rights following the student's 18<sup>th</sup> birthday.

Campus Special Education Personnel will document all efforts to explain the transfer of rights to students and to provide the requisite notices and safeguards in a timely manner. This will be documented in the IEP and should be included in the minutes/deliberations of the ARD meeting.

Unless the parent or guardian has been appointed legal guardianship of the student, Campus Special Education Personnel will consult with the student to determine whether the student would like to include the parent or guardian, or any other individual with information relevant to the student, to any ARD meeting following the transfer of rights.

If an adult student provides the Campus Special Education Personnel with a supported decision-making agreement, a power of attorney, or other legal document which appoints another individual, including the parent, to make educational decisions on behalf of the adult student, Campus Special Education Personnel will consult with the District's Special Education Director to determine the legality and validity of the document before allowing the appointed person to make educational decisions for the adult student.

The District will maintain documentation requirements of compliance associated with Texas Student Data System (TSDS), Public Education Information Management System (PEIMS), and State Performance Plan (SPP). District staff will provide training, with follow up, to ensure the documentation required is in place and compliant.

#### Evidence of Implementation

- ARD/IEP
- Notice of Transfer of Rights Provided Before 17<sup>th</sup> Birthday
- Notice of Transfer of Rights Provided on 18<sup>th</sup> Birthday
- Documentation of Student Birthdays on Caseload
- List of Resources Related to Guardianship and Alternatives to Guardianship

- Prior Written Notice
- Legal Documents Related to Guardianship or Powers of Attorney
- Supported Decision-Making Agreement
- Documentation for the state in TSDS, PEIMS, and SPP

### Resources

[The Legal Framework for the Child-Centered Special Education Process: Adult Student and Transfer of Rights - Region 18](#)

[Notice of Procedural Safeguards - Texas Education Agency](#)

[Guide to the ARD Process - Texas Education Agency](#)

[Notice of Transfer of Rights - Texas Education Agency](#)

[Adult Student - SPEDTEX](#)

[OSERS Letter to Bieker \(July 20, 2000\) - U.S. Department of Education](#)

[Questions and Answers on Special Education and Homelessness \(Feb. 2008\) - U.S. Department of Education](#)

## II. EVALUATIONS

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### **DISABILITIES**

A student must be assessed under the IDEA in all areas of suspected disability. There are 13 areas of eligible disabilities under the IDEA. In order to receive FAPE under the IDEA, a student must be assessed and determined to be eligible in one or more of the following areas:

- 1) Autism (AU)
- 2) Deaf Blindness (DB)
- 3) Deaf or Hard of Hearing (DHH)
- 4) Emotional Disturbance (ED)
- 5) Intellectual Disability (ID)
- 6) Multiple Disabilities (MD)
- 7) Noncategorical Early Childhood (NCEC)
- 8) Orthopedic Impairment (OI)
- 9) Other Health Impairment (OHI)