



Stafford MSD

Special Education

Operating Guidelines

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

TRUTH AND REASON CONSTITUTE
THE 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.

TABLE OF CONTENTS

INTRODUCTION	3
I. CHILD FIND	4
CHILD FIND DUTY	4
DISTRICT AND CAMPUS IMPROVEMENT PLANS	17
PARENT AND NOTIFICATION AND PERSONAL GRADUATION PLAN	21
CLOSING THE GAP	25
DYSLEXIA SERVICES.....	32
REFERRAL FOR POSSIBLE SPECIAL EDUCATION SERVICES.....	40
AGES 0-5.....	46
CHILDREN WHO TRANSFER	54
CHILDREN WHO ARE INCARCERATED	60
CHILDREN IN PRIVATE SCHOOLS.....	63
PARENT	70
ADULT STUDENT AND TRANSFER OF RIGHTS	76
II. EVALUATIONS.....	79
DISABILITIES	79
AUTISM	80
DEAF OR HARD OF HEARING	84
DEAF-BLINDNESS	88
EMOTIONAL DISTURBANCE	92
EVALUATION PROCEDURES	96
INDEPENDENT EDUCATIONAL EVALUATION	106
INTELLECTUAL DISABILITY	112
MULTIPLE DISABILITIES	115
NONCATEGORICAL EARLY CHILDHOOD	117
ORTHOPEDIC IMPAIRMENT	120
OTHER HEALTH IMPAIRMENT	122
REVIEW OF EXISTING EVALUATION DATA	124
SPECIFIC LEARNING DISABILITY	127
SPEECH OR LANGUAGE IMPAIRMENT.....	134
SUMMARY OF PERFORMANCE.....	136
TRAUMATIC BRAIN INJURY	138
VISUAL IMPAIRMENT	140
III. FAPE COMPOSITE.....	143
ARD COMMITTEE MEMBERSHIP	143
ADMISSION, REVIEW, AND DISMISSAL COMMITTEE MEETING.....	149
AMENDMENT WITHOUT A MEETING	164
ANNUAL GOALS.....	167
DETERMINATION OF ELIGIBILITY.....	172
EXTENDED SCHOOL YEAR SERVICES	176
GRADUATION	180
LEAST RESTRICTIVE ENVIRONMENT	193
PARENT PARTICIPATION.....	203
PLACEMENT IN A RESIDENTIAL FACILITY	210
PRESENT LEVELS.....	216

PRIOR WRITTEN NOTICE.....	219
RULE OF CONSTRUCTION	226
SPECIAL FACTORS.....	228
STUDENTS WITH BEHAVIORAL NEEDS.....	229
ENGLISH LEARNER STUDENTS	231
BLIND OR VISUALLY IMPAIRED STUDENTS	234
COMMUNICATION	238
DEAF OR HARD OF HEARING STUDENTS.....	239
ASSISTIVE TECHNOLOGY	241
STUDENTS WITH AUTISM.....	244
DEFINITIONS	248
RESOURCES	250
STATE AND DISTRICTWIDE ASSESSMENTS	252
RESOURCES.....	258
SUPPLEMENTARY AIDS AND SERVICES, SPECIAL EDUCATION, RELATED SERVICES	259
TRANSITION SERVICES	269
VIRTUAL LEARNING DAYS.....	279
IV. CONSENT.....	284
CONSENT FOR INITIAL EVALUATION	285
CONSENT FOR SERVICES.....	291
CONSENT FOR REEVALUATION.....	296
CONSENT TO EXCUSE MEMBER FROM ATTENDING ARD COMMITTEE MEETING	301
CONSENT TO ACCESS PUBLIC BENEFITS	304
CONSENT TO ACCESS PRIVATE INSURANCE	309
CONSENT TO TRANSFER ASSISTIVE TECHNOLOGY DEVICES	312
CONSENT FOR DISCLOSURE OF CONFIDENTIAL INFORMATION.....	315

INTRODUCTION

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.

SPED Operating Procedures Development Team

Director of Federal and State Programs

Dr. Margaret Curette Patton

Special Education Coordinator

Shaunte' Norris

Elementary Diagnostician

Stephanie Reagle

Behavior Specialist

Martina Judge

I. CHILD FIND

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>
Response to Intervention	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.
CARE TEAM	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.
Child Find Duty	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.
Response to Parent/ Guardian Request for Testing	The Diagnostician will schedule a Student Review Committee Meeting to respond to a written or verbal request for testing within 15 school days of the request.
ECC Walk-ins	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 Student Review Committee Meeting .

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 8th 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 - SPEDEX](#)

[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 90th 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 5th 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 18th 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 18th 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 17th 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 17th birthday, it should be provided at another time no later than the student's 17th birthday.

Prior to the student's 18th 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 18th 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 17th Birthday
- Notice of Transfer of Rights Provided on 18th 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 - SPEDEX](#)

[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

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)

- 10) Specific Learning Disability (SLD)
- 11) Speech or Language Impairment (SI)
- 12) Traumatic Brain Injury (TBI)
- 13) Visual Impairment (VI)

AUTISM

Board Policy EHBAB; 34 CFR. 300.8(c), 300.304; 19 TAC 89.1040(b)–(c), 89.1050(a)(5); 89.1055

What is Required

A student must be assessed under the IDEA in all areas of suspected disability. Autism or AU is one of the areas of eligible disabilities under the IDEA.

Autism (AU) is a developmental disability significantly affecting verbal and nonverbal communication and social interaction, which may adversely affect the student's educational performance. Other characteristics often associated with autism include engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. While the characteristics of autism are generally evident before age 3, age 3 is not a cut-off point for IDEA eligibility. A student who manifests these characteristics after age 3 could be identified as having autism if the student meets the other eligibility criteria. Students with pervasive developmental disorders are included under the disability category of autism. A student does not meet the eligibility criteria for autism if the student's educational performance is adversely affected primarily because the student has an emotional disturbance. See [EMOTIONAL DISTURBANCE].

To assess for AU, the District or Campus Assessment Personnel will comply with the general evaluation procedures. See [EVALUATION PROCEDURES]. In addition, for AU, the written report of the evaluation by this group of qualified professionals must include specific recommendations for behavioral interventions and strategies.

Additional Procedures

A referral for an autism evaluation may be indicated when the District or Campus Personnel working with the student and/or the parent of the student suspects the student is exhibiting social and behavioral characteristics of autism.

An evaluation for a student suspected of being a student with autism often includes the following areas: academic achievement, adaptive behavior, autism screening, cognition, developmental, emotional and behavioral, functional behavioral, motor, sensory, social relationships, speech language, and transition/vocational. A multi-disciplinary team will complete the evaluation for AU, which may include, as appropriate an educational diagnostician, a LSSP, a Speech/Language Pathologist, and/or an Occupational Therapist. The multi-disciplinary team should collaborate to

create an evaluation plan to identify the procedures/assessments to be used in each area of the evaluation, to identify the person(s) responsible for collecting the data, to set a date for a follow-up discussion to review the data, and to make recommendations as to how the report will be integrated into one report. The resulting FIE should present a coherent rationale to either support or negate a recommendation for special education eligibility as a student with AU and rule out alternative educational disorders and environmental explanations for the student's observed behavioral and/or academic difficulties.

In addition to the general evaluation procedures, as part of an AU assessment, the Campus and District Assessment Personnel should consider some or all of the following:

- Emphasis on pragmatic/social language skills and assessments
- Emotional, behavioral or social functioning should be assessed across a variety of times or settings and should include both structured and unstructured observations
- Student interviews should be exploration or play-based as appropriate
- Include assessment and recommendations to address all areas contained in the AU Supplement/Section of the IEP, including extended educational programming, daily schedules, in-home and community - based training, parent/family training, futures training, positive behavior support strategies, suitable staff-to-student ratios, communication, and social skills. *See [FAPE-SPECIAL FACTORS-Students with Autism]*

In addition, if the student's behavior is impeding the student's learning or that of others and to be able to consider positive behavior support strategies if the student is determined to be AU, the District Assessment Personnel should consider conducting a Functional Behavioral Assessment as part of the evaluation. An FBA is a process for collecting data to determine the possible cause of problem behaviors and to identify strategies to address the behaviors. An FBA is generally understood to be an individualized evaluation of a student to assist in determining eligibility and/or the nature and extent of the special education and related services that the student needs, including the need for a Behavior Intervention Plan (BIP). As such, in most cases, parental consent is required for an FBA. The scope and nature of the FBA will depend on the nature and severity of the student's behaviors. The District or Campus Assessment Personnel will observe the student in various school settings and collect input from staff and members of the ARD Committee, including the parent. The District or Campus Assessment Personnel will consider the data, including interviews conducted with the student and/or parents that provides information about how the student's environment contributes to positive and problem behaviors, including the antecedents to the behavior. This information will be used to develop a hypothesis about why problem behaviors occur (the function of the behaviors) and will identify replacement behaviors that can be taught and that serve the same purpose for the student.

The FBA will provide the ARD Committee with information regarding the function of the student's behavior, factors that may trigger certain behavior, and interventions identified to decrease negative behaviors and increase appropriate behaviors. This information will be reviewed by the ARD Committee when developing a BIP and or behavior goals or accommodations for the student. A BIP is a written plan developed as part of the IEP to address behavioral concerns affecting the student's educational progress. A BIP is based on the problem behaviors identified in the FBA, identifies events that predict these behaviors from the FBA, and includes positive interventions to change behaviors and methods of evaluation. If the ARD Committee develops a BIP, a copy of the BIP will be provided to each of the student's teachers. The purpose of a BIP is to redirect the student's targeted behaviors to ensure the student can make appropriate progress in light of the student's unique circumstances.

Additionally, Campus or District Assessment Personnel will consider the presence of any cultural and/or linguistic differences when evaluating a student for autism and whether the differences may impact the evaluation results. For students with AU, specific strategies must be considered by the ARD Committee, based on peer-reviewed, research-based educational programming practices to the extent practicable and, when needed, such practices must be addressed in the IEP: See [FAPE - SPECIAL FACTORS with Autism].

A medical diagnosis of autism will not in itself entitle a student to receive special education and related services. To meet the IDEA's definition of autism, the student's disability must meet the criteria set out in state and federal law, and have an adverse effect on the student's educational performance. If the student does not meet the eligibility criteria for AU, or any other eligibility criteria under the IDEA, or does not need special education or related services due to his/her disability, Campus Personnel should refer the student to the Campus or District Personnel responsible for compliance with Section 504 to determine whether the student is eligible for accommodations or services as a student with a disability under Section 504.

The District will conduct all necessary initial evaluations and reevaluations to identify this disability condition in accordance with state and federal laws. See [EVALUATION PROCEDURES].

Process	Timeline
Full and Initial Evaluation (FIE) is Requested	Timeline begins once the parent and/or CARE Team request special education testing. The Student Review Committee reviews all data and decides whether to test or not. The committee decision is shared with parents within 15 school days of requests.
Counselor Prepares Referral Packet	If the school determines that a FIE is needed, the school counselor will complete the special education referral packet within ten (10) school days of the Student Review Committee Meeting.

Parental Consent	The appropriate assessment professional (diagnostician, speech pathologist) will contact parent for written consent for testing. This assessment professional will also explain the testing process and provide parents/guardian with the Notice of Procedural Safeguards and Guide to ARD Process with the consent for testing. The 45-school-day testing window begins once the parent signs the consent.
FIE Report Due	The FIE Report must be completed within 45-school days of parent consent.
Initial ARD	The student's initial ARD must take place within 30-calendar days from the FIE Report date.

Evidence of Implementation

- Notice of Evaluation
- Consent for Evaluation
- Referral Information
- Assessment Plan
- Autism Supplement
- FIE
- ARD/IEP
- Disability Report: Autism
- Consent for Functional Behavior Assessment
- Functional Behavior Assessment
- Behavior Intervention Plan
- Documentation for the state in TSDS, PEIMS, and SPP

Resources

[The Legal Framework for the Child-Centered Special Education Process: Autism Framework - Region 18](#)
[Autism Resources -Texas Education Agency](#)
[Texas Autism Resource Guide for Effective Teaching \(TARGET\) - Region 13](#)
[Autism - SPEDTEX](#)

DEAF OR HARD OF HEARING

Board Policy EHBH; Board Policy EHBAC; Board Policy EHBAA; Board Policy EHBAB; 20 USC 1414(d)(3)(b)(IV); 34 CFR 300.8(c), 300.29(b), 300.324(a)(2)(IV); Texas Education Code 29.303, 29.310(c), 30.004, 30.057(a)(2); 19 TAC 89.1050(b)–(c); 89.1085, 89.1090

What is Required

A student must be assessed under the IDEA in all areas of suspected disability. Auditory Impairment or “AI” is one of the areas of eligible disabilities under the IDEA.

A student with an Auditory Impairment (AI) is one who has been determined to meet the criteria for deafness or for hearing impairment under the IDEA. Deafness means a hearing impairment that is so severe that the student is impaired in processing linguistic information through hearing, with or without amplification, that adversely affects the student's educational performance. Hearing impairment means an impairment in hearing, whether permanent or fluctuating, that adversely affects the student's educational performance but that is not included under the definition of deafness.

To assess for AI, the District or Campus Assessment Personnel will comply with the general evaluation procedures. See [EVALUATION PROCEDURES]. In addition, the procedures and materials used for the assessment and placement of the student who is deaf or hard of hearing must be in the student's preferred mode of communication. The evaluation data must also include:

- An otological examination performed by an otolaryngologist or by a licensed medical doctor, with documentation that an otolaryngologist is not reasonably available;
- An audiological evaluation performed by a licensed audiologist;
- A description of the implications of the hearing loss for the student's hearing in a variety of circumstances with or without recommended amplification; and
- An assessment of the student's potential for communications through a variety of means, including:
 - Oral (spoken) and aural (hearing);
 - Fingerspelling; or
 - Sign language.

For a student from birth through two years of age who meets the criteria for deafness or for hearing impairment under the IDEA, an IFSP meeting must be held in place of an ARD Committee

meeting and the District must comply with the evaluation procedures for students ages 0-5. See [AGES 0-5].

Additional Procedures

The terms “auditory impairment,” “hearing impairment,” and “deaf or hard of hearing” are all terms referred to in Texas law and have the same meaning while federal law generally uses the term “deafness” and “hearing impairment.” However, the Texas legislature in 2019 passed a law directing the legislature and the Texas Legislative Council to avoid using in any new statute or resolution the terms “hearing impairment,” “auditory impairment,” and “speech impaired” in reference to a deaf or hard of hearing person, and to replace those phrases with “deaf” or “hard of hearing.” District Personnel should attempt to use the terms “deaf” or “hard of hearing,” if possible, when referring to students identified as AI.

When evaluating a student to determine if the student is AI, District or Campus Assessment Personnel will follow the procedures set out state and federal law. See [EVALUATION PROCEDURES]. District or Campus Assessment Personnel will also ensure that all assessment information is summarized in the appropriate sections of the FIE, and that doctor’s signatures are on the audiological and ontological reports.

When conducting the communication part of the assessment, District or Campus Assessment Personnel may:

- Review the ontological and audiological evaluations of the student and consider
 - at what age the student was identified as having a hearing loss,
 - what type of hearing loss the student has,
 - what is the student’s aided hearing, including speech recognition and discrimination,
 - whether the student uses amplification and whether the amplification is consistently worn, and
 - other relevant and current information, if any, from the student’s ENT
- Ensure collaboration among the evaluation professionals to determine what areas will be addressed and by whom
- Review a communication evaluation report provided by a speech-language pathologist, a person certified in deaf education, or another qualified individual that assesses the student’s ability to use a variety of methods of communication such as sign language, speech, speech reading, or fingerspelling
- Assess the student’s functional listening skills, with or without recommended amplification, including
 - how the student uses his/her hearing in different settings,
 - student’s hearing fluctuation,

- student's ability to generalize previously taught auditory skills, and
- skills that need to be taught or reviewed
- Assess speechreading and determine whether it is functional and ensure that the means of communication the student commonly uses is incorporated into the assessment
- Assess intelligibility across a variety of people and consider motor dexterity for signing
- Collect video or audio recordings of the student to evaluate the student's language and communication skills, including, if applicable, the student's use of an interpreter
- Collect parent information, including the primary language used in the home and the skill and consistency of family communication with student
- Determine the student's primary/preferred mode of communication and ensure the procedures and materials used for assessing and placing the student are in the student's preferred mode of communication
- Consider the student's language and communication needs, opportunities for direct communication with peers and professional personnel in the student's preferred communication mode, and student's academic level
- Write the communication section of the evaluation report; ensuring that the assessment professionals know where to include the specific information in the FIE. If a "Part C" form is utilized as part of the evaluation, ensure that key points are highlighted on the form but that the form by itself does not constitute the assessment of the student's language and communication. All members of the assessment team should receive a copy of the form.

If the parent does not provide to the District an examination report by an otolaryngologist or a licensed medical doctor and/or an audiologist that provides the required evaluation data, the District is responsible for obtaining such information at no expense to the parent.

The District or Campus Assessment Personnel should first request this report from the parent and request that the parent sign and return a Consent to Release Confidential Information form so that the District Assessment Personnel can contact the student's medical provider for information and/or questions regarding the reports. See [CONSENT FOR DISCLOSURE OF CONFIDENTIAL INFORMATION]. If the parent refuses, or does not have a current report, and/or is not responsive to the request, the District or Campus Assessment Personnel should contact the Special Education Director or designee for assistance in setting up the appropriate examination. This may be accomplished by contracting with an otolaryngologist or a licensed medical doctor and /or an audiologist, asking the parent to obtain the report and reimbursing the parent, or any other appropriate method to obtain the evaluation data at the District's discretion. A hearing screening conducted by a school nurse is not sufficient. Additionally, should a parent submit documentation from a licensed medical professional rather than a licensed otolaryngologist, District or Campus Assessment Personnel will determine if the

documentation provides sufficient information to effectively evaluate the student. If District or Campus Assessment Personnel determine that this information is sufficient, it will be documented in the FIE. Otherwise, District or Campus Assessment Personnel may contract with an otolaryngologist, ask the parent to obtain a report from an otolaryngologist and reimburse the parent, or any utilize other appropriate method to obtain the evaluation data at the District's discretion. If a licensed otolaryngologist is not reasonably available, this information and the efforts the District or Campus Assessment Personnel took to find a licensed otolaryngologist should be noted in the report. In addition, with the consent of the parent, the District or Campus Assessment Personnel should consult with the medical provider to obtain additional information if necessary for the assessment.

An ARD meeting (or IFSP Team if the student is 0-2) will review the completed evaluation and determine whether the student is a student with a disability and the services the student needs. See [SPECIAL FACTORS – Deaf or Hard of Hearing] and [ADMISSION, REVIEW, AND DISMISSAL COMMITTEE MEETING]. If the student does not meet the eligibility criteria for AI, or any other eligibility criteria under the IDEA, or does not need special education or related services due to his/her disability, Campus Personnel should refer the student to the Campus or District Personnel responsible for compliance with Section 504 to determine whether the student is eligible for accommodations or services as a student with a disability under Section 504.

Upon completion of the DHH evaluation, each member of the evaluation team should sign the FIE. If the student is eligible for special education as a student who is Deaf of Hard of Hearing, a Disability Report in this area will be completed. The District will conduct all necessary initial evaluations and reevaluations to identify this disability condition in accordance with state and federal laws. See [EVALUATION PROCEDURES].

The District will conduct all necessary initial evaluations and reevaluations to identify this disability condition in accordance with state and federal laws. See [EVALUATION PROCEDURES].

Evidence of Implementation

- Notice of Evaluation
- Consent for Evaluation
- Referral Information
- Assessment Plan
- Consent to Release Confidential Information
- Otological Examination
- Audiological Evaluation
- Communication Evaluation Report
- Medical Information Related to Hearing Loss
- FIE
- ARD/IEP or ISFP

Resources

[The Legal Framework for the Child-Centered Special Education Process: Deaf or Hard of Hearing - Region 18](#)

[Evaluating Students with Auditory Impairments - Region 4](#)

[Registry of Interpreters for the Deaf](#)

[OSEP Letter to Blodgett \(Nov. 12, 2014\) - U.S. Department of Education](#)

[OSEP Letter to Anonymous \(Nov. 28, 2007\) - U.S. Department of Education](#)

[DOJ/OSERS/OCR Frequently Asked Questions on Effective Communication with Students with Hearing, Vision, or Speech Disabilities in Public Elementary and Secondary Schools \(Nov. 12, 2014\) - U.S. Department of Education](#)

[Deaf and Hard of Hearing - SPEDTEX](#)

DEAF-BLINDNESS

Board Policy EHBA A; Board Policy EHBAB; Board Policy EHBAC; Board Policy EHBH; 34 CFR 300.8(c)(2), 300.304(c)(4); Texas Education Code 29.310(c); 19 TAC 89.1040(b)–(c); 89.1050(a)–(c)

What is Required

A student must be assessed in all areas of suspected disability. Deaf-blindness refers to a student with both hearing and visual disabilities. The IDEA defines deaf-blindness as “concomitant [simultaneous] hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children with deafness or children with blindness.”

A student with deaf-blindness is one who has been determined to meet the criteria for deaf-blindness. A student with deaf-blindness is one who:

- Meets the criteria for auditory and visual impairment;
- Meets the eligibility criteria for a student with a visual impairment and has a suspected

hearing loss that cannot be demonstrated conclusively, but there is not speech at an age when speech would normally be expected, as determined by a speech/language therapist, a certified speech and language therapist, or a licensed speech language pathologist;

- Has documented hearing and visual losses that, if considered individually, may not meet the requirements for auditory or visual impairment, but the combination of such losses adversely affects the student's educational performance; or
- Has a documented medical diagnosis of a progressive medical condition that will result in related auditory and visual losses that, without special education intervention, will adversely affect student's educational performance.

To assess for deaf-blindness, the District or Campus Assessment Personnel will comply with the general evaluation procedures. *See* [EVALUATION PROCEDURES]. In addition, the evaluation data reviewed by the District or Campus Assessment Personnel in connection with the determination of the student's disability based on deaf-blindness must comply with the evaluation procedures of deaf or hard of hearing and visual impairment. *See* [DEAF OR HARD OF HEARING] and [VISUAL IMPAIRMENT]. Further, the procedures and materials used for the assessment and placement of the student who is deaf or hard of hearing must be in the student's preferred mode of communication.

For a student from birth through 2 with a visual impairment and/or who is deaf or hard of hearing, an IFSP meeting must be held and the District must comply with the procedures for students ages 0-5. *See* [AGES 0-5].

Additional Procedures

When a referral for a student suspected of visual and/or auditory impairments is first received, the Diagnostician/LSSP should contact a professional certified in AI/VI for assistance in determining the types, levels, and procedures for assessment of the student. However, the Diagnostician/LSSP, with the assistance of the AI/VI Professional, remains responsible for ensuring that the FIE and eligibility assessment is completed appropriately. When determining a student's disability based on deaf-blindness, District Assessment Personnel will comply with the procedures outlined in state and federal law. *See* [DEAF OR HARD OF HEARING] and [VISUAL IMPAIRMENT].

If the parent does not provide to the District an examination report by an otolaryngologist or a licensed medical doctor and/or an audiologist that provides the required evaluation data, the District is responsible for obtaining such information at no expense to the parent. *See* below [EVALUATION – DISABILITIES – Deaf or Hard of Hearing]. The District or Campus Assessment Personnel should first request these reports from the parent and request that the parent sign and return a Consent to Release Confidential Information form so that the District Assessment Personnel can contact the student's medical provider for information and/or questions

regarding the reports. See [CONSENT FOR DISCLOSURE OF CONFIDENTIAL INFORMATION]. If the parent refuses, or does not have a current report, and/or is not responsive to the request, the District or Campus Assessment Personnel should contact the Special Education Director or designee for assistance in setting up the appropriate examination(s). This may be accomplished by contracting with an otolaryngologist or a licensed medical doctor and /or an audiologist, asking the parent to obtain the report and reimbursing the parent, or any other appropriate method to obtain the evaluation data at the District's discretion. A hearing screening conducted by a school nurse is not sufficient.

Similarly, if the parent does not provide to the District an examination report(s) by a licensed ophthalmologist or optometrist that provides the required evaluation data, the District will obtain such information at no expense to the parent. See below [EVALUATION – DISABILITIES - Visual Impairment]. The District or Campus Assessment Personnel should first request this report from the parent and request that the parent sign and return a Consent to Release Confidential Information form so that the District Assessment Personnel can contact the student's medical provider for information and/or questions regarding the reports. See [CONSENT FOR DISCLOSURE OF CONFIDENTIAL INFORMATION]. If the parent refuses, or does not have a current report, and/or is not responsive to the request, the District or Campus Assessment Personnel should contact the Special Education Director or designee for assistance in setting up the appropriate examination. This may be accomplished by contracting with an ophthalmologist or optometrist, asking the parent to obtain the report and reimbursing the parent, or any other appropriate method to obtain the evaluation data at the District's discretion. A vision screening conducted by a school nurse is not sufficient.

For a student with a suspected or documented deaf-blindness, the ARD Committee, which determines whether the student is a student with a disability and the educational needs of the student, must include a teacher certified in the education of students with auditory impairments and a teacher certified in the education of students with visual impairments.

The District must register all students who are eligible for special education as visually impaired or deaf-blind on TEA's annual Registration of Students with Visual Impairments. The District must register all students with combined hearing and vision loss on TEA's annual Deaf-blind Census, including students where combined vision and hearing loss are suspected, but assessment is not yet completed in one or both sensory areas.

If the student does not meet the eligibility criteria for VI, AI and/or Deaf-Blindness, or any other eligibility criteria under the IDEA, or does not need special education or related services due to his/her disability, Campus Personnel should refer the student to the Campus or District Personnel responsible for compliance with Section 504 to determine whether the student is eligible for accommodations or services as a student with a disability under Section 504. The District will conduct all necessary initial evaluations and reevaluations to identify this disability condition in accordance with state and federal laws. See [EVALUATION PROCEDURES].

Evidence of Implementation

- Notice of Evaluation
- Consent for Evaluation
- Referral Information
- Assessment Plan
- Content to Release Confidential Information
- Otological Examination
- Audiological Evaluation
- Communication Evaluation Report
- Ophthalmologist/Optomtrist Report
- Functional Vision Evaluation
- Learning Media Assessment
- Orientation and Mobility Evaluation
- FIE
- ARD/IEP

Resources

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

[Texas Deafblind Project](#)

[IEP Quality Indicators for Students with Deaf-Blindness - Texas Deafblind Outreach](#)

[2017 Guidelines and Standards for Educating Students with Visual Impairments in Texas - Texas School for the Blind and Visually Impaired](#)

[Interveners for Students with Deafblindness in Texas – Texas School for the Blind and Visually Impaired](#)

[Deafblind - SPEDTEX](#)

EMOTIONAL DISTURBANCE

34 CFR 300.8(c)(4), 300.111(a)(1)(i), 300.304(c)(4); 19 TAC 89.1040(b)–(c), 89.1050(a)(5); 22 TAC 465.38(b)(2); Texas Occupations Code 501.503

What is Required

A student must be assessed under the IDEA in all areas of suspected disability. Emotional Disturbance or “ED” is one of the areas of eligible disabilities under the IDEA.

Emotional disturbance means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a student's educational performance:

- An inability to learn that cannot be explained by intellectual, sensory, or health factors;
- An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
- Inappropriate types of behavior or feelings under normal circumstances;
- A general pervasive mood of unhappiness or depression; and/or
- A tendency to develop physical symptoms or fears associated with personal or school problems.

A student need not meet all of these five criteria to be eligible for special education and related services under the IDEA. The student need only exhibit one of the five criteria of the definition of an emotional disturbance. ED includes schizophrenia. However, ED does not apply to a student who is socially maladjusted, unless the student also meets the criteria for having an emotional disturbance.

The District will comply with all requirements set out in state and federal law when conducting an evaluation to determine if a student meets eligibility for an emotional disturbance. See [EVALUATION PROCEDURES]. In addition, the written report of evaluation by the group of qualified professionals (the District and Campus Assessment Personnel) must include specific recommendations for behavioral supports and interventions. The assessment of emotional or behavioral disturbance, for educational purposes, using psychological techniques and procedures is considered the practice of psychology. A person commits an offense if the person engages in the practice of psychology or represents that the person is a psychologist in violation of the Texas Occupations Code.

Additional Procedures

A referral for an evaluation to determine if a student meets the eligibility criteria as a student with an emotional disturbance may be indicated when the District and/or the parent of a student suspects the behavioral characteristics of a student have been significant over time and adversely affects educational performance. Campus or District Assessment Personnel utilize standard evaluation procedures in accordance with the law when planning an initial evaluation and a reevaluation for ED. See [EVALUATION PROCEDURES].

Before referring a student for an ED evaluation, the Campus Special Education Personnel or ARD Committee may consider the following, if appropriate:

- Would consultation with the LSSP or other professionals potentially be effective in addressing the problem?
- Would a Behavior Intervention Plan (BIP) or other behavior interventions address the concern?
- Would other District resources effectively improve classroom performance or address the behaviors of concern?
- What measures have been tried for a sufficient period of time, in a consistent manner, and what has been the impact on behavior?

Has the District's general education Positive Behavior Interventions and Supports (PBIS) been tried and what were the results of these interventions? See [CHILD FIND – REFERRAL FOR POSSIBLE SPECIAL EDUCATION SERVICES].

A psychological evaluation is normally part of an ED assessment. As such, for any psychological evaluation, if an assessment is recommended, and upon parent request, the Assessment Personnel must provide the name and type of test to the parent and how the assessment will be used to develop an appropriate IEP.

In conducting the ED evaluation, information regarding the student's behavior across various environments will be collected. Campus or District Assessment Personnel will consider the presence of any cultural and/or linguistic differences when evaluating a student for ED and whether the differences may impact the evaluation results. The written report of evaluation should also include:

- The type and severity of the emotional disturbance;
- The functional implications of the disability for situations involving instruction; and
- The degree to which in-school and out-of-school behavior reflects symptoms consistent with the diagnosis and identification of behavior considered to be a direct result of the emotional disability.

Within the evaluation, the behaviors that significantly interfere with the learning or educational progress of the student or that of others must also be identified. Therefore, the evaluation report will frequently include a Functional Behavioral Assessment (FBA). An FBA is a systematic process for describing problem behavior and identifying the environmental factors and surrounding events associated with the problem behavior. The scope and nature of the FBA will depend on the nature and severity of the student's behaviors.

The District or Campus Assessment Personnel will observe the student in various school settings and collect input from staff and members of the ARD committee, including the parent. The District or Campus Assessment Personnel will consider the data, including interviews conducted with the student and/or parents that provides information about how the student's environment contributes to positive and problem behaviors, including the antecedents hypothesize to the behavior. This information will be used to develop a hypothesis about why problem behaviors occur (the function of the behaviors) and will identify replacement behaviors that can be taught and that serve the same purpose for the student.

An FBA is generally understood to be an individualized evaluation of a student to assist in determining eligibility and/or the nature and extent of the special education and related services that the student needs, including the need for a Behavior Intervention Plan (BIP). As such, in most cases, parental consent is required for an FBA. See [EVALUATION PROCEDURES], [CONSENT FOR INITIAL EVALUATION] and [CONSENT FOR REEVALUATION]. The FBA will provide the ARD Committee with information regarding the function of the student's behavior, factors that may trigger certain behavior, and interventions identified to decrease negative behaviors and increase appropriate behaviors. This information will be reviewed by the ARD Committee when developing a BIP and or behavior goals or accommodations for the student.

In addition, if counseling as a related service is recommended to address any of the targeted behaviors, a counseling evaluation will be included in the FIE. IDEA defines counseling as services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel. A counseling evaluation should assess the social, emotional, and behavioral problems that are interfering with the student's ability to benefit from education.

A Licensed Specialist in School Psychology (LSSP) is responsible for conducting the psychological evaluation. The resulting report should present a coherent rationale to either support or negate a recommendation for special education eligibility as a student with an emotional disturbance and rule out alternative educational disorders and environmental explanations for the student's observed behavioral and/or academic difficulties. The report should include recommendations to the ARD Committee regarding eligibility, and, if appropriate, instructional, behavioral, and environmental recommendations for services and supports.

When Campus or District Assessment Personnel complete the evaluation, an ARD Committee meeting, including the Assessment Personnel, will be held to review the evaluation. Based on the results of the evaluation, the ARD Committee will determine whether the student meets one

or more of the five specific characteristics listed above, and whether the student requires special education supports and related services.

The diagnosis of a mental health condition alone does not determine eligibility for special education services as a student with an emotional disturbance. Additionally, mood, behavior, or academic problems related solely to drug abuse does not qualify a student as a student with an emotional disturbance. If the student does not meet the eligibility criteria for ED, or any other eligibility criteria under the IDEA, or does not need special education or related services due to his/her disability, Campus Personnel should refer the student to the Campus or District Personnel responsible for compliance with Section 504 to determine whether the student is eligible for accommodations or services as a student with a disability under Section 504.

Upon completion of the ED evaluation, each member of the evaluation team shall sign the FIE. If the student is eligible for special education as a student with an Emotional Disturbance, a Disability Report in this area will be completed. The diagnosis of a mental health condition alone does not determine eligibility for special education services as a student with an emotional disturbance. Additionally, mood, behavior, or academic problems related solely to drug abuse do not qualify a student as a student with an emotional disturbance. If the student does not meet the eligibility criteria for ED, or any other eligibility criteria under the IDEA, or does not need special education or related services due to his/her disability, Campus Personnel should refer the student to the Campus or District Personnel responsible for compliance with Section 504 to determine whether the student is eligible for accommodations or services as a student with a disability under Section 504.

Should the ARD Committee determine, upon review of the FIE and, where applicable, FBA, that a Behavior Intervention Plan (“BIP”) is necessary to address behaviors for a student with ED, the ARD Committee will develop a BIP or revise a current BIP to reflect the student’s current behavior needs. A BIP is a written plan developed as part of the IEP to address behavioral concerns affecting the student’s educational progress. A BIP is based on the problem behaviors identified in the FIE, identifies events that predict these behaviors, and includes positive interventions to change behaviors and methods of evaluation. If the ARD Committee develops a BIP, a copy of the BIP will be provided to each of the student’s teachers. The purpose of a BIP is to redirect the student’s targeted behaviors to ensure the student can make appropriate progress in light of the student’s unique circumstances. Students with ED typically require a BIP to appropriately address behaviors and provide FAPE.

The District will conduct all necessary initial evaluations and reevaluations to identify this disability condition in accordance with state and federal laws. See [EVALUATION PROCEDURES].

Evidence of Implementation

- Notice of Evaluation
- Consent for Evaluation
- Referral Information
- Assessment Plan
- Notification of Psychological Tests to Parent
- Functional Behavioral Assessment
- FIE
- BIP
- ARD/IEP

Resources

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

[Quick Guide: Emotional Disturbance - Region 14 ESC](#)

[§ 89.1040 Eligibility Criteria - FAQ - Texas Education Agency](#)

[OSEP Letter to Anonymous \(Nov. 28, 2007\) - U.S. Department of Education](#)

[OSEP Letter to Delisle \(Dec. 20, 2013\) - U.S. Department of Education](#)

[OSEP Memorandum 15-08 to State Directors of Special Education \(April 17, 2015\) - U.S. Department of Education](#)

[Emotional Disturbance - SPEDTEX](#)

Evaluation Procedures

Board Policy EHBA; 34 CFR 300.8(a)(1), 300.301, 300.303, 300.304(b)–(c), 300.306(a)(1); Texas Education Code 29.004; 19 TAC 89.1011, 89.1040(b)–(c), 89.1050(a), 89.1070(h), 89.1230

What Is Required

An evaluation under the IDEA is the collection of information to determine whether a student is a student with a disability, and to determine the educational needs of the student. Before conducting an evaluation of a student, the District must complete a REED, provide the parent with a Prior Written Notice regarding the evaluation, and comply with the parental consent

requirements. See [REVIEW OF EXISTING EVALUATION DATA] and [PRIOR WRITTEN NOTICE] and [CONSENT].

Group of Qualified Professionals

Whether a student is eligible for special education and related services is a determination made by the student's ARD Committee. The evaluation is conducted by a multi-disciplinary team of qualified professionals. The team of qualified professionals that collects or reviews evaluation data in connection with the determination of eligibility must include, but is not limited to an educational diagnostician and/or LSSP, and other appropriately certified persons with experience and training in the area of the disability. Additional professionals may be required as defined under each eligibility category. *See all procedures under [EVALUATION].*

Initial Evaluations

The District or Campus Assessment Personnel must conduct a full and individual initial evaluation (FIIE) before providing special education and related services to a student with a disability. Before the District or Campus Assessment Personnel conduct an initial evaluation, the District or Campus Assessment Personnel must make reasonable efforts to obtain informed parental consent. If the parent does not provide consent for an initial evaluation, or if the parent fails to respond to a request to provide consent, the District may, but is not required to, pursue the initial evaluation by utilizing the due process procedures. *See [CONSENT].* The initial evaluation must consist of procedures to determine:

- Whether the student is a student with a disability; and
- The educational needs of the student.

Timeline for Conducting Initial Evaluations

A written report of an initial evaluation must be completed:

- Not later than the 45th school day following the date on which the District or Campus Assessment Personnel receive written consent for the evaluation from the student's parent. If a student has been absent from school during that period on three or more school days, the period must be extended by a number of school days equal to the number of school days during that period on which the student has been absent; or
- For students under five years of age by September 1 of the school year and not enrolled in public school, and for students enrolled in a private or home school setting, not later than the 45th school day following the date on which the District or Campus Assessment Personnel receive written consent for the evaluation from the student's parent

If the District or Campus Assessment Personnel receive written parent consent at least 35, but less than 45, school days before the last instructional day of the school year:

- the written report of the FIE must be provided to the student's parent not later than June 30 of that year; or
- If the student was absent from school during that time three or more days, the written report of the FIE must be completed not later than the 45th school day following the date on which consent was received plus the number of school days the student was absent.

A student is considered absent for the school day if the student is not in attendance at the school's official attendance taking time or at the alternate attendance taking time set for that student. A student is considered in attendance if the student is off campus participating in an activity that is approved by the school board and is under the direction of a professional staff member of the District or an adjunct staff member who has a minimum of a bachelor's degree and is eligible for participation in TRS.

In determining evaluation timelines, a "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.

If the student was in the process of being evaluated for special education eligibility by a another district and enrolls in the District before the previous district completes the initial evaluation, the District must coordinate with the previous district as necessary and as expeditiously as possible to ensure a prompt completion of the evaluation. See [CHILDREN WHO TRANSFER].

Reevaluations

District Assessment Personnel will complete a reevaluation of a student with a disability:

- if the ARD Committee determines that the educational or related services needs of the student warrant a reevaluation, including improved academic achievement and functional performance;
- if a reevaluation is requested by the student's parents or teacher; or
- before determining that the student is no longer a student with a disability.

A reevaluation must occur not more frequently than once a year, unless the parent and the ARD Committee, through the REED, agree otherwise, and at least every three years, unless the parent and the ARD Committee, through the REED, agree that a reevaluation is unnecessary. See [REVIEW OF EXISTING EVALUATION DATA]

Evaluation Procedures

When conducting the evaluation, District or Campus Assessment Personnel must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information, including information provided by the parent, that may assist in determining:

- Whether the student is a student with a disability; and
- The content of the student's IEP, including information related to enabling the student to be involved in and progress in the general education curriculum, or for the preschool student, to participate in appropriate activities.

District or Campus Assessment Personnel must use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors. These assessments and other evaluation materials include those tailored to assess areas of educational need and not merely those that are designed to provide a single general intelligence quota.

The assessments and other evaluation materials used to assess the student must be selected and administered so as not to be discriminatory on a racial or cultural basis. In addition, the assessments and other evaluation materials must be provided and administered in the student's native language or other mode of communication and in the form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally (unless it is not feasible to provide or administer in that fashion).

The assessment instruments must be used for the purposes for which the assessments or measures are valid and reliable, and must be administered by trained and knowledgeable personnel who administer the assessments in accordance with any instructions provided by their producers.

The assessments used by District or Campus Assessment Personnel must be selected and administered so as best to ensure that if an assessment is administered to a student with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the student's aptitude or achievement level, or whatever other factors the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure). The procedures used will differentiate between language proficiency and disability.

The evaluation must be sufficiently comprehensive to ensure that the student is assessed in all areas of suspected disability, including, if appropriate:

- Health;
- Vision;
- Hearing;
- Social and emotional status;
- General intelligence;

- Academic performance;
- Communicative status and
- Motor abilities.

The evaluation must also be sufficiently comprehensive to identify all the student's special education and related service needs, whether or not commonly linked to the disability category in which the student has been classified.

Once the FIE is completed, the ARD Committee must review the evaluation. If a determination is made that the student has a disability and needs special education and related services, an IEP will be developed for the student. See [FAPE – COMPOSITE – DETERMINATION OF ELIGIBILITY].

Additional Procedures

District Assessment Personnel will ensure that all timelines are followed and that evaluations are completed in accordance with federal and state law.

In that regard, District Assessment Lead Personnel will track the initiation, assignment, and completion of all initial referrals, initial evaluations, and reevaluations utilizing the District's evaluation tracking system. District Assessment Lead Personnel will monitor and manage all of the evaluations for their area or team and provide weekly and/or monthly progress updates to the Special Education Director or designee in order to ensure that SPP 11 and 12 timelines are met.

For all evaluations, Campus and District Assessment Personnel will ensure that current versions of applicable assessment are used and that those administering the assessments have adequate familiarity with how the test is to be administered. This includes ensuring that the instruments used in an evaluation are valid, reliable, and administered in accordance with the instructions provided by the producer of the assessment. Assessment Personnel will also consider whether any extenuating circumstances exist that might impact the assessment such as the health of the student, environmental factors, absences, or other outside influences.

Evaluations help ARD Committees identify the specialized instruction and related services students with disabilities need to receive FAPE, in addition to being used for eligibility purposes. It is imperative for staff working directly with the student to share information about the student's progress or lack of progress, or changed circumstances so that an ARD Committee can determine if additional assessment is indicated.

Campus and District Assessment Personnel will ensure that all assessments are comprehensive and address all concerns and suspected areas of disabilities. Prior to beginning the evaluation, Campus and District Assessment Personnel will communicate with the student's parent(s), teachers and other relevant Campus Personnel regarding the student to ensure the student is assessed in all suspected areas of disabilities.

The following are components of a full and individual evaluation:

- Reason for Referral
- Sources of Data
- Sociological
- Family History
- Educational History
- Test Conditions and Behavior
- Language/Communication
- Physical/Developmental/Medical
- Academic Achievement/Educational Performance Levels
- Intellectual/Cognitive Functioning
- Adaptive Behavior
- Emotional/Behavioral/Social Functioning
- Assistive Technology
- Post-Secondary Transition
- Conclusions
- Recommendations
- Assurances
- Signatures of multidisciplinary team members

The District or Campus Assessment Personnel will summarize the pertinent findings in all of the above areas, if appropriate, in the FIE and will document the members of the multi-disciplinary team as participants in the FIE. For any related services being considered (i.e. OT, PT, Counseling, AT, etc.), the District or Campus Assessment will ensure that the FIE includes an assessment and information relevant for the ARD Committee to determine whether that related service is appropriate for the student.

The District or Campus Assessment Personnel will place the final FIE and any relevant supporting data in the student's eligibility folder on the campus. All original protocols or other assessment materials will be maintained in the file of the District or Campus Assessment Personnel and will not be copied. If the parent requests copies of the protocols, the District or Campus Assessment Personnel will instead sit down with the parent at a mutually-agreeable time to review the protocols and information with the parent.

The FIE will be provided to the parent within a reasonable time before the ARD meeting. For an initial evaluation, the District or Campus Assessment Personnel will review the results of the evaluation prior to the ARD meeting in a face-to-face meeting with the parent, when possible. For reevaluations, a face-to-face meeting may not be necessary; however, the results of the evaluation should be reviewed with the parent prior to the ARD.

Upon completion of the evaluation, each member of the evaluation team should sign the FIE. If the student meets the criteria for one or more of the IDEA eligibilities, a Disability Report in the area or areas will be completed and the FIE will be shared with the ARD Committee to

determine eligibility. If a determination is made by the ARD Committee that the student has a disability and needs special education and related services, an IEP must be developed for the student. Or, if the re-evaluation indicates a need for changes to the student's IEP, an ARD Committee will meet to review and revise the student's current program.

If the student does not meet one of the eligibility criteria under the IDEA, or does not need special education or related services due to his/her disability, as determined by the student's ARD Committee, Campus Personnel should refer the student to the Campus Personnel responsible for compliance with Section 504 to determine whether the student is eligible for accommodations or services under Section 504. All students who do not qualify for special education under the IDEA and/or Section 504 should be referred back to the Campus Student Support Team for regular education interventions, if needed.

Initial Evaluations

For initial evaluations, Campus Special Education Personnel will communicate with District and Campus Assessment Personnel regarding the date consent was signed and the student's attendance to establish the date on which the assessment must be completed. District Assessment Personnel will collect and review relevant information before deciding what specific assessments will be administered for an initial FIE. This collection of information will include some or all of the following:

- Concerns from parent regarding the student's academic, developmental, emotional or functional performance, including any suspected disability
- Concerns from teacher(s) or other Campus Personnel regarding the student's academic, developmental, emotional or functional performance in the classroom, including any suspected disability
- Parent Information Form
- Teacher Observation Form
- Documentation of all interventions or accommodations provided to the student and the result of those interventions or accommodations
- Hearing and vision information
- Report card or other grade reports
- Attendance records
- Student profile information
- ACP/State & District assessment results
- Dyslexia screenings
- Work samples
- Communication skills documentation
- Behavior logs and/or disciplinary referrals
- LPAC information (if applicable)
- Home language survey
- Section 504 documents (if applicable)

This data will inform the type of formal and informal assessments that will be conducted/utilized. However, District or Campus Assessment Personnel will inform the parent and consent will be obtained to conduct a comprehensive evaluation in all areas of suspected disability and need. The parent may not limit the scope of the evaluation. If during the pendency of an evaluation, additional information supports expanding the evaluation into an area which was not originally suspected, the multi-disciplinary District or Campus Assessment team that reviews and conducts the evaluation will collaborate regarding the scope of the evaluation and ensure that all areas of suspected disability and need are fully evaluated within the applicable timelines.

Once the initial FIE is completed, the ARD Committee will meet to review the evaluation. The ARD Committee will meet to review an initial FIE within 30 calendar days from the date of the completion of the initial FIE. If the 30th day falls during the summer and the school is not in session, the ARD Committee will have until the first day of classes in the fall to meet unless ESY is recommended, and, then, the ARD Committee should meet as soon as possible. If the 30th calendar day falls on a weekend, holiday, or teacher work day, the ARD Committee will meet before the 30th day.

Reevaluations

Unlike initial evaluations, there is no timeline for a reevaluation. The ARD Committee should determine the evaluation completion date. However, a reevaluation should be considered at least every 3 years. As part of all reevaluations, the ARD Committee will conduct a REED to determine the scope of the reevaluation. See [REVIEW OF EXISTING EVALUATION DATA]. All REED meetings should be conducted at least 90 days prior to the 3-year reevaluation due date, or sooner, if the student's circumstances warrant an earlier timeframe. If formal assessment is recommended by the ARD Committee, parental consent will be obtained by the District or Campus Assessment Personnel and all components of the FIE will be completed. See [PRIOR WRITTEN NOTICE] and [CONSENT FOR REEVALUATION].

Parent 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].

Additional Information

Contracting with Outside Evaluation Providers

The District may contract with outside providers to conduct initial evaluations and reevaluations for District students, if necessary. The District will comply with all procurement policies and procedures regarding these contracts, including solicitation of request for proposals, if required by Board policy.

Evidence of Implementation

- Referral Packet
- Assessment Plan
- Notice of FIE
- Consent for FIE
- REED
- FIE
- ARD/IEP

Resources

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

[Technical Assistance: Child Find and Evaluation- Texas Education Agency](#)

[OSEP Letter to Mintz \(Feb. 10, 2011\) - U.S. Department of Education](#)

[OSEP Letter to Blodgett \(Nov. 12, 2014\) - U.S. Department of Education](#)

[OSEP Letter to Unnerstall \(Apr. 25, 2016\) - U.S. Department of Education](#)

[Letter to Zirkel \(Dec. 11, 2008\) - U.S. Department of Education](#)

[Letter to Zirkel \(Jan. 6, 2011\) - U.S. Department of Education](#)

[Evaluation and Reevaluation - SPEDTEX](#)

INDEPENDENT EDUCATIONAL EVALUATION

Board Policy EHBA; Board Policy EHBAE; 34 CFR 300.502(a)-(e), 300.507, 300.511, 300.514

What is Required

A parent of a student with a disability has the right to an independent educational evaluation (“IEE”) of the student at public expense if the parent disagrees with an evaluation obtained by the District. An IEE is an evaluation conducted by a qualified examiner who is not employed by the District. An evaluation is at public expense when the District either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent consistent with the provisions of the IDEA. *See* [USE OF IDEA PART B FORMULATE AMOUNTS IN GENERAL].

A parent is limited to only one IEE at public expense each time the District conducts an evaluation with which the parent disagrees.

If a parent requests an IEE the District must, without unnecessary delay either file a due process complaint to request a hearing to show that its evaluation is appropriate, or ensure that an IEE is provided at public expense, unless the District demonstrates in a due process hearing that the evaluation obtained by the parent does not meet the District’s criteria. District Special Education Personnel may ask for the reason the parent objects to the District’s evaluation; however, the District may not require the parent to provide an explanation. The District may not unreasonably delay either granting the IEE request or filing a due process complaint to request a due process hearing to defend the District’s evaluation.

When the parent requests an IEE, the District Special Education Personnel must provide information about where an IEE may be obtained and the criteria for an IEE. The District’s criteria for an IEE must be the same criteria the District uses when it initiates an evaluation, including the location of the evaluation and the qualifications of the examiner(s).

If the District decides to request a due process hearing instead of agreeing to pay for an IEE and the hearing officer finds that the District’s evaluation is appropriate, the parent still has a right to an IEE, but not at public expense. The parent would have to pay for the IEE. If in a due process hearing, the hearing officer orders an IEE, the District must pay for the evaluation.

The results of an IEE that meets the District’s criteria must be considered by the ARD Committee in any decision made regarding the provision of FAPE to the student, and may be presented by any party as evidence at a hearing on a due process complaint regarding the student.

Additional Procedures

Notification

If a parent requests an IEE, the Campus Special Education Personnel must document the date the request was received and immediately send the request to the District Special Education Director or designee. Campus Special Education Personnel may ask for the parent's reason why the parent objects to the public evaluation, but may not require the parent to provide an explanation.

As soon as possible after the parent requests an IEE, Campus Special Education Personnel will provide the parent with the IEE request form, if it has not already been completed, along with the District's IEE criteria. The Special Education Director or designee will determine if the parent has the right to an IEE by determining whether the District has already conducted its evaluation. If the District has not already conducted an evaluation, the parent will be notified by the Special Education Director or designee that the parent is not entitled to an IEE. The Special Education Director or designee will also determine if the request is timely. IEE requests made more than one year after the District's evaluation was completed and reviewed with the parent are considered untimely. The Special Education Director or designee will notify the parent of any untimely request.

When the IEE is Granted

If the Special Education Director or designee determines that the request for an IEE will be granted, the Special Education Director or designee will inform the parent in writing that the request has been granted and provide the parent with the following information: the District's list of qualified examiners in the area(s) of the IEE, an authorization to release information, a document containing the District's IEE criteria, including the requirements that qualified personnel complete the IEE, if it has not already been provided. The Special Education Director or designee will also provide the parent with a Prior Written Notice regarding its decision to grant the IEE as well as and a copy of the *Notice of Procedural Safeguards*. See [PRIOR WRITTEN NOTICE].

The District will permit the IEE evaluator to observe the student in the classroom setting, as allowed during an evaluation conducted by the District. The District can, however, impose reasonable constraints concerning when and how the observation(s) will take place.

When the IEE is Denied

If the Special Education Director or designee determines that the request for an IEE will be denied because the District will defend its evaluation, the Special Education Director or designee will inform the parent in writing of the decision and provide the parent with the following information: a copy of the District's IEE procedures if it has not already been provided, a Prior Written Notice detailing the district's denial, a copy of the *Notice of Procedural Safeguards*, and notification that the District has filed or will file a due process complaint requesting a due process hearing to defend the District's evaluation. See [PRIOR WRITTEN NOTICE].

If the Special Education Director or designee determines that the request for the IEE should be denied because the parent is not entitled to an IEE, the Special Education Director will notify the parent by providing the parent a Prior Written notice as soon as possible of the decision not to grant the IEE and reason for the denial, and an explanation that the District will not be requesting an IEE because the parent is not an entitled to an IEE. See [PRIOR WRITTEN NOTICE]. The parent will also be provided a copy of the *Notice of Procedural Safeguards*. The reasons included in the notice to the parent may include one or more of the following:

- the request for the IEE is untimely;
- there is no District evaluation with which the parent disagrees;
- the parent has refused to provide consent so the District could conduct an evaluation;
- the parent has requested an IEE for an area in which the District has not yet evaluated;
- the District has not yet completed the evaluation; or
- an IEE has previously been completed.

If the reason the District is denying the request for an IEE relates to not having completed an evaluation, the District will review the parent's request for an evaluation in accordance with the evaluation procedures. See [EVALUATION PROCEDURES].

Criteria for IEE

The Special Education Director or designee will draft and periodically review procedures and criteria for IEEs. Such information will be available to all District campuses. In addition, the Special Education Department will train Campus Special Education Personnel regarding responding to IEE requests from parents.

Qualifications of the Evaluator

The District requires that each person who performs an IEE have the same qualifications of the person(s) the District would have used had the District conducted the evaluation itself. As part of the IEE criteria, the Special Education Department may create a list of evaluators in the area that meet the appropriate qualifications for the specific IEE area. If the District denies an IEE on the basis that the provider selected by the parent is not qualified, the Special Education Director or designee will provide the parent with Prior Written Notice and give the parent the opportunity to show exceptional circumstances why the request should be granted despite deviation from the qualification criteria. See [PRIOR WRITTEN NOTICE].

Location

The District's IEE procedures will include information about limitations on the geographic area from where the parent must choose an evaluator. If the District denies an IEE on the basis that the provider selected by the parent is outside the geographic area set out in the procedures, the Special Education Director or designee will provide the parent with Prior Written Notice and an

opportunity to show exceptional circumstances why the request should be granted, despite deviation from the location criteria. The District may choose to grant the IEE even if the parent does not meet the location criteria and does not provide extenuating circumstances for deviation from the criteria, but inform the parent in writing that the District will not reimburse the parent for the cost of travel to and from the evaluator.

Cost

The District will include in its IEE procedures the cost limitation for each type of evaluation (e.g., a psycho-educational, a psychological, occupational therapy evaluation, etc.). The District's cost cap will not prevent the parent from obtaining an IEE. If the District denies an IEE on the basis that the provider selected by the parent exceeds the cost criteria, the Special Education Director or designee will provide the parent with Prior Written Notice and provide the parent with the opportunity to show exceptional circumstances why the request should be granted despite deviation from the cost criteria.

Additional Criteria for IEE

The District's IEE procedures will include some or all of the following:

- information about releases to share confidential information between the District and the IEE evaluator, with the parent's consent,
- information about the evaluator's access to the student's records and/or school staff
- information about the evaluator's access to the school setting to conduct observations of the student or to obtain information from the school staff,
- information about any requirements for assessment instruments,
- information about the required contents of the IEE report,
- information about discontinuing the IEE, if necessary,
- information regarding how the IEE evaluator will be paid by the District,
- the expectation regarding the type of report and when the report from the IEE evaluator will be provided,
- whether the IEE evaluator is expected to participate in the ARD meeting at which the report will be reviewed and, if so, whether that cost is included in the cost of the IEE,
- and reimbursement for the IEE evaluator to travel or other expenses, if required.

Contracting with and Payment to the IEE Evaluator

Once the parent has chosen an independent evaluator, the parent should contact the Special Education Director or designee who will negotiate the terms of the arrangement with the independent evaluator prior to the evaluation. The District will enter into a contract with the independent evaluator to conduct the evaluation in accordance with the District's IEE procedures.

The District will compensate the independent educational evaluator for services satisfactorily rendered pursuant to the contract and upon the independent evaluator's submission of the original signed report, all test protocols used during evaluation (whether the protocol data was included in the final report or not), results of all testing data, and an itemized invoice. Invoices must reflect all costs incurred in sufficient detail, and include the outstanding balance due for the completion of the IEE.

The IEE Evaluator shall submit to the District any documentation necessary to substantiate the full and satisfactory performance of the services of which payment is requested. The independent evaluator must submit all required documentation for payment, including any required conflict of interest form and vendor background screening form, and set up an account through the District's Procurement Department before payment will be processed.

The independent evaluator's invoice will need to be submitted to the Special Education Director or designee along with the written Educational Evaluation report as well as all test protocols used during the evaluation, and the results of all testing data. The District will not pay for assessments and/or services the independent evaluator provides after the IEE's completion. The District will not pay for assessments outside the agreed upon parameters of the IEE. The IEE will be completed at no cost to the parent.

Reimbursement for Parent-Obtained IEE

If a parent requests that the District reimburse the parent for an IEE, the District will do so if the IEE meets the District's criteria or if the parent demonstrates exception circumstances to justify deviation from the criteria. The District will require the parent to meet the District's procedures/process on reimbursement and submit all necessary proof of payment.

The District may deny reimbursement if the evaluation does not meet state or federal requirements regarding the particular evaluation. The District may also deny reimbursement of a parent-obtained IEE, even if it meets the District's criteria, if the District proves at a due process hearing that its evaluation was appropriate.

Consideration of the IEE

The ARD Committee will consider an IEE in any decision made with respect to the provisions of FAPE. The complete and final IEE report must be provided to the Campus Special Education Personnel within a reasonable time prior to the ARD Committee meeting so that there is sufficient time for the appropriately-qualified District or Campus Assessment Personnel to review the report prior to the ARD Committee meeting. If a parent or IEE evaluator sends the completed IEE to the campus, the Campus Special Education Personnel should document on the report the date of receipt and immediately forward the report to appropriate Assessment Personnel for review. If the IEE report is provided to the District for the first time at an ARD Committee meeting, the ARD Committee may table the meeting and reconvene at a later time so that appropriately-qualified District or Campus Assessment Personnel can have adequate time to review the report and provide feedback to the ARD Committee. The ARD Committee is not mandated to accept the IEE evaluation findings, implement the IEE recommendations, or modify the student's IEP based on the IEE, unless it is necessary to provide the student with a FAPE.

Evidence of Implementation

- ARD/IEP
- District FIE
- IEE Request Form
- Prior Written Notice
- IEE Criteria
- IEE List of Providers
- IEE Agreement/Contract with IEE Evaluator
- ARD Committee Review, Deliberations or Minutes of IEE

Resources

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

[Independent Educational Evaluations - Region 4](#)

[Independent Educational Evaluation Archives - U.S. Department of Education](#)

[OSEP Letter to Anonymous \(Jan. 4, 2010\) - U.S. Department of Education](#)

[OSEP Letter to Zirkel \(Dec. 11, 2008\) - U.S. Department of Education](#)

[OSEP Letter to Baus \(Feb. 23, 2015\) - U.S. Department of Education](#)

[OSEP Letter to Christiansen \(Feb. 9, 2007\) - U.S. Department of Education](#)

[OSEP Letter to Anonymous \(Aug. 13, 2010\) - U.S. Department of Education](#)

[OSEP Letter to LaDolce \(Dec. 21, 2007\) - U.S. Department of Education](#)

[OSEP Letter to Inzelbuch \(Aug. 1, 2013\) - U.S. Department of Education](#)

INTELLECTUAL DISABILITY

What is Required

A student must be assessed under the IDEA in all areas of suspected disability. Intellectual Disability or “ID” is one of the areas of eligible disabilities under the IDEA.

A student with an intellectual disability is one who has been determined to meet the criteria for an intellectual disability. In meeting the criteria, a student with an intellectual disability is one who:

- Has been determined to have significantly subaverage intellectual functioning as measured by a standardized, individually administered test of cognitive ability in which the overall test score is at least two standard deviations below the mean, when taking into consideration the standard error of measurement of the test;
- Concurrently exhibits deficits in at least two of the following areas of adaptive behavior:
 - Communication,
 - Self-care,
 - Home living,
 - Social and interpersonal skills,
 - Use of community resources,
 - Self-direction,
 - Functional academic skills,
 - Work,
 - Leisure,
 - Health, or
 - Safety;
- Is manifested during the developmental period; and
- Adversely affects the student’s educational performance.

To assess for ID, the District or Campus Assessment Personnel will comply with the general evaluation procedures. See [EVALUATION PROCEDURES]. In addition, the evaluation data reviewed by the qualified District or Campus Assessment Personnel must include:

- A standardized individually administered test of cognitive ability; and
- Adaptive behavior assessment in at least two of the following areas: communication, self-care, home living, social/interpersonal skills, use of community resources, self-direction, functional academic skills, work, leisure, health, or safety.

Additional Procedures

A referral for an intellectual disability evaluation may be indicated when the Campus Personnel and/or the parent of the student suspects the student is exhibiting significant intellectual and adaptive deficits that adversely affect educational performance. A student suspected of ID may exhibit one or more of the following:

- Difficulties in communicating efficiently and effectively that effect self-determination, behavior, social interactions and participation in multiple learning environments
- Alternate methods of demonstrating his/her abilities and knowledge
- Uneven learning patterns in all domains including cognition, communication, socialization and self-help.
- Multiple disabling conditions that may occur concurrently with an intellectual disability, including physical or orthopedic impairments, and/or sensory impairments/challenges
- Medical needs that impact health, stamina and engagement in learning tasks
- Difficulty learning new tasks, maintaining new skills, and generalizing skills to new environments
- Difficulty demonstrating problem solving skills when new skills or information is presented in a traditional academic curriculum
- Individualized methods of accessing information and demonstrating knowledge in alternative ways (tactile, visual, auditory, and multi-sensory).

During the evaluation process, Campus or District Assessment Personnel will consider the presence of any cultural and/or linguistic differences when evaluating a student for ID and whether the differences may impact the evaluation results.

To avoid over identifying students, District Assessment Personnel will exercise caution in making an intellectual disability determination. The determination of an intellectual disability must be made with consideration of professional judgment and multiple information/data sources. Examples of information/data sources include statewide assessment results, RtI progress monitoring data and anecdotal reports, in addition to formal evaluation test scores, such as intellectual quotient or IQ, adaptive behavior, achievement, and/or cognitive function/processing.

If the student does not meet the eligibility criteria for ID, or any other eligibility criteria under the IDEA, or does not need special education or related services due to his/her disability, Campus Personnel should refer the student to the Campus or District Personnel responsible for compliance with Section 504 to determine whether the student is eligible for accommodations or services as a student with a disability under Section 504.

The District will conduct all necessary initial evaluations and reevaluations to identify this disability condition in accordance with state and federal laws. See [EVALUATION PROCEDURES]. In most circumstances, Campus or District Assessment Personnel should complete two or more comprehensive evaluations determining a student to be eligible for special education services as a student with ID before allowing a Review of Existing Educational Data (“REED”) to reevaluate a student with ID. Doing so helps avoid overidentifying students as ID and helps support the validity of the prior evaluation results.

Evidence of Implementation

- Notice of Evaluation
- Consent for Evaluation
- Referral Information
- Assessment Plan
- FIE
- ARD/IEP

Resources

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

[Quick Guide: Intellectual Disability- Region 14](#)

[Intellectual Disability - SPEDTEX](#)

MULTIPLE DISABILITIES

34 CFR Part 300.8(c), 300.304(c)(4); 19 TAC. 89.1040(b)–(c), 89.1050

What is Required

A student must be assessed in all areas of suspected disability. A student may be identified under the IDEA as a student with multiple disabilities. In meeting the criteria for multiple disabilities, a student with multiple disabilities is one who has a combination of disabilities occurring at the same time, and who meets all of the following conditions:

- The disabilities are expected to continue indefinitely; and
- The disabilities severely impair the student's performance in two or more of the following areas:
 - Psychomotor skills;
 - Self-care skills;
 - Communication;
 - Social and emotional development; or
 - Cognition.

Multiple disabilities means impairments occurring at the same time (such as intellectual disability-blindness or intellectual disability-orthopedic impairment), the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. The term does not include deaf-blindness (because deaf-blindness is defined separately and is a disability category of its own under the IDEA). *See* [DEAF-BLINDNESS]. A student who has more than one disability, but who does not meet the criteria above must not be classified or reported as having multiple disabilities.

The District Assessment Personnel will comply with all requirements set out in state and federal law when conducting an evaluation to determine if a student meets eligibility criteria for multiple disabilities. *See* [EVALUATION PROCEDURES]. In addition, the group of qualified professionals that collects or reviews evaluation data in connection with the determination of the student's

disability based on multiple disabilities impairment must include the members required in two or more of the applicable specific eligibility evaluation procedures. See [EVALUATION].

Additional Procedures

In determining if a student qualifies as a student with multiple disabilities, it is important to know which individual disabilities are involved, how severe each disability is, and how each disability can affect learning and daily living. The District or Campus Assessment Personnel will also consider how the combination of disabilities affect the student's learning and functioning. A key part to the eligibility criteria for multiple disabilities is that the *combination of disabilities* causes the student to have severe educational needs. A referral for an intellectual disability evaluation may be indicated when the Campus Personnel and/or the parent of the student suspects the student is exhibiting characteristics of more than one disability the combination of which severely affects the student's educational performance.

If the student does not meet the eligibility criteria for multiple disabilities, or any other eligibility criteria under the IDEA, or does not need special education or related services due to his/her disability, Campus Personnel should refer the student to the Campus or District Personnel responsible for compliance with Section 504 to determine whether the student is eligible for accommodations or services as a student with a disability under Section 504.

The District will conduct all necessary initial evaluations and reevaluations to identify this disability condition in accordance with state and federal laws. See [EVALUATION PROCEDURES].

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). In regard to MD, the Special Education Administrator shall ensure that the correct coding is verified for TSDS/PEIMS for all students identified with Multiple Disabilities. District staff will provide training, with follow up, to ensure the documentation required is in place and compliant.

Evidence of Implementation

- Notice of Evaluation
- Consent for Evaluation
- Referral Information
- Assessment Plan
- FIE
- ARD/IEP

Resources

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

[Multiple Disabilities - SPEDTEX](#)

NONCATEGORICAL EARLY CHILDHOOD

34 CFR 300.30(c)(4); 19 TAC 89.1040(b), 89.1050(c)

What is Required

A student must be assessed under the IDEA in all areas of suspected disability. A student between the ages of 3 through 5 can be considered for any disability category. However, if the student has a condition of developmental delay and meets eligibility criteria for an intellectual disability, an emotional disturbance, a specific learning disability, or autism, the student may be eligible for special education services based on the noncategorical early childhood (“NCEC”) disability category.

To determine eligibility under NCEC, the District or Campus Assessment Personnel will comply with the general evaluation procedures. *See* [EVALUATION PROCEDURES]. However, the group of qualified professionals that determines the student’s eligibility for NCEC must include the applicable members for intellectual disability, emotional disturbance, specific learning disability, or autism. *See* [INTELLECTUAL DISABILITY] and [EMOTIONAL DISTURBANCE] and [SPECIFIC LEARNING DISABILITY, and AUTISM]. In addition, students who are eligible based on the NCEC category must be reevaluated prior to their sixth birthday to determine continued eligibility for special education services.

The evaluation data reviewed by the group of qualified professionals in connection with the determination of the student’s disability based on noncategorical must comply with applicable evaluation procedures of deaf or hard of hearing and visual impairment. *See* [DEAF OR HARD OF HEARING] and [VISUAL IMPAIRMENT].

Additional Procedures

When young children ages 3, 4, and 5 are initially evaluated, assessment can be challenging because of their short attention spans and varied and limited educational and sociological experiences.

As such, under the IDEA, younger students may be eligible for special education and related services under a broader disability category called “developmental delay,” and states can

choose what to call this general category, how they define it, and what age range it applies to. In Texas, this category is called Non-Categorical Early Childhood (NCEC). A child between the ages of 3-5 may be described as NCEC if he or she meets the eligibility criteria for having the condition of one of the following:

- Intellectual Disability – NCEC – ID
- Emotional Disturbance – NCEC – ED
- Specific Learning Disability – NCEC – SLD
- Autism – NCEC – AU

A multi-disciplinary team will evaluate a student who is 3, 4 or 5 who is referred due to a suspected disability and may find the student eligible by meeting the eligibility criteria for NCEC-ID, NCEC-ED, NCEC-SLD, or NCEC-AU. In making a decision to identify a child as NCEC, the multidisciplinary team, which includes an LSSP and an educational diagnostician (or other certified or licensed practitioner with experience and training in the area of the disability), may consider the following during the assessment:

- The age of the child;
- The child's functioning level;
- The child's access to educational experiences;
- The child's access to sociological experiences;
- Cultural and linguistic differences and;
- Ensure that the assessment methods used are appropriate for the young student.

All Assessment Personnel on the multi-disciplinary team who evaluate students 6 years of age or younger will be trained regarding best practices for the assessment of young children, the availability and appropriateness of when to use the NCEC eligibility, and the requirements for the 6-year reevaluation.

Upon the determination of NCEC, the District will provide appropriate special education and related services to a young student who has been evaluated and meets one of these eligibility criteria to address the effects the disability or delay may have on the student. It is expected for children that have had the supports provided by special education to increase their attention spans, increase their knowledge, and improve their working memory when they are nearing the age of 6.

As such, prior to the student's sixth birthday, the student's ARD Committee will reevaluate the student by conducting a REED and any formal assessment necessary, remove the noncategorical label, and determine whether or not the student continues to meet eligibility for special education and, if so, in which eligibility area.

The assessment team will take into consideration the following items:

- Educational opportunities and support given to the student since entering school and how the student has progressed;
- Current testing data; and
- Parent information including private or outside evaluations the family has obtained for their student.

If the student does not meet the eligibility criteria for NCEC, or any other eligibility criteria under the IDEA, or does not need special education or related services due to his/her disability, Campus Personnel should refer the student to the Campus or District Personnel responsible for compliance with Section 504 to determine whether the student is eligible for accommodations or services as a student with a disability under Section 504.

The District will conduct all necessary initial evaluations and reevaluations to identify this disability condition in accordance with state and federal laws. See [EVALUATION PROCEDURES].

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). The Special Education Administrator in coordination with the PEIMS Coordinator shall ensure that the correct coding is used TSDS/PEIMS for all students identified with NCEC and will ensure that the code is removed when the student turns six years of age. District staff will provide training, with follow up, to ensure the documentation required is in place and compliant.

Evidence of Implementation

- Notice of Evaluation
- Consent for Evaluation
- Referral Information
- Assessment Plan
- FIE
- ARD/IEP

Resources

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

[Technical Assistance: Child Find and Evaluation- Texas Education Agency Noncategorical Early Childhood - SPEDTEX](#)

ORTHOPEDIC IMPAIRMENT

Board Policy EHBA; Board Policy EHBAB; 34 CFR 300.8(c)(8), 300.304(c)(4); 19 TAC 89.1040(b)–(c)

What Is Required

A student must be assessed under the IDEA in all areas of suspected disability. Orthopedic Impairment or “OI” is one of the areas of eligible disabilities under the IDEA.

A student with an orthopedic impairment is one who has been determined to meet the criteria for orthopedic impairment. Orthopedic impairment means a severe orthopedic impairment that adversely affects the student’s educational performance. OI includes impairments caused by congenital anomaly; disease, such as poliomyelitis, bone tuberculosis; and other causes, such as cerebral palsy, amputations, and fractures or burns that cause contractures.

To assess for OI, the District or Campus Assessment Personnel will comply with the general evaluation procedures. *See* [EVALUATION PROCEDURES]. In addition, a licensed physician must be included in the group of qualified professionals that collects or reviews evaluation data in connection with the determination of a student’s eligibility for special education services based on an orthopedic impairment.

Additional Procedures

If the District and/or the student’s parent suspect the student is exhibiting physical deficits characteristic of orthopedic impairment that adversely affects the student’s educational performance, the student may be referred for an orthopedic impairment evaluation. District or Campus Assessment Personnel will comply with the procedures set out in state and federal law. *See* [EVALUATION PROCEDURES].

They will also obtain and review relevant information from a licensed physician(s) by requesting that the student’s physician complete the OI form and request that the parent sign and return the Consent to Release Confidential Information form so that the District Assessment Personnel can contact the student’s medical provider for information and/or questions regarding the information provided. *See* [CONSENT FOR DISCLOSURE OF CONFIDENTIAL INFORMATION]. If the parent does not provide information from the student’s licensed physician or a licensed medical doctor, the District is responsible for obtaining such information at no expense to the parent. The District or Campus Assessment Personnel should first request this information from the student’s own doctor, but if the parent refuses, or does not have a current doctor, and/or is not responsive to the request, the District or Campus Assessment Personnel should contact the Special Education Director or designee for assistance in getting the appropriate input from a licensed physician. This may be accomplished by the District contracting with a licensed medical doctor, asking the parent to obtain the report and reimbursing the parent, or any other appropriate method to obtain the evaluation data at the District’s expense.

If the student does not meet the eligibility criteria for orthopedic impairment, or any other eligibility criteria under the IDEA, or does not need special education or related services due to his/her disability, Campus Personnel should refer the student to the Campus or District Personnel responsible for compliance with Section 504 to determine whether the student is eligible for accommodations or services as a student with a disability under Section 504.

Evidence of Implementation

- Notice of Evaluation
- Consent for Evaluation
- Referral Information
- Assessment Plan
- Consent to Release Confidential Information
- ARD/IEP
- FIE
- Orthopedic Impairment Form and/or Physician Information
- Documentation from Licensed Physician
- Orthopedic Impairment Evaluation

Resources

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

[Orthopedic Impairment - Texas Education Agency](#)

[Orthopedic Impairment - Region 14](#)

[Orthopedic Impairments - Project IDEAL](#)

[Orthopedic Impairment - SPEDTEX](#)

OTHER HEALTH IMPAIRMENT

34 CFR Part 300.8(c)(9), 300.304(c)(4); 19 TAC 89.1040(b)-(c), 89.1050(a)(5)

What is Required

The student must be assessed under the IDEA in all areas of suspected disability. Other Health Impairment or “OHI” is one of the areas of eligible disabilities under the IDEA.

A student with Other Health Impairment (OHI) is one who has been determined to meet the criteria for OHI due to chronic or acute health problems. OHI means having limited strength, vitality, or alertness that adversely affects a student’s educational performance. The term “limited alertness” includes a heightened alertness to environmental stimuli that results in limited alertness with respect to the educational environment. Health problems include, but are not limited to: asthma, attention deficit disorder (ADD) or attention deficit hyperactivity disorder (ADHD), diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette’s Disorder.

To assess for OHI, the District or Campus Assessment Personnel will comply with the general evaluation procedures. See [EVALUATION PROCEDURES]. In addition, the group of qualified professionals that collects or reviews evaluation data in connection with the determination of the student’s eligibility based on other OHI must include a licensed physician.

Additional Procedures

A referral for an OHI evaluation may be indicated when the District and/or the parent of the student suspects the student is exhibiting health problems characteristics of an OHI that adversely affects the student’s educational performance.

The evaluation will include information about how the health condition affects the student’s educational performance. An OHI form completed by a licensed physician, is required before an ARD Committee can determine that a student is eligible as a student with OHI. If the student has a physician, the Campus or District Assessment Personnel may request that the student’s physician complete the OHI form. The Campus or District Assessment Personnel must request that the parent sign a Consent for Release of Information so that the Assessment Personnel may communicate with the student’s physician to complete the OHI form and provide any clarifying information to the ARD Committee. If the parent refuses to sign the release and/or the student does not have a regular physician, the District or Campus Assessment Personnel must arrange for the student to be evaluated by a District-provided physician.

The list of health conditions listed above is not an exhaustive list. A diagnosis of a medical or health condition alone does not determine eligibility for special education services. Not every student with a medical or health condition will meet the eligibility criteria as a student under the OHI category. The medical or health condition must affect the student’s educational

performance, and, by reason of the health condition, the student needs special education (specially designed instruction to meet the unique needs of the student) or related services.

The members of the evaluation team for an OHI evaluation include, at a minimum, a Licensed Physician and the School Nurse or other District medical professional that can explain the educational implications of the health problem. Should the student have a suspected need for a related service(s), an evaluator in that area will also be a member of the evaluation team. However, it is critical that all evaluators understand the different diagnoses of health problems that may constitute Other Health Impairments and how they manifest in the school setting to ensure a valid evaluation. If a student has been identified with ADHD as the health problem by the Licensed Physician, a Licensed Specialist in School Psychology and/or other qualified personnel should also be included as part of the multidisciplinary team to assess the educational implications and/or social, emotional, or behavior supports needed for the student, based on the evaluation.

When District Assessment Personnel conduct a reevaluation of a student who has been identified as a student with OHI, an updated OHI form should be obtained from the student's doctor, especially if the student's health problem has changed or has manifested itself in different ways. If the student continues to have a health condition, but it no longer affects the student's educational performance, the student will no longer qualify as a student with a disability under the IDEA.

If the student does not meet the eligibility criteria for OHI, or any other eligibility criteria under the IDEA, or does not need special education or related services due to his/her disability, Campus Personnel should refer the student to the Campus or District Personnel responsible for compliance with Section 504 to determine whether the student is eligible for accommodations or services as a student with a disability under Section 504.

Evidence of Implementation

- Notice of Evaluation
- Consent for Evaluation
- Referral Information
- Assessment Plan
- Consent to Release Confidential Information
- OHI Form and/or Physician Information
- FIE
- ARD/IEP

Resources

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

[Quick Guide: Other Health Impairment Region 14](#)

[OSEP Letter to Williams \(May 14, 1994\) - U.S. Department of Education](#)

[OSEP Letter to Anonymous \(Jan. 13, 2010\) - U.S. Department of Education](#)

[Other Health Impairment - SPEDTEX](#)

REVIEW OF EXISTING EVALUATION DATA

34 CFR 300.305; 19 TAC 89.1040 (c)(12)(E); Texas Educ. Code 30.002 (c-2)

What is Required

A review of existing evaluation data (“REED”) is required as part of an initial evaluation, if appropriate, and as part of any reevaluation. The REED must be conducted by the ARD Committee members and other qualified professionals, as appropriate. The ARD Committee members may conduct the REED without a meeting. In conducting the REED, the ARD Committee must review 1) evaluation and information provided by the parents of the student; 2) current classroom-based, local, or state assessments, and classroom-based observations; and 3) observations by teachers and related services providers.

On the basis of the REED, and input from the student's parents, the ARD Committee must identify what additional data, if any, are needed to determine:

- Whether the student is a student with a disability, and the educational needs of the student, or, in the case of a reevaluation of the student, whether the student continues to have such a disability and the educational needs of the student;
- Whether the student needs special education and related services, or, in the case of a reevaluation of the student, whether the student continues to need special education and related services;
- The present levels of academic achievement and related developmental needs of the student; and
- Whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in the individualized education program of the student and to participate, as appropriate, in the general education curriculum.

If the ARD Committee determines additional data is needed, the appropriate District Assessment Personnel must administer such assessments and other evaluation measures that are needed to produce the data needed. If the ARD Committee determines no additional data is needed, the Campus Special Education Personnel must notify the student's parents of that determination and the reasons for such determination, and notify the parents of their right to request an evaluation. The District is not required to conduct an evaluation unless the student's parents request one. *See [EVALUATION PROCEDURES].*

Additional Procedures

Although a REED may be appropriate as part of an initial evaluation, it will be a very unusual case for an initial evaluation to consist only of a REED. In most situations formal assessment will be conducted for an initial evaluation. However, as part of the referral process, Campus Special Education Personnel, with input from the student's teacher(s) and parents, will review existing data to determine what formal testing is indicated to ensure that a student is assessed in all areas of suspected disability.

When a reevaluation of student is needed, the ARD Committee, including qualified District Assessment Personnel, will conduct a REED. The REED should not occur more than once a year unless the parent and the District agree otherwise, or unless circumstances change. A REED must be conducted at least once every three years. Nothing in statute, rule, or regulations allow the District and parent to agree to extend the three-year deadline for a REED and possible reevaluation. The District is not required to obtain parental consent before conducting a REED as part of an initial evaluation or a reevaluation. However, consent will be obtained if the REED indicates that a formal reevaluation is needed. *See [CONSENT FOR REEVALUATION].*

The District or Campus Assessment Personnel will schedule the REED meeting. This may be an ARD Committee meeting, an informal staffing, a phone or video conference, or other method. A REED is conducted by an ARD Committee and may include other members with knowledge of the student, as appropriate. Specifically, the following individuals must be involved in the REED: the parent or the adult student, a Campus Administrator, a general education teacher of the student, a special education teacher of the student, a related service provider, if any, and District or Campus Assessment Personnel. In the case of a student with a visual impairment, the REED must include an appropriately certified orientation and mobility specialist. While a REED does not have to take place during an ARD Committee meeting, it must be conducted by the appropriate ARD Committee members. In addition, the REED must include input from the parent. As such, the Campus Assessment Personnel must document the school's efforts to ensure the parent's participation in the REED, including a summary of the parent's input, any documents or information provided by the parent, and the way the input was gathered from the parent.

The REED must contain specific data in all areas required by the FIE (health, vision, hearing, social, emotional/behavior, cognitive functioning, academic performance, communications status,

motor abilities, adaptive behavior, and assistive technology), as appropriate. A REED will include a review of some or all of the following information:

- The Student's Evaluations, Including Independent Evaluation Conducted by Outside Agencies or any Evaluations Provided by the Parent;
- Other Information Provided by the Student's Parents or the Adult Student;
- The Student's Current Classroom-based, Local, or State Assessments;
- Teacher Input;
- Classroom-based Observations;
- Related Service Providers Input and Observations
- Curriculum-based Measurements (CBMs);
- Criterion-referenced Assessments;
- STAAR results;
- Report Cards;
- Discipline Reports;
- Attendance Records;
- Medical and Health Records; and
- Any Other Pertinent Student Information.

The ARD Committee may rely on the determination that no additional assessment is needed after conducting a REED. However, the District Personnel involved in the decision should carefully consider when the last formal assessment was conducted and whether formal assessment should be completed because of the passage of time, changes in the student's performance, or other relevant factors. Some or all of the following should be considered:

- What is the history of the assessment?
- Has there been a thorough evaluation conducted previously?
- How long ago was the last complete evaluation?
- What special education services is the student receiving and for how long?
- Are significant changes in placement/services being considered?
- What is the nature of the disability?
- What is the age of the student?

If the ARD Committee determines that no additional assessments are needed, the REED becomes the evaluation report and should then be presented at an ARD Committee meeting (if the REED meeting was not at an ARD meeting) and specific eligibility and need for services should be reviewed. A copy of the REED should be included in the student's file along with any needed documentation for eligibility. In addition, District or Campus Assessment Personnel must send a Prior Written Notice to the parent indicating the reasons for the REED decision and providing the parent the opportunity to request an evaluation. See [PRIOR WRITTEN NOTICE] and [EVALUATION PROCEDURES].

All Campus and District Personnel participating in drafting a REED for a student will be trained annually regarding how to complete a REED, including tracking IEP progress over time to include in the REED. This training will include training on the components of the REED, the information reviewed for the REED, and how to determine whether additional data is needed.

Evidence of Implementation

- REED Document
- Minutes from REED Meeting
- List of Attendees for REED Meeting
- Determination of REED
- Prior Written Notice
- FIE
- ARD/IEP

Resources

[The Legal Framework for the Child-Centered Special Education Process: Review of Existing Evaluation Data Framework - Region 18](#)

[Letter to Anonymous, 48 IDELR 136 \(OSEP 2007\) – U.S. Department of Education](#)

[OSEP Letter to Copenhaver \(October 19, 2007\) - U.S. Department of Education](#)

[Review of Existing Evaluation Data Frequently Asked Questions – Texas Education Agency](#)
[Guidance Relating to Evaluations: Review of Existing Evaluation Data - Texas Education Agency](#)

[Evaluation and Reevaluation - SPEDTEX](#)

SPECIFIC LEARNING DISABILITY

20 U.S.C. 1021, 7801(20); 34 CFR 300.8(c), 300.304(c), 300.308(a)-(b), 300.309(a)-(b), 300.310(a)-(c), 300.311(a); 19 TAC 89.1040(c)

What is Required

A student must be assessed under the IDEA in all areas of suspected disability. Specific Learning Disability or “SLD” is one of the areas of eligible disabilities under the IDEA.

SLD is a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations. SLD includes conditions such

as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. SLD does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of an intellectual disability, or emotional disturbance, or of environmental, cultural, or economic disadvantage.

Eligibility Criteria

A student with an SLD impairment is one:

- Who has been determined through a variety of assessment tools and strategies to meet the criteria for SLD;
- Who does not achieve adequately for the student's age or to meet state-approved grade-level standards, in one or more of the following areas: oral expression, written expression, listening comprehension, basic reading skills, reading fluency skills, reading comprehension, mathematics calculations or problem solving;
- Whose lack of adequate achievement is indicated by performance on multiple measures such as in-class tests, grade average over time, norm- or criterion-referenced tests, statewide assessments, or a process based on the student's response to evidence-based intervention;
- Who does not make sufficient progress under the additional criteria of the RtI model or the student meets the additional criteria under the Pattern of Strengths and Weaknesses Model;
- Whose lack of adequate performance is not primarily the result of exclusionary factors referenced below; and
- Whose lack of adequate achievement is not due to Determinant Factors listed below.

Evaluation

To assess for SLD, the District or Campus Assessment Personnel will comply with the general evaluation procedures. See [EVALUATION PROCEDURES]. In addition, the group of qualified professionals that collects or reviews evaluation data in connection with the determination of the student's disability based on an SLD will include the student's general education teacher, or if the student does not have a general education teacher, a general education classroom teacher qualified to teach children of this age—or if the student is less than school age, an individual qualified by the Texas Education Agency to teach children of this age. The group must also include at least one person qualified to conduct individual diagnostic examinations of children (i.e., a licensed specialist in school psychology, a speech-language pathologist, or a remedial reading teacher).

Determinant Factors

To ensure the student's underachievement is not due to lack of appropriate instruction in reading or math, as part the evaluation, the District or Campus Assessment Personnel will consider data that demonstrates the student was provided appropriate instruction in reading and/or math in the general education settings delivered by qualified personnel. The District or Campus Assessment Personnel must also consider data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal evaluation of progress of the student during instruction, which was provided to the parent, as well as formal evaluation scores (IQ, achievement, cognitive functioning/processing, etc.). The data-based documentation may include, but is not limited to, response to intervention (RtI) progress monitoring results, in-class tests on grade-level curriculum, or other regularly administered assessments. Assessment is administered at reasonable intervals if administered consistent with the assessment requirements of the student's specific instructional program.

Observation

In determining whether a student has an SLD, District or Campus Assessment Personnel must either use information from an observation in routine classroom instruction and monitoring prior to the referral or have at least one member of the Assessment team conduct an observation of the student's academic performance in the regular classroom as part of the evaluation. For the student less than school age or out of school, District or Campus Assessment Personnel must observe the student in an environment appropriate for a student of that age.

The documentation of the determination of an SLD eligibility must contain a statement of the relevant behavior, if any, noted during the observation of the student, and the relationship of that behavior to the student's academic functioning.

Participation in the RtI Process/RtI Model

If the student suspected of having a SLD participated in a process that assesses the student's response to evidence-based intervention (RtI), the documentation of the determination of eligibility must contain a statement of:

- The instructional strategies used and the child-centered data collected; and
- The documentation that the parent of the student was notified about the state's policies regarding the amount and nature of performance data of the student that would be collected, and the general education services that would be provided; strategies for increasing the student's rate of learning; and the parent's right to request an evaluation.

The RtI model may be used to determine that a student meets eligibility criteria for SLD. When applying this model, a finding that the student is eligible under SLD must include a determination that the student did not make sufficient progress to meet age or state-approved grade-level

standards when provided RtI. Lack of sufficient progress is indicated by the student's performance relative to the performance of the student's peers on repeated, curriculum-based assessment of achievement at reasonable intervals, reflecting progress of the student during classroom instruction.

Pattern of Strengths and Weaknesses Model

The pattern of strengths and weaknesses model may also be used to determine that a student meets eligibility criteria for SLD. When applying the pattern of strengths and weaknesses model to find the student is eligible for an SLD, a determination must be made that the student exhibits a pattern of strengths and weaknesses in performance, achievement, or both. A determination must also be made that the pattern is relative to age, state-approved grade-level standards, or intellectual development. In addition, a determination must be made that the pattern is evident as indicated by significant variance among specific areas of cognitive function such as working memory and verbal comprehension, or between specific areas of cognitive function and academic achievement. Finally, a determination must be made that the pattern is relevant to the identification of a SLD using appropriate assessments.

Exclusionary Factors

District or Campus Assessment Personnel must determine that its findings are not primarily the result of a visual, hearing, or motor disability; an intellectual disability; an emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency. The documentation of and SLD eligibility must also explain the effects of any of these exclusionary factors on the student's achievement level.

Additional Documentation of SLD

The documentation of the determination of eligibility must contain a statement of:

- Whether the student has an SLD;
- The basis for making the determination (must include an assurance that the determination was made in accordance with proper evaluation procedures); and
- The educationally relevant medical findings, if any.

Each member of the group of qualified professionals must certify in writing whether the report reflects the member's conclusion, and if not, a separate statement presenting the member's conclusion. See [EVALUATION PROCEDURES].

Additional Procedures

A referral for a specific learning disability evaluation may be indicated when the Campus Personnel and/or parent of the student suspects that learning issues are a result of a deficit in the basic psychological processes that manifests itself in the imperfect ability to listen, think, speak, read, write, spell or to do mathematical calculations. See [REFERRAL FOR POSSIBLE SPECIAL EDUCATION SERVICES]. Common characteristics that may suggest SLD include academic challenges (particularly in reading, writing, and mathematics), difficulty paying attention, poor motor skills, processing deficits, oral language deficits, cognitive functioning deficits, and social skills deficits.

In determining the presence of a specific learning disability, the ARD Committee should consider and use data from campus-level interventions that are part of the RtI process. The ARD Committee should also use data from individually administered, formal intellectual and academic achievement tests to determine if a pattern of strengths and weaknesses exists. The data from these sources are combined with teacher information, parent information, grades, state assessment results, attendance, and educational history as a basis for the ARD Committee's determination of the presence of a SLD. Should a student demonstrate reasonable progress in response to the RtI process, the student should not be identified as SLD.

District or Campus Assessment Personnel may consider significant discrepancies between intellectual ability and achievement—but the discrepancy may not be the sole factor – in determining whether the student has a SLD. Any consideration of a discrepancy should utilize a standard regression procedure and not a sole difference procedure.

In addition to the exclusionary factors above, Campus and District Assessment Personnel must also consider the appropriateness of instruction for a student who is homeschooled. Campus and District Assessment personnel should obtain information regarding the level of instruction and/or homeschooling program to confirm that the findings are not a result of homeschooling rather than traditional instruction.

A student's failure to pass the statewide assessment may not automatically result in a referral to determine if the student has a SLD and does not necessarily indicate that the student has a SLD. The determination of a learning disability will include a variety of information sources and measures, and the District will not base the determination on a single measure.

When evaluating a student identified as an English Language Learner being evaluated for a SLD, District and Campus Assessment Personnel should use a cross-battery approach. The Assessment Personnel should consider that using a translator or interpreter to administer an evaluation for SLD may alter the validity of the results and should therefore be used with caution.

It is important to address the unique educational needs of children with specific learning disabilities resulting from dyslexia, dyscalculia, and dysgraphia during ARD Committee meetings. If a student's dyslexia, dyscalculia, or dysgraphia is the condition that forms the basis for the

determination that a student has a SLD, the ARD Committee should consider referencing or using dyslexia, dyscalculia, or dysgraphia in the student's IEP, particularly where the ARD Committee determines that Service Providers would need to know about the condition underlying the student's disability. See [DYSLEXIA].

If the student does not meet the eligibility criteria for SLD, or any other eligibility criteria under the IDEA, or does not need special education or related services due to his/her disability, Campus Personnel should refer the student to the Campus or District Personnel responsible for compliance with Section 504 to determine whether the student is eligible for accommodations or services as a student with a disability under Section 504.

When reviewing an evaluation of SLD for a student transferring within the state or out of state, Campus and District Assessment Personnel should consider a variety of factors, including the prior evaluation(s), SLD criteria in the previous location, the rigor of statewide assessments, academic standards, evaluation procedures and qualifications, effectiveness of interventions, etc. when determining whether to accept the SLD evaluation or conduct its own FIE to assess in the area of SLD. Should the District determine that an FIE is appropriate, it will seek to obtain consent from the parent and follow the District's evaluation procedures. See [EVALUATION PROCEDURES].

Evidence of Implementation

- RtI Progress Monitoring
- Documentation of Interventions
- Section 504 Documentation, if any
- Standardized Assessment Information
- Data of Appropriate Instruction Provided
- Notice of Evaluation
- Consent for Evaluation
- Referral Information
- Assessment Plan
- Documentation of Observation(s)
- Input from General Education Teacher
- Eligibility Statement
- FIE

Resources

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

[Response to Intervention and Learning Disability Eligibility- Texas Education Agency](#)

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

[Learning Disability - SPEDTEX](#)

[Learning Disabilities Association of America](#)

[National Center for Learning Disability](#)

[Texas Center for Learning Disabilities](#)

[OSEP Letter to Massanari \(Sept. 24, 2007\) - U.S. Department of Education](#)

[OSEP Letter to Zirkel \(Aug. 15, 2007\) - U.S. Department of Education](#)

[OSERS Dear Colleague Letter \(Oct. 23, 2015\) - U.S. Department of Education](#)

[OSEP Letter to Unnerstall \(Apr. 25, 2016\) - U.S. Department of Education](#)

[OSEP Letter to Delisle \(Dec. 20, 2013\) - U.S. Department of Education](#)

[OSEP Letter to Zirkel \(Mar. 6, 2007\) – U.S. Department of Education](#)

[OSEP Letter to Zirkel \(Apr. 8, 2008\) - U.S. Department of Education](#)

SPEECH OR LANGUAGE IMPAIRMENT

34 CFR 300.8(c)(11), 300.304(c)(4); 19 TAC 89.1040(b)–(c), 89.1050(a)(5)

What is Required

A student must be assessed under the IDEA in all areas of suspected disability. Speech Impairment or SI is one of the areas of eligible disabilities under the IDEA.

A student with a speech impairment is one who has been determined to meet the criteria for speech or language impairment. Speech or language impairment means a communication disorder or a voice , such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a student’s educational performance.

To assess for SI, the District or Campus Assessment Personnel will comply with the general evaluation procedures. *See* [EVALUATION PROCEDURES]. In addition, the group of qualified professionals that collects or reviews evaluation data in connection with the determination of a student's eligibility based on a speech impairment must include a certified speech and hearing therapist, a certified speech and language therapist, or a licensed speech-language pathologist.

Additional Procedures

A referral for a speech or language impairment evaluation may be indicated when the District and/or the parent of the student suspects that learning issues are a result of a communication disorder or a voice impairment that adversely affects the student's educational performance. A student who has difficulty producing speech or understanding and communicating ideas may have a speech-language impairment.

In Texas, speech-language therapy is considered an instructional service. Thus, it can be a stand-alone service as well as a support provided for the student to receive benefit from other special education services.

A speech evaluation will usually include assessment to determine if the student has a communication disorder, a language disorder, an articulation disorder, a fluency disorder and/or a voice disorder.

Additionally, Campus or District Assessment Personnel will consider the presence of any cultural and/or linguistic differences when evaluating a student for autism and whether the differences may impact the evaluation results. When evaluating an Emergent Bilingual student, Campus and District Assessment Personnel must consider the English language proficiency of the student in determining appropriate assessments and other evaluation materials. The evaluation must be provided in the student’s native language, unless it is clearly not feasible to do so, to ensure that the student’s language needs can be distinguished from the student’s disability-related needs.

Campus and District Assessment Personnel shall be careful not to identify or determine that an Emergent Bilingual student is a student with a speech or language impairment because of limited English language proficiency. For example, when a student lacks verbal fluency (pauses, hesitates, omits words), it may be due to a lack of vocabulary, sentence structure, and/or self-confidence caused by the student's limited English language proficiency. It may also be caused, however, by a speech impairment.

If the student does not meet the eligibility criteria for SI, or any other eligibility criteria under the IDEA, or does not need special education or related services due to his/her disability, Campus Personnel should refer the student to the Campus or District Personnel responsible for compliance with Section 504 to determine whether the student is eligible for accommodations or services as a student with a disability under Section 504.

Evidence of Implementation

- Notice of Evaluation
- Consent for Evaluation
- Referral Information
- Assessment Plan
- FIE
- ARD/IEP
- Referral Documentation
- Speech/Language Assessment
- TSHA Guidelines
- Documentation for the state in TSDS, PEIMS, and SPP

Resources

[The Legal Framework for the Child-Centered Special Education Process: Speech or Language Impairment Framework - Region 18](#)

[Texas Speech Language Hearing Association Eligibility Guidelines for Speech Impairment 2009 - Region 13](#)

[OSEP Letter to Anonymous \(Nov. 28, 2007\) - U.S. Department of Education](#)

[OSEP Letter to Clarke \(Mar. 8, 2007\) - U.S. Department of Education](#)

[OSEP Letter to Blodgett \(Nov. 12, 2014\) - U.S. Department of Education](#)

[Speech or Language Impairment - SPEDTEX](#)

SUMMARY OF PERFORMANCE

Board Policy EHBA; 34 CFR 300.305(e); 19 TAC 89.1070

What is Required

A summary of performance (“SOP”), which generally refers to a summary of the student’s academic achievement and functional performance as well as recommendations on how to assist the student with a disability in meeting the student’s postsecondary goals, is required for the student whose eligibility under special education terminates due to graduation from secondary school with a regular high school diploma or due to exceeding the age of eligibility for FAPE. The summary of performance must include:

- Information about the student’s academic achievement;
- Information about the student’s functional performance; and
- Recommendations on how to assist the student in meeting their postsecondary goals.

The SOP must consider the views of the parent, the views of the student, and written recommendations for adult service agencies (such as the Department of Assistive and Rehabilitative Services) on how to assist the student in meeting postsecondary goals.

An evaluation must be included as part of the SOP for students graduating based on:

- Completion of the credit requirements for graduation under the Foundation High School Program or the Minimum High School Program through courses, one or more of which contain modified curriculum;
- Satisfactory performance on required state assessments, unless the ARD Committee has determined that satisfactory performance on the assessments is not necessary for graduation; and
- Completion of the individualized education program. See [GRADUATION] and [REVIEW OF EXISTING EVALUATION DATA].

Additional Procedures

When the SOP will be completed may vary depending on the student’s post-secondary goals, but must be completed no later than the final year of a student’s high school education. The SOP is critical as a student transitions from high school to higher education, training and/or employment. Students may share their SOP with colleges, adult agencies, vocational and rehabilitative centers, employers, and others. The SOP helps entities identify services and accommodations the student may require in the classroom, the workplace, or the community. In some instances, it may be most appropriate to wait until the spring of a student’s final year to provide an entity, agency, or employer the most updated information on the performance of the student.

The completion of the SOP may require the input of the student's special education teacher, regular education teacher, school psychologist, or related service personnel. The SOP should include information about the student, including the most recent formal and informal assessment reports that document the student's disability and provide information to assist in post-high school planning. The SOP should also provide information about the student's performance in at least three areas: functional, academic, and cognitive. The SOP should identify, if applicable, the accommodations, modifications, assistive technology, or general areas of need that were essential in high school to assist the student in making progress and which are needed for the student to be successful in a post-high school environment.

Campus Special Education Personnel will meet with the student and parent prior to the student's annual ARD to explain and discuss the SOP and solicit the student and parent's input. The student's contribution to the SOP can help the student better understand the impact of his/her disability on academic and functional performance in the postsecondary setting. The student will be given a copy of the final SOP at the student's annual ARD Committee meeting.

Evidence of Implementation

- Documentation of Meetings to Complete SOP
- Summary of Performance Document
- Graduation ARD document
- ARD/IEP
- Document of Collaboration

Resources

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

[Secondary Transition Guidance-Texas Education Agency](#)

[OSEP Letter to Green-Churchwell \(Oct. 19, 2007\) - U.S. Department of Education](#)

[OSERS Questions and Answers on Secondary Transition \(Revised 2011\) - U.S. Department of Education](#)

TRAUMATIC BRAIN INJURY

Board Policy EHBA; Board Policy EHBAB; 34 CFR 300.8(c)(12), 300.304(c)(4); 19 TAC 89.1040(b)–(c), 89.1050(a)(5)

What is Required

A student must be assessed under the IDEA in all areas of suspected disability. Traumatic brain injury or “TBI” is one of the areas of eligible disabilities under the IDEA.

A student with traumatic brain injury (TBI) is one who has been determined to meet the criteria for traumatic brain injury. Traumatic brain injury means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment or both, and that adversely affects the student’s educational performance.

TBI applies to open or closed head injuries resulting in impairments in one or more areas: cognition; language; memory; attention; reasoning; abstract thinking; judgement; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech.

TBI does not apply to brain injuries that are congenital or degenerative or to brain injuries induced by birth trauma.

To assess for TBI, the District or Campus Assessment Personnel will comply with the general evaluation procedures. *See* [EVALUATION PROCEDURES]. In addition, a licensed physician must be included in the group of qualified professionals that collects or reviews evaluation data in connection with the determination of a student’s eligibility for special education services based on a traumatic brain injury.

Additional Procedures

Campus Personnel and/or a student’s parent may refer the student for a traumatic brain injury evaluation when the Campus Personnel and/or parent suspects that functional and/or psychosocial deficits are the result of the student’s acquired brain injury that adversely affects the student’s educational performance.

In order to make a determination of eligibility based on TBI, the ARD Committee must have input from a licensed physician. If the student has a physician, the Campus or District Assessment Personnel may request that the student’s physician provide the input regarding the student’s brain injury. The Campus or District Assessment Personnel must request that the parent sign a Consent for Release of Information so that the Assessment Personnel may communicate with the student’s physician to obtain this health information and/or provide any clarifying health information to the ARD Committee. If the parent refuses to sign the release and/or the student

does not have a regular physician, the District or Campus Assessment Personnel must arrange for the student to be evaluated by a District-provided physician.

After completion of the FIE, the District will convene an ARD Committee meeting to review the FIE. The ARD Committee must determine whether the student meets eligibility criteria for traumatic brain injury based on the results of student's evaluation, including the input from a physician.

If the student does not meet the eligibility criteria for TBI, or any other eligibility criteria under the IDEA, or does not need special education or related services due to his/her disability, Campus Personnel should refer the student to the Campus or District Personnel responsible for compliance with Section 504 to determine whether the student is eligible for accommodations or services as a student with a disability under Section 504.

Evidence of Implementation

- Notice of Evaluation
- Consent for Evaluation
- Referral Information
- Assessment Plan
- Consent for Release of Information
- Physician Diagnostic Information Report
- FIE
- ARD/IEP

Resources

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

[Traumatic Brain Injury - Texas Education Agency](#)

[Traumatic Brain Injury Resource Document - Navigate Life Texas](#)

[Traumatic Brain Injury - SPEDTEX](#)

[OSEP Letter to Harrington \(July 13, 1993\) - U.S. Department of Education](#)

VISUAL IMPAIRMENT

Board Policy EHBA; Board Policy EHBAB; 20 USC 1414(d)(3)(B)(iii); 34 CFR 300.8(c)(13), 300.304(c)(4), 300.324(a)(2)(iii); Texas Education Code 30.002(c-1)(2), 30.004; 19 TAC 89.1040(b)–(c), 89.1050(a)–(b), 89.1055(d), 89.1085, 89.1090

What is Required

Eligibility

A student must be assessed under the IDEA in all areas of suspected disability. Visual Impairment or “VI” is one of the areas of eligible disabilities under the IDEA.

A student with a visual impairment is one who meets the criteria for visual impairment. The term visual impairment, including blindness, means an impairment in vision that, even with correction, adversely affects the student’s educational performance, and includes both partial sight and blindness.

To meet the criteria for visual impairment, a licensed ophthalmologist or optometrist must determine the student:

- Has no vision or has a serious visual loss after correction; or
- Has a progressive medical condition that will result in no vision or a serious visual loss after correction.

The student with a visual impairment is functionally blind if, based on the functional vision evaluation and the learning media assessment, the student will use tactual media, including braille, as a primary tool for learning to communicate in both reading and writing at the same level of proficiency as other students of comparable ability.

Evaluation Procedures

To assess for VI, the District or Campus Assessment Personnel will comply with the general evaluation procedures. See [EVALUATION PROCEDURES]. An individual who is appropriately certified as an orientation and mobility specialist (“COMS”) must participate in evaluating data used in making the determination of a student’s eligibility as a student with visual impairment. Specifically, the evaluation data reviewed by District or Campus Assessment Personnel and COMS when determining whether a student has a visual impairment must include:

- A report by a licensed ophthalmologist or optometrist that:
 - states the student’s visual loss in exact measures of visual field and corrected visual acuity at a distance and at close range in each eye; or
 - if exact measure cannot be obtained, provides best estimates of the student’s visual loss; and

- includes a prognosis when possible
- A functional vision evaluation by a certified teacher of student's with visual impairments, or a COMS, that includes:
 - performance tasks in a variety of environments requiring the use of both near and distance vision, and
 - recommendations concerning the need for a clinical low vision evaluation;
- A learning media assessment by a certified teacher of students with visual impairments that includes recommendations regarding which specific visual, tactual, and/or auditory learning media are appropriate for the student, and whether there is a need for ongoing evaluation in this area; and
- An orientation and mobility evaluation performed by a COMS in a variety of settings including in the student's home, school, and community and in settings unfamiliar to the student.

For a student from birth through two years of age who meets the criteria for AI under the IDEA, an IFSP meeting must be held in place of an ARD Committee meeting and the District must comply with the evaluation procedures for students ages 0-5. See [AGES 0-5].

Additional Procedures

When a referral for a student suspected of a visual impairment is first received, the Campus or District Assessment Personnel should contact a professional certified in VI for assistance in determining the types, levels, and procedures for assessment of the student. Campus or District Assessment Personnel will also contact the parent to request an examination report by a licensed ophthalmologist or optometrist that provides the required evaluation date and request that the parent sign and return a Consent to Release Confidential Information form so that the Assessment Personnel may communicate with the student's ophthalmologist or optometrist to obtain this health information and/or provide any clarifying health information to the ARD Committee.

If the parent does not provide to the District an examination report by a licensed ophthalmologist or optometrist that provides the required evaluation data, the District will obtain such information at no expense to the parent. The District or Campus Assessment Personnel should first request this report from the parent. If the parent refuses, or does not have a current report, and/or is not responsive to the request, the District or Campus Assessment Personnel should contact the Special Education Director or designee for assistance in setting up the appropriate examination. This may be accomplished by contracting with an ophthalmologist or optometrist, asking the parent to obtain the report and reimbursing the parent, or any other an appropriate method to obtain the evaluation data at the District's discretion. A vision screening conducted by a school nurse is not sufficient.

The functional vision evaluation and the learning media assessment reports prepared as part of the student's FIE should typically be conducted and results shared prior to additional evaluation by the other qualified evaluation professionals, including school psychologists, educational diagnosticians, counselors and related service professionals, to ensure that tools used and results accurately reflect the student's aptitude and not the impact of a visual impairment. The teacher of students with visual impairments and the certified orientation and mobility specialist are essential members of the team of qualified evaluation professionals when determining if a student meets the eligibility requirements as a student with a visual impairment.

The District will ensure that each student who is determined eligible for the District's special education program on the basis of a visual impairment receive evaluation and instruction in the expanded core curriculum (ECC). See [SPECIAL FACTORS]. Information relevant to the ECC may be included in the evaluation.

District or Campus Assessment Personnel, including an appropriately certified orientation and mobility specialist will determine the scope of any re-evaluation of a student who has been determined to be eligible for the District's special education program on the basis of a visual impairment after a full and individual evaluation.

If the student does not meet the eligibility criteria for VI, or any other eligibility criteria under the IDEA, or does not need special education or related services due to his/her disability, Campus Personnel should refer the student to the Campus or District Personnel responsible for compliance with Section 504 to determine whether the student is eligible for accommodations or services as a student with a disability under Section 504.

Evidence of Implementation

- Notice of Evaluation
- Consent for Evaluation
- Referral Information
- Assessment Plan
- Consent for Release of Confidential Information
- Ophthalmologist/Optometrist Report
- Functional Vision Evaluation
- Learning Media Assessment
- Orientation and Mobility Evaluation
- FIE
- ARD/IEP or IFPS

Resources

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

[Texas School for the Blind and Visually Impaired](#)

[Educating Students with Visual Impairments in Texas: Guidelines and Standards – Texas School for the Blind and Visually Impaired](#)

[OSEP Dear Colleague Letter on Braille \(June 19, 2013\) - U.S. Department of Education](#)

[OSEP Letter to Kotler \(Nov. 12, 2014\) - U.S. Department of Education](#)

[Visual Impairment - SPEDTEX](#)

III. FAPE COMPOSITE

ARD COMMITTEE MEMBERSHIP

Board Policy EHBAA; Board Policy EHBAB; 20 U.S.C. 1414; 34 CFR 300.156(c), 300.321, 300.322, 300.328, 300.501, 300.520(a), 300.9; Texas Education Code 29.005, 37.007; Texas Government Code 392.002; 19 TAC 75.1023(d)(1), 89.1015, 89.1045(b), 89.1049(d), 89.1050(c), 1052(b), 89.1075(a)

What is Required

The ARD Committee must include the following individuals:

- The parents of the student with a disability.
- Not less than one of student’s regular education teachers who must, to the extent practicable, be a teacher responsible for implementing a portion of student’s IEP if the student is, or may be, participating in the regular education environment. For preschool students, (age 3-5 years), the regular education teacher will be the following:
 - For a preschool student with a disability who receives special education services in the home or the home of a childcare provider, there is no regular education teacher of the child, but the parent is encouraged to invite the child care provider to attend the ARD meeting to share pertinent information about the student.
 - For a preschool student who is enrolled in a community-based early childhood

education program, a preschool teacher who meets the administering agency's requirements is qualified to be the regular education teacher of the child (ex: a Head Start teacher).

- For a preschool student enrolled in an early childhood program within the District, the teacher of the program would be the regular early childhood teacher.
- For a preschool student in an Early Childhood Special Education (ECSE) classroom, a regular education teacher is not required. However, if the ARD Committee determines that a regular education teacher should attend, the teacher may serve in the role of both the special education teacher and regular education teacher. If it is anticipated that the student will be transitioning to kindergarten during the year the IEP/IFSP is in effect, the kindergarten teacher should be the regular education teacher.
- Not less than one of student's special education teachers, or where appropriate, not less than one of student's special education providers who is appropriately certified or licensed.
- A representative of the District (usually the Campus Special Education Administrator) who:
 - Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of students with disabilities;
 - Is knowledgeable about the general education curriculum; and
 - Is knowledgeable about the availability of resources of the District.
- An individual who can interpret the instructional implications of evaluation results, who may be the regular education teacher, special education teacher or provider, a District representative (usually the District or Campus Assessment Personnel), or a discretionary member on the ARD Committee.
- The student with a disability, whenever appropriate, including when a purpose of the meeting will be the consideration of the postsecondary goals for the student and the transition services needed to assist the student in reaching those goals. *See [TRANSITION SERVICES].*
- At the discretion of the parent or the District, other discretionary members or individuals who have knowledge or special expertise regarding the student, including related services personnel as appropriate.
- With the consent of the parents, and to the extent appropriate, a representative of any participating agency that is likely to be responsible for providing or paying for transition services.

- A representative from career and technical (CTE) education, preferably the student's CTE teacher, when considering initial or continued placement of student in CTE. See [TRANSITION SERVICES].
- If the student is identified as an English language learner, a professional staff member on the LPAC committee, who may be the regular education or special education teacher on the ARD Committee.
- In the case of a student with a suspected or documented visual impairment, a teacher who is certified in the education of students with visual impairments.
- In the case of a student suspected or documented as being a student who is deaf or hard of hearing, a teacher certified in the education of students who are deaf or hard of hearing.
- In the case of a student with suspected or documented deaf-blindness, a teacher who is certified in the education of students with visual impairments and a teacher who is certified in the education of students who are deaf or hard of hearing.
- In the case of a student who was previously served under the Early Childhood Intervention (ECI) program, at the request of the parent, by invitation to the initial ARD Committee meeting only, the ECI service coordinator or other representatives of the ECI system.

JJAEP Placement – ARD Committee Membership

In addition to the above relevant members, in the case of an ARD Committee meeting convened to discuss the expulsion and discretionary placement in the Juvenile Justice Alternative Education Program (JJAEP) in a county with a JJAEP, for an offense for which the District may expel a student and discretionarily place the student in JJAEP, the District must invite the administrator of the JJAEP or the administrator's designee.

The District must provide written notice of the meeting at least five school days before the meeting or a shorter timeframe agreed to by the student's parent and a copy of the student's current IEP must be provided to the JJAEP representative with the notice. If the JJAEP representative is unable to attend the ARD Committee meeting, the representative must be given the opportunity to participate in the meeting through alternative means, including conference telephone calls. The JJAEP representative may participate in the meeting to the extent that the meeting relates to the student's placement in the JJAEP and implementation of the student's current IEP in the JJAEP. Campus Special Education Personnel are responsible for identifying and inviting the administrator of the JJAP or the administrator's designee when discussing the expulsion and discretionary placement in the JJAEP of a child with a disability.

Transfer of Rights – ARD Committee Membership

The ARD Committee must include an adult student following a transfer of rights. Following the transfer of rights, while the parent must be provided the notice of the ARD Committee meeting, it does not give the parent the right to attend the meeting, unless invited. The adult student or the District may invite individuals with knowledge or special expertise regarding the adult student, including student's parents, to be members of the ARD Committee. See [RULE OF CONSTRUCTION] and [ADULT STUDENT AND TRANSFER OF RIGHTS].

Attendance and Excusal

If the parent and the Campus Special Education Administrator agree in writing that an ARD Committee member's attendance is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting, the member is not required to attend the ARD Committee meeting.

When an ARD Committee member's area of the curriculum or related services is being modified or discussed in the ARD Committee meeting, the member may be excused from attendance at the meeting, in whole or in part, if: the parent, in writing, and the Campus Special Education Administrator consent to the excusal and the member to be excused submits to the parent and the ARD Committee, in writing, input into the development of the IEP prior to the meeting. See [CONSENT TO EXCUSE MEMBER FROM ATTENDING ARD COMMITTEE MEETING].

These excusal requirements do not apply to the following ARD Committee members: the parent, the student with a disability, an adult student following a transfer of rights, and a discretionary member.

Additional Procedures

Campus Special Education Personnel who is responsible for scheduling an ARD meeting must ensure that all relevant and required individuals have been invited to the ARD Committee meeting and will attend. Thus, where feasible, it is imperative that the purpose of the ARD meeting is clear to ensure all of the required members are in attendance.

Campus Special Education Personnel will ensure that parents have the opportunity to participate in the ARD meeting and make reasonable efforts to schedule the ARD at a mutually agreeable time and location through a variety of efforts, including written communication, phone calls and email communications to the parent, and home visits, where appropriate. See [PARENT PARTICIPATION]. If Campus Special Education Personnel are unable to convince the parent to attend the ARD meeting or the parent indicates that the parent will not be attending the ARD meeting and gives permission for the ARD meeting to proceed without them, the ARD Committee can commence the process without parent participation. See [PARENT PARTICIPATION]. If the ARD Committee will proceed without the parent's participation, the ARD minutes/deliberations

should include an explanation of the attempts to obtain parent participation and/or a statement that the parent gave permission to proceed without the parent.

Prior to the ARD meeting, Campus Special Education Personnel will provide the notice of the ARD meeting and ensure that the notice properly identifies those who will be in attendance and the purpose of the ARD meeting. Prior to sending out the notice, Campus Special Education Personnel will contact the parent or adult student to ask for the names and role of any individuals invited by the parent or adult student that will be attending the ARD meeting, as well as any concerns/issues the parent or adult student would like to discuss at the ARD meeting. Depending on the parent/adult student's answer, the Campus Special Education Personnel may need to invite additional members to the meeting. Campus Special Education Personnel should contact the District's Special Education Director or designee regarding how to proceed if the parent indicates that an advocate or attorney will be in attendance at the ARD meeting.

Where applicable, Campus Special Education Personnel are also responsible for identifying and inviting a representative of any participating agency that is likely to be responsible for providing or paying for transition services and for obtaining parent/adult student consent for attendance by representative(s) of participating agency(ies). Furthermore, Campus Special Education Personnel are responsible for identifying and inviting the ECI service coordinator or other representatives of the ECI system and obtaining parental consent for an ECI representative to attend ARD meetings where applicable. If a student will be participating in an ARD meeting, Campus Special Education Personnel will meet with the student prior to the ARD meeting to prepare. During this meeting, Campus Special Education Personnel will describe the student's role in the process and the importance of student participation in creating an appropriate educational program. Campus Special Education Personnel may review a draft IEP with the student prior to the meeting and solicit feedback where appropriate and/or discuss the student's area(s) of concern/strengths and weaknesses prior to the meeting.

Campus Special Education Personnel are responsible for compiling and processing the ARD/IEP paperwork. Campus Special Education Personnel are responsible for sending out the notice of the ARD meeting and ensuring that the notice properly identifies those who will be in attendance and the purpose of the ARD meeting. *See* [PARENT PARTICIPATION]. Campus Special Education Personnel must also notify the appropriate ARD Committee members of the date and time of the ARD meeting, gather relevant information for the ARD, and create a draft IEP for the ARD Committee members review and input. Campus Special Education Personnel will also be responsible for ensuring that a Prior Written Notice is prepared and information and paperwork are disseminated to the appropriate individuals after the ARD Committee meeting. *See* [PRIOR WRITTEN NOTICE].

If an interpreter is needed for the ARD meeting, Campus Special Education Personnel will arrange for the interpreter to attend the ARD meeting. *See* [PARENT PARTICIPATION].

Where possible, the Campus Special Education Administrator shall notify the parent of the District's request to excuse a team member at least five (5) school days prior to the ARD

meeting. Notice of excusal must clearly indicate that a member of the ARD Committee will be excused at any point during the meeting and be as detailed as possible. Where necessary, the member being excused from the ARD meeting shall provide written input to the parent no more than forty-eight (48) hours prior to the ARD meeting. If the parent requests additional time to review the written input from the member requesting excusal, the parent may reschedule the meeting or request to reconvene.

The Campus Special Education Administrator will ensure that proper documentation of ARD Committee member excusal from a particular meeting is completed. If an ARD Committee member is not required to attend the ARD meeting (in whole or in part) because the member's area of the curriculum or related services is not being modified or discussed in the meeting, a statement signed by the Campus Special Education Administrator and the parent must be completed noting that the person will not be in attendance, that the person's attendance is not necessary, and that the area of the curriculum or related service is not being modified or discussed during the ARD meeting. If an ARD Committee member whose curriculum or related service area is being discussed at the ARD, a statement signed by the Campus Special Education Administrator and the parent must be completed agreeing to the member's excusal. Attached to this statement must be the member's written input into the development of the IEP. The Campus Special Education Personnel will attach the signed documentation of a member's excusal to the ARD documentation.

All Campus and District Personnel who work with students with disabilities will receive, at a minimum, annual training regarding ARD Committee Membership, including the roles and responsibilities of each member, parent participation, the excusal process, preparing for ARD meetings, and ARD facilitation.

Evidence of Implementation

- ARD/IEP
- Documentation of Parent Participation Attempts
- Notice(s) of ARD Meeting
- Prior Written Notice
- *Notice of Procedural Safeguards*
- *Parent's Guide to the Admission, Review, and Dismissal Process*
- Documentation of Member Excusal
- Documentation Regarding Parent Participation

Resources

[The Legal Framework for the Child-Centered Special Education Process: Admission, Review, and Dismissal Committee Membership - Region 18](#)

[Consent to Excuse Member from ARD Committee Legal Framework - Region 18](#)

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

[OSEP Letter to Anonymous \(Mar. 31, 2008\) - U.S. Department of Education](#)

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

[OSEP Letter to Andel \(Feb. 17, 2016\) - U.S. Department of Education](#)

[OSEP Letter to Caplan \(Mar. 17, 2008\) - U.S. Department of Education](#)

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

ADMISSION, REVIEW, AND DISMISSAL COMMITTEE MEETING

Board Policies EHB, EHBAA, EHBAB, EHBAE, FOF; 20 USC 1415; 34 CFR 300.503-300.504, 300.305(a)(2), 300.306(a)(1), 300.320(a), 300.320(d), 300.321(a), 300.323, 300.324, 300.530(h); 71 Fed. Reg. 46,692 (2006); Texas Education Code 29.004, 29.005, 29.0051(c), 29.019, 29.020; 19 TAC 89.1011, 89.1040(b), 89.1050(a), (e),(g), 89.1055, 89.1196, 89.1197

What is Required

The District will establish an Admission, Review, and Dismissal (ARD) Committee for each eligible student with a disability and for each student for whom an evaluation is conducted. See [FAPE-ARD COMMITTEE MEMBERSHIP] and [EVALUATION]. The ARD Committee is the group of qualified professionals and the parent of the student that determines whether the student is a student with a disability and the educational needs of the student. The ARD Committee is the team that develops the Individualized Education Program (IEP) for the eligible student with a disability and determines the educational placement of the student.

Individualized Education Plan

The IEP is the written statement for each student with a disability that is developed, reviewed, and revised by the ARD Committee. The IEP must include:

- A statement of the student's present levels of academic achievement and functional performance, including how the student's disability affects the student's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled students); or for preschool students, as appropriate, how the disability affects the student's participation in appropriate activities;

- A statement of measurable annual goals, including academic and functional goals designed to meet the student's needs that result from the student's disability to enable the student to be involved in and make progress in the general education curriculum; and meet each of the student's other educational needs that result from the student's disability, and, for students with disabilities who take alternate assessments aligned to alternate academic achievement standards, a description of benchmarks or short-term objectives;
- A description of how the student's progress toward meeting the annual goals described above will be measured and when periodic reports on the progress the student is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided;
- A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the student, or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided to enable the student to advance appropriately toward attaining the annual goals; to be involved in and make progress in the general education curriculum, and to participate in extracurricular and other nonacademic activities; and to be educated and participate with other students with disabilities and nondisabled students;
- An explanation of the extent, if any, to which the student will not participate with nondisabled students in the regular class;
- A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the student on State and districtwide assessments;
- If the ARD Committee determines that the student must take an alternate assessment instead of a particular regular State or districtwide assessment of student achievement, a statement of why the student cannot participate in the regular assessment; and why the particular alternate assessment selected is appropriate for the student; and
- The projected date for the beginning of the services and modifications described above, and the anticipated frequency, location, and duration of those services and modifications.

Procedural Safeguards

The ARD Committee may use the TEA's model IEP form. Other than the elements listed above and what is included in TEA's model IEP form, additional information need not be included in the student's IEP. In addition, the ARD Committee need not include information under one component of the student's IEP that is already contained elsewhere in the IEP

The District must have an IEP in effect at the beginning of each the school year for each student with a disability ages 3 through 21 enrolled in the District. For a student with a disability who transfers into the District within the same year or during the summer, from another district within Texas or a district outside of Texas, the District will comply with the transfer rules and procedures regarding evaluations and the provisions of an IEP. See [CHILD FIND - CHILDREN WHO TRANSFER]. In addition, FAPE must be available for students with visual impairments, or who are deaf or hard of hearing from birth as set out in an Individualized Family Service Plan (IFSP) for those students birth through 2 years of age and an IEP for those students age 3 or older. See [CHILD FIND – AGES 0-5] and [DISABILITIES – Visual Impairment, Deaf or Hard of Hearing, and Deaf-Blindness].

The IEP is developed and agreed upon at an initial ARD Committee meeting and revised as needed, but no less than once annually. Campus Special Education Personnel must provide the parent with written notice prior to any ARD meeting to allow the parent the opportunity to meaningfully participate in the meeting and provide Prior Written Notice of any proposed change to the student's IEP following the ARD meeting before any changes may be implemented. See [PARENT PARTICIPATION] and [PRIOR WRITTEN NOTICE]. In addition, an ARD Committee must include certain individuals and members, including the parent. For a full discussion regarding who must attend an ARD meeting and legal excusal of required members and having an ARD meeting without a parent, see [FAPE -ARD COMMITTEE MEMBERSHIP].

The District must adopt and implement appropriate procedural safeguards regarding the identification, evaluation, or educational placement of students with disabilities or those who are suspected of having disabilities. District or Campus Special Education Administration or Personnel or District Assessment Personnel must provide the parents of a student with a disability a copy of the Notice of Procedural Safeguards at least one (1) time per school year and in the following circumstances:

- Upon initial referral or parent request for evaluation. See [REFERRAL FOR POSSIBLE SPECIAL EDUCATION SERVICES];
- Upon receipt of the first State complaint or due process complaint in a school year. See [TEA COMPLAINT PROCEDURES] and [DUE PROCESS COMPLAINTS];
- In accordance with discipline procedures set forth under the IDEA. See [DISCIPLINE SECTIONS]; and
- Upon request by a parent.

A parent may elect to receive the copy of the Notice of Procedural Safeguards via e-mail if the District makes that option available.

The *Notice of Procedural Safeguards* must be written in a language understandable to the general public and provided in the native language of the parent or other mode of communication used by the parent unless it is clearly not feasible to do so. If the native language or other mode of communication of the parent is not a written language, the District must take steps to ensure that the notice is translated orally or by other means to the parent in the native language or other mode of communication. The District must also ensure that the parent understands the content of the notice.

Initial ARD Meeting

At the initial ARD meeting, the ARD Committee must determine if the student is eligible for special education services based on the initial FIE and, where appropriate, placement in special education and the development of an IEP, within 30 calendar days from the date of the completion of the written initial FIE report.

The ARD Committee may wait to finalize decisions until the first day of classes in the fall if the 30th day falls during the summer when school is not in session, unless the initial evaluation indicates that the student will require Extended School Year services during that summer. See [EXTENDED SCHOOL YEAR SERVICES]. If the District received written consent for the evaluation from the parent at least 35 but fewer than 45 school days before the last instructional day of the school year and the student was not absent from school three or more days between the time the District received written consent and the last instructional day of the school year, the ARD Committee is only required to meet prior to the 15th school day of the following school year, unless the initial evaluation indicates that the student will require Extended School Year services during that summer. If the Initial evaluation indicates that the student will require Extended School Year services during that summer, the ARD Committee must convene as early as possible. A 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 school term.

Developing the IEP

The District must provide all members of the ARD Committee the opportunity to collaboratively participate in developing the IEP. The ARD Committee must consider:

- The student's strengths;

- The parent's concerns regarding the student's education;
- The results of the initial evaluation or most recent evaluation of the student; and
- The academic, developmental, and functional needs of the student.

The ARD Committee must decide whether the student's IEP will last for the entire year or if the IEP will be for a shorter duration.

Service Providers and Campus Special Education Personnel will ensure that special education and related services are provided to the student in accordance with the student's IEP as soon as possible following the development of the IEP at the ARD meeting, and in compliance with Prior Written Notice requirements. *See [PRIOR WRITTEN NOTICE].*

Periodic Review and Revision of the IEP

The ARD Committee must periodically review the student's IEP to assess the student's progress. At a minimum, the IEP should be reviewed annually to determine whether the student has achieved the annual goals. Where necessary, the ARD Committee must revise the IEP to address:

- Any lack of expected progress toward the annual goals and in the general education curriculum, if needed;
- The results of any reevaluation;
- Information about the student provided to, or by the parent, in a Review of Existing Evaluation Data, *see [REVIEW OF EXISTING EVALUATION DATA];*
- The student's anticipated needs; or
- Additional matters.

The ARD Committee must convene to address transition goals for the student if a participating agency, other than the District, fails to provide transition services outlined in the student's IEP. *See [TRANSITION SERVICES].*

If the student has been reevaluated, the ARD Committee and District Special Education Personnel should encourage the consolidation of any meetings related to the evaluation with other ARD Committee meetings.

The entire ARD Committee must convene an ARD meeting to make changes to an IEP unless the ARD Committee amends the IEP through the IEP amendment process. *See [AMENDMENT WITHOUT A MEETING].*

Recessing and Reconvening a Meeting

If possible, the ARD Committee must reach mutual agreement regarding a decision of the ARD Committee related to the required elements of the IEP. If mutual agreement is not reached, the District must offer the parent a single opportunity to recess and reconvene the ARD Committee meeting at a mutually agreed upon time and place within 10 school days of the ARD meeting, unless the parties mutually agree otherwise. However, the ARD Committee is not required to offer a recess and reconvene if the student's presence on the campus presents a danger of physical harm to the student or others or if the student has committed an expellable offense or an offense that might lead to a placement in a disciplinary alternative education program. During the recess period, members of the ARD Committee should consider alternatives, gather additional data, prepare additional documentation, and/or seek additional individuals to help the ARD Committee reach a mutual agreement.

Should the ARD Committee still fail to reach a mutual agreement after it reconvenes,, the District must implement the IEP that it has determined to be appropriate for the student after giving the parent Prior Written Notice and waiting the required five (5) school days. See [PRIOR WRITTEN NOTICE]

The ARD Committee may also recess an ARD meeting for reasons other than the failure to reach mutual agreement.

Mutual Agreement

Where mutual agreement is reached, the IEP must include:

- The date of the meeting;
- The name, position, and signature of each ARD Committee member participating in the meeting; and
- An indication of whether the student's parents, the adult student (if applicable), and the Campus Administrator agreed or disagreed with the decisions of the ARD Committee.

If mutual agreement is not reached, the IEP must include a written statement explaining the reason for the disagreement. In addition, each member, including the parent, who disagrees with the IEP is entitled to include their own statement of disagreement in the IEP.

Parent Request for an ARD Committee Meeting

A parent may request an ARD Committee meeting at any time and for any reason. Upon receipt of a written request for an ARD Committee meeting from the parent, the Campus Special Education Personnel must schedule and convene the meeting or provide the parent with written notice explaining why the District refuses to convene the meeting within 5 school days. See [PARENT PARTICIPATION]

IEP Facilitation

IEP facilitation refers to a method of alternative dispute resolution that involves the use of a trained facilitator to assist an ARD Committee in developing an IEP for a student with a disability. The facilitator uses facilitation techniques to help the committee members communicate and collaborate effectively. While the District is not required to offer IEP facilitation as an alternative dispute resolution method, TEA encourages the use of IEP facilitation.

The District is not prohibited from incorporating elements of IEP facilitation into ARD Committee meetings that are conducted without the assistance of a facilitator. For example, the District may provide training on communication skills, conflict management, or meeting effectiveness to individuals who participate in ARD Committee meetings to enhance collaboration and efficiency in those meetings.

If the District chooses to offer IEP facilitation, it may use independent contractors, employees, or other qualified individuals as facilitators. At a minimum, an individual who serves as a facilitator must:

- (1) have demonstrated knowledge of federal and state requirements relating to the provision of special education and related services to students with disabilities;
- (2) have demonstrated knowledge of and experience with the ARD Committee meeting process;
- (3) have completed 18 hours of training in IEP facilitation, consensus building, and/or conflict resolution; and
- (4) complete continuing education as determined by the District.

IEP facilitation must be voluntary on the part of the participants and must be provided at no cost to the parents. Additionally, the District may not use IEP facilitation to deny or delay the right to pursue a special education complaint, mediation, or due process hearing in accordance with federal law.

A facilitator is not a member of the ARD Committee and has no decision-making authority over the ARD Committee meeting. The facilitator must be impartial and cannot provide input or an

opinion into the development of a student's IEP. A facilitator assists with the overall organization and conduct of the ARD Committee meeting by:

- assisting the committee in establishing an agenda and setting the time allotted for the meeting,
- assisting the committee in establishing a set of guidelines for the meeting,
- guiding the discussion and keeping the focus on developing a mutually-agreed-upon IEP for the student,
- ensuring that each committee member has an opportunity to participate,
- helping to resolve disagreements that arise, and
- helping to keep the ARD Committee on task and within the time allotted for the meeting.

If the District at any time chooses to offer IEP facilitation, the District will develop a written Board policy in accordance with state law.

TEA has also developed information regarding TEA IEP Facilitation as an alternative dispute resolution method, and such information is available upon request from TEA and on the TEA website. TEA IEP Facilitation may be used at the request of the parent and the District when an ARD ends in disagreement. The parent and the District may request an independent facilitator from TEA to attend the reconvene ARD meeting by completing and submitting the required form within 5 days of the ARD Committee meeting that ended in disagreement.

Additional Procedures

Initial ARD Meeting

District or Campus Assessment Personnel will notify Campus Special Education Personnel upon completion of the written initial FIE report. Campus Special Education Personnel will keep a schedule of completion dates to ensure that all initial ARD meetings are held within 30 calendar days of the completion of the initial FIE (or within the appropriate time frame for evaluations completed during the summer). District or Campus Assessment Personnel will ensure that the parent has been provided a copy of the student's initial FIE with enough time to allow the parent the opportunity to review the report prior to the ARD meeting. District or Campus Assessment Personnel will also, upon request of the parent, schedule a time to go over the initial FIE with the parent prior to the initial ARD meeting.

Campus Special Education Personnel will invite the parent to the initial ARD meeting and provide written notice to the parent at least 5 school days before the meeting—unless the parent has agreed to a shorter time frame. If a parent is non-responsive to communication, after several attempts at communicating with the parent, Campus Special Education Personnel will send the parent notice of the scheduled ARD meeting, and the ARD Committee will convene without the parent within the required timeframe. See [PARENT PARTICIPATION].

For evaluations completed when school is not in session, the ARD Committee will document efforts to determine if the student needs ESY services and the final decision of the ARD Committee. If the ARD Committee determines that ESY services are not needed, Campus Special Education Personnel will communicate with the parent to schedule the initial ARD meeting once school resumes. If ESY is needed, the initial ARD meeting will be scheduled as soon as possible before ESY begins.

After the initial ARD meeting is complete, Campus Special Education Personnel must provide the parent Prior Written Notice and wait five (5) school days before special education and related services may be provided to the student, unless the 5-days notice is waived by the parent. See [PRIOR WRITTEN NOTICE].

Developing the IEP

The Campus Special Education Personnel will follow and share the ARD Agenda for the ARD Committee meeting. The ARD Agenda provides a specific order in which information is presented and discussed during the ARD Committee meeting. This order should be followed by the ARD Committee to ensure that assessment leads to the development of accommodations, goals and objectives, accommodations, goals and objections lead to a determination of services to be provided, and services lead to placement. Following the ARD Agenda ensures that a student's placement and services are determined by the student's needs. The ARD Agenda should include the following topics, if applicable, in this order:

- (1) Introductions
- (2) Purpose of ARD
- (3) Statement of Confidentiality and Norms for the Meeting
- (4) Review of Evaluation Data and Other Information
- (5) Determination of Eligibility
- (6) Consideration of Special Factors
- (7) Present Levels of Academic Achievement and Functional Performance
- (8) Accommodations
- (9) Goals and Objectives
- (10) Assistive Technology
- (11) Graduation Plan (if applicable for student's age)
- (12) Transition (if applicable for student's age or AU eligible)

- (13) Determination of Participation in State and District Assessments
- (14) Behavior Intervention Plan (if applicable)
- (15) Determination of Special Education and Related Services
 - a. Instructional Services
 - b. Related Services
 - c. Supplementary Aids & Services
 - d. Accelerated Instruction/Intensive Program of Instruction
 - e. Compensatory Services
 - f. Least Restrictive Environment Considerations
- (16) Extended Year Services
- (17) Placement Determination
- (18) Review of Deliberations/Minutes
- (19) Assurances
- (20) Signatures of Committee Members

All members of the ARD Committee must work together in a collaborative manner to develop the IEP. At the beginning of the ARD meeting, the Special Education Administrator will ensure that all required members are in attendance and set ground rules for participation and collaboration, including setting reasonable time limitations, if necessary. The following statement may be read: *“In order to facilitate a collaborative environment, participants will conduct themselves in a courteous manner. This expectation must be followed in order to work together to develop an appropriate educational plan for the student. All participants will conduct themselves professionally at all times during this ARD meeting. Unnecessary outbursts, rude or unprofessional behavior will result in the administrator requesting the removal of the party from the committee meeting. This action could result in a recess of the meeting and rescheduling for another date and time.”*

District Special Education Personnel will provide opportunities for training on communication skills, conflict management, or meeting effectiveness to individuals who participate in ARD Committee meetings to enhance collaboration and efficiency in those meetings.

Periodic Review and Revision of the IEP

Campus Special Education Personnel will keep a schedule to ensure that all IEPs are reviewed, at a minimum, annually. Aside from annual ARD meetings, an ARD meeting may be called for a variety of reasons, including, but not limited to, the following:

- Upon request by a member of the ARD Committee to discuss concerns related to the student;
- The student has already mastered or is not likely to master the annual goals in the IEP;
- Additional academic or behavioral goals or objectives need to be added or modified;
- Issues with student placement;
- Accommodations or modifications need to be addressed prior to State Assessments;
- Attendance or disciplinary issues;
- Possible dismissal from special education services;
- Receipt of new information, diagnoses or evaluations;
- Hospitalization; and/or
- At the request of a parent.

Recessing and Reconvening a Meeting

Campus Special Education Personnel will consult with the parent at the end of the disagreed or recessed ARD meeting to determine the time and place for the reconvened ARD meeting. If the parties mutually agree to hold the reconvene after 10 school days have passed, Campus Special Education Personnel will obtain a written statement from the parent agreeing to the delay.

In addition to considering alternatives, gathering data, preparing further documentation, and/or obtaining additional resources individuals to assist in enabling the ARD Committee to reach mutual agreement, Campus Special Education Personnel should consult with the Campus Principal to determine if a staffing should be held prior to the reconvene ARD meeting to discuss alternative options and proposals and review additional information collected by the Campus.

In particularly challenging ARDs where it looks like mutual agreement may not be possible even following the recess, Campus Special Education Personnel will consult with the Campus Principal to determine whether it would be beneficial to request an IEP facilitator through TEA. If the Campus determines that an IEP facilitator would be helpful, Campus Special Education Personnel will contact the parent to seek consent for the request.

Mutual Agreement

The ARD Committee will make every effort to ensure that mutual agreement regarding the IEP can be reached. However, the ARD Committee will not reach decisions based upon a majority vote. If mutual agreement cannot be reached, the ARD Committee will offer the parent a single opportunity to recess for up to 10 school days or another mutually agreeable time. Additionally, the ARD Committee will document all recommendations by the ARD Committee in which the parent disagrees, as well as the parent's position of disagreement, in the ARD minutes.

The ARD Committee will provide the parent a copy of their procedural safeguards and explain the process for resolving the disagreement if the ARD Committee is unable to reach mutual agreement after the recess. The ARD Committee will also notify the parent that the IEP will be implemented in 5 school days from receipt of the Prior Written Notice. The ARD Committee and all Campus Personnel will act professionally towards the student's parent should the parent exercise their right to disagree with the decisions of the ARD Committee.

Parent Request for an ARD Committee Meeting

Campus Special Education Personnel will provide the parent a copy of the *Parent's Guide to the Admission, Review, and Dismissal Process*, informing the parent of the right to request an ARD meeting to discuss educational concerns about their student. See [PARENT PARTICIPATION]. All written requests from a parent for an ARD meeting should immediately be provided to Campus Special Education Personnel. Upon receipt of a written request for an ARD meeting from the parent, Campus Special Education Personnel will contact the parent to schedule the ARD meeting on a mutually agreeable date and time. Campus Special Education Personnel will then notify the ARD Committee members of the scheduled ARD meeting.

Campus Special Education will maintain all documentation related to written requests for an ARD meeting from the parent and the District's efforts to schedule and convene the meeting within a reasonable time.

Campus Special Education Personnel will be responsible for compiling and processing the student's ARD paperwork in accordance with the ARD forms utilized by the District. District Special Education Personnel may periodically review a random sampling of ARD documents within the District to ensure that all required components of the IEP are addressed by the ARD Committee for each student with a disability.

District Special Education Personnel will provide training regarding the role and duties of the ARD Committee and the components of the ARD document for all Campus Personnel.

Implementation and Documentation of the IEP

Following the completion of the ARD meeting and prior to the beginning date of implementation of the IEP, the student's Special Education Case Manager will provide a copy of the IEP to all Campus and District Personnel—including general education teachers, support staff, service providers, etc.—who work with the student. Campus and District Personnel shall receive an entire copy of IEP, including but not limited to the Present Levels of Academic Achievement and Functional Performance, Accommodations, Annual Goals, Schedule of Services, Transition Plan (if applicable), Graduation Plan (if applicable), and Behavior Intervention Plan (if applicable). Campus and District Personnel shall also receive a copy of the minutes/deliberations from the ARD meeting to ensure full understanding of the decisions

made by the ARD Committee. The Special Education Case Manager will review the information in the IEP, including any changes from the previous IEP, and ensure the Campus and District Personnel understand the content of the IEP. The Special Education Case Manager will obtain a signature from each Campus and District Personnel, confirming receipt and understanding of the IEP.

Following the ARD meeting, District and Campus Special Education Administration will ensure the student's schedule aligns with the services described in the IEP by comparing the Schedule of Services section of the IEP with the student's calendar. This includes communicating with service providers regarding the provision of related services. Campus Special Education Administration shall adjust the student's schedule as needed to ensure the student's schedule aligns with the services described in the IEP.

Once an IEP is written and placement is determined, the District is obligated to provide the special education and related services listed in the IEP. Documentation is essential to demonstrate implementation of special education and related services set forth in the IEP. Campus and District Personnel, including but not limited to special education teachers, general education teachers, and service providers are responsible for documenting the delivery of special education and related services.

Implementation of the entire IEP must be documented, including: Accommodations, Special Education Minutes, Related Service Minutes, Participation with General Education Peers, Progress towards IEP Goals and Objectives, Interventions Used and Effectiveness of Same, Transition Services (where applicable), Assistive Technology (where applicable), Behavior Intervention Plan (where applicable), Compensatory Services (where applicable), and Accelerated Instruction (where applicable). Methods and forms used for documenting special education and related services may vary. Examples of documentation of special education and related services include, but are not limited to, service logs, notes in a grade book or spreadsheet, checklists, tally marks, copy of assessments/teacher notes/study guides, formal assessments, point sheets, rubrics, skills trials, observations, classwork and assignments, report cards, District-wide documentation logs, etc. Documentation must be consistent and easy to understand. Campus and District Personnel working with students with disabilities will be regularly trained on methods for documenting special education and related services, as well as the legal and instructional importance of documentation.

The District will also 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.

Training

All Campus and District Personnel who work with students with disabilities will receive, at a minimum, annual training regarding the ARD/IEP process.

Notice of Procedural Safeguards

The District will provide parents the most current version of the *Notice of Procedural Safeguards* published by the Texas Education Agency's ("TEA") Department of Special Education. This version complies with the legal requirements under the IDEA regarding the content of the notice. The District must provide this version as written—including the wording and formatting—by the TEA, with the exception of adding local contact information in the designated space. In addition to providing the parent a printed copy, the District shall also place an electronic copy of the *Notice of Procedural Safeguards* on its website.

The most recent printable, electronic version of the Notice of Procedural Safeguards is available in both English and Spanish on the Region 18 Education Service Center's Legal Framework for the Child-Centered Special Education Process website here. Moreover, the Special Education Information Center (SPEDTex) has translated the Notice of Procedural Safeguards into several languages, which are available for download from their website here, including: English, Spanish, Arabic, Bengali, Burmese, Chinese, Farsi, French, German, Gujarati, Hindi, Japanese, Khmer, Korean, Kurdish, Laotian, Nepali, Portuguese, Russian, Swahili, Somali, Tagalog, Urdu, and Vietnamese.

If the parent declines a copy of the *Notice of Procedural Safeguards* following an offer from Campus Special Education Personnel, the District is not required to provide the parent an electronic or paper copy but should document when it offered the parent a copy and that such offer was declined.

The Campus Special Education Personnel shall document in writing that the parent has received a copy of the *Notice of Procedural Safeguards* translated in the parent's native language or other mode of communication. This will help demonstrate that the parent received the notice in a timely manner and was aware of the safeguards provided to them under the IDEA.

The District must maintain the documentation in the student's special education folder. Such documentation may be subject to compliance review through the State's monitoring system. Where appropriate, the District may document receipt in the ARD document itself. However, if the parent is not present in the ARD meeting and/or does not sign the ARD document, the District shall document receipt in an additional location and maintain the documentation in the student's special education folder.

<u>Process</u>	<u>Timeline</u>
Diagnostician	ARD notice will be sent home to parents at least 5 days before the ARD meeting.
Diagnostician	Annual ARD meeting must be scheduled on or before the one-year anniversary of the previous annual ARD.
Case Manager	Case monitoring teacher will contact parent at least five days before the ARD to review and make necessary changes to students IEP and PLAAFP.

Evidence of Implementation

- Receipt of *Parent's Guide to the Admission, Review, and Dismissal Process*
- *Parent's Guide to the Admission, Review, and Dismissal Process*
- Receipt of Notice of Procedural Safeguards
- Notice of Procedural Safeguards
- FIE (to document date completed)
- ESY Documentation
- Notice(s) of ARD meeting
- Written Requests for ARD Meetings
- Schedule of Deadlines for ARD Meetings
- Attempts to Contact the Parent or Guardian to Ensure Parental Participation in ARD Meeting
- Draft IEP
- ARD/IEP
- ARD Attendance Sheet
- Signature Page of ARD/IEP
- Notice(s) of ARD Meetings
- Prior Written Notice(s) of Decisions in ARD Meetings
- Documentation of Recess Activities
- Statement(s) of Disagreement
- Parent Requests for ARD Meeting and Response
- ARD Committee Training
- ARD/IEP Training
- Receipt of IEP by Service Providers
- Documentation of Implementation of IEP
- Related Services Service Logs
- Documentation for the State in TSDS, PEIMS, and SPP
- Notice of Procedural Safeguards

- Posting of Notice of Procedural Safeguards on District Website
- Provision of Notice of Procedural Safeguards in Parent’s Native Language or Other Mode of Communication
- Notice of Receipt of Procedural Safeguards

Resources

[The Legal Framework for the Child Centered Special Education Process: Admission, Review, and Dismissal Committee Meeting Framework - Region 18](#)

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

[Guidance on ARD Guide Production and Required Dissemination - Texas Education Agency](#)

[Individualized Education Program Facilitation - Texas Education Agency](#)

[OSEP Letter to Morris \(Aug. 15, 2007\) - U.S. Department of Education](#)

[OSEP Letter to Richards \(Jan. 7, 2010\) - U.S. Department of Education](#)

AMENDMENT WITHOUT A MEETING

Board Policy EHBAA; Board Policy EHBAB; 20 U.S.C. 1414, 1415(k); 34 CFR 300.116, 300.306, 300.324(a), 300.530(e)

What is Required

After the annual ARD meeting, changes to a student’s IEP may be made either:

- By the entire ARD Committee at an ARD Committee meeting; or
- By amending the IEP rather than by redrafting the entire IEP.

Specifically, in making changes to a student’s IEP after the annual ARD meeting for a school year, the parent of a special education student and the District may agree not to convene an ARD meeting for the purposes of making those changes, and instead may develop a written document to amend or modify the student’s current IEP (the “ARD Amendment”). If changes are made to the student’s IEP through an ARD Amendment, the Campus Special Education Personnel must ensure that the ARD Committee is informed of those changes. Upon request by the parent, the Campus Special Education Personnel will provide the parent with a revised copy of the IEP with the amendments incorporated.

The content of an IEP is defined in federal law and involves present levels, goals, and services; however, the IEP does not include eligibility categories or placement. See [RULE OF CONSTRUCTION]. Accordingly, an ARD Amendment may not change a student's eligibility category or placement. In addition, manifestation determination reviews cannot be conducted through an ARD Amendment.

Definitions

“Change of placement” means a proposed change to the IEP which substantially or materially affects the composition of the educational program and services provided to the student. A simple change in the location of a building or facility is not, generally, viewed to be a change in placement where there are no significant changes in the educational program.

Individualized Educational Program (“IEP”) means a written statement for each special education student that includes the student's present levels of academic achievement and functional performance, participation in state and district-wide assessments, transition services, annual goals, special factors, special education, related services, supplementary aids and services, extended school year services, and least restrictive environment.

Additional Procedures

In making changes to a student's IEP after the student's annual ARD meeting, the parent of a student with a disability—or an adult student—and Campus Special Education Personnel may agree not to convene an ARD meeting for the purposes of making those changes, and instead may develop a written document to amend or modify the student's current IEP. Campus Special Education Personnel should document and maintain a record of any communications between the parent and Campus Special Education Personnel regarding the IEP amendment.

The purpose of the IEP amendment is to make minor changes to the IEP during the year it is in effect. Examples of when an IEP amendment without a meeting may be appropriate include:

- To correct minor errors or discrepancies in ARD documentation;
- To make changes in the Present Level of Academic Achievement and Functional Performance (“PLAAFP”);
- To amend measurable short-term objectives where doing so will not result in a change in service delivery hours and/or student placement;
- To add or remove instructional accommodations and/or supplementary aids where doing so will not result in a change in service delivery hours and/or student placement;
- To add or remove assistive technology devices where doing so will not result in a change in service delivery hours and/or student placement;
- To modify transportation services once eligibility is established;
- To increase or decrease the frequency of speech or related services; and

- To modify statewide testing accommodations.

If substantial or comprehensive changes need to be made to a student's IEP, an ARD meeting should be convened to develop a new, complete IEP. An IEP amendment without an ARD meeting cannot be utilized for eligibility determinations, to change a student's placement, or for manifestation determination reviews and for any other purpose for which the District determines an IEP amendment without a meeting may not be used.

If Campus Special Education Personnel and the parent agree to amend the student's IEP without convening an ARD Committee meeting, Campus Special Education Personnel must obtain the parent's signature indicating agreement or disagreement with the proposed change. Campus Special Education Personnel must also provide the parent with Prior Written Notice of the amendment, as well as a revised copy of the IEP with the amendment(s) incorporated. See [PRIOR WRITTEN NOTICE].

If the parent disagrees with the amendment or fails to return the signed agreement, an ARD meeting must be held to discuss the changes. If the parent returns the signed agreement, indicating agreement with the amendment, the campus must wait 5 days from the time Campus Special Education Personnel receive the signed agreement to implement the changes, unless the parent has agreed otherwise. Once the IEP is amended, the ARD Committee members must be informed of those changes.

An IEP amendment cannot replace the required annual ARD meeting, and parents continue to have the option to call an ARD meeting to consider IEP changes at any time.

In summary, Campus Special Education Personnel should complete the following steps to amend an IEP without an ARD Committee meeting:

- Determine that there is consensus among District-based members of the ARD Committee that the IEP amendment is indicated and appropriate;
- Discuss the proposed IEP amendment with the student's parent in person or by phone and provide written documentation to the parent regarding the proposed IEP amendment;
- Obtain parent signature of agreement to amend the IEP;
- Distribute the signed amendment to all ARD members and implementers;
- File the original, signed amendment in the student's eligibility form with the annual IEP being amended;
- Inform the ARD Committee of the amendment;
- Provide parent with Prior Written Notice;
- Provide parent with a copy of the IEP with the amendments incorporated.

At least annually, Campus and District Personnel will receive training outlining the District's procedures regarding IEP amendments, including when changes cannot be made through amendment without a meeting (i.e., eligibility determinations, changes of placements, and

manifestation determination reviews). 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

- IEP Amendment
- Parent’s Written Agreement
- Documentation of Amendment Discussions
- Prior Written Notice
- ARD/IEP

Resources

[The Legal Framework for the Child-Centered Special Education Process: Amendment Without a Meeting - Region 18](#)

[Amending an IEP Without a Meeting - Partners Resource Network](#)

[OSERS Dear Colleague Letter \(Aug. 1, 2016\) - U.S. Department of Education](#)

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

ANNUAL GOALS

Board Policy EHBAB; 34 CFR 300.320(a)(2)–(3); 19 TAC 89.1055(j); *Andrew F. ex rel. Joseph F. v. Douglas County Sch. Dist. RE-1*, 137 S. Ct. 988 (2017); *Cypress-Fairbanks Indep. Sch. Dist. v. Michael F. by Barry F.*, 118 F. 3d 245 (5th Cir. 1997)

What is Required

The ARD Committee must develop specific, measurable academic and functional goals in a student’s IEP each academic year. A student’s annual goals must be designed to meet the student’s needs that result from the student’s disability to enable the student to be involved in and to make progress in the general education curriculum, and meet each of the student’s other educational needs that result from the student’s disability. Annual goals describe what a student with a disability can reasonably be expected to accomplish in the special education program

within a twelve-month period. It is a skill and/or knowledge that can be measured and mastered based on given criteria.

The IEP must include a description of (1) how the student's progress towards the annual goals will be measured and (2) when periodic reporting on progress towards annual goals—e.g. through quarterly or periodic IEP progress reports issued along with report cards—will be provided.

For students with disabilities who take alternate achievement tests aligned to alternate achievement standards, the ARD Committee must include in the student's IEP a description of short-term objectives or benchmarks. Short-term objectives are developed based on the major components of the student's annual goals and serve as milestones for measuring progress toward meeting those goals. Like annual goals, short-term objectives must also be specific and measurable.

Definitions

“Present Levels / Present Levels of Academic Achievement and Functional Performance (PLAAFP)” for the school-aged student summarizes the current strengths and needs of the student in both academic and functional performance areas. It must include how the student's disability affects the student's involvement and progress in the general education curriculum, regardless of the setting in which the student currently receives services. Additionally, it may describe the current instructional level of the student compared to the grade level Texas Essential Knowledge and Skills, and, if the student is below grade level, the PLAAFP also may describe the prerequisite skills the student needs in order to achieve grade-level proficiency. PLAAFP for the preschool student summarizes the current levels of present performance related to the student's developmental domains, functional performance, and pre-academic skills. It must include how the student's disability affects the student's participation in appropriate activities. Additionally, it may describe the student's current developmental levels compared to the Texas Prekindergarten Guidelines or district-adopted prekindergarten curriculum. See [PRESENT LEVELS].

Additional Procedures

Campus Special Education Personnel will consult with the student's general education teacher(s), where applicable, when developing a draft of the annual goals. Where feasible, Campus Special Education Personnel should send the parent a draft of the annual goals prior to the ARD meeting. The ARD Committee, including the parent, will provide input regarding the annual goals at the ARD meeting, and the annual goals will not be finalized or implemented until mutual agreement is reached.

The annual goals should be based on the student's present levels of academic and functional performance (“PLAAFP”) and tailored to meet the student's educational needs that result from

the student's disability. See [PRESENT LEVELS]. As such, Campus Special Education Personnel will assess the student prior to developing annual goal when preparing for annual ARD meetings. The goals should be realistic, attainable, and reasonably calculated to enable a student to make appropriate progress in light of the student's unique circumstances. The criterion should specify the amount of growth expected to meet the annual goal and be based on how the progress will be measured—not necessarily the score required for passing the course or assignment. Restating attainment of a grade level standard should not be a student's annual goal, as attainment of a grade level standard is a goal for every general education student. Additionally, a goal should be something that can be reasonably attained within one year.

When developing annual goals, Campus Personnel should include the following components within the annual goals:

- Timeframe: Identifies the amount of time, usually specified in interval periods, for the goal to be completed;
- Conditions: Describes the specific resources that must be used for a student to reach the goal. The condition of the goal should relate to the behavior being measured;
- Behavior: Represents an action the student must take to achieve the goal that can be directly observed, measured, and monitored;
- Criterion: Identifies the frequency or to what standard the behavior must occur to demonstrate that the goal has been met; and
- Unit of Measure: A means for evaluating the goals and objectives

For example, the following is an example of a poorly written Annual Goal: *Student will learn to count money.* Instead, an appropriate goal would look something like the following: *By the end of 36 instructional weeks, given a collection of pennies, nickels, and dimes, Student will determine the value of the coins with 100% accuracy on 8 out of 10 trials as measured by classroom observation and teacher-made assessments."*

Although short-term objectives or benchmarks are only required for students who take alternate tests, it is recommended that all special education students have short-term objectives within their IEP to gauge a student's progress. Benchmarks/short-term objectives should include intermediate steps that serve to gauge student progress or lack of progress toward master of the annual goal. The short-term objectives or benchmarks should also include a timeframe, conditions, behavior, criterion, and unit. Mastering benchmarks/short-term objectives does not necessarily mean that the student has mastered an annual goal. Thus, an annual goal should not simply state that the student will master the benchmarks/short-term objectives.

It is imperative that goals and objectives/benchmarks are measurable and that the teacher/service providers who are required to track progress understand how the goal will be

measured and what data will be collected to show whether the student is progressing on the goals. Although the IDEA does not specify how often progress data of a student's IEP goals should be monitored, such data should be considered at least every grading period or more often as needed.

Each IEP goal should correspond to specially designed instruction or related services that a student needs based on the student's unique academic or functional needs. For example, if a student's PLAAFP data shows that the student's pragmatic speech is impacting his or her education, a student may have a speech goal related to improving pragmatic speech, as well as direct speech therapy related services to help the student master the goal. See [SUPPLEMENTARY AIDS AND SERVICES, SPECIAL EDUCATION, AND RELATED SERVICES]. Thus, goals should only be drafted after examining the student's PLAAFP. The ARD Committee will then determine what specially designed instruction or special education services the student requires, as well as the frequency, duration, and location of these services, to meet the annual goals.

The ARD Committee has discretion over the areas in which a student requires measurable annual goals. However, the ARD Committee will implement an annual goal in any area where content is modified, specifically addressing how the content is modified. Additionally, the ARD Committee will include an annual goal for each subject where the student is removed from the general education setting, even if the content is not modified during that period.

The ARD Committee must include in the student's IEP how the student is progressing towards meeting the annual goals and the reporting intervals for the ARD Committee to assess the student's progress on the goals (e.g. quarterly or concurrent with report card grades).

Campus Special Education Personnel, such as the student's case manager, should be tasked with collecting student data to create progress reports to be sent to the student's parent. The progress data should be as specific as possible and based on data from the student's current teachers and related service providers who are tasked with monitoring the student's goals. Although the IDEA does not require the District to provide parents with short-term/benchmark progress data, it is best practice to provide this data to parents to ensure they are apprised of their student's progress.

If the progress data reveals that a student has mastered an annual goal, the ARD Committee should convene and determine whether to remove the goal from the student's IEP or modify the goal to target a more difficult concept that directly or sequentially relates to the original goal. If input from teachers reflect that a particular annual goal is no longer appropriate or if the student is not making expected progress on the goal, the ARD Committee should convene to determine if changes to the goals are indicated.

At least once annually, Campus and District Special Education Personnel will receive training on standards-based IEPs.

Evidence of Implementation

- FIE
- IEP
- Documentation of Collaboration Between Campus Personnel in Drafting Goals
- Progress Reports on Annual Goals
- Consistent Progress Documentation
- Progress Monitoring Documentation
- Report Card Grades
- State Assessment Results
- Teacher Input
- Student/Parent Input

Resources

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

[IEP Annual Goal Development Question & Answer Document – Texas Education Agency and PGC Network](#)

[IEP Goal Development in Texas Online Training – Region 20](#)

[Standards-Based Individualized Education Program Guidance – Texas Education Agency](#)

[Texas Essential Knowledge and Skills \(TEKS\) – Texas Education Agency](#)

[OSEP Letter to Hayden \(October 3, 1994\) – U.S. Department of Education](#)

[OSEP Letter to Kelly \(August 24, 2007\) – U.S. Department of Education](#)

[OSERS Dear Colleague Letter \(November 16, 2015\) – U.S. Department of Education](#)

[OSEP Letter to Lenz \(February 7, 2014\) – U.S. Department of Education](#)

[Annual Goals - SPEDTEX](#)

DETERMINATION OF ELIGIBILITY

Board Policy EHBA; Board Policy EHBAA; Board Policy EHBAB; 20 U.S.C. 1021(7), 1401(3)(A), 1414, 6368(3), 7801(20); 34 CFR 300.8(a)(1-2), 300.27, 300.306 (a-b), 300.8(a)(1-2); 19 TAC 89.1050(a)

What is Required

After completion of student's FIE, the ARD Committee must determine whether the student has a disability and, by reason of the disability, the student needs special education and related services. If it is determined, through an appropriate evaluation, that the student has one of the disabilities, but only needs a related service and not special education, the student is not a student with a disability under the IDEA. See [FULL INDIVIDUAL AND INITIAL EVALUATION].

The ARD Committee must draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the student's physical condition, social or cultural background, and adaptive behavior. The committee must also ensure that information obtained from all of these sources is documented and carefully considered.

The ARD Committee must not determine a student is a student with a disability if the determinant factor for the Committee's determination is:

- Lack of appropriate instruction in reading, including the essential components of reading instruction as defined in the Elementary and Secondary Education Act which means explicit and systematic instruction in:
 - Phonemic awareness;
 - Phonics;
 - Vocabulary development;
 - Reading fluency, including oral reading skills; and
 - Reading comprehension strategies;

- Lack of appropriate instruction in math; or
- Limited English proficiency.

District Assessment Personnel must provide a copy of the evaluation report to the student's parent, and Campus Special Education Personnel must provide documentation of determination of eligibility to student's parent.

Definitions

A "child/student with a disability" means a child evaluated in accordance with the IDEA as having a/an:

- intellectual disability [INTELLECTUAL DISABILITY];
- Hearing impairment (including deafness) [DEAF OR HARD OF HEARING];
- Speech or language impairment [SPEECH OR LANGUAGE IMPAIRMENT];
- Visual impairment (including blindness) [VISUAL IMPAIRMENT];
- Serious emotional disturbance [EMOTIONAL DISTURBANCE];
- Orthopedic impairment [ORTHOPEDIC IMPAIRMENT];
- Autism [AUSTISM];
- Traumatic brain injury [TRAUMATIC BRAIN INJURY];
- Other health impairment [OTHER HEALTH IMPAIRMENT];
- Specific learning disability [SPECIFIC LEARNING DISABILITY];
- Deaf-blindness [DEAF-BLINDNESS]; or
- Multiple disabilities [MULTIPLE DISABILITIES]; and

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 including instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings, and instruction in physical education.

"Specially designed instruction" means instruction adapted, as appropriate, to the needs of the eligible student under the IDEA, which may include the content, methodology or delivery of instruction; addressing the unique needs of the student that result from the student's disability; and ensuring access of the student to the general curriculum so that the student can meet the educational standards with the jurisdiction of the District that apply to all students.

"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. This means there is reliable evidence to demonstrate that the program or services are effective in meeting the needs of the student. Peer-reviewed research ensures that the quality of the research meets the established standard of the field. Peer-reviewed research may apply to academic, as well as nonacademic areas, such as behavioral interventions. 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.

Additional Procedures

District or Campus Assessment Personnel—which includes, but is not limited to, a licensed specialist in school psychology, an educational diagnostician or other appropriately certified or licensed practitioner with experience and training in the area of the disability, or a licensed or certified professional for a specific eligibility category or related service—is responsible for collecting and reviewing data in connection with the determination of the student's eligibility. However, determination of eligibility itself is made by the student's ARD Committee, including the parent and the qualified Assessment Personnel. *See* [ARD COMMITTEE MEMBERSHIP].

District or Campus Assessment Personnel will ensure a copy of the evaluation report is provided to the parent and the other members of the ARD Committee within a reasonable time before the ARD Committee meeting (at least one week before the ARD, if possible) so that all members can review, question, and fully understand the information provided. For an initial evaluation or when a reevaluation indicates a possible additional eligibility, the District or Campus Assessment Personnel will review the results of the evaluation prior to the ARD meeting in a face-to-face meeting with the parent, whenever possible. In addition, if feasible, the school members of the ARD Committee may meet with the District or Campus Assessment Personnel prior to the ARD to review and discuss the evaluation.

The ARD Committee must convene within the required timeframes under the law to determine eligibility. *See* [ARD COMMITTEE MEETING] and [EVALUATION PROCEDURES]. Typically, this must occur within 30 calendar days from the date of the completion of the written initial FIE report. However, the ARD Committee may wait to finalize eligibility decisions until the first day of classes in the fall if the 30th day falls during the summer when school is not in session, unless the initial evaluation indicates that the student will require Extended School Year services during that summer. *See below* [EXTENDED SCHOOL YEAR SERVICES] and *see* [EVALUATION PROCEDURES]. The parent shall be provided a copy of the evaluation report prior to the ARD meeting to determine eligibility for special education and related services. District or Campus Assessment Personnel shall make reasonable efforts to review the evaluation report with the parent and answer any questions prior to the ARD meeting.

Determining eligibility under the IDEA is a two-part analysis. A student is eligible if (1) the student has one or more of the disabilities identified by the IDEA and (2) needs special education and related services. Thus, the ARD Committee must determine not only that a student has one or more of the disabilities identified in the IDEA, but must also find that the student's condition adversely affects educational performance to such an extent that the student needs special education and related services (as defined above). If a student has a disability, but the disability does not result in a need for special education services, the student is not considered a child/student with a disability eligible for services under the IDEA. While the need for special education and related services should be determined by the ARD Committee on an individualized basis, in most cases where a student is being educated in the regular classroom with only minor accommodations and is making educational progress (i.e. passing marks, advancement from grade to grade, minimal behavior issues, success on standardized tests, etc.), the student does not "need" special education and related services within the meaning of the law.

Determination of eligibility will not be based on a single criterion. In determining if the student has a disability and the educational needs of the student, the ARD Committee must document and carefully consider information from a variety of sources including:

- The strengths of the student;
- The concerns of the parent for enhancing the education of the student;
- The results of the initial evaluation or most recent evaluation of the student; and
- The academic, developmental and functional needs of the student.

If the student does not meet the eligibility criteria under the IDEA, or does not need special education or related services due to his/her disability, Campus Personnel should refer the student to the Campus or District Personnel responsible for compliance with Section 504 to determine whether the student is eligible for accommodations or services as a student with a disability under Section 504.

Likewise, not all struggling students have a disability. In these situations, the Campus Support Team may meet and recommend other general education services or programs in an effort to help the student. The Campus Support Team may also recommend additional interventions available to non-disabled students. Finally, the student's progress should be monitored to ensure that, in the future, the student does not need special education services. *See* [CHILD FIND DUTY].

At least once annually, District and Campus Special Education Personnel will receive training on the process of determining eligibility. District or Campus Personnel, including but not limited to special education teachers, general education teachers, and services providers, shall contact District or Campus Assessment Personnel with questions about the recommendations for a

student regarding the determined disability condition(s) and the need for special education and related services in the FIE. Where possible, these questions should be answered prior to the ARD meeting to determine eligibility and, if needed, develop an IEP.

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

- Intervention History Documentation
- Section 504 Documentation
- Referral Documentation
- Teacher Information
- Parent Information
- Minutes from Review of FIE with Parent/Staff
- FIE
- ARD/IEP
- Progress Documentation

Resources

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

[Eligibility Determination - Learning Disabilities Association of America](#)

[Diagnosis vs Disability - Texas Project First](#)

[OSEP Letter to Clarke \(March 8, 2007\) - U.S. Department of Education](#)

[Eligibility - SPEDTEX](#)

EXTENDED SCHOOL YEAR SERVICES

Board Policy EHBA; Board Policy EHBA A; Board Policy EHBAB; Board Policy EHB AF; 34 CFR 300.106; 19 TAC 89.1055; 89.1065

What is Required

The ARD Committee must ensure extended school year (“ESY”) services are available as necessary to provide a FAPE to students with disabilities.

ESY services are special education and related services provided to a student with a disability beyond the normal school year of the District in accordance with the student’s IEP and at no cost to the parents of the student that meets the standards set forth by TEA. The ARD Committee must determine whether ESY services are necessary for the provision of FAPE. If the ARD Committee does not propose ESY services for discussion at the annual review of the student’s IEP, the parent may request that the ARD Committee discuss ESY services. The ARD Committee must determine the need for ESY services from formal and/or informal evaluations provided by the District or the parents. For a student enrolling in the District during the school year, information obtained from student’s previous district, as well as information collected during the current year, may be used to determine the need for ESY services.

If the student for whom ESY services were considered but rejected loses critical skills because of the decision not to provide ESY services, and if those skills are not regained after the reasonable period of time for recoupment, the ARD Committee must reconsider the current IEP if the student’s loss of critical skills interferes with the implementation of the student’s IEP.

Limitations on ESY

The District may not limit ESY services to particular categories of disability or unilaterally limit the type, amount, or duration of ESY services.

ESY services are limited to the educational needs of the student and must not supplant or limit the responsibility of other public agencies to continue to provide care and treatment services pursuant to policy or practice, even if those services are similar to, or the same as, the services in the students’ IEP. The student should not be denied ESY services simply because the student is receiving care and treatment services from other agencies.

Regression-Recoupment Analysis

A student qualifies for ESY services if, in one or more critical areas addressed in the student’s current IEP (“critical skill”), the student has exhibited, or reasonably may be expected to exhibit, severe or substantial regression that cannot be regained within a reasonable period of time.

The reasonable period of time for recoupment of acquired skills must be determined on the basis of needs identified in the student’s IEP. If the loss of acquired skills would be particularly severe or substantial, or if such loss results, or reasonably may be expected to result, in immediate physical harm to the student or to others, ESY services may be justified without consideration of

the period of time of recoupment of such skills. The period of time of recoupment must not exceed eight weeks.

If the ARD Committee determines the student needs ESY services, the IEP must identify which goals and objectives in the IEP will be addressed during ESY services.

Definitions

“Severe or substantial regression” means that the student has been, or will be, unable to maintain one or more acquired critical skills in the absence of ESY services.

“Critical Skills” – A skill is critical when the loss of that skill results, or is reasonably expected to result, in any of the following during the first eight weeks of the next regular school year: placement in a more restrictive instructional arrangement; significant loss of acquired skills necessary for the student to appropriately progress in the general curriculum; significant loss of self-sufficiency in self-help skill areas as evidenced by an increase in the number of direct service staff and/or amount of time required to provide special education or related services; loss of access to community-based independent living skills instruction or an independent living environment provided by noneducational sources as a result of regression in skills; or loss of access to on-the-job training or product employment as a result of regression in skills.

Additional Procedures

Determine Student Needs

District and Campus Special Education Personnel are responsible for collecting regression and recoupment data to support the determination of the need for ESY services throughout the year.

The ARD Committee must determine the need for ESY services for all students with disabilities on an individual student basis. The ARD Committee should make recommendations for ESY services based on documentation, including formal and/or informal evaluations provided by the Assessment Personnel, Campus Special Education Personnel, Campus General Education Personnel, and/or the parents, that in one or more critical areas addressed in the current IEP objectives the student has exhibited (or reasonably may be expected to exhibit) severe or substantial regression of an acquired critical skill that cannot be recouped within a reasonable length of time.

ESY should be specifically requested and/or recommended at the annual ARD Committee meeting when deemed appropriate based on student data. The request may be made by District Special Education Personnel involved in the student’s program or the parent.

If the annual ARD is held in the fall semester, the ARD Committee must consider whether to delay the decision about ESY services until later in the school year if limited documentation is available. If this is the case, then another ARD must be held in the Spring to revisit the issue.

If the student qualifies for ESY services, ESY services should be documented in the IEP in a supplement or separate section. The ARD Committee must decide on the appropriate IEP goals and objectives the student will work on during the period of time that ESY services are provided.. Goals for students recommended for ESY services will be identified from the student's current IEP. These goals should be identified as being critical to the student's academic, behavioral, or functional development. And, that without ESY services, the student would suffer regression in that critical skill area that cannot be recouped within a reasonable period of time, not to exceed 8 weeks.

District and Campus Special Education Personnel will be trained at least once annually on the process for determining the need for ESY services.

ESY ARD Meeting

The ARD Committee will consider the following components during the ARD meeting held to consider ESY services:

- ESY Supplement/Section – the ESY ARD Supplement/Section must be completed in its entirety during the ARD and be included in the IEP
- ESY IEP Goals & Objectives – if student meets the ESY recommendation requirements, the ARD Committee must identify current goals that will be addressed during the period of time ESY services will be provided. The ARD Committee documentation must state the time and duration for ESY services.
- Transportation Supplement/Section – transportation, as a related service, will be considered and offered to students with disabilities who need this service to benefit from ESY services. If a parent has declined specialized transportation during the regular school year, but the ARD Committee determines that there will be a need for this service during ESY services, an ARD must be held to add this service. The ARD documentation must indicate that this service will only be for the duration of ESY. In addition, a Transportation Supplement/Section must be completed and submitted along with the other ESY documentation.

Providing ESY Services

It is not unusual for the teacher or service providers working with a student during ESY to be different than the teacher or service provider(s) during the regular school year. It is imperative that those who are most familiar with the student, the student's needs and the student's IEP goals to share relevant information with the teacher and service provider who will be providing ESY services. This information should include the critical skills or emerging skills that will be

addressed during ESY services, specifics about the BIP if the student has one, specifics about accommodations and any other pertinent information. Additionally, the teacher and service providers providing ESY services must communicate the levels of performance the student attained on goals back to the student's campus so the student's teacher will have a good baseline for what was accomplished during ESY. All documentation related to the student's academic and behavioral performance during ESY should be shared with the student's teacher and other service providers.

Evidence of Implementation

- Formal/Informal Evaluations by Assessment Team/SPED staff
- ARD/IEP
- ESY Supplement/Section
- Transportation Supplement
- Documentation Collected During ESY

Resources

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

[Extended School Year Services for Students with Disabilities - Texas Education Agency](#)

[Special Education Rules & Regulations Side-by-Side - Region 18](#)

[Extended School Year Services - SPEDTEX](#)

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

[OSEP Letter to Kleczka \(Sept. 29, 1998\) - U.S. Department of Education](#)

[What Are Extended School Year Services? - Partners Resource Network](#)

GRADUATION

Board Policy EHBAA; Board Policy EHBAB; Board Policy EHBAD; Board Policy EIF; 20 U.S.C. 1412(a)(1)(A); 34 CFR 300.101(a), 300.102(a)(3), 300.305(e)(1-3); Texas Education Code 28.0212, 28.02121, 28.022, 28.025, 28.0256, 39.023, 39.024, 39.0241, 39.025, 39.034, 39.302-

39.304, 42.003(a), 74.1021, 74.1025(n), 74.12, 74.13; 19 TAC 89.1035, 89.1070, 89.1414(c)(5)(A), 101.3022(f), 101.3023; Texas Family Code Chapter 31; HB 3 Sec. 5.001(c)

What is Required

The District's obligation to make FAPE available to all students with disabilities does not apply to students with disabilities who have graduated from high school with a regular high school diploma. Graduation from high school with a regular high school diploma constitutes a change of placement, requiring Prior Written Notice, and requires compliance with the Summary of Performance procedures. See [PRIOR WRITTEN NOTICE] and [SUMMARY OF PERFORMANCE]. An eligible student who is receiving special education services who is 21 years of age on September 1 of a school year will be eligible for services through the end of that school year or until graduation with a regular high school diploma, whichever comes first.

Foundation High School Program

A special education student without modified curriculum who entered 9th grade in the 2014-2015 school year or later may graduate and be awarded a regular high school diploma if the student:

- Demonstrates mastery of the required state standards or District standards, if they are greater;
- Satisfactorily completes the credit requirements for graduation under the Foundation High School Program; and
- Achieves satisfactory performance on the required state assessments, unless the student's ARD Committee has determined that satisfactory performance on the required state assessments is not necessary for graduation. See [ADMISSION, REVIEW AND DISMISSAL COMMITTEE] and [STATE AND DISTRICTWIDE ASSESSMENTS].

A special education student entering the 9th grade in the 2014-15 school year or later whose curriculum is modified may graduate and be awarded a regular high school diploma if the student:

- Demonstrates mastery of the required state standards or District standards if they are greater;
- Satisfactorily completes the credit requirements for graduation under the Foundation High School Program through courses, one or more of which contain modified curriculum that is aligned to the standards applicable to general education;
- Achieves satisfactory performance on the required state assessments, unless the student's ARD Committee has determined that satisfactory performance on the required state assessments is not necessary for graduation; and

- Successfully completes the student’s IEP and meets one of the following conditions:
 - Has obtained full-time employment and mastered sufficient self-help skills to enable the student to maintain the employment without direct and ongoing educational support of the District;
 - Has demonstrated mastery of specific employability skills and self-help skills that do not require direct ongoing educational support of the District;
 - Be involved with an agency that can provide services that are no longer the responsibility of the District; or
 - No longer meets age eligibility requirements.

Endorsements

Special education students may earn an endorsement by successfully completing, with or without modification, the curriculum requirements for graduation under the Foundation High School Program, as well as the additional endorsement curriculum requirements, and successfully completing all curriculum requirements for that endorsement without modification of the curriculum or with modification of the curriculum, provided that the curriculum, as modified, is sufficiently rigorous as determined by the student’s ARD Committee.

The student’s ARD Committee will determine whether the student is required to achieve satisfactory performance on an end-of-course assessment to earn an endorsement on the student’s transcript.

A special education 11th or 12th grade student is eligible to receive an endorsement if the student has taken each of the required state assessments, but failed to achieve satisfactory performance on no more than two of the assessments, as long as the student meets the other endorsement requirements.

In order for a special education student to use a course to satisfy both a requirement under the Foundation High School Program and an endorsement requirement, the student must satisfactorily complete the course without any modified curriculum.

Substitutions under the Foundation High School Program

A special education student who is unable to complete two credits in the same language in a language-other-than-English (“LOTE”) due to the student’s disability, may substitute a combination of two credits from English language arts, mathematics, science, or social studies or two credits in career and technical education, technology applications, or other academic electives for the LOTE credit requirements if the ARD Committee determines that the student is unable to complete the LOTE credit requirements.

A student who, due to student's disability or illness, is unable to participate in physical activity, may substitute one credit in English language arts, mathematics, science, social studies, a locally-designed course that meets the state criteria for substitution under state law, or one academic credit elective for the physical education credit requirement if the ARD Committee determines that the student is unable to participate in the physical activity.

A substitute credit for LOTE or physical education may not be used to satisfy any other graduation requirement.

Transition to the Foundation High School Program

A special education student who entered grade 9 before the 2014-2015 school year may graduate and be awarded a high school diploma under the Foundation High School Program, if the student's ARD Committee determines that the program is appropriate for the student and the student satisfies the requirements of the program.

A special education student transitioning to the Foundation High School Program who meets the requirements for an endorsement may earn an endorsement.

A special education student transitioning to the Foundation High School Program during the student's 11th or 12th grade year who has taken each of the required state assessments but failed to achieve satisfactory performance on no more than two assessments, may graduate if the student has satisfied all other applicable graduation requirements.

Distinguished Achievement, Recommended, and Minimum High School Programs

A special education student entering the 9th grade before the 2014-15 school year may graduate and be awarded a regular high school diploma if the student demonstrates mastery of the state standards (or District standards if they are greater), satisfactorily completes credit requirements for graduation under the recommended or distinguished achievement high school programs, and achieves satisfactory performance on the required state assessment.

An 11th or 12th grade special education student who has taken each of the required state assessments but failed to achieve satisfactory performance on no more than two of the assessments is eligible to graduate under the recommended or distinguished achievement high school program if the student meets all other applicable graduation requirements.

A special education student entering the 9th grade before the 2014-15 school year may also graduate and be awarded a regular high school diploma if the student demonstrates mastery of the state standards (or District standards if they are greater), satisfactorily completes credit requirements for graduation under the minimum high school program, and participates in or satisfactorily performs on the required state assessments, as determined by the ARD Committee. A special education student entering the 9th grade before the 2014-15 school year may also graduate and be awarded a regular high school diploma if the student:

- Demonstrates mastery of the state standards or District standards if they are greater through courses, one or more of which contain modified content that is aligned to the standards required under the minimum high school program;
- Satisfactorily completes credit requirements under the minimum high school program; participates in or satisfactorily performs on the required state assessments, as determined by the ARD Committee; and
- Successfully completes the IEP and meets one of the following conditions:
 - Has obtained full-time employment and mastered sufficient self-help skills to enable the student to maintain the employment without direct and ongoing educational support of the District;
 - Has demonstrated mastery of specific employability skills and self-help skills that do not require direct ongoing educational support of the District;
 - Be involved with an agency that can provide services that are no longer the responsibility of the District; or
 - No longer meets age eligibility requirements.

Student's Eligible to Return to School After Graduating

A special education student who meets the age requirement for eligibility for continued services—i.e. who has not reached age 21 on September 1 of a school year—will be eligible for services and may return to school after graduation as long as the student was awarded a diploma that meets the following conditions:

- The student was required to successfully complete the student's IEP; and
- The student was required to:
 - Obtain full-time employment, based on the student's abilities and local employment opportunities, in addition to mastering sufficient self-help skills to enable the student to maintain the employment without direct and ongoing educational support of the District;
 - Demonstrate mastery of specific employability skills and self-help skills that do not require direct and ongoing education support of the District; or
 - Have access to services that were not within the legal responsibility of public education or employment or educational options for which the student has been prepared by the academic program.

See [AGE RANGES FOR ELIGIBILITY]. The ARD Committee must determine student's educational service needs upon the request of the student or parent to resume services.

Certificates of Attendance and Participation in Graduation Ceremonies

Campus Administration must issue a certificate of attendance to a special education student who has completed four years of high school but has not yet completed the student's IEP. Campus Administration must allow special education students receiving certificates of attendance to participate in a graduation ceremony with students receiving high school diplomas. A special education student may participate in only *one* graduation ceremony to receive a certificate of attendance. The student will then return to school to complete the IEP goals and objectives before receiving a diploma. A student receiving a certificate of attendance is not prevented from receiving a diploma if the student completes the student's IEP.

Financial Aid Application Requirements

Beginning with students enrolled in grade 12 during the 2021-22 school year, each student will complete and submit a free application for federal student aid ("FAFSA") or a Texas application for state financial aid ("TAFSA") before graduating from high school.

A student is not required to submit a FAFSA or TASFA if:

- The student's parent submits a signed form indicating that the parent authorizes the student to decline to complete and submit the financial aid application;
- The student signs and submits a form declining to complete and submit the financial aid application, if the student is 18 years of age or older or the student's disabilities of minority have been removed for general purposes; or
- A school counselor authorizes the student to decline to complete and submit the financial aid application for good cause, as determined by the school counselor.

District Administration must adopt a form to be used for purposes of documenting a waiver to submit the FAFSA or TASFA, and the form must be approved by the Texas Education Agency and made available in English, Spanish, and any other language spoken by a majority of the students enrolled in a bilingual education or special language program in the District or campus. If a school counselor notifies District Administration that a student has complied with the financial aid application requirement for the purpose of determining whether the student meets high school graduation requirements, the school counselor may only indicate whether the student has complied and may not indicate the manner in which the student complied.

Definitions

“Regular high school diploma” means the standard high school diploma awarded to the preponderance of students in Texas that is fully aligned with Texas standards, or a higher diploma, except that a regular high school diploma shall not be aligned to the alternate academic achievement standards described in section 1111(b)(1)(E) of the ESEA. A regular high school diploma does not include a recognized equivalent of a diploma, such as a general equivalency diploma, certificate of completion, certificate of attendance, or similar lesser credential.

“Employability and Self-Help Skills” are those skills that directly relate to the preparation of students for employment, including general skills necessary to obtain or retain employment.

“Modified curriculum” and “Modified content” refer to any reduction in the amount or complexity of the required Texas Essential Knowledge and Skills. Substitutions that are specifically authorized in statute or rule must not be considered modified curriculum or modified content.

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 inventions 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.

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

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.

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.

Summary of Performance

A summary of performance ("SOP") generally refers to a summary of the student's academic achievement and functional performance, which includes recommendations on how to assist the student with a disability in meeting the student's postsecondary goals. An SOP is required for the student whose eligibility under special education terminates due to graduation from secondary school with a regular high school diploma or due to exceeding the age of eligibility for FAPE.

The SOP must consider the views of the parent, the views of the student, and written recommendations for adult service agencies (such as the Department of Assistive and Rehabilitative Services) on how to assist the student in meeting postsecondary goals.

An evaluation must be included as part of the SOP for students graduating based on :

- Completion of the credit requirements for graduation under the Foundation High School Program or the Minimum High School Program through courses, one or more of which contain modified curriculum;
- Satisfactory performance on required state assessments, unless the ARD Committee has determined that satisfactory performance on the assessments is not necessary for graduation; and
- Completion of the individualized education program. See [EVALUATION PROCEDURES] and [REVIEW OF EXISTING EVALUATION DATA].

When the SOP will be completed may vary depending on the student's post-secondary goals, but must be completed no later than the final year of a student's high school education. The SOP is critical as a student transitions from high school to higher education, training and/or employment. Students may share their SOP with colleges, adult agencies, vocational and rehabilitative centers, employers, and others. The SOP helps entities identify services and accommodations the student may require in the classroom, the workplace, or the community. In some instances, it may be most appropriate to wait until the spring of a student's final year to provide an entity, agency, or employer the most updated information on the performance of the student.

The completion of the SOP may require the input of the student's special education teacher, regular education teacher, school psychologist, and/or related service personnel. The SOP should include information about the student, including the most recent formal and informal assessment reports that document the student's disability and provide information to assist in post-high school planning. The SOP should also provide information about the student's performance in at least three areas: functional, academic, and cognitive. The SOP should identify, if applicable, the accommodations, modifications, assistive technology, or general areas of need that were essential in high school to assist the student in making progress and which are needed for the student to be successful in a post high school environment.

Campus Special Education Personnel will meet with the student and parent prior to the student's annual ARD to explain and discuss the SOP and solicit the student and parent's input. The student's contribution to the SOP can help the student better understand the impact of his/her disability on academic and functional performance in the postsecondary setting. The SOP will then be completed at the student's annual ARD or a review ARD that occurs no later than the final year of a student's high school education. The student will be given a copy of the SOP at the student's final annual or review ARD Committee meeting.

Additional Procedures

The above graduation requirements are designed to ensure students finish high school with skills designed to meet their unique needs and prepare them for further education, employment, and/or independent living. Because graduation is a change of placement, the ARD Committee decides whether a student has met graduation requirements under the above framework.

In order for the ARD Committee to determine whether a student has met his/her graduation requirements, the following questions may be considered:

- For a student graduating in accordance with his/her IEP by obtaining full-time employment and mastering sufficient self-help skills to enable the student to maintain the employment without direct and ongoing educational support, the ARD Committee may consider:
 - What is the student's postsecondary goal in the areas of employment, education/training, and independent living (if applicable)?
 - What are the disability related needs of the student relative to their transition plan and their postsecondary goals for transition?
 - What courses, if any, has the student completed that have prepared them with the employment skills and/or self-help skills necessary to obtain or retain a job?
 - What jobs (paid or unpaid) has the student held during high school?
 - Is the student currently employed? If so, where and for how long?
 - Is the student successful in this job(s)? How do you know?
 - Did the student require any support from special education in order to obtain or retain the job?

- If so, who will the student contact once they graduate from high school to access the same type of support to retain their job or obtain a new job?
- If so, is the student already in contact with this person/agency?
- For a student graduating in accordance with his/her IEP by demonstrating mastery of specific employability skills and self-help skills that do not require direct ongoing educational support, the ARD Committee may consider:
 - What is the student's postsecondary goal in the areas of: employment, education/training, and independent living (if applicable)?
 - What are the disability related needs of the student relative to their transition plan and their postsecondary goals for transition?
 - What courses, if any, has the student completed that have prepared them with the employment skills and/or self-help skills necessary to obtain or retain a job?
 - What jobs (paid or unpaid) has the student held during high school?
 - Is the student currently employed? If so, where and for how long?
 - Is the student successful in this job(s)? How do you know?
 - Did the student require any support from special education in order to obtain or retain the job?
 - If so, who will the student contact once they graduate from high school to access the same type of support to retain their job or obtain a new job?
 - If so, is the student already in contact with this person/agency?
 - If the student has never held a job or been competitively employed, what courses has the student taken that have prepared them to obtain or retain a job (as identified in their postsecondary employment goal), including courses that have provided instruction for self-help skills that the student would need in order to be successful in that job (based on their individual disability-related needs in the PLAAFP)?
 - Was the student successful in these courses? How do you know (ex. IEP goal was created, and the student mastered the goal)?
- For a student graduating in accordance with his/her IEP by being involved with an agency that can provide services that are no longer the responsibility of the District, the ARD Committee may consider:
 - What is the student's postsecondary goal in the areas of: employment, education/training, and independent living (if applicable)?
 - What are the disability related needs of the student relative to their transition plan and their postsecondary goals for transition?
 - What courses, if any, has the student completed that have prepared them with the employment skills and/or self-help skills necessary to obtain or retain a job?
 - What jobs (paid or unpaid) has the student held during high school?
 - Is the student currently employed? If so, where and for how long?
 - Is the student successful in this job(s)? How do you know?

- Did the student require any support from special education in order to obtain or retain the job?
 - If so, who will the student contact once they graduate from high school to access the same type of support to obtain or maintain a new job or support in a postsecondary education program?
 - If so, is the student already in contact and receiving services with this person/agency?
 - If not, what should be the next steps for the student to complete in order to access this support or service?
- For a student who no longer meets age eligibility requirements, the ARD Committee may consider:
 - Is this student currently 22? If so, they will not be eligible for services through special education during the next school year.
 - Will this student turn 22 on or before September 1 of next year? If so, they will not be eligible for services through special education during the next school year.

When the ARD Committee determines that modifications to the curriculum are required, the ARD Committee must also ensure that the curriculum remains sufficiently rigorous for the student to retain eligibility for an endorsement.

In regard to state assessments, the ARD Committee will determine whether the state assessment or an alternate assessment is appropriate. The ARD Committee will also determine whether a student is required to achieve satisfactory performance on an end-of-course assessment instrument to earn an endorsement on the student's transcript. *See [STATE AND DISTRICTWIDE ASSESSMENTS].*

A student dismissed from special education services must complete the requirements for high school graduation and perform satisfactorily on any remaining assessments taken after the student is dismissed from special education. Therefore, the ARD Committee should carefully consider whether the student is capable of completing the requirements and passing the statewide exit-level assessment before dismissing the student.

Students who have completed four years of high school, but have not completed the graduation plan in their IEP may be allowed to participate in a graduation ceremony with their peers and receive a certificate. Campus Special Education Personnel determine which students meet this requirement and will contact and notify the parent and the adult student that they have an opportunity to participate in the ceremony. Campus Special Education Personnel will tell the parent and adult student that the student may only participate in one graduation ceremony and if the student were to participate now, that when the student completes his/her IEP graduation plan, he/she will receive a diploma, but will not be allowed to participate in another ceremony.

Documentation Requirements

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. As part of this documentation, the Campus Administrator will ensure that the number and graduation type code for students with disabilities graduating based on ARD Committee decisions is accurately reported through the TSDS/PEIMS system.

Evidence of Implementation

- FIE
- ARD/IEP
- Personal Graduation Plan
- Summary of Performance
- State and Districtwide Assessments
- Prior Written Notice
- Summary of Performance
- Graduation ARD Document
- Document for the state in TSDS, PEIMS, and SPP

Resources

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

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

[Graduation Guidance - Texas Education Agency](#)

[Statewide High School Transition Network - Texas Education Agency](#)

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

[Graduation Guidance - Region 4](#)

[Graduation - SPEDTEX](#)

LEAST RESTRICTIVE ENVIRONMENT

Board Policy EHBA; Board Policy EHBAA; Board Policy EHBAB; Board Policy EHBFB; Board Policy EHBH; 20 USC 1412(a)(5)(A); 34 CFR 300.101, 300.102(a)(1), 300.114(a)(2), 300.115(a)-(b), 300.116, 300.117, 300.320; 19 TAC 75.1023, 89.63, 89.1050(a)(6), 89.1075(e), 89.1080

What is Required

District and Campus Special Educational Personnel must educate a student with a disability in the least restrictive environment (LRE) which means that the student is educated with students who are not disabled to the maximum extent appropriate. Students should only be placed in special classes or separate schooling, or otherwise be removed from regular education classes when the student cannot be appropriately educated in regular education classes with the use of supplementary aids and services. Campus Special Education Personnel must also ensure that students with disabilities are able to participate with nondisabled students in extracurricular or nonacademic activities or services to the maximum extent appropriate to the needs of the student. See [SUPPLEMENTARY AIDS AND SERVICES].

Continuum of Alternative Placements

District and Campus Special Education Personnel must make a continuum of alternative placements for special education and related services available to meet the needs of students with disabilities. The continuum ranges from the least restrictive setting to the most restrictive setting and must include instruction in general education classes, special classes, special schools, home instruction, and instruction in hospitals and institutions along with the provision for supplementary services such as resource room or itinerant instruction provided in conjunction with regular placement. Generally, the farther removed the student is from the general education classroom, the more restrictive the setting.

Placement Decisions

Decisions regarding placement of students with disabilities must be made by the ARD Committee, including the parents, at least annually based on the student's IEP, in conformity with the least restrictive environment, and as close as possible to the student's home. Unless the IEP requires some other arrangement, the student should be educated at the school that the student would attend if nondisabled. The placement or instructional setting for a student with a disability must be specified in the student's IEP. The IEP must also include an explanation of the extent, if any, to which the student will not participate with nondisabled peers in the regular class and in extracurricular and other nonacademic activities. The instructional settings/placements include:

- Mainstream
- Homebound

- Hospital class
- Speech therapy
- Resource room or services
- Self-contained (mild, moderate, or severe) regular campus
- Off home campus
- Nonpublic day school
- Vocational adjustment class or program
- Residential care and treatment facility (not school district resident)
 - See [PLACEMENT IN RESIDENTIAL FACILITY]
- State supported living center.

Preschool-Aged Students

The requirement that District and Campus Special Education Personnel provide students with FAPE in the least restrictive environment also applies to preschool-aged students regardless of whether the District provides free preschool programs to all preschool-aged students. See [AGES 0-5].

Career and Technical Education (“CTE”) Programs

Campus Special Education Personnel may provide Career and Technical Education (“CTE”) services to a student with a disability in a separate program specifically designed to address the student’s individual occupational or training needs if a student is unable to receive a FAPE in a regular CTE classroom using supplementary aids and services. When determining placement in a CTE classroom, the ARD Committee will consider the student’s graduation plan, the content of the IEP including transition services, and classroom supports. See [GRADUATION] and [TRANSITION SERVICES].

Regional Day School Program for the Deaf

The District has access to a regional day school programs for the deaf operated by school districts at sites previously established by the State Board of Education. In addition, any student who has a hearing impairment which severely impairs processing linguistic information through hearing, even with recommended amplification, and which adversely affects educational performance will be eligible for consideration for the Regional Day School Program for the Deaf, subject to ARD Committee recommendations.

Students Residing in a Residential Facility

Students residing in a residential facility must also be educated in the least restrictive environment to the greatest extent appropriate. See [RESIDENTIAL FACILITY WITHIN A DISTRICT].

Definitions

“General education setting” includes general education classrooms and other settings on a campus, including lunchrooms and playgrounds, in which students without disabilities participate.

“Inclusion” is a personalized special education program delivered to a student with a disability in conjunction with a regular education curriculum where support is provided to the student within the general education classroom.

“Mainstream” is an instructional arrangement/setting for providing special education and related services to a student in the regular classroom in accordance with the student’s IEP. Qualified special education personnel must be involved in the implementation of the student's IEP through the provision of direct, indirect and/or support services to the student, and/or the student's regular classroom teacher(s) necessary to enrich the regular classroom and enable student success. The student's IEP must specify the services that will be provided by qualified special education personnel to enable the student to appropriately progress in the general education curriculum and/or appropriately advance in achieving the goals set out in the student's IEP. Examples of services provided in this instructional arrangement include, but are not limited to, direct instruction, helping teacher, team teaching, co-teaching, interpreter, education aides, curricular or instructional modifications/accommodations, special materials/equipment, positive classroom behavioral interventions and supports, consultation with the student and his/her regular classroom teacher(s) regarding the student's progress in regular education classes, staff development, and reduction of ratio of students to instructional staff.

“Homebound” is an instructional arrangement/setting for providing special education and related services to students who are served at home or hospital bedside.

- Students served on a homebound or hospital bedside basis are expected to be confined for a minimum of four consecutive weeks as documented by a physician licensed to practice in the United States. Homebound or hospital bedside instruction may, as provided by District policy, also be provided to chronically ill students who are expected to be confined for any period of time totaling at least four weeks throughout the school year as documented by a physician licensed to practice in the United States. The student's ARD committee shall determine the amount of services to be provided to the student in this instructional arrangement/setting in accordance with federal and state laws, rules, and regulations.
- Home instruction may also be used for services to infants and toddlers (birth through age 2) and young students (ages 3-5) when determined appropriate by the student's individualized family services plan (IFSP) committee or ARD committee.

“Hospital class” is an instructional arrangement/setting for providing special education instruction in a classroom, in a hospital facility, or a residential care and treatment facility not operated by the school district. If the students residing in the facility are provided special education services outside the facility, they are considered to be served in the instructional arrangement in which they are placed and not considered in a hospital class.

“Speech therapy” is an instructional arrangement/setting for providing speech therapy services whether in a regular education classroom or in a setting other than a regular education classroom. When the only special education or related service provided to a student is speech therapy, then this instructional arrangement may not be combined with any other instructional arrangement.

“Resource room or services” is an instructional arrangement/setting for providing special education and related services to a student in a setting other than regular education for less than 50% of the regular school day.

“Self-contained (mild, moderate, or severe) regular campus” is an instructional arrangement/setting for providing special education and related services to a student who is in a self-contained program for 50% or more of the regular day on a regular school campus.

“Off home campus” is an instructional arrangement/setting for providing special education and related services to the following, including, but not limited to, students at South Texas Independent School District and Windham Independent School District:

- A student who is one of a group of students from more than one school district served in a single location when a free appropriate public education is not available in the respective sending district;
- A student in a community setting or environment (not operated by a school district) that prepares the student for postsecondary education/training, integrated employment, and/or independent living in coordination with the student's individual transition goals and objectives, including a student with regularly scheduled instruction or direct involvement provided by school district personnel, or a student in a facility not operated by a school district (other than a nonpublic day school) with instruction provided by school district personnel; or
- A student in a self-contained program at a separate campus operated by the school district that provides only special education and related services.

“Nonpublic day school” is an instructional arrangement/setting for providing special education and related services to students through a contractual agreement with a nonpublic school for special education.

“Vocational adjustment class or program” is an instructional arrangement/setting for providing special education and related services to a student who is placed on a job (paid or unpaid unless otherwise prohibited by law) with regularly scheduled direct involvement by special education personnel in the implementation of the student’s IEP. This instructional arrangement/setting shall be used in conjunction with the student's individual transition goals and only after the school district's career and technical education classes have been considered and determined inappropriate for the student.

“Residential care and treatment facility (not school district resident)” is an instructional arrangement/setting for providing special education and related services to students who reside in care and treatment facilities and whose parents do not reside within the boundaries of the school district providing educational services to the students. In order to be considered in this arrangement, the services must be provided on a school district campus. If the instruction is provided at the facility, rather than on a school district campus, the instructional arrangement is considered to be the hospital class arrangement/setting rather than this instructional arrangement. Students with disabilities who reside in these facilities may be included in the average daily attendance of the district in the same way as all other students receiving special education.

“State supported living center” is an instructional arrangement/setting for providing special education and related services to a student who resides at a state supported living center when the services are provided at the state supported living center location. If services are provided on a local school district campus, the student is considered to be served in the residential care and treatment facility arrangement/setting.

Additional Procedures

The student’s ARD Committee and District and Campus Special Education Personnel will ensure that a student with a disability spends as much time as possible with peers who do not receive special education instruction. District and Campus Special Education Personnel will tailor the environment in which the special education and related services are provided to the student’s individual needs and disabilities.

The student’s ARD Committee will only consider placing the student in special classes or a separate school—or otherwise remove the student from the general education classroom—where the ARD Committee determines that we cannot provide an appropriate education within the general education classroom with supplementary aids and services.

Continuum of Alternative Placements

District and Special Education Personnel will provide a continuum of alternative placements that includes instruction in regular classes, special classes, special schools, home instruction, and

instruction in hospitals and institutions. Where appropriate, District and Special Education Personnel will offer the opportunity for the student to receive supplementary services, including instruction in a resource classroom or inclusion instruction, in conjunction with placement in the general education setting.

The following continuum of services is provided for special education students enrolled in the District:

[See FAPE Least Restrictive Environment operating procedure for the new table that follows this section]

Placement Decisions

The ARD Committee, including District and Campus Special Education Personnel, the student's parent or guardian, and other persons knowledgeable about the student, will hold an annual ARD meeting to determine the student's placement. The ARD Committee will first consider whether placement in the general education classroom is possible by asking the following questions:

- Can the student be appropriately educated in the general education classroom?
- What efforts has the Campus made thus far to determine whether the student can be appropriately educated in the general education classroom and were those efforts successful?
- Has the whole range of aids, services, or additional supports necessary to allow the student to receive FAPE in the general education classroom been considered including resource rooms and additional inclusion support? See [SUPPLEMENTARY AIDS AND SERVICES, SPECIAL EDUCATION, RELATED SERVICES].
- Has the Campus made efforts to modify the regular program to accommodate the student and were those efforts successful?
- Has the Campus considered both the education benefits as well as the social and communication benefits of a regular education setting?
- What are the negative effects on the education of other students in the regular classroom if the student with a disability were integrated in the classroom? Does it significantly impair the education of other students or does it require so much of the teacher's time that the teacher will be unable to educate the other students?
- Is the cost of integrated placement, with appropriate supplementary aids and services, so great that it would significantly impact the education of the other students in the District?
- Is it possible to place the student in regular education for some academic programs?
- Is it possible to place the student in regular non-academic classes?

- Is it possible to provide interaction with nondisabled students during lunch and recess?

The ARD Committee will make an individualized placement determination for each student, considering all relevant evaluation data and placement options. This will include balancing the student's overall educational experience in a regular education setting with the benefits the student would receive in a special education setting. For example, a student may greatly benefit from the social aspects of a regular education classroom while absorbing limited educational information in that setting. The ARD Committee will also consider any potentially harmful effects on the student or the quality of services when selecting the placement. The ARD Committee should not place a student outside of the general education classroom solely because of needed modifications to the general education curriculum. However, a student with a disability need not fail in the general education environment before the ARD Committee can consider or implement a placement in a more restrictive setting. Moreover, the ARD Committee can consider the student's past record of performance in a mainstream environment elsewhere in the District or even another school district.

Placement decisions must be based on the individual needs of the child, as determined by the student's IEP. Placement decision may not be based solely on factors such as category of disability, severity of disability, availability of special education and related services, configuration of the service delivery system, or availability of space. In addition, administrative convenience is never a legitimate consideration in determining LRE. The ARD Committee will not consider lack of personnel or resources as an excuse to relieve the District of the obligation to make FAPE available to students in the LRE.

The ARD Committee will consider whether the student needs to attend a campus or other placement other than the campus that the student would attend if nondisabled. The District may choose to centralize services where it is necessary to serve the needs of the student, utilize personnel effectively, and provide a comprehensive and consistent program. If possible, however, the ARD Committee will place the student in the campus that the student would attend if nondisabled. Additionally, for all students that may require placement in a setting outside of the student's home campus, the Campus Special Education Personnel should consider having knowledgeable staff from the particular centralized site or outside placement attend the ARD Committee.

The ARD Committee will outline the placement decision in the student's IEP and explain the extent, if any, that the student will not participate with nondisabled peers in the general education setting and/or in extracurricular and other nonacademic activities. The ARD Committee should consult with the parent or guardian to ensure that placement is as close as possible to the student's home.

Following the placement decision, Campus Special Education Personnel will provide the student's parent or guardian with Prior Written Notice regarding the placement decision following the ARD meeting and wait the required 5 school days before implementing the student's new placement, unless the parent waives the 5-day notice.

The student's placement will be reviewed at least annually by the student's ARD Committee and the continued appropriateness of the placement will be based on the individual student's progress on his or her IEP and current and unique needs. In addition, the ARD Committee will consider any potential harmful effects on the student or on the quality of services that the student needs as well as the student's access to non-disabled peers when analyzing the appropriateness of the placement.

Should the ARD Committee determine that the District failed to provide a continuum of alternative placements and/or placement in the appropriate setting, the ARD Committee shall determine the type, duration, frequency, and amount of compensatory services, if any, necessary to provide the student. This determination does not require a minute-for-minute computation but rather a qualitative analysis of the services necessary to make up for the skills or learning lost by the previous placement decision. The ARD Committee shall consider what services must be provided to fill a gap between where a student's present level of performance is and where it would have been if the student had been appropriately placed.

Preschool-Aged Students

District and Campus Personnel will provide special education and related services to any student between the ages of 3 through 5 that qualifies for special education services due to a noncategorical early childhood disability or any student from birth through age 5 that qualifies for special education services due to a visual impairment or who is deaf or hard of hearing in the least restrictive environment. The preschool-aged student's placement will be outlined in the student's Individualized Family Services Plan ("IFSP") (for a student ages 0 through 2) or IEP (for a student ages 3 through 5).

If the District does not provide preschool programs to nondisabled preschool students, District Special Education Administration will consider whether the District will provide FAPE through other preschool programs operated by public agencies or a private school program. The ARD Committee may also determine that the least restrictive environment for a preschool-aged student is home instruction where appropriate.

See [AGES 0-5].

Career and Technical Education ("CTE") Programs

The ARD Committee will include a representative from the CTE program as a member of the student's ARD Committee when determining placement in a CTE program. The ARD Committee will also consider whether current enrollment numbers in the CTE classroom could have a harmful effect on the student's ability to learn.

For a student with disabilities placed in the CTE program, Campus Special Education Personnel will communicate with the CTE teacher and any state rehabilitation agencies (where necessary) regarding planning for the student. Campus Special Education Personnel will monitor the

instruction provided to the student in the CTE program to ensure that the instruction is consistent with the student's IEP. Where necessary and appropriate, Campus Special Education Personnel will provide supplementary aids and services, including, but not limited to, modified instruction and instructional aids and devices, in CTE programs. See [SUPPLEMENTARY AIDS AND SERVICES, SPECIAL EDUCATION, RELATED SERVICES].

Regional Day School Program for the Deaf

Should the ARD Committee determine that placement in the Regional Day School Program for the Deaf is appropriate for a student with a hearing impairment, the ARD Committee will outline the services that the District cannot appropriately provide on a campus and that a regional day school program can provide in the student's IEP.

For placement of a hearing impaired student in a regional day school program for the deaf operated by school districts at sites previously established by the State Board of Education, the ARD Committee will consider additional factors, such as distance to the nearest regional day school program, before recommending placement at such program.

A member of the ARD Committee and the parent may visit the regional day school program campus to verify that the student will be able to receive FAPE in accordance with their IEP prior to assigning the placement. Campus Special Education Personnel will communicate any potential placement in a regional day school program to District Special Education Administration prior to any final decision regarding the placement.

Students Residing in a Residential Facility

The ARD Committee will make decisions related to placement in a residential facility on an individualized basis considering the student's unique needs, and the District will comply with all requirements related to residential placements. See [PLACEMENT IN RESIDENTIAL FACILITY]. The ARD Committee will consider both educational and non-educational needs, including health and safety, of the student that may impact the student's ability to receive FAPE on a District campus. However, the ARD Committee should not consider convenience to the District or to the residential facility in the determination to place a student in a residential facility.

A member of the ARD Committee will consult with the proposed residential facility to determine whether the facility has space available for the student and whether such space, if available, is appropriate for the provision of FAPE based on the student's individual needs. The ARD Committee will identify additional placement options if the ARD Committee determines that the proposed residential facility is not appropriate. Furthermore, Campus Special Education Personnel will communicate any potential placement in a residential facility to the District Special Education Administration prior to any final decision regarding the placement.

Extracurriculars and Nonacademic Services

Pursuant to the IDEA, the District must take steps, including the provision of supplementary aids and services determined appropriate and necessary by a student's ARD Committee, to provide nonacademic and extracurricular services and activities necessary to afford students with disabilities an equal opportunity for participation in those services and activities. Nonacademic and extracurricular services and activities may include athletics, special interest groups and clubs sponsored by the District, health services, recreational activities, counseling, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the District and assistance in making outside employment available. While the IDEA does not require the District to establish extracurricular activities and nonacademic services to students with disabilities, the District is required to take the steps necessary to afford students and equal opportunity for participation in these activities, including informing students of opportunities and providing aids and services for those activities, as determined by the student's ARD Committee.

The ARD Committee shall review at a student's ARD meeting, at least annually, the available extracurricular and nonacademic activities appropriate for the student's age and grade level to ensure each student receiving special education services has equal opportunity to participate in nonacademic and extracurricular activities. While a specific extracurricular activity does not generally need to be included in the student's IEP, the IEP should include any reasonable supplementary aids and services, including transportation, necessary to allow the student equal opportunity to participate in the desired or selected activity. Provision of equal opportunity to participate does not mean every student with a disability has the right to be on an athletic team or that a student is entitled to a particular accommodation. Moreover, the District may require a level of skill or ability of a student in order for that student to participate in a selective or competitive program or activity, as long as the selection or competition criteria are not discriminatory. However, the Special Education Department shall monitor the rates of participation of students with disabilities in extracurricular and nonacademic activities and ensure that there are no generalizations, assumptions, or stereotypes about students with disabilities preventing equal opportunity for participation.

For information relating to District procedures for placing a student at the Texas School for the Blind and Visually Impaired or the Texas School for the Deaf, see below [LRE - PLACEMENT IN A RESIDENTIAL FACILITY].

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

- FIE
- ARD/IEP

- Continuum of Instructional Settings
- Documentation Regarding Special Education Students Participation in Extracurricular & Nonacademic Activities
- Documentation of Communication with Regional Day School for the Deaf
- Documentation of Communication with Residential Facility
- Documentation of Coordination Between Campus Special Education Personnel and CTE teacher

Resources

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

[Least Restrictive Environment - Region 20](#)

[The Least Restrictive Environment \(LRE\): Question & Answer Document \(Jan. 4, 2016\) - Texas Education Agency and Region 20](#)

[SPEDTEX - Least Restrictive Environment \(TEA\)](#)

[OSERS Letter to Anderson \(Dec. 4, 2012\) – U.S. Department of Education](#)

[OSERS Letter to Anonymous \(Mar. 30, 2009\) – U.S. Department of Education](#)

[OSERS Letter to Wohle \(Feb. 1, 2008\) – U.S. Department of Education](#)

[OSERS Letter to Spitzer-Resnick \(June 22, 2012\) – U.S. Department of Education](#)

[OSERS Dear Colleague Letter on Children with Disabilities Residing in Nursing Homes \(Apr. 26, 2016\) – U.S. Department of Education](#)

PARENT PARTICIPATION

Board Policy EHBAB; 34 CFR 300.321(b)(3), 300.322, 300.328, 300.501; Texas Education Code 26.0081(a)–(b), 29.005(d); 19 TAC 89.1050(d), (f), (i)

What is Required

Parent's Guide to the Admission, Review, and Dismissal Process

Campus Special Education Personnel must provide the parent the *Parent's Guide to the Admission, Review, and Dismissal Process* (the "Guide") as soon as practicable after a referral for possible special education services, but no later than 5 school days before the initial ARD Committee meeting. The Guide must also be provided upon request of the student's parent.

Responsibility for Parent Participation

Campus Special Education Personnel must make reasonable efforts to ensure that one or both of the parents of the student with a disability are present at each ARD meeting and afforded a reasonable opportunity to participate. To do so, Campus Special Education Personnel must ensure that the parents are provided a notice of the ARD meeting early enough to ensure that they will have the opportunity to attend and schedule the ARD meeting at a mutually agreed upon time and place.

If no parent or guardian is able to attend the ARD Committee meeting in person, Campus Special Education Personnel must use other methods to encourage parent participation, including via telephone or videoconference.

An ARD Committee meeting in which a parent must be given the opportunity to participate, does not include:

- Informal or unscheduled conversations between Service Providers;
- Conversations related to teaching methodology, lesson plans, or communications related to the provision of services; and
- Interactions between the Campus ARD Committee members in preparation of developing a proposal or a response to a parent proposal that will be discussed at the ARD meeting.

The ARD Committee must ensure that the parent is able to understand the entirety of the ARD meeting and provide an interpreter for parents with deafness or whose native language is other than English.

Notice of ARD Committee Meeting

Campus Special Education Personnel must provide the parent or guardian of a student with a disability with written notice of an ARD Committee meeting at least 5 school days before the ARD meeting unless the parent agrees to a shorter timeframe. The written notice must:

- State the purpose, time, and location of the meeting;

- Notify the parents of the provisions relating to participation of other individuals who have knowledge or special expertise about the student; and
- Notify the parents of the participation of the IDEA Part C service coordinator or IDEA Part C representatives at the initial ARD Committee meeting for the student previously served under Part C of the IDEA.

See [ADMISSION, REVIEW, AND DISMISSAL COMMITTEE MEMBERSHIP].

By the first IEP to be in effect when a student turns 16, or younger if determined appropriate by the ARD Committee, Campus Special Education Personnel must also indicate in the notice:

- That the ARD Committee will consider postsecondary and transition services for the student at the ARD meeting;
- That the student will be invited to the meeting; and
- That any other agency may send a representative with the consent of the parents or adult student.

All written notices must be provided in the parent's native language, unless clearly not feasible. Where the parent's native language is not a written language, Campus Special Education Personnel must ensure that notice is translated orally or by other means to the parent in the parent's native language or other mode of communication to ensure the parent understands the content of the notice.

Conducting an ARD Committee Meeting Without the Parent in Attendance

The ARD Committee may convene an ARD meeting without the parent if Campus Special Education Personnel are unable to convince the parent to attend the meeting. Campus Special Education Personnel must keep a record of each attempt to arrange the meeting at a mutually agreed upon time and place. These efforts include, but are not limited to records of telephone calls made or attempted and the results of those calls, copies of correspondence sent to the parent and any responses received, and detailed records of visits to the parent's home or place of employment and the results of those visits.

Parent Copy of the Student's IEP

Campus Special Education Personnel must provide the parent a copy of the student's IEP at no cost. If a parent is unable to speak English and Spanish is the parent's native language, the parent must be provided a written copy or audio recording of the student's IEP translated into Spanish. If a parent is unable to speak English and the parent's native language is a language other than Spanish, Campus Special Education Personnel must make a good faith effort to provide the parent with a written copy or audio recording of the student's IEP translated into the parent's

native language. If the parent's native language is not a written language, Campus Special Education Personnel must take reasonable steps to ensure that the student's IEP is translated orally or by other means in the parent's native language or other mode of communication.

Any translation must be a comparable rendition of the IEP in English and not a partial translation or a summary of the IEP in English. Campus Special Education Personnel may provide the parent an audio recording of an ARD meeting where the parent was assisted by an interpreter if the audio recording contains an oral translation into the target language of all of the content in the student's IEP in English.

Additional Procedures

Parent's Guide to the Admission, Review, and Dismissal Process

The parent can access the Guide both on the Texas Education Agency's website and District's website.

Responsibility for Parent Participation

When scheduling the ARD meeting with the parent, Campus Special Education Personnel will provide the parent multiple different dates/times of the day for the ARD meeting to ensure that the parent can participate. Campus Special Education Personnel will also notify the parent that the parent may participate in the ARD meeting in-person, by phone, or by video conference. ARD meetings will be held at the student's campus, unless the parent objects to this location. If the parent objects to the location of the meeting, Campus Special Education Personnel will work with the parent to find an alternative location within the District for the meeting.

Where feasible, Campus Special Education Personnel will send a draft of the IEP (or at least a draft of the PLAAFP, proposed goals and objectives, accommodations, and BIP) to the parent within a reasonable amount of time for the parent to review prior to the ARD meeting. Campus Special Education Personnel will explain to the parent that the draft IEP is solely for the purpose of discussion and development of the student's IEP and are only recommendations for review and discussion with the parents at the ARD Committee meeting. Campus Special Education Personnel should be very clear with the parent that the draft does not indicate the final decisions of the ARD Committee and that all ARD Committee members will consider the parent's input as well as the input of all members at the ARD Committee meeting. Campus Special Education will maintain a copy of the draft IEP and record in the minutes of the ARD meeting any changes that were made to the draft IEP based on parent input and/or based on other input during the meeting.

During the ARD meeting, Campus Special Education Personnel will check in with the parent to make sure that the parent fully understands the ARD process and what is being discussed in the meeting. Campus ARD Committee members must enter the ARD Committee meeting with an open mind and must meaningfully consider the parents' input as well as all available appropriate

alternatives. The minutes/deliberations of the ARD Committee meeting should reflect the input and the concerns of the parent as well as the District's response to those concerns.

Campus Special Education Personnel should contact District Special Education Administration regarding the need for an interpreter in an ARD meeting. If an interpreter is needed at the ARD meeting, a certified interpreter employed or contracted by the District should be utilized. The other members of the ARD Committee should not also serve as the interpreter for the meeting, unless the parent agrees.

Throughout the ARD year, Campus Special Education Personnel will frequently communicate with the parent of the student through email, phone calls, or letters sent home regarding the student's progress. This will ensure that the parent has an accurate understanding of the student's progress and is fully prepared to participate in the ARD process. Campus Special Education Personnel shall maintain documentation of these communications through a communication log that includes the name of the parent, date and time of the conversation, method of communication, and summary of the discussion.

Notice of ARD Committee Meeting

Campus Special Education Personnel will coordinate with the parent to set up an ARD meeting at a mutually-agreeable time and date. Campus Personnel will provide at least three (3) notices of the ARD to the parent delivered in three (3) different methods (hand delivery, mail, phone call, email, etc.) on three (3) different days. The first notice must be provided to the parent at least five (5) school days before the scheduled ARD meeting. While Campus Special Education Personnel may provide the notice to the parent through the student, (e.g. by placing the notice in the student's backpack), such a delivery method may not be appropriate depending on the student's ability to deliver the notice to the parent and should be followed up with a phone call, email, or other documented delivery method to the parent. Campus Special Education Personnel will document all efforts and place relevant documentation in the student's special education eligibility folder.

In addition to the notice requirements above, Campus Special Education Personnel will ask the parent to provide the names of any other individuals invited by that parent that will be attending the ARD meeting. Campus Special Education Personnel should contact the District's Special Education Director regarding how to proceed if the parent indicates that an advocate or attorney will attend the ARD meeting.

If necessary, Campus ARD Committee members should schedule and participate in a staffing prior to an ARD meeting to prepare a draft proposal or a response to a parent proposal that will be discussed at the ARD meeting. It is likely that a staffing will need to be scheduled prior to the ARD with District Special Education Personnel (and possibly the District's legal representation), if

the parent indicates that an attorney or advocate will be present at the ARD, or if the campus is aware of a significant concern or proposal of the campus and/or parent. Parents have no right to attend a staffing.

All requests for translated in a parent's native language should go through the Special Education Department. Campus Special Education Personnel should not attempt to translate such documentation through an online translation system.

Notice of Procedural Safeguards

The District must adopt and implement appropriate procedural safeguards regarding the identification, evaluation, or educational placement of students with disabilities or those who are suspected of having disabilities. District or Campus Special Education Administration or Personnel or District Assessment Personnel must provide the parents of a student with a disability a copy of the Notice of Procedural Safeguards at least one (1) time per school year and in the following circumstances:

- Upon initial referral or parent request for evaluation. See [REFERRAL FOR POSSIBLE SPECIAL EDUCATION SERVICES];
- Upon receipt of the first State complaint or due process complaint in a school year. See [TEA COMPLAINT PROCEDURES] and [DUE PROCESS COMPLAINTS];
- In accordance with discipline procedures set forth under the IDEA. See [DISCIPLINE SECTIONS]; and
- Upon request by a parent.

A parent may elect to receive the copy of the Notice of Procedural Safeguards via e-mail if the District makes that option available.

Conducting an ARD Committee Meeting Without the Parent in Attendance

Campus Special Education Personnel must keep a record of all attempts to arrange a mutually agreeable time and place for an ARD meeting including keeping a phone log of all calls made or attempted and the results of those calls; all letters, emails, text messages, and/or other communications sent to the parent and the parent's response, and any record of any visits to the parent's home or place of employment. Campus Special Education Personnel must make at least 3 documented attempts to convince the parent to attend the ARD meeting. If Campus Special Education Personnel still cannot convince the parent to attend the ARD meeting after all reasonable efforts to encourage participation have been made, the ARD Committee will convene an ARD meeting without the parent. During the ARD meeting, the Campus Special Education Personnel should outline the attempts taken to obtain parent participation and this information should be included in the minutes/deliberations of the ARD meeting. Campus Special Education Personnel will ensure that the parent receives a copy of the IEP and Prior Written Notice following the ARD meeting. The documentation will also explain to the parent that the parent is welcome to contact the campus after reviewing the IEP to schedule another ARD meeting.

Parent Copy of the Student's IEP

Campus Special Education Personnel will provide the parent with a copy of the student's IEP. If the ARD meeting is recorded by Campus Special Education Personnel and the parent requests a copy of the recording, the parent will be provided with a copy of the recording in accordance with the District's student records policies. The recording or videotaping of ARD Committee meetings should be in accordance with District policies.

All requests for an IEP translated in a parent's native language should go through District Special Education Department. Campus Special Education Personnel should not attempt to translate such documentation through an online translation system.

Parent Request for ARD Meeting

While a parent has the right to meaningful participation in the student's IEP, the District is not required to convene an ARD meeting at the request of the parent if the request does not involve the provision of a free appropriate public education ("FAPE") to the student. Should the parent request an ARD meeting to address an issue other than the provision of FAPE, Campus Special Education Administration and Campus Special Education Personnel will communicate to determine whether to grant the parent's request. If the District denies a parent's request for an ARD meeting, the Campus Special Education Personnel must provide the parent Prior Written Notice in the parent's native language or other mode of communication within five (5) school days of the request, outlining the District's reason for denying the meeting. See [PRIOR WRITTEN NOTICE]. If a parent/teacher conference or conference with an administrator is appropriate, the Campus Special Education Administrator or Campus Special Education Personnel may offer to meet with the parent outside of an ARD meeting.

Evidence of Implementation

- Receipt of *Parent's Guide to the Admission, Review, and Dismissal Process*
- *Parent's Guide to the Admission, Review, and Dismissal Process*
- Notice(s) of ARD Meeting
- Attempts to Contact the Parent or Guardian to Ensure Parental Participation in ARD Meeting
- Prior Written Notice
- Family Engagement Activities
- Communication Log
- Draft of ARD/IEP

- Final ARD/IEP
- Documentation that ARD/IEP Was Provided to Parent in Language Accessible to Parent
- Documentation of Translator or Interpreter for Parent Where Necessary

Resources

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

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

[OSEP Letter to Thomas \(June 3, 2008\) - U.S. Department of Education](#)

[OSEP Letter to Northrop \(May 21, 2013\) - U.S. Department of Education](#)

[OSEP Letter to Breton \(Sept. 24, 2013\) - U.S. Department of Education](#)

[OSEP Letter to Anonymous \(Mar. 7, 2012\) - U.S. Department of Education](#)

PLACEMENT IN A RESIDENTIAL FACILITY

Board Policy EHBAC; Texas Education Code 29.008(d); 19 TAC 89.61(a)-(c), 89.1085(c)

What is Required

The District must provide a residential placement to a student with disabilities at no cost to the parents if the ARD Committee determines that such placement is necessary for the student to receive FAPE. District Special Education Administration may contract with a residential facility to provide some or all of the special education services listed in a student's IEP if the student cannot obtain an educational benefit in a less restrictive setting. See [ADMISSION, REVIEW AND DISMISSAL COMMITTEE] and [LEAST RESTRICTIVE ENVIRONMENT].

When the ARD Committee determines that a residential placement is necessary for FAPE, the ARD Committee must list the services in the IEP which the District is unable to provide and which the residential facility will provide, document the appropriateness of the facility, and verify during the initial ARD meeting and each subsequent annual ARD meeting that the facility meets minimum standards for health and safety, is needed, appropriate, and the LRE for the student. The ARD Committee must also establish, in writing, criteria and estimated timelines for the student's return to the District.

Within 30 calendar days from an ARD committee's decision to place a student in a residential education program, the District must electronically submit to TEA notice of and information regarding placement in accordance with the submission procedures specified by TEA.

When making a residential placement, the District must comply with the use of funds for contract services requirements of the law. See [USE OF FUNDS FOR CONTRACT SERVICES INCLUDING RESIDENTIAL PLACEMENTS].

Texas School for the Blind and Visually Impaired (TSBVI) and Texas School for the Deaf (TSD)

Where appropriate based on the student's disability, the ARD Committee may determine that placement at the TSBVI or TSD is necessary. The ARD Committee must include in the IEP the services that TSBVI or TSD can appropriately provide and the criteria and estimated timelines for the student's return to the District. District Special Education Personnel may make an on-site visit to verify that TSBVI or TSD can and will offer the services listed in the student's IEP and to ensure an appropriate educational program for the student can be offered.

In-State Versus Out-of-State Placements

The District may only enter into a contract with an in-state public or private residential placement that maintains current and valid licensure for the particular disabling condition and age of the student. The facility must be approved by the Texas Commissioner of Education. The same applies for out-of-state placements, so long as the facility is approved by the appropriate agency in the state in which the facility is located.

Residential Approval and Application Process

Residential facilities which provide educational services must have their educational programs approved for contracting purposes by the Commissioner of Education. Approval may be for one, two, or three years, as determined by the TEA. The Commissioner will renew approvals and issue new approvals only for those facilities which have students already placed or which have a pending request for approval from the District.

If a residential facility which has not been approved by the Commissioner of Education is being considered by the District, the District Special Education Administration will notify TEA in writing of its intent to place the student at the facility. TEA will begin the approval procedures and conduct an on-site visit within 30 calendar days after notification.

However, prior approval is not required where a residential facility is only to provide related services or where District or Campus Special Education Personnel are to provide the education services within the residential facility.

District Special Education Administration must submit an application to TEA to receive approval from the Texas Commissioner of Education prior to placing a student in a residential facility where the facility will provide educational services listed in the student's IEP. A residential application may *only* be submitted for educational purposes.

Reporting and Responsibility

The residential facility must periodically report to District Special Education Administration regarding the services the student has received or will receive in accordance with the contract, as well as any diagnostic or other evaluative information that is required to fulfill the District's obligations under the IDEA. In addition, District Special Education Personnel must make an initial and two subsequent onsite visits annually, one announced and one unannounced, to verify that the residential facility can, and will, provide the services listed in the student's IEP that the facility has agreed to provide the student. If a student residentially placed by the ARD Committee changes residence to another Texas school district during the school year but remains in the residential facility, the District remains responsible for the residential contract for the remainder of the school year.

Additional Procedures

The ARD Committee will consider several different factors related to the student's individual needs when determining if residential placement is needed, including, but not limited to:

- The District's efforts to provide special education services in a placement within the District, including the curriculum offered and the supplemental services provided;
- The educational benefits of receiving services on a traditional campus versus the educational benefits of receiving services in a residential facility;
- Any possible consequences, both for the individual student and for other students, of having the student educated in a placement within the District;
- Any physical or mental conditions or behavioral challenges prohibiting the student from receiving FAPE in a placement within the District;
- Any recommendations by evaluators or medical professionals in previous assessments related to residential placement; and
- Whether the demand for residential placement is primarily to provide educational benefit.

District or Campus Special Education Personnel must communicate any potential placement at a residential facility to the District Special Education Administration prior to any final decision regarding the placement.

The ARD Committee will determine appropriate placement. If the ARD Committee determines that placement at a residential facility is necessary for the student to receive FAPE, the District will offer the program at no cost to the parents of the student. This may include transportation costs associated with travel to and from the residential facility for the student and/or the parents, as determined necessary and appropriate by the ARD Committee.

After the ARD Committee determines that a student needs a residential placement and the services and supports needed at the residential facility, the District will select the appropriate residential facility with input from the parent. The District Special Education Administrator(s) and/or designees will select the residential facility that is able to meet the needs of the student, in accordance with the student's IEP, including ensuring that the residential facility can provide the services required in the child's IEP and that the facility employs general education, special education, and related service personnel who are certified, endorsed, or licensed to meet the needs of the student in accordance with the student's IEP.

The Special Education Department will maintain a list of residential placement facilities approved by Texas Commissioner of Education in Texas and the services available at those facilities. The District Special Education Department will periodically send representatives of the District to visit all the residential facilities in Texas that are approved by the Texas Commissioner of Education to ensure that up to date information is available regarding the characteristics, services, cost, and available resources for the various residential facilities in Texas. During the visit, the District Special Education Personnel will gather the following information:

- the special education services available at the facility for students;
- the age, disabilities, and needs served by the facility;
- the personnel at the facility, including the number, role, qualifications, certifications, endorsements, and/or licenses of each person;
- the procedures the facility used regarding emergency behavior interventions
- the instructional curriculum and interventions the facility uses;
- the supervision or monitoring offered for the students throughout the day and night;
- the cost; and
- any and all certifications, approvals, and/or licenses held by the facility.

The District will ensure that any in-state facility that the District seeks to place a student maintains current and valid licensure and has been approved or is in the process of being approved by the Texas Commissioner of Education prior to determining that a student will be placed in the facility. The District will also ensure that any out-of-state facility in which the District seeks to place the student maintains current and valid licensure and has been approved

by the appropriate state agency in the state in which the facility is located. If an out of state residential facility is needed because there are no in-state facilities available to meet the needs of the student, the District Special Education Director will notify TEA in writing of its intent to place the student at the facility and request approval. The District will also send a representative to the out-of-state facility before recommending the facility to ensure that the specific needs of the child as identified in the student's IEP can be met.

District and Campus Administrators will receive annual training about placements in residential facilities. This training shall include information regarding the ARD Committee's role in placing students in residential facilities, the various types of residential placements, the application process, and reporting and monitoring responsibilities.

Residential Application Process

District Special Education Administration will notify the TEA of its desire to contract with a residential facility through the residential application process for each individual student the District seeks to place in a residential facility. District Special Education Administration will also submit any request for approval of state and federal funding for residential placement through the residential application process.

District Special Education Administration will indicate the following in its request for approval:

- Placement is not due primarily to the student's medical problems;
- Placement is not due primarily to problems in the student's home;
- The ARD Committee has established criteria and timelines for the student to return to District;
- The ARD Committee has attempted to implement lesser restrictive placements prior to determining that this placement is necessary and appropriate, except in emergency situations as documented by the ARD Committee;
- Placement in the residential facility is more cost effective than alternative placements considered; and
- The residential facility does not provide unfundable/unapprovable services.

Reporting and Responsibility

District Special Education Administration will communicate with the residential facility at least once per nine weeks to ensure that the student has received or will receive the services

outlined in the student's IEP, gather all progress documentation for the student, and discuss any diagnostic or other evaluative information where necessary. The District Special Education Administration will also communicate with the residential facility and the parent regarding any need for an ARD Committee meeting to discuss any additions or revisions needed to the student's IEP to address any lack of progress and/or current needs of the student. District Special Education Administration will also ensure that the residential facility is continuing to employ general education, special education, and related services personnel who are certified, endorsed, or licensed in the area of assignment and that it uses appropriate emergency behavioral interventions with the student that comply with state and federal requirements and meet the needs of the student in accordance with the student's IEP.

In addition, District Special Education Personnel must make an initial and two subsequent onsite visits annually, one announced and one unannounced, to verify that the residential facility can, and will, provide the services listed in the student's IEP that the facility has agreed to provide the student. During these visits, the District Special Education Personnel will review the student's IEP with the residential facility personnel and obtain documentation verifying that all accommodations, services, modifications, goals and objectives, and other provisions of the student's IEP have been provided.

District Special Education Administration will report all students placed in residential facilities to TEA through the Residential Facility Tracker by the end of the school year annually.

Procurement Process for Residential Facility Contract

If a student with a disability needs a residential program to receive special education and related services as determined by the student's ARD Committee, the District must provide that program, including non-medical care, room and board, education-related expenses, transportation to and from the residential facility, and travel expenses for visiting the student at no cost to the parents. After the District Special Education Administration determines the residential facility in which a student needs in accordance with the student's IEP, the District will contract with the residential facility to provide the special education services and placement for the student.

Evidence of Implementation

- ARD/IEP
- Continuum of Alternative Placements Considered
- List & Characteristics of Approved Residential Facilities
- Documentation of Communication with Residential Facility
- Documentation of Site Visits Prior to Placement

- Residential Application
- Approval of Residential Facility
- Documentation of Services & Accommodations Provided by Residential Facility
- Progress Documentation of Student's Goal & Objectives
- Residential Facility Tracker

Resources

[The Legal Framework for the Child-Centered Special Education Process: Placement in a Residential Facility - Region 18](#)

[Nonpublic Day and Residential Placement Notification and Application – \(TEA\)](#)

[Residential Facility Tracker - Texas Education Agency](#)

[Special Education in Residential Facilities - Texas Education Agency](#)

[OSEP Letter to Covall - U.S. Department of Education](#)

[Texas School for the Blind and Visually Impaired](#)

[Texas School for the Deaf](#)

PRESENT LEVELS

Board Policy EHBAB; 34 CFR § 300.320(a)(1)

What is Required

A student's IEP should be based on a careful analysis of the student's present levels of academic achievement and functional performance (PLAAPF).

The PLAAFP must include how the student's disability affects the student's involvement and progress in the general education curriculum; or, for a preschool student, how the disability affects the preschool student's participation in appropriate activities.

The PLAAFP for the school-aged student summarizes the current strengths and needs of the student in both academic and functional performance areas. It must include how the student's disability affects the student's involvement and progress in the general education curriculum, regardless of the setting in which the student currently receives services. Additionally, it may describe the current instructional level of the student compared to the grade level Texas Essential Knowledge and Skills, and, if the student is below grade level, the PLAAFP also may describe the prerequisite skills the student needs in order to achieve grade-level proficiency.

PLAAFP for the preschool student summarizes the current levels of present performance related to the student's developmental domains, functional performance, and pre-academic skills. It must include how the student's disability affects the student's participation in appropriate activities. Additionally, it may describe the student's current developmental levels compared to the Texas Prekindergarten Guidelines or District-adopted prekindergarten curriculum.

Additional Procedures

The PLAAFP data is the critical baseline and foundation for developing an IEP. When considering PLAAFP data, the ARD Committee should include within the PLAAFP statement the student's strengths, weaknesses, and needs in each assessed academic and functional area. From there, the PLAAFP statement should specifically address: 1) how the student's disability impacts the student's appropriate progress in light of the student's unique circumstances, including the student's access to the general education curriculum; or 2) how the disability impacts the preschool student's participation in appropriate activities. If the ARD documentation contains both current PLAAFP data as well as historical PLAAFP information, the date of the PLAAFP data should be clearly identified.

It is critical that the PLAAFP statements are clear and detailed to help the ARD Committee develop a meaningful IEP. For example, if a student's academic performance shows a weakness in math, it is not sufficient for the PLAAFP to simply state that the student is struggling in math. Instead, the PLAAFP description should, for example, specify the student's math grade, the math teacher's input, the student's state assessment score in math, and progress data if the student has a math IEP annual goal. The more detailed the PLAAFP data is, the better the ARD Committee can gauge the student's current performance level. The PLAAFP must not be a recitation of the information in the PLAAFP from the previous IEP and must not simply repeat the same information in each section within the PLAAFP.

The ARD Committee should then use the PLAAFP data to create the student's annual goals, supplementary aids and services, special education, and related services. See [ANNUAL GOALS] and [SUPPLEMENTARY AIDS AND SERVICES, SPECIAL EDUCATION, RELATED SERVICES]. The ARD

Committee should ensure that the IEP represents a clear correlation between the student's PLAAFP data and the IEP annual goals. For example, if the PLAAFP demonstrates that a student's education is impacted by not following directions, then the student may have an annual goal related to complying with directions given by staff. Additionally, the student may have counseling as a related service to help achieve the goal of better classroom compliance.

Campus Special Education Personnel, such as the student's case manager, should gather all of the relevant data in advance of the ARD meeting to help the ARD Committee develop the student's PLAAFP in the IEP. The underlying sources to be used when considering PLAAFP data may include:

- Evaluation Reports
- Grades
- Student Work Samples
- State Assessment Data
- Benchmark Testing
- Teacher Input
- Student/Parent Input
- Classroom Observations
- Progress Reports for IEP Annual Goals
- Outside Provider Information

Once this information is collected, the ARD Committee should convene to develop the PLAAFP as described above. It is important that the Campus Special Education Administrator in an ARD meeting understand the legal importance of the PLAAFP and be able to identify whether the PLAAFP adequately addresses the strengths and needs of the students based on current data, including the FIE. Where possible, the Campus Special Education Administrator shall review the draft of the IEP prior to the ARD meeting to ensure the PLAAFP includes all relevant and current information regarding the student's present levels of academic achievement and functional performance, as well as how the disability impacts the student's access and progress in the general curriculum.

Evidence of Implementation

- FIE
- ARD/IEP
- Progress Reports on the IEP Annual Goals
- Report Card Grades
- Teacher and Campus Special Education Administrator Input
- Student/Parent Input
- Student Work Samples
- State Assessment Results

- Benchmark Testing
- Input from Related Service Providers

Resources

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

[Present Levels of Academic Achievement and Functional Performance - Region 10](#)

[SPEDTEX - PLAAFP](#)

[IEP Goal Development in Texas-Online Training - Region 20](#)

[Standards-Based Individualized Education Program Guidance - TEA](#)

[Texas Essential Knowledge and Skills \(TEKS\) - TEA](#)

[Texas Pre-Kindergarten Guidelines - TEA](#)

PRIOR WRITTEN NOTICE

Board Policy EHBA; Board Policy EHBAE; 20 U.S.C. 1414(b)(1), 1415; 34 CFR 300.300, 300.304(a), 300.322, 300.503, 300.504, 300.505; 19 TAC 89.1011, 89.1015, 89.1045(a), 89.1050(h), 89.1055(g)

What is Required

Campus Special Education Personnel must provide Prior Written Notice to a parent before the District:

- Proposes or refuses to initiate or change the identification of the student;
- Proposes or refuses to initiate or change the evaluation of the student;
- Proposes or refuses to initiate or change the educational placement of the student;
- Proposes or refuses to initiate or change the provision of a free appropriate public education (FAPE) to the student;
- Proposes to convene an ARD Committee meeting as part of the invitation to the admission review, and dismissal meeting;
- Implements an IEP with which the parent disagrees; or

- Ceases the provision of special education and related services due to the parent's revocation of consent for services.

How and When the Notice Must Be Provided

Campus Special Education Personnel must provide the Prior Written Notice at least five school days before the District proposes or refused the action, unless the parent agrees to a shorter timeframe.

If the parent submits a written request to the District's Special Education Director or to a Campus Administrator for an initial evaluation of the parent's child for special education services, District Special Education Personnel must, not later than the 15th school day after the date of receipt of the request, either:

- Provide the parent with Prior Written Notice of its proposal to conduct an evaluation, a copy of the *Notice of Procedural Safeguards*, and an opportunity to given written consent for the initial evaluation. See [CONSENT FOR INTIAL EVALUATION]; OR
- Provide the parent with Prior Written Notice of its refusal to conduct an evaluation and a copy of the *Notice of Procedural Safeguards*.

If a parent revokes consent for services, the District must provide Prior Written Notice to the parent before ceasing the provision of special education and related services to the student. See [CONSENT FOR SERVICES].

The Prior Written Notice must be in a language understandable to the general public and in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so. If the native language or other mode of communication of the parent is not a written language, the District must take steps to ensure that the notice is translated orally or by other means for the parent in the parent's native language or other mode of communication and that the parent understands the content of the notice.

The parent may elect to receive Prior Written Notices by electronic mail communication, if the District makes that option available.

Content of the Notice

The District must include the following in the Prior Written Notice:

- A description of the action proposed by the District;
- An explanation of why the District proposes or refuses to take the action;
- A description of each evaluation procedure, assessment, record, or report the District used as a basis for the proposed or refused action;

- A description of other options that the ARD considered and the reasons why those options were rejected;
- A description of any other factors that are relevant to the District's proposal or refusal;
- A statement that the parent has protection under the procedural safeguards of the IDEA, and if the notice is not an initial referral for evaluation, the means by which a copy of the *Notice of Procedural Safeguards* can be obtained; and
- Sources for the parents to contact to obtain assistance in understanding the IDEA;

If the District is proposing to conduct an evaluation, it must also include in the Prior Written Notice a description of any evaluation procedure it proposes to conduct.

Definitions

"Consent for services" is the informed consent that the District must obtain before the initial provision of special education and related services.

"Informed Consent" means that: the parent has been given all the information related to the action for which parental permission is sought in the parent's native language or other mode of communication; the parent understands and agrees in writing to the activity for which permission is sought, and the written consent describes the activity and lists any records that will be released and to whom; and the parent understands that the granting of your consent is voluntary and may be withdrawn at any time.

Additional Procedures

The District must provide a parent with Prior Written Notice when it proposes or refuses to initiate or change the student's identification, evaluation, placement, or how the student is provided a FAPE, regardless of whether the parent or District initiated the change or whether the parent agrees or disagrees with the change, or whether the District refuses to make a change or provide a service requested by the parent.

Prior Written Notice should be provided to notify the parent of the scheduling of an ARD meeting. Campus Special Education Personnel will provide the parent a Prior Written Notice of the ARD meeting at least 5 school days prior to the date of the ARD. If the Prior Written Notice of the ARD meeting is received by the parent less than or equal to 5 school days prior to the ARD, the parent must sign that they waive their right to the 5-day notice, and the signed notice must be attached to the ARD paperwork. If the parent will not waive their 5-day notice, the ARD meeting must be rescheduled to give the parent the requisite notice.

Special Education Personnel will also create and send to the parent a Prior Written after each and every ARD meeting, detailing the decisions of the ARD Committee and including a description of all of the actions the ARD Committee has decided upon regarding the student's IEP and all the

actions that the ARD Committee rejected, an explanation of why the ARD Committee is proposing or refusing to do the stated actions, a description of all the alternate actions or options the ARD Committee considered, a description of the data and other relevant factors that the ARD Committee considered to make its decisions, a statement of the parent's procedural rights, and information about the District, state, and local sources the parent can contact for questions regarding their rights. None of the actions documented in the ARD Committee can be implemented until 5 school days after the parent has received a copy of the Prior Written Notice, unless the parent has waived the waiting period at the ARD meeting.

Further, Special Education Personnel will create and send to the parent Prior Written Notice are when:

- Campus or District Special Education Personnel propose or refuse to conduct an initial evaluation of a student. *See* [REFERRAL FOR POSSIBLE SPECIAL EDUCATION SERVICES] and [CONSENT FOR INITIAL EVALUATION]
- Campus or District Special Education Personnel propose or refuse to conduct a reevaluation of a student. *See* [REVIEW OF EXISTING EVALUATION DATA] and [CONSENT FOR REEVALUATION]
- Campus Special Education Personnel refuse to schedule an ARD meeting at parent request. *See* [ARD COMMITTEE MEETING]
- Campus Special Education Personnel amend the IEP without an ARD meeting. *See* [AMENDMENT WITHOUT A MEETING]
- The parent has given the District written notice revoking consent for an evaluation. *See* [CONSENT FOR INITIAL EVALUATION] and [CONSENT FOR REEVALUATION]
- The parent has given the District written notice revoking consent for the student to receive special education services. *See* [CONSENT FOR SERVICES]

Furthermore, Campus Special Education Personnel should provide Prior Written Notice to a parent or an adult student when the student graduates from high school since graduation constitutes a change in placement. *See* [GRADUATION].

Drafting the Notice

The District must provide the parent with several pieces of information in the Prior Written Notice, including the following:

- A description of the action proposed or refused by the District. For example:
 - The District is proposing to conduct a three-year evaluation using existing data that

- includes teacher observations, student test results, and behavior logs.
- Student has displayed aggressive behavior in the classroom for the last three months. The District is proposing an evaluation to determine if student has a disability due to observed behavioral problems.
 - The District will conduct a transition assessment to gather information intended to help your student prepare for leaving high school.
 - Due to student's below grade level academic skills, student will receive direct special education services for reading and math as indicated in the attached IEP.
 - An explanation of why the District proposes or refuses to take the action. For example:
 - Student's reading skills are more than two years below grade level even after receiving small group instruction on specific skill deficits for the last six months.
 - Student is displaying severe aggressive behavior. An FBA will be conducted to analyze the factors that may be contributing to this behavior.
 - Student's speech or pronunciation at her age is not clear to teachers and parents. Teachers and parents have difficulty understanding her when she talks.
 - A description of each evaluation procedure, assessment, records, or report that the District used as a basis for the proposed or refused action. The basis for the proposed action or refusal could be:
 - teacher and/or parent input,
 - classroom performance,
 - formal assessment results,
 - work samples,
 - behavior logs,
 - progress on previous IEP goals and objectives, and/or
 - results of prereferral interventions.
 - A statement that the parent has protection under the procedural safeguards of Part B of the Individuals with Disabilities Education Act (IDEA) and, if this notice is not an initial referral for evaluation, the means by which a copy of the Notice of Procedural Safeguard can be obtained. For example, Campus Special Education Personnel may direct the parent to the link on the District's website.

- Sources to contact for the parent to obtain assistance in understanding the provisions of Part B of the IDEA. For example, the contact information for the District's Regional Education Service Center.
- A description of other options that the ARD Committee considered and the reasons why those options were rejected. Other options considered by the ARD Committee could include:
 - delaying an evaluation,
 - conducting additional prereferral interventions,
 - conducting different assessment procedures,
 - reviewing existing data,
 - adding or deleting services in an IEP,
 - adding accommodations and modifications to an IEP; or
 - considering the alternative placements on the continuum of placements.
- A description of any other factors that are relevant to the District's proposal or refusal. Other factors affecting a proposal or refusal could include language issues, cultural issues, communication concerns, health concerns, behavior concerns, and/or assistive technology. For example,
 - *Student is legally blind. District will conduct a Braille evaluation.*
 - *Student's primary language is Spanish. Some accommodations will be made for student's evaluation.*
 - *Student requires frequent restroom breaks due to student's health condition. Accommodations related to student's need for frequent breaks are addressed in the attached IEP.*

ARD Committee Record as Notice

The record from an ARD Committee meeting may be used for the Prior Written Notice so long as the documents the parent receives contain all the content that must be included in the Prior Written Notice as described above. It is often easier, and more efficient, to prepare a separate document identified as a Prior Written Notice to ensure that all required elements of the Prior Written Notice are included, especially if the deliberations of the ARD Committee meeting are incomplete.

Provide Notice in a Timely Manner

The law does not require that the Prior Written Notice be provided by a certain date after the ARD Committee makes its decision, but it should be done in a timely manner. Regardless, Campus Special Education Personnel must provide Prior Written Notice at least five school days before the District implements the proposal described in the notice, unless the parent agrees otherwise. The parent may waive the five-day notice requirement. If the parent waives the five-day notice requirement, Campus Special Education Personnel should maintain written documentation of the waiver.

Evidence of Implementation

- ARD/IEP
- Documentation of Parent Agreement/Disagreement
- Notice of ARD Meeting
- Prior Written Notice after ARD Meeting
- Prior Written Notice for Evaluation
- Prior Written Notice for Graduation
- Prior Written Notice for ARD Amendment
- *Notice of Procedural Safeguards*
- *Parent's Guide to the Admission, Review, and Dismissal Process*
- Parent Revocation of Consent for Services
- Parent Request for Evaluation
- Parent Request for ARD Meeting

Resources

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

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

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

[Prior Written Notice Questions and Answers - Region 13](#)

[Prior Written Notice - Region 4](#)

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

[OSEP Letter to Lieberman \(Aug. 15, 2008\) - U.S. Department of Education](#)

[OSEP Letter to Spitzer-Resnick, Swedeen, and Pugh \(June 22, 2012\) - U.S. Department of Education](#)

[OSEP Letter to McWilliams \(July 16, 2015\) - U.S. Department of Education](#)

[OSEP Letter to Ward \(Aug. 31, 2012\) - U.S. Department of Education](#)

[OSEP Letter to Chandler \(Apr. 26, 2012\) - U.S. Department of Education](#)

Prior Written Notice of Refusal - Partner Resource Network

RULE OF CONSTRUCTION

34 CFR 300.306(a)(1), 300.116(a), 300.320(a), 300.320(d), 300.321(a); Texas Education Code 29.005(f), 29.0051(c); 19 TAC 89.1040(b), 89.1050(a), 89.1055(a)

What is Required

The District will establish an ARD Committee for each eligible student with a disability and for each student for whom an evaluation is conducted. See [EVALUATION]. The ARD Committee is the group of qualified professionals and the parent of the student that determines whether the student is a student with a disability and the educational needs of the student. The ARD Committee is the team that develops the IEP for the eligible student with a disability and determines the educational placement of the student.

The IEP is the written statement for each student with a disability that is developed, reviewed, and revised by the ARD Committee. The IEP must include:

- A statement of the student's present levels of academic achievement and functional performance, including how the student's disability affects the student's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled students); or for preschool students, as appropriate, how the disability affects the student's participation in appropriate activities;
- A statement of measurable annual goals, including academic and functional goals designed to meet the student's needs that result from the student's disability to enable the student to be involved in and make progress in the general education curriculum; and meet each of the student's other educational needs that result from the student's disability, and, for students with disabilities who take alternate assessments aligned to alternate academic achievement standards, a description of benchmarks or short-term objectives;
- A description of how the student's progress toward meeting the annual goals described above will be measured and when periodic reports on the progress the student is making toward meeting the annual goals (such as through the use of quarterly or other periodic

reports, concurrent with the issuance of report cards) will be provided;

- A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the student, or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided to enable the student to advance appropriately toward attaining the annual goals; to be involved in and make progress in the general education curriculum, and to participate in extracurricular and other nonacademic activities; and to be educated and participate with other students with disabilities and nondisabled students;
- An explanation of the extent, if any, to which the student will not participate with nondisabled students in the regular class;
- A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the student on State and districtwide assessments;
- If the ARD Committee determines that the student must take an alternate assessment instead of a particular regular State or districtwide assessment of student achievement, a statement of why the student cannot participate in the regular assessment; and why the particular alternate assessment selected is appropriate for the student; and
- The projected date for the beginning of the services and modifications described above, and the anticipated frequency, location, and duration of those services and modifications.

The ARD Committee may use the TEA's model IEP form. Other than the elements listed above and what is included in TEA's model IEP form, additional information need not be included in the student's IEP. In addition, the ARD Committee need not include information under one component of the student's IEP that is already contained elsewhere in the IEP.

Additional Procedures

Campus Special Education Personnel will be responsible for compiling and processing the student's ARD paperwork in accordance with the ARD forms utilized by the District. District Special Education Personnel may periodically review a random sampling of ARD documents within the District to ensure that all required components of the IEP are addressed by the ARD Committee for each student with a disability.

District Special Education Personnel will provide training regarding the role and duties of the ARD Committee and the components of the ARD document for all Campus Personnel.

Evidence of Implementation

- ARD/IEP
- ARD Attendees Sheet
- ARD Signature Page
- ARD Committee Training
- ARD/IEP Training

Resources

[The Legal Framework for the Child-Centered Special Education Process: Rule of Construction Framework – Region 18](#)

[IEP Model Form – Texas Education Agency](#)

[Model Form: Individualized Education Program – U.S. Department of Education](#)

[Admissions Review Dismissal \(ARD\) Committee – SPEDTEX](#)

SPECIAL FACTORS

Board Policy EHBAB (Students with Behavior Needs; Blind or Visually Impaired; and Autism); Board Policy EHBE (Limited English Proficiency); Board Policy EHBH (Deaf or Hard of Hearing); 34 CFR 300.324(a)(2)(i) (Behavior); 34 CFR 300.24, 300.324(a)(2)(i)–(ii) (English Learners); 34 CFR 300.324(a)(2)(iii), 300.34(c)(7) (Blind or Visually Impaired); 34 CFR 300.324(a)(2)(iii)–(iv) (Communication; Deaf or Hard of Hearing); 34 CFR 300.324(a)(2)(v), 300.5, 300.6 (Assistive Technology); 34 CFR 300.320; 300.324(a)(4) (Autism); Texas Education Code 29.005(g) (Behavior); Texas Education Code 30.002, Texas Education Code 30.004, Texas Education Code 30.021 (Blind or Visually Impaired); Texas Education Code 29.303, Texas Education Code 30.004 (Deaf or Hard of Hearing); 19 TAC 89.1053(i), 89.1055(g) (Behavior); 19 TAC 89.1050(c)(1)(J), 89.1203(7), 89.1226, 89.1230 (English Learners); 19 TAC 89.1055(d) (Blind or Visually Impaired); 19 TAC 89.1055 (Autism)

State and federal law require consideration of special factors for students with the following special education eligibilities or needs/supports:

- Students with Behavioral Needs;
- English Learner Students;
- Blind or Visually Impaired Students;
- Deaf or Hard of Hearing Students;
- Assistive Technology; and
- Students with Autism Spectrum Disorder.

STUDENTS WITH BEHAVIORAL NEEDS

What is Required

If a special education student's behavior is impeding the student's learning or that of others, the ARD Committee must consider the use of positive behavioral interventions and supports and other behavior strategies to address the behavior. If appropriate, the ARD Committee will develop a Behavior Intervention Plan or a Behavior Improvement Plan ("BIP") to be included in the student's IEP. A BIP is a written plan developed as part of the IEP to address behavioral concerns affecting the student's educational progress. A BIP is based on a functional behavioral assessment ("FBA") of the problem behaviors, identifies events that predict these behaviors, and includes positive interventions to change behaviors and methods of evaluation. If the ARD Committee develops a BIP, a copy of the BIP will be provided to each of the student's teachers. The purpose of a BIP is to redirect the student's targeted behaviors to ensure the student can make appropriate progress in light of the student's unique circumstances.

An ARD Committee may also consider time-out as part of the student's IEP and/or BIP. If a student requires any type of time-out, the District must comply with state requirements and documentation. See [RESTRAINT AND TIME-OUT]. The ARD Committee is required to address any necessary documentation or data collection and use any collected data to judge the effectiveness of time-out as an intervention and provide a basis for making determinations regarding its continued use.

Additional Procedures

Behavior supports or interventions for a student with a disability may include direct services (such as counseling and/or social skills training), indirect services (such as consultation or training of service providers or parent training), behavior accommodations, curriculum modifications, behavior goals and objectives, and/or a BIP.

If the ARD Committee determines that a BIP is appropriate for the student, Campus or District Special Education Personnel, such as a teacher or a LSSP, may conduct an FBA for the student. An FBA is generally understood to be an individualized evaluation of a student to assist in determining eligibility and/or the nature and extent of the special education and related services that the student needs, including the need for a BIP. As such, in most cases, parental consent is required for an FBA. See [CONSENT FOR INITIAL EVALUATION] and [CONSENT FOR REEVALUATION].

An FBA is a process for collecting data to determine the possible cause of problem behaviors and to identify strategies to address the behaviors. Although an FBA is only *required* in the context of disciplining a student with a disability, an FBA may be conducted whenever an ARD Committee is considering a BIP for a student, and sometimes more often when the student's behavior has changed, or interventions and strategies in the current BIP are no longer effective. Additionally,

when considering positive behavior support strategies for a student with autism, the ARD Committee should consider a BIP developed from an FBA that uses current data related to target behaviors and addresses behavioral programming across environments.

The scope and nature of the FBA will depend on the nature and severity of the student's behaviors. The District or Campus Assessment Personnel will observe the student in various school settings and collect input from staff and members of the ARD Committee, including the parent. The District or Campus Assessment Personnel will consider the data, including interviews conducted with the student and/or parents that provides information about how the student's environment contributes to positive and problem behaviors, including the antecedents to the behavior. This information will be used to develop a hypothesis about why problem behaviors occur (the function of the behaviors) and will identify replacement behaviors that can be taught and that serve the same purpose for the student.

The FBA will provide the ARD Committee with information regarding the function of the student's behavior, factors that may trigger certain behavior, and interventions identified to decrease negative behaviors and increase appropriate behaviors. This information will be reviewed by the ARD Committee when developing a BIP and or behavior goals or accommodations for the student.

The BIP should include positive strategies and supports to help target the student's behaviors. The BIP should also include reinforcements and consequences to enable the student to reflect on the exhibited targeted behaviors.

The BIP must be provided to every teacher who is educating the student, as well as other staff members assisting the student, such as a paraprofessionals or related service providers who are working with the student.

The ARD Committee should determine the best way to monitor the student's progress and BIP implementation. The ARD Committee should also establish how often staff should document behaviors. For example, a campus can use a "BIP tracking sheet" for teachers to document, on a weekly basis, observed targeted behaviors and the interventions the teacher attempted, per the student's BIP. Use of a BIP tracking sheet is one way to monitor whether the BIP is effective. The ARD Committee should ensure that teachers are aware of how to track BIP implementation and how frequent such information should be tracked.

If a student who is identified as a student with a disability under the IDEA violates the District's Student Code of Conduct, Campus Personnel must ensure that the student's BIP is followed when applying consequences from the Student Code of Conduct. *See [DISCIPLINE].*

If a student who has a BIP is not making progress on the student's behavior goals, or if either the rate or severity of behaviors targeted in the BIP increase, the ARD Committee should convene and discuss whether modifications to the BIP are indicated.

At least once annually and following the development of and/or revision of a student's BIP, all Campus and District Personnel who work with a student with disabilities requiring behavioral interventions and supports shall be trained on the positive behavioral interventions and supports required by the student's IEP, including how to implement and document the implementation of the interventions and supports. Additionally, at least once annually, all Campus and District Personnel shall be trained on the use of restraint or timeout, how to complete necessary documentation or data collection, and how to determine the effectiveness of the use of these interventions. This training is separate and apart from the Crisis Prevention Institute ("CPI") training that various Campus and District Personnel may receive.

Evidence of Implementation

- Student Discipline Records
- Teacher Documentation of Behaviors
- Parent Information of Home Behaviors
- BIP
- ARD/IEP
- BIP Tracking Sheet
- FBA
- FIE

ENGLISH LEARNER STUDENTS

What is Required

For a student identified as a student with a disability who is emergent bilingual, the ARD Committee must consider the language needs of the student as such needs relate to the student's IEP. An Emergent Bilingual student ("EB") (formerly referred to an English Learner ("EL"), English Language Learner ("ELL") or student with Limited English Proficiency ("LEP")) is a student who is in the process of acquiring English, and another language is their primary language. The ARD Committee, in conjunction with the language proficiency assessment committee ("LPAC"), must identify a student as an EL Emergent Bilingual if the student is emergent bilingual or if the student has a significant cognitive disability such that the English language proficiency assessment cannot be administered. The ARD Committee should consider the extent of the student's language needs related to the student's IEP.

For students who have limited English proficiency and are eligible for special education, the ARD Committee and the LPAC must create assessment procedures to distinguish between language proficiency and disabling conditions. The decision for entry into a bilingual education or ESL

program must be determined by the ARD Committee in conjunction with the LPAC and must comply with the State and Districtwide Assessment procedures. See [STATE AND DISTRICTWIDE ASSESSMENT].

The ARD Committee must include a member of the LPAC if a student is identified as Emergent Bilingual. See [ADMISSION, REVIEW, AND DISMISSAL COMMITTEE MEMBERSHIP].

The District must follow the standardized process for Emergent Bilingual program reclassification for Emergent Bilingual students who are also eligible for special education services. The ARD Committee in conjunction with the LPAC must meet annually at the end of the year to review progress and determine if an Emergent Bilingual student is eligible to be reclassified or exit an Emergent Bilingual program and be classified as English proficient. A student is deemed English proficient if the student can participate equally in a general education, all-English instructional program.

When determining whether a student can be reclassified or exit an Emergent Bilingual program, the following factors will be considered:

- A proficiency rating on the state-approved English language proficient test for reclassification or exit;
- Passing standard met on the reading assessment or for students at grade levels not assessed by the reading assessment, a score of the 40th percentile or above on both the English reading and the English language arts test of the state-approved norm-referenced standardized achievement instrument; and
- Results from a teacher evaluation using the state's standardized rubric.

A student may not be reclassified or exited from bilingual education or ESL program in prekindergarten or kindergarten. Additionally, a student may not be reclassified or exited from the bilingual education or ESL program if the LPAC recommends designated supports or accommodations on the state reading assessment instrument.

For an EL student with significant cognitive disabilities, the LPAC, in conjunction with the ARD Committee, may determine that the state's English language proficiency assessment for reclassification is not appropriate because of the nature of the EL student's disability. In these situations, the LPAC, in conjunction with the ARD Committee, may recommend an appropriate performance standard requirement for the EL student to be reclassified or exit a program.

Additional Procedures

For students who are receiving special education services and identified as Emergent Bilingual, the ARD Committee and the LPAC must work in collaboration. Joint meeting will occur between key members of both committees to review the following considerations:

- Entry and Reclassification/exit criteria for ESL or bilingual services
- Appropriate listening, speaking, reading and writing assessments;
- Appropriate student performance standards to verify that second language acquisition support in English is needed or not needed;
- Review progress; and
- Determine linguistic needs such as language instruction.

The meetings may be informal discussions among members. However, the final recommendations are brought to the ARD Committee with LPAC representation at the ARD Committee Meeting. The two committees, in meeting to collaborate in the best interest of the student, should consider information regarding cognitive and linguistic abilities, affective needs, data from progress monitoring, assessment data from both special education and ESL/bilingual programming, and confidentiality of student information regarding the presence of any person not employed by the District.

Prior to an ARD meeting regarding an Emergent Bilingual student's assessments, a Campus Special Education Professional, such as the student's case manager, should gather necessary data for the committees to make a data-based decision regarding the assessments and educational programs the Emergent Bilingual student will take.

The Campus Special Education Professional should start gathering necessary data several weeks before the end of the academic year to determine whether the Emergent Bilingual student may be reclassified or exit an Emergent Bilingual program.

At least once annually, training shall be provided to Campus and District Special Education Administration and Personnel regarding collaboration between the ARD Committee and the LPAC on topics such as the language needs of the student, entry into a bilingual education or ESL program, participation in the English language proficiency assessment, the process for exiting an Emergent Bilingual student from an Emergent Bilingual program, and participation in the state's alternate English language proficiency assessment.

Evidence of Implementation

- Referral for Special Education
- FIE
- ARD/ IEP
- EL Assessment
- LPAC Team Documents
- Training for LPAC Members
- ARD Attendance by LPAC Member
- Student's Academic Progress Consideration
- Documentation of Reclassification Consideration

BLIND OR VISUALLY IMPAIRED STUDENTS

What is Required

In the development of the IEP for a VI student, proficiency in reading and writing is a significant indicator of the student's satisfactory educational progress. A student who is blind or visually impaired must be evaluated to determine the student's reading and writing skills, needs, and appropriate reading and writing media. The evaluation must be administered by a teacher certified to teach students with visual impairments and should be based on an appropriate literacy media and skills for the student's current and future instructional needs. See [VISUAL IMPAIRMENT].

Braille

When considering a VI student's needs, District Assessment Personnel must determine the student's current and potential need for instruction in braille or the use of braille. A VI student's IEP must include instruction in braille and the use of braille, unless the ARD Committee determines and documents that braille is not an appropriate literacy medium for the student. The ARD Committee's decision must be based on the evaluation of the student's appropriate literacy media and literacy skills and the student's current and future instructional needs. Each person developing the IEP must be given information on the benefits of braille instruction. If the ARD Committee determines that braille instruction is appropriate for a student, such instruction may be used in combination with other appropriate special education services, but the braille instruction must be provided by a teacher certified to teach children with visual impairments.

Expanded Core Curriculum

Before placing a student with a visual impairment in a classroom setting, or within a reasonable time period after placement, the Campus Special Education Personnel must provide an evaluation of the impairment and instruction in an expanded core curriculum, which is required for the student to succeed in classroom settings and derive lasting, practical benefits from education. Instruction in an expanded core curriculum must include instruction in:

- Compensatory skills, such as braille and concept development, and other skills needed to access the rest of the curriculum;
- Orientation and mobility;
- Social interaction skills;
- Career planning;
- Assistive technology, including optical devices;
- Independent living skills;
- Recreation and leisure employment;
- Self-determination; and
- Sensory efficiency.

In developing an IEP for a VI student, the ARD Committee must include in the IEP:

- A detailed description of the arrangements made to provide the student with an evaluation of the impairment and instruction in the expanded core curriculum;
- Plans and arrangements made for contacts with and continuing services to the student beyond regular school hours to ensure the student learns the skills and receives the instruction in the expanded core curriculum; and
- a statement reflecting that the student has received an explanation of the various community and state resources.

Texas School for the Blind

The Texas School for the Blind and Visually Impaired (the “School for the Blind”) is a state agency established to serve as a special school in the continuum of statewide alternative placements for students who are 21 years of age or younger and who have a visual impairment. The School for the Blind is intended to serve students who require specialized or intensive educational or related services related to the visual impairment. The School for the Blind is not intended to serve students whose needs are appropriately addressed in a home or hospital setting or in a residential treatment facility, or students whose primary, ongoing needs are related to a severe or profound emotional, behavioral or cognitive deficit.

The ARD Committee for a VI student may determine that the appropriate placement for the student is the Texas School for the Blind. If the ARD Committee places a VI student in the Texas

School for the Blind, the District must ensure that it provides the student with FAPE and that all legally required ARD meetings are conducted to develop and review the student's IEP.

The District must provide each parent of a VI student with the state-adopted form that contains written information about programs offered by state institutions, including the Texas School for the Blind.

Additional Procedures

VI Students have unique learning needs that must be addressed if they are going to access the regular core curriculum and become independent, productive citizens to the greatest extent possible. The District provides educational services for students ages 0-21 who meet eligibility criteria for VI. Eligible infants (ages 0-2 years) are served in their home by the District in conjunction with the local Early Childhood Intervention (ECI) Program. At age 3, eligible students are transitioned to the District to receive services through special education, as determined by the student's ARD Committee. See [AGES 0-5]. Each Campus Administrator should ensure that appropriately trained personnel for the blind or visually impaired attend the student's ARD meeting.

The ARD Committee will develop an IEP for the student based on the requirements described above, including the use of braille. Service delivery options may include indirect/consultation, direct services, community-based activities, or a combination of these options. IEP goals and objectives addressed by VI and COMS Service Providers may be integrated with classroom teacher's goals and objectives. Services may include pre-braille instruction, braille instruction, visual efficiency training, instruction in the use of technology for the visually impaired, and the provision of large print or braille textbooks, assignments or tests. Modifications and accommodations necessary for the VI student to access the educational curriculum, appropriate goals and objectives, progress monitoring, and transition services will be addressed through consultation with the VI and/or COMS Service Providers and regular education staff.

Campus Special Education Personnel should document on the VI Supplement/Section of the IEP the following:

- Whether the student is functionally blind based on the functional vision evaluation and learning media assessment;
- Whether the ARD Committee has received information on the benefits of braille;
- The need for braille and the student's strengths and weaknesses in braille reading and writing;
- Appropriate learning and literacy media information;
- Whether the student has been provided a detailed explanation of the various community

and state resources;

- Whether the parent has been provided information about the Texas School for the Blind and Visually Impaired and other programs offered by Texas institutions;
- Plans and arrangement for contacts with and continuing services to student beyond the regular school hours;
- All areas of the expanded core curriculum instruction; and
- Appropriate special media and special tools, appliances, aids, or devices commonly used by VI student (i.e. braille textbooks, braille writer, braille paper, sensory learning kit, low vision devices, canes, etc.).

Instruction for VI student should reflect the assessed needs of each student in all areas of expanded core curriculum. Assessments in all of these areas that determine each student's strengths and weaknesses can be used to assist the ARD Committee build a program that truly addresses life-long competencies. Not all areas will have equal urgency each year, but to make informed decisions on where to focus, it is essential to measure progress and functioning across all areas. The ARD Committee should prioritize needs in order to develop an appropriate and comprehensive educational program for students with visual impairments.

A student's need for vision services may vary over time. A student's needs may differ in intensity and focus during the student's school years. These fluctuations will be reflected in the IEP and should be fluid and flexible, based on immediate educational needs at any time during the student's educational process. Consideration for services may be especially necessary during periods of transition between schools or into community activities. Other considerations are when there are significant changes to the IEP and/or vocational considerations.

Campus-based members of the ARD Committee should stay apprised of the various resources in Texas that offer consultation and support to staff and/or family for special education students who are blind or visually impaired. Parents of VI students should be provided information about the Texas School for the Blind annually.

At least once annually, training shall be provided to Campus and District Personnel, including Campus and District Special Education Administration, special education teachers, general education teachers, and related service providers, who work with students who are blind or visually impaired on proficiency in reading and writing, appropriate literacy media and literacy skills, benefits of Braille instruction, and instruction in an expanded core curriculum.

Evidence of Implementation

- Referral for Special Education
- Notice of Procedural Safeguards
- FIE
- ARD/IEP
- VI Supplement/Section of IEP
- Teacher Certification
- ARD Attendance Sheet
- Documentation of Training
- Texas School for the Blind Information and Parent Receipt

COMMUNICATION

What is Required

The ARD Committee must consider the communication needs of the child.

Additional Procedures

Regardless of a student's disability, the ARD Committee must consider a student's communication needs. In determining the student's communication needs, the ARD Committee shall discuss the student's communicative demands and opportunities for communication and determine whether the student has the skills and strategies necessary to meet those demands. Additionally, the ARD Committee shall determine whether the student has adequate opportunities for communication and if the student can appropriately communicate in different settings. Finally, the ARD Committee shall discuss whether the student communicates effectively and, if not, discuss and document any reasons for the lack of effective communication in the IEP.

If the ARD Committee determines that the student has communication needs, the IEP must reflect those needs. The student's communication needs shall be documented in the Present Levels of Academic Achievement and Functional Performance ("PLAAFP"), the statement of annual goals, the provision of special education and related services, accommodations, and supplementary aids and services, including assistive technology.

At least once annually, training shall be provided to Campus and District Personnel, including Campus and District Special Education Administration, special education teachers, general education teachers, and related service providers, who work with students with communication needs to address how to determine the communication needs of a student and the appropriate supports and services to provide to a student with communication needs.

Evidence of Implementation

- Referral for Special Education
- Notice of Procedural Safeguards
- FIE
- ARD/IEP
- Communication Needs Documentation
- ARD Attendance Sheet
- Documentation of Training

DEAF OR HARD OF HEARING STUDENTS

What is Required

The ARD Committee must consider the unique communication needs for students who are eligible for special education as a result of being deaf or hard of hearing and ensure that each student's communication mode is respected, used, and developed to an appropriate level of proficiency.

When developing an IEP for a student eligible for special education due to being deaf or hard of hearing, the ARD Committee must consider the following:

- The student's language and communication needs;
- The student's opportunities for direct communications with peers and professional personnel in the student's language and communication mode;
- The student's academic level, considering factors such as the student's grades, benchmark testing, and state assessments; and
- The student's full range of needs, including opportunities for direct instruction in the student's language and communication mode.

The District must provide each parent with the state-adopted form that contains written information about programs offered by state institutions for deaf or hard-of-hearing students.

At least once annually, training shall be provided to Campus and District Personnel, including Campus and District Special Education Administration, special education teachers, general education teachers, and related service providers, who work with students who are deaf or hard of hearing on topics such as language and communication needs, opportunities for direct communication with peers and professional personnel, and opportunities for direct instruction in the child's language and communication mode.

Additional Procedures

The District provides educational services for students ages 0-21 who meet eligibility criteria for AI. Eligible infants (ages 0-2 years) are served in their home by the District in conjunction with the local Early Childhood Intervention (ECI) Program. At age 3, eligible students are transitioned to the District to receive services through special education, as determined by the student's ARD Committee. See [AGES 0-5]. A Campus Administrator should ensure that appropriately trained personnel for the deaf or hard of hearing attend the student's ARD Committee meeting. The ARD Committee shall consider all the student's needs, academic levels, and supports as described above.

Students with AI may receive special education services through a variety of service delivery models. Many students are appropriately served on their home campus with special education services. Other students may need additional instructional support from a teacher of the deaf or hard of hearing, an interpreter, and/or a communication facilitator. For students who need additional Deaf Ed services, the District participates in the Tri County East Regional Day School Program for the Deaf (RDSPD). Students receiving direct services via RDSPD may receive services according to a continuum of services based on the unique needs of the student.

The continuum of services for AI students include some or all of the following:

- Monitor/consult only (indirect services)
- Itinerant/direct services from a certified Teacher of the Deaf
- Site-based direct services in the RDSPD
- In-class support
- External support
- Audiological services
- Interpreting service
- Communication facilitator services
- Audiological management
- Counseling

The instructional program for AI students is designed to meet the individual needs of the student and will include both oral and total communication philosophies.

Campus-based members of the ARD Committee should stay apprised of the various resources in Texas that offer consultation and support to staff and/or families for special education students who are deaf or hard of hearing. At the initial ARD and at each annual ARD, Campus Special Education Personnel will provide the parents of AI students information about the Texas School for the Deaf describing the program offered, eligibility and admissions, and the rights of students. When signing the ARD document, the IEP should reflect that the parent received this information.

Evidence of Implementation

- Referral for Special Education
- Notice of Procedural Safeguards
- FIE
- ARD/IEP
- Communication Needs Documentation
- Teacher Certification
- ARD Attendance Sheet
- Documentation of Training
- Parent Receipt of Texas School for the Deaf Information

ASSISTIVE TECHNOLOGY

What is Required

The ARD Committee must determine if a student needs assistive technology devices (ATD) and/or services. The term assistive technology service means any service that directly assists the student with a disability in the selection, acquisition, or use of an ATD, and includes:

- The evaluation of the needs of the student, including a functional evaluation in the student's customary environment;
- Purchasing, leasing, or otherwise providing for the acquisition of ATD's by the student;
- Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing ATD's;
- Coordinating other resources, such as therapies, interventions, or services to be used with the ATDs, such as those in the student's IEPs and rehabilitation plans;
- Training or technical assistance for the student or the family, if appropriate, to ensure the student and family understands how to properly use the ATD; and
- Training or technical assistance for all school staff who provide services to or who are substantially involved in the major functions of the student.

Additional Procedures

Assistive Technology services or an ATD can be provided as a supplementary aide and service and utilized by the classroom teacher. Assistive technology can also be a related service and implemented by an assistive technology specialist and/or part of a student's goals or objectives in the IEP. Campus staff working with student with disabilities will be informed of the assistive technology services and devices available and who to contact when campus staff have questions about the availability of services and devices and the operations and functions of various ATD's.

The ARD Committee will consider AT needs for every special education student, regardless of the student's eligibility, at least annually, but need not conduct a formal AT evaluation for every

student with a disability. It is during this consideration that the ARD Committee is to determine if an AT evaluation is warranted and plan for any necessary AT evaluation. In some cases, members of the ARD Committee will be knowledgeable about the student's functional needs and the range of appropriate AT devices/services to meet those needs. In those cases, the ARD Committee may decide what AT devices/services should be provided for the student without the necessity of a formal AT evaluation. This is particularly true with readily available, low tech AT devices/services. In other situations, the ARD Committee may not have sufficient in-depth knowledge of the student's functional needs, or the members of the ARD Committee may not have the expertise or technical knowledge about what AT devices/services are available to meet the student's needs. In those cases, a formal AT evaluation should be requested by the ARD Committee. In addition, if a student can use an AT device successfully outside of school but struggles to use the same device in the classroom, that may also trigger the need for an AT evaluation. The ARD Committee may seek information from other sources such as an outside expert, a vendor of a device, or other Campus Personnel. If either a parent or Campus Personnel refers a student for an AT evaluation, the ARD Committee will determine whether the evaluation is needed and, if so, the scope of the evaluation.

Should the ARD Committee seek a formal AT evaluation, all IDEA requirements regarding evaluations, such as notice and parent consent, apply. *See* [REVIEW OF EXISTING EVALUATION DATA] and [EVALUATION PROCEDURES]. If an ARD Committee determines that an AT evaluation is warranted prior to selecting an ATD, Campus Special Education Personnel responsible for setting up the ARD Committee will invite an AT representative to an ARD meeting to discuss the AT evaluation results and the functions of the recommended device for the student. Alternatively, the Special Education Assessment Personnel should consult with the AT representative to obtain relevant information to share with the ARD Committee members.

Although there are no specific guidelines about what must be included as part of an AT evaluation for it to be sufficient, the District Special Education Personnel and District Assessment Personnel should consider both statutory and regulatory requirements regarding evaluations in general. The AT evaluation should be conducted by a qualified professional and consist of a detailed review and analysis of the student's needs and abilities and should be based on current information and data derived from a review of the student's educational records, observations, and discussions with classroom teachers, other services providers, and the parent. The AT evaluation should assess the student's needs across a variety of domains such as communication, written language, academic content areas, fine and gross motor skills, and daily living skills. The evaluation of a particular domain may be informal. For example, if the concern expressed by the ARD Committee relates to the student's handwriting, the evaluation of communication and daily living skills may be informal, based on input from teachers and parents, and simply note that functioning in those areas is adequate for the age and grade level of the student. In other domains, formal evaluation procedures may be appropriate using protocols, skills inventories, and various frameworks to assess the student's functional needs and develop recommendations regarding AT devices/services.

The District may consider providing the parent with a technology parent questionnaire to be discussed at the ARD meeting. Seeking this input will provide information to the ARD Committee regarding the extent of the student's AT needs and/or the effectiveness of the student's current ATD.

When considering a device for a student, the ARD Committee does not have to choose the most sophisticated device, but rather one that will enable the student to access the general education curriculum. The ARD Committee must consider the extent of the student's needs for the ATD. For example, the student may need to take the ATD home to appropriately complete homework. If a student is permitted to take an ATD home, the District may require the parent to complete any District-required forms or paperwork regarding the parent/student's responsibility for care of the ATD.

The procedures followed for purchasing, leasing, or otherwise providing for the acquisition of ATDs for students with disabilities in the District are provided for in [ADMINISTRATION OF EQUIPMENT].

All campus staff members who work with students should be aware of the ATD addressed in the student's IEP and must allow the student to use the device in the manner described in the student's IEP. Campus staff working directly with the student must promptly notify Campus Administrative Personnel, Campus Special Education Personnel, if appropriate and necessary, District Special Education Personnel, or the AT representative if the student's ATD malfunctions so that it can be repaired and/or replaced. The District is required to provide and maintain any ATD that the student's ARD Committee has determined is necessary for implementing the student's IEP. If the ATD is not functioning or does not function correctly, the District is responsible for providing a substitute device, or for convening an ARD Committee meeting to review and, if appropriate, revise the student's IEP.

Campus Special Education Personnel, with support from the Special Education AT Specialist (as needed), is responsible for consistently implementing strategies, providing training, and collecting data regarding AT use or effectiveness.

The Special Education AT Specialist will provide appropriate training to the student, parents and staff regarding the effective use of the student's ATD.

Evidence of Implementation

- Referral for Special Education
- Notice of Procedural Safeguards
- FIE
- ARD/IEP

- AT Evaluation
- AT Checklist
- ATD Check-out
- ATD Progress Documentation
- ATD Student Training Documentation
- ATD Provider Training Documentation

STUDENTS WITH AUTISM

What is Required

In the case of a student with autism, the ARD Committee must consider the following eleven (11) strategies based on peer-reviewed, research-based educational programming practices to the extent practicable, and when needed, in the student's IEP:

- Extended educational programming (e.g. extending the day and/or school year to ensure the student makes appropriate progress in areas of need, such as behavior, social skills, and academics);
- Daily schedules reflecting minimal unstructured time and including active engagement in learning activities. These schedules should consider, for example, meal periods, recess, and adapting to changes such as a substitute teacher, classroom location change, or a school event that deviates from the normal day (e.g. pep rally or student-wide meeting). The goal is to provide consistency for the student and contingency plans when the student's normal daily routine changes;
- In-home and community-based training or viable alternatives that assist the student with acquisition of social/behavioral skills (for example, strategies that facilitate maintenance and generalization of such skills from home to school, school to home, home to community, and community to home);
- Positive behavior support strategies based on relevant information (e.g. antecedent manipulation, replacement behaviors, reinforcement strategies, and data-based decisions; and a BIP developed from an FBA that uses current data related to target behaviors and addresses behavioral programming across home, school, and community-based settings);
- Transition planning, to begin at any age the ARD Committee determines is appropriate, in considering future planning for the student's integrated living, work, community, and educational environments that consider the skills needed for the student's current and postsecondary environments. *See [TRANSITION SERVICES];*
- Parent/family training and support by qualified personnel with experience in autism spectrum disorders. The goal of this training is to provide families with supports for the

student to succeed beyond school—in home and in the community. The ARD Committee must also provide the parent information for community resources for the student (e.g. parent support groups, videos, and conferences related to parenting a student with autism). The parent/family training should also facilitate parental carryover of in-home training (e.g. behavior management strategies and developing structured home environments);

- Suitable staff-to-student ratio appropriate to identified activities and as needed to achieve social/behavioral progress based on the student’s developmental and learning level that encourages work towards individual independence as determined by, for example, adaptive behavior evaluation results, behavioral accommodation needs across settings, and transitions within the school day;
- Interventions to improve the student’s communication skills across settings;
- Social skills, supports and strategies based on social skills assessment and curriculum and applied across settings (for example: circle of friends, video modeling, social stories, and role playing);
- Professional development for teachers and staff related to educating students who have an Autism Spectrum Disorder; including training on the correct implementation of techniques and strategies described in the student’s IEP; and
- Teaching strategies based on peer-reviewed, research-based practices for students with an Autism Spectrum Disorder (for example those associated with discrete-trial training, visual supports, applied behavioral analysis, structured learning, augmentative communication, or social skills training).

If the ARD Committee determines that the student does not need any of the supports listed above, it must state its decision and the basis of the decision in the student’s IEP.

Additional Procedures

The ARD Committee for an AU student will clearly show that each of the 11 strategies noted above were meaningfully discussed, even if the ARD Committee determines that the student does not need some of the listed services. Campus Special Education Personnel should consider the following practices when considering the 11 strategies:

- Ensure that staff involved in the provision of ESY services are provided with a copy of the student’s IEP. Communication between the student’s teacher during the regular school year and ESY staff is imperative to ensure that ESY staff receive updated information about the student and the goals/tasks to work on during ESY. Consider community options for ESY services, if appropriate.

- Within the student's daily schedule, include, for example, meals, restroom breaks, leisure breaks, course instruction, daily wrap-ups, and pack-up and dismissal. Attach a daily schedule to the ARD document, describe any difficulties with transitions between classes or activities, and address behavioral problems that may occur when a change occurs in routine or location. Minimal unstructured time means that IEP goals/objectives are being addressed throughout the day and across settings.
- Consider important life skills for in-home training such as training for the student to independently use the restroom or dress him or herself. Consider a data chart to track how often the student is completing the desired tasks. To help a student acquire critical skills across settings or generalize critical skills from one setting to another, the ARD Committee should discuss any skills the student exhibits in one setting but has not acquired in another setting. In-home training is a related service that requires an evaluation before implementation. When an in-home training evaluation is requested, Assessment Personnel will obtain consent from the parent and follow the evaluation procedures. See [CONSENT FOR INITIAL EVALUATION] and [EVALUATION PROCEDURES].
- Consider including prevention interventions, teacher interventions, and reinforcement interventions in the student's BIP if needed. See *Students with Behavior Needs* above.
- Begin consideration of transition support in elementary school to ensure the student is successful in his or her post-secondary transition.
- Gather parent input to determine the appropriate parent/family training and support needed for the student. Such input could be in the form of a parent questionnaire for the parent to express the student's talents, challenges, and specific information the parent needs to assist the student. The goal of parent training is to provide parents with the necessary skills and techniques to assist their student with the on-going development and maintenance of skills and behaviors.
- Create a chart that includes activities related to the student's IEP objectives and goals and the level of staff-to-student ratio for each of the student's developmental and functioning level. When determining staff-to-student ratios, an ARD Committee should consider the setting, a student's communication abilities, and present level of competence in each area of instruction. Typically, a student in the acquisition phase of development may need more direct intensive instruction relative to later phases. As a student moves through the phases, there should be less adult supervision, more self-monitoring, and therefore, a higher staff to student ratio.
- Create a communication functions chart, including strategies such as a schedule card and visual supports. The ARD Committee should consider the student's communication across settings, and this review should not be limited to SLP services. Communication forms include physical, objects, sign language, pictures, line drawings, speech/verbal,

independent writing, typing, or pointing to printed words.

- Social skills are a set of behaviors used to interact and communicate with others. The ARD Committee should consider various social skills including impulse control, willingness to do non-preferred activities, personal responsibility, concept of friendship, response to suggestions or requests, self-regulation, self-monitoring, reading/interpreting/responding to social cues, appropriate communication, environmental regulations skills, self-advocacy skills, play skills, and manners and listening. The ARD Committee may consider social skills strategies including trained peer facilitators, video modeling, social stories, role playing, incidental teaching, pivotal teaching strategies, social narratives, cartooning, or direct instruction.
- Document the training staff receives as it relates to educating or providing related services to students who have AU and ensure staff are trained at least annually. This training shall include elements of the autism supplement, including extended educational programming, daily schedules reflecting minimal unstructured time and active engagement in learning activities, in-home and community-based training or viable alternatives, positive behavior support strategies, futures planning, parent/family training and support, suitable staff-to-child ratio to identified activities, communication interventions, social skills and strategies, professional educator and staff support, and teaching strategies based on peer-reviewed, research-based practices for children with autism.
- Teaching strategies based on peer-reviewed and/or research-based practices for students with AU may include ABA including errorless learning, prompting and prompt fading, shaping, task analysis, consistent classroom routines and expectations, choice-making, multiple opportunities to learn and practice skills in structured and naturalistic settings, manipulations of antecedents and consequences to increase desired behaviors and decrease challenging behaviors, discrete trial training, and/or structured learning. Special Education Personnel should create a strategy tracking chart to document student's progress in the various teaching strategies used to share with the ARD Committee.

Evidence of Implementation

- Referral for Special Education
- FIE
- ARD/IEP
- AU Supplement/Section of IEP
- Staff Training
- Strategy Tracking Chart

- ESY Documentation
- Daily Schedules
- In-Home/Community-Training Documentation
- BIP/Behavior Interventions Tracking
- Futures Planning Documentation
- Parent Training Documentation
- Staff to Student Ratios
- Social Skills Documentation

DEFINITIONS

“Assistive Technology Device” is any item, piece of equipment, or product, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a student with a disability. The term excludes surgically implanted medical devices.

“Autism” refers to the developmental disability that significantly affects verbal and nonverbal communication and social interaction, generally evident before age three, and adversely affects a student’s educational performance. *See* [AUTISM].

“Autism Spectrum Disorder” refers to a complex developmental condition that involves persistent challenges in social interaction, speech and nonverbal communication, and restricted/repetitive behaviors. The effects of ASD and the severity of symptoms are different in each person. *See* [AUTISM].

“Behavioral Intervention Plan (“BIP”)” is a written plan developed as part of the IEP to address behavioral concerns affecting the student’s educational progress. It is based on a functional behavior assessment of the problem behaviors, identifies events that predict these behaviors, includes positive interventions to change behaviors, and includes methods of evaluation.

“Deaf or Hard of Hearing” means a hearing impairment that is so severe that the student is impaired in processing linguistic information through hearing, with or without amplification, whether permanent or fluctuating, and that adversely affects a student’s educational performance. Deaf usually refers to an individual with very little or no functional hearing and who often use sign language to communicate. Hard of Hearing refers to an individual who has a mild-to-moderate hearing loss who may communicate through sign language, spoken language or both. *See* [DEAF OR HARD OF HEARING].

“English Learners” refers to a student whose native language is a language other than English or who comes from an environment where a language other than English is dominant and who has difficulty speaking, reading, writing, or understanding the English language.

“Extended School Year Services (“ESY”)” means an individualized educational program provided beyond the regular school year for eligible students with disabilities. The need for ESY services

must be determined on an individual basis by the student's ARD Committee from formal and/or informal evaluations provided by the District or the parents. A student is eligible for ESY services when the student has exhibited or reasonably may be expected to exhibit severe or substantial regression in one or more critical skill area that cannot be recouped within a reasonable period of time. See [EXTENDED SCHOOL YEAR SERVICES].

"Functional Behavior Assessment ("FBA")" refers to a systematic process for describing problem behavior and identifying the environmental factors and surrounding events associated with problem behavior. The team that works closely with student exhibiting problem behavior observes and identifies its problematic characteristics, identifies which actions or events precede and follow the behavior, and determines how often the behavior occurs.

"Significant Cognitive Disability" means an impairment in which a student who exhibits significant intellectual and adaptive behavior deficits in the ability to plan, comprehend, and reason, also indicates adaptive behavior deficits that limit the student's ability to apply social and practical skills such as personal care, social problem-solving skills, dressing, eating, using money, and other functional skills across life domains; and is NOT identified based on English learner designation or solely on the basis of previous low academic achievement or the need for accommodations; and requires extensive, direct, individualized instruction, as well as a need for substantial supports that are neither temporary nor specific to a particular content area.

"Visual Impairment including Blindness" means an impairment in vision that, even with correction, adversely affects a student's educational performance. The term includes both partial sight and blindness. A licensed ophthalmologist or optometrist determines the student has a progressive medical condition that will result in no vision or a serious visual loss after correction. See [VISUAL IMPAIRMENT].

RESOURCES

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

Behavior

[Texas Behavior Support - Region 4](#)

[Positive Behavioral Interventions & Supports \(PBIS\) - Center on Positive Behavioral Interventions & Supports \(OSEP Technical Assistance Center\)](#)

[OSEP Letter to Anonymous \(Mar. 17, 2008\) - U.S. Department of Education](#)

[OSEP Letter to Trader \(Oct. 19, 2006\) - U.S. Department of Education](#)

[OSERS Questions and Answers on Discipline Procedures \(Revised June 2009\) - U.S. Department of Education](#)

[OSERS Letter to Anonymous \(Dec. 16, 2010\) - U.S. Department of Education](#)

[OSERS Dear Colleague Letter \(Aug. 1, 2016\) - U.S. Department of Education](#)

[BIP - SPEDTEX](#)

English Learner Students

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

[Process for Considering Special Exit Criteria from Bilingual/English as a Second Language \(ESL\) Services - Texas Education Agency](#)

[OSEP Letter to Ralabate \(Oct. 9, 2002\) - U.S. Department of Education](#)

[Tools and Resources for Addressing English Learners with Disabilities - U.S. Department of Education](#)

Blind and Visually Impaired

[Sensory Impairments - Texas Education Agency](#)

[Texas School for the Blind and Visually Impaired](#)

[Programs and Administrative - Information and Resources - Texas School for the Blind and Visually Impaired](#)

[American Printing House for the Blind](#)

[OSERS Dear Colleague Letter \(June 19, 2013\) - U.S. Department of Education](#)

[Visually Impaired - SPEDTEX](#)

Deaf or Hard of Hearing

[Sensory Impairments - Texas Education Agency](#)

[Statewide Outreach Center - Texas School for the Deaf](#)

[Texas School for the Deaf](#)

[Deaf Students Education Services - U.S. Department of Education](#)

[Deaf/Hard of Hearing - SPEDTEX](#)

Assistive Technology

[Assistive Technology - Texas Education Agency](#)

[Texas Assistive Technology Network - Region 4](#)

Autism

[Texas Statewide Leadership for Autism Training - Region 13](#)

[Autism Spectrum Disorder - SPEDTEX](#)

[Children with Autism - SPEDTEX](#)

STATE AND DISTRICTWIDE ASSESSMENTS

Board Policy EKB; Board Policy EKBA; 34 CFR 200.1(d), 200.2(e), 300.160(b)–(e), 300.320; Texas Education Code 39.023(a)–(c); 39.025(a-4); 19 TAC 74.1025(n), 89.1055, 89.1203(7), 101.1003(b)–(c), 101.1005, 101.3013(b), 101.3023(a)

What Is Required

Participation in State and Districtwide Assessments

All students with disabilities are included in general and Districtwide assessment programs. When necessary, the student’s IEP should include the appropriate accommodations and alternate assessments needed for the student, as determined by the ARD committee.

Accommodation Guidelines

The TEA (for statewide assessments) or District Special Education Administration (for Districtwide assessments) must develop guidelines for appropriate accommodations. The guidelines will 1) identify those accommodations that do not invalidate the assessment score; and 2) instruct the ARD Committee to select the appropriate accommodations for each assessment.

Alternate Assessments

The TEA (for statewide assessments) or District Special Education Administration (for Districtwide assessments) will create guidelines for alternate academic achievement standards for students with significant cognitive disabilities who cannot participate in general assessments, even with IEP accommodations. The guidelines will 1) align with state academic content standards and alternate academic achievement standards under the Every Student Succeeds Act (“ESSA”); and 2) measure the achievement of students with the most significant cognitive disabilities.

The TEA (for statewide assessments) or District Special Education Administration (for Districtwide assessments) must provide the ARD Committee with a clear explanation of the difference between alternate assessments and those based on grade-level academic achievement standards. The TEA (for statewide assessments) or District Special Education Administration (for Districtwide assessments) will inform the parents of students selected to take an alternate assessment that their child’s achievement will be measured based on alternate academic achievement standards. The TEA or District Special Education Administration must also provide the ARD Committee, including the student’s parent, information about how the student’s education may be impacted due to taking an alternate assessment. For example, a student who takes an alternate assessment may not meet the requirements for a regular high school diploma or may be delayed in receiving a diploma. However, the TEA or District Special Education Administration shall not preclude a student from attempting to complete the high school diploma requirements.

Assessment Requirements for Graduation

A special education student is not subject to the individual graduation committee requirements set forth in Texas law. The ARD Committee must determine if special education students in grades 9 through 12 are required to achieve satisfactory performance on an end-of-course assessment to graduate and receive a high school diploma. See [GRADUATION].

IEP Documentation

The ARD Committee will include in the student's IEP a statement about the appropriate and allowable testing accommodations that are needed to measure a student's academic and functional performance on a state or Districtwide assessment.

If the ARD Committee determines that a student will take an alternate state or Districtwide assessment, the IEP will include a statement of why the student cannot participate in the general assessment, as well as the alternate assessment selected by the ARD Committee for the student. For English learner ("EL") special education students, the ARD Committee and the language proficiency assessment committee ("LPAC") will select the appropriate assessments and document the decisions and justifications in the student's IEP. The ARD Committee will also document any testing accommodations in the IEP.

Annual Assessment of English Language Proficiency

The District must annually administer a state-identified EL assessment to an EL student in kindergarten through grade 12 in the areas of listening, speaking, reading, and writing. The ARD Committee and the LPAC may determine the special education services for the student to participate in the English language proficiency ("ELP") assessment due to the student's disability. The committees' decision and justification must be clearly stated in the student's IEP. An EL student who receives special education services may also receive testing accommodations, to be determined by the ARD Committee and the LPAC. See [SPECIAL FACTORS].

Definitions

"English Learner" is a student whose native language is language other than English or who comes from an environment where a language other than English is dominant and who has difficulty speaking, reading, writing, or understanding the English language..

A student with a "significant cognitive disability" is a student who:

- exhibits significant intellectual and adaptive behavior deficits in their ability to plan, comprehend, and reason, and also indicates adaptive behavior deficits that limit their ability to apply social and practical skills such as personal care, social problem-solving skills, dressing, eating, using money, and other functional skills across life domains;

- is not identified based on English learner designation or solely on the basis of previous low academic achievement or the need for accommodations; and
- requires extensive, direct, individualized instruction, as well as a need for substantial supports that are neither temporary nor specific to a particular content area.

Additional Procedures

Accommodation Guidelines

Prior to an ARD meeting about an accommodations or alternate assessment, Campus Special Education Personnel should collect baseline data about the student's educational and behavioral performance. An ARD Committee should then review the data and describe its considerations for alternative assessments in detail in the IEP.

When considering accommodations that do not invalidate the assessment score, the ARD Committee should consider TEA's policies on accommodations for alternative assessments. The policies are categorized by three different types of accommodations: 1) accessibility features; 2) locally-approved designated supports; and 3) designated supports that require TEA approval. Accessibility features are procedures and materials available to any student who regularly benefits from their use during instruction. Accessibility features may be provided to students based on their needs; however, a student cannot be required to use them during testing. Testing coordinators are responsible for ensuring that test administrators understand the proper implementation of these procedures and use of these materials. In some cases, a student may need to complete the test in an individual setting to eliminate distractions to other students and to ensure that the security and confidentiality of the test are maintained.

Locally-approved designated supports include accommodations that may be made available to students who meet eligibility criteria. The decision to use a designated support during a state assessment should be made by the ARD Committee on an individual student basis and take into consideration the needs of the student and whether the student routinely receives the support during classroom instruction and classroom testing. The twelve locally-approved designated supports available for the STAAR are:

- Basic Transcribing
- Braille/Refreshable Braille
- Calculation Aids
- Content and Language Supports
- Extra Time
- Individualized Structured Reminders
- Large Print
- Manipulating Test Materials

- Mathematics Manipulatives
- Oral/Signed Administration
- Spelling Assistance
- Supplemental Aids

The designated support requiring TEA approval include complex transcribing, extra day, mathematics scribe, and other. If the ARD Committee determines that the student needs accommodations requiring TEA approval, Campus Special Education Personnel will submit an Accommodation Request Form to TEA. TEA's Accommodations Task Force will communicate with the Campus Special Education Personnel requesting the accommodation, as well as the District Testing Coordinator, by email once a decision has been made. Campus Special Education Personnel should note the expiration date for the provided accommodation included in the TEA decision email. As this process may take several weeks, Campus Special Education Personnel should make this request within a reasonable amount of time before a scheduled assessment, when feasible. A new accommodation request will need to be submitted each calendar year if the student continues to demonstrate a need. Campus Special Education Personnel should ensure they understand the process for requesting student assessment accommodations that require TEA approval.

Alternate State Assessments

The ARD Committee will also determine whether a student grades 3 through 8 and those in high school, who has a significant cognitive disability, and is receiving special education services needs to take the STAAR Alternate 2 assessment. This decision must be made on a case-by-case basis, considering each student's individual strengths, needs, instruction, and accommodations—as documented in the student's IEP. In determining whether the student is eligible for the STAAR Alternate 2 assessment, the ARD Committee must carefully consider the following criteria:

- Does the student have a significant cognitive disability?
- Does the student require specialized, extensive supports to access the grade-level curriculum and environment?
- Does the student require intensive, individualized instruction in all institutional settings?
- Does the student access and participate in the grade-level TEKS through prerequisite skills?
- Is the STARR Alternate 2 assessment determination based on the student's significant cognitive disability and NOT any other factors?

If the answer is "Yes" to all eligibility criteria above, the ARD Committee must discuss assurances related to the student's participation in the STAAR Alternate 2 assessment. The STAAR Alternate 2 assessment is given in the spring during a three-week period and may include breaks as needed

based on the student's needs. The STARR Alternate 2 assessment is provided at the student's campus or at an alternate site if determined necessary based on the child's individual needs. Campus Special Education Personnel will ensure that the assessment is provided in a testing environment where the student can avoid distractions and receive all individual accommodations.

Student participation in assessments should be reviewed at each annual ARD meeting. The District will provide training to ensure that ARD Committee members are aware of and understand all of the state or Districtwide guidelines on alternate assessments.

Assessment Requirements for Graduation

The ARD Committee can consider different factors for determining whether a student is required to achieve satisfactory performance on an end-of-course assessment. Student progress and demonstrated ability to access the general education curriculum are factors to consider. For example, a special education student may have issues with long-term retrieval that causes the student to perform unsatisfactorily on an end-of-course assessment. Despite this, the student is still making appropriate academic progress and achieving satisfactory scores on classroom assignments and homework. In an instance like this, the ARD Committee may excuse the student from retaking the assessment.

The ARD Committee may also consider whether a special education student improved his or her score on the second administration of the end-of-course exam. If the student does not achieve satisfactory performance but makes improvement the second time, the ARD Committee may excuse the student from retaking the assessment.

A student that takes an alternative assessment will take the STAAR Alternate 2 in all grade levels and subject areas instead of the EOC. The ARD Committee will determine if the student can take standard EOC assessments or will require a modified or alternate form of the assessment. Student participation in assessments should be reviewed at each annual ARD meeting.

IEP Documentation

The PLAAFP section of a student's IEP should clearly document the results of the previous year's state assessments, as well as any effective accommodations the student received. Accommodations will also be addressed for each subject area on the state assessment page.

The ARD Committee should include detailed deliberations in the student's IEP that reflect its discussion related to state assessments. The deliberations should include the underlying data the ARD Committee relied upon but need not include a list of each test and/or accommodation recommended, as this is detailed elsewhere in the IEP. Detailed deliberations also help to guide the ARD Committee, educators, related service providers, and other campus staff on the student's expectations. Further, detailed deliberations help demonstrate the ARD Committee's meaningful discussion.

Annual Assessment of English Language Proficiency

The TELPAS Alternate is a holistic inventory that assesses the language domains of listening, speaking, reading, and writing for students with significant cognitive disabilities in grades 2 through 12 who are in the process of acquiring English proficiency in those areas. The ARD Committee in conjunction with the student's LPAC Committee will meet to review participation requirements and determine and document the student's eligibility for TELPAS Alternate. If the TELPAS Alternate is being considered for a student in grade 2, the ARD Committee and LPAC must ask the following questions:

- Is the student identified in PEIMS as LEP/EL?
- Does the student have a significant cognitive disability?
- Does the student require specialized, extensive supports to access the grade-level curriculum and environment?
- Does the student require intensive, individualized instruction in all institutional settings?
- Does the student access and participate in the grade-level TEKS through prerequisite skills?
- Is the assessment determination based on the student's significant cognitive disability and English learner status and NOT any other factors?

If the answer is "Yes" to all of the above criteria, the student is eligible to participate in TELPAS Alternate. If a student entering grades 3 through 12 has been identified as Emergent Bilingual and the ARD Committee has followed the guidelines above in "Alternate Assessments" to determine the student's participation in STAAR Alternate 2, the student will be assessed with TELPAS Alternate.

Evidence of Implementation

- The English Language Proficiency Assessment
- FIE
- ARD/IEP
- Report Card Grades
- Progress Reports on Annual Goals
- Teacher and Campus Special Education Administrator Input
- State or Districtwide Assessment Results
- Accommodation Requests/Approval

Resources

[The Legal Framework for the Child-Centered Special Education Process: State and Districtwide Assessments - Region 18](#)

[Assessments for Students with Disabilities – Texas Education Agency](#)

[Accommodation Resources – Texas Education Agency](#)

[2020-2021 Accessibility Features - Texas Education Agency](#)

[Accommodation Request Process - Texas Education Agency](#)

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

[OSERS Letter to Anonymous \(August 25, 2009\) – U.S. Department of Education](#)

[STAAR Alternate 2 Resources – Texas Education Agency](#)

[STAAR Alternate 2 Participation Requirements - Texas Education Agency](#)

[TELPAS Alternate Resources - Texas Education Agency](#)

[TELPAS Alternate Participation Requirements - Texas Education Agency](#)

[State Assessments - SPEDTEX](#)

SUPPLEMENTARY AIDS AND SERVICES, SPECIAL EDUCATION, RELATED SERVICES

Board Policy EHBA and Board Policy EHBAB (Supplementary Aids and Services; Special Education; Related Services; Program Modifications and Supports for School Personnel; Initiation Frequency, and Duration of Services; Location); Board Policy EHBC, Board Policy EKC, and Board Policy EIE (Accelerated Reading Instruction; Student Success Initiative for Children in Grades Three Through Eight); 34 CFR 300.320 (Special Education; Program Modifications and Supports for School Personnel; Initiation, Frequency, and Duration of Services; Location), 300.39(a) (Special Education), 300.42 (Supplementary Aids and Services), 300.34 (Related Services), 300.107 (Program Modifications and Supports for School Personnel), 300.117 (Program Modifications and Supports for School Personnel); Texas Education Code 38.033 (Related Services), 21.451 28.0023(d) (Program Modifications and Supports for School Personnel), 28.0211, 28.0213, 39.023 (Intensive Program of Instruction), 28.006 (Accelerated Reading Instruction), 28.0211 (Student Success Initiative for Children in Grades Three Through Eight), 28.0212(c) (Initiation, Frequency, and Duration of Services), 25.0343 (Location); 19 TAC 89.1050(a)(1) (Supplementary Aids and Services, Special Education, Related Services, Program Modifications and Supports for School Personnel), 89.1090 (Related Services), 74.38(e)(1) (Program Modifications and Supports for School Personnel), 89.1050(a)(10) (Intensive Program of Instruction), 89.1050(a)(7) (Accelerated Reading Instruction), 89.1050(a)(7) (Personal Graduation Plan in Junior High and Middle School), 89.1075(e) (Initiation, Frequency, and Duration of Services)

What is Required

The IEP for each student with a disability must include a statement of the special education and related services and supplementary aids and services to be provided to the student and a statement of the program modifications or supports for school personnel that will be provided to enable the student –

- to advance appropriately toward attaining the annual goals,
- to be involved in and make progress in the general education curriculum,
- to participate in extracurricular and other nonacademic activities; and
- to be educated and participate with other children with disabilities and nondisabled children.

Nonacademic and extracurricular services and activities may include:

- Meals
- Recess periods
- Counseling services
- Athletics
- Transportation

- Health Services
- Recreational activities
- District Special interest groups or clubs
- Referrals to other agencies that provide assistance to individuals with disabilities
- Employment of students, including both employment by the District and assistance in making outside employment available

In developing a student's IEP, the ARD Committee will include a schedule of all special education services, supplementary aids and services, related services, and modifications a student will receive, including the projected start date, anticipated frequency, and anticipated duration of those services. Students with disabilities will have available an instructional day commensurate with that of students without disabilities, as appropriate, which will be determined by the ARD Committee and specified in the student's IEP.

The ARD Committee must determine and include in the student's IEP the expected location of where the student will receive services and modifications. If the District assigns the student to a different campus other than where the student is zoned to attend based on residence, the District must allow any other student who is residing in the student's home to transfer to the school if the other student(s) is entitled to attend school in the District and the school offers the appropriate grade level for the other student(s) at the campus. The District is not required to transport the other student(s) who is permitted to transfer unless the other student(s) is entitled to transportation as a related service. The transfer right does not apply to the other student(s) if the special education student attends a residential facility.

Supplementary Aids and Services

Supplementary aids and services are aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable the student with a disability to be educated with nondisabled students to the maximum extent appropriate. The ARD Committee must determine the necessary supplementary aids and services to be provided to or on behalf of a student who is eligible to receive special education services.

Special Education

Special education is specially-designed instruction, at no cost to parents, to meet the unique needs of the student with a disability. The ARD Committee must determine needed special education services that meet the unique needs of the student with a disability.

Related Services

The ARD Committee determines what related services a student with a disability needs. Related services are an array of developmental, corrective, and other supportive services as may be

required to assist the student with a disability to benefit from special education. 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.

For example, audiology services are a related service. The ARD Committee or Section 504 committee may determine that a student is eligible to receive audiology services pursuant to the Health and Human Services Commission if the student is:

- 1) 20 years of age or younger;
- 2) Has a disability or chronic medical condition;
- 3) Is eligible for Medicaid benefits; and
- 4) Has been prescribed the services under the student's Individualized Education Program (IEP) or a plan created under Section 504.

See [FUNDING FOR NONEDUCATIONAL SERVICES].

Transportation is a related service and extends to transporting students who are residentially placed by the District. If an ARD Committee places a student at a residential school, the District, which is the resident school district, is required to transport the student, throughout the student's entire term at the residential campus, including regularly scheduled holidays when the student is expected to leave the residential campus. If the ARD Committee determines that the student requires an accompanied adult for safety measures, the committee must designate an adult who will be with the student during the round-trip transportation. The District is not responsible for transportation costs for students who are placed in a residential setting by their parents rather than by the ARD Committee.

Other Supports

Training to Implement the IEP

For those employees who work primarily outside of special education and who do not possess the knowledge and skills necessary to implement the student's IEP, the District will train such staff at a time and place designated by the District. Such training will be evidence-based and related to instruction of students with disabilities, including students with disabilities who also have other intellectual or mental health conditions and will be designed specifically for educators who work outside of special education. In developing the training, the District will consult with experts in research-based practices for students with disabilities who may be associated with outside entities (e.g. colleges, universities, nonprofit organizations, and regional education services in Texas) as well as those employed by the District.

Intensive Program of Instruction

The ARD Committee must design an intensive program of instruction for students who do not perform satisfactorily on a state assessment or who are not likely to receive a high school diploma before the fifth year following the student's enrollment in grade 9. See [STATE AND DISTRICTWIDE ASSESSMENTS].

The purpose of intensive program of instruction designed by the ARD Committee is to ensure students attain annual growth on the basis of the student's IEP and to carry out the Student Success Initiative (SSI) purpose described further below.

Accelerated Reading Instruction

The District will administer a state-adopted or District-adopted reading instrument to determine students' reading development and comprehension. Such reading instruments also evaluate a student's risk for dyslexia or other reading difficulties. See [DYSLEXIA]. If the evaluation results reveal a reading deficiency, the District will notify the student's parent of the results and will implement an accelerated reading instruction program to help the student progress in his or her reading skills.

For special education students in kindergarten or grades 1 and 2 who do not perform satisfactorily on the state-adopted or District-adopted list of reading instruments, the ARD Committee must determine how the student will participate in the accelerated instruction program.

Student Success Initiative for Children In Grades Three Through Eight

The ARD Committee must determine the manner in which the student will participate in an accelerated instruction program when required. For special education students in grades 5 or 8 who do not perform satisfactorily on the reading or math state assessment the first time, the ARD Committee must meet before the student will take the assessments for a second time. See [STATE AND DISTRICTWIDE ASSESSMENTS]. When meeting, the Committee must determine the manner in which the student will participate in the accelerated instruction and whether the student will be promoted or retained. In accordance with the SSI requirements, the ARD Committee can promote a special education student in grades 5 or 8 to the next grade if the ARD Committee determines that the student has made sufficient progress in measurable academic IEP goals. See [ANNUAL GOALS].

If the District promotes the student under the SSI, the District does not have to administer the state assessment to the student for a second time.

No later than September 1 of each school year, the District must notify the parent of the options the ARD Committee has as provided in the SSI.

Personal Graduation Plan in Junior High and Middle School

A graduation plan is required for students who do not perform satisfactorily on a state assessment (or who are likely not to receive a high school diploma before the fifth year following the student's enrollment in grade 9. See [STATE AND DISTRICTWIDE ASSESSMENTS] and [PARENT NOTIFICATION AND PERSONAL GRADUATION PLAN].

A student's IEP may be used as a graduation plan for students in junior high and middle school.

Additional Procedures

Supplementary Aids and Services

In order to access the general education curriculum in the least restrictive environment, students with disabilities may require supplementary aids and services. Supplementary aids and services encompass a broad range of student supports, which include (but are not limited to):

- Accommodations – changes to materials or procedures that enable students with disabilities to participate meaningfully in learning and assessments. Examples include shortened assignments, extended time given for completing assignments, or preferential seating. Accommodations do **NOT** change what the student is expected to master.
- Modifications – changes in what the student is expected to learn that is different from his or her grade-level curriculum. Examples include reducing the expectations for an assignment or test or modifying the work to a prerequisite skill level compared to the curriculum (TEKS). Modifications **DO** change what the student is expected to master.
- Assistive technology – items, devices or products that are used to increase, maintain, or improve the functional capabilities of a student with a disability.
- Adapted equipment – examples include a footstool for a student whose feet do not comfortably reach the floor when sitting in a regular desk or wheelchair accessible playground equipment.
- Adapted materials – examples include large-print textbooks, writing tablets with raised lines, or soft pencil grips to help with manual dexterity.
- Communication aids – examples include sign language, interpreting services and assistive and augmentative communication devices.
- Resource support – one-on-one or small group work in subject areas where the student needs re-teaching, tutoring or slower-paced instruction.

- Paraprofessional support – sometimes called an “aide,” the paraprofessional provides instructional support under the direct supervision of a highly qualified teacher.
- [Collaborative teaching](#) – the special education teacher acts as a co-teacher in the general education classroom (direct instruction) or as a “consultant” to the general education teacher (indirect instruction). Note: When the IEP calls for coordination between regular and special education teachers, parents should be clear on how responsibilities will be divided: who will be responsible for instruction, who will be responsible for modifications, and who will assign grades.
- Staff development – this includes training and supports needed by the teacher in order to implement the student’s IEP.
- Peer tutoring or assistance – natural supports in the classroom. Some students learn best through peer modeling and interactions, and this practice often initiates friendships between students with and without disabilities.

Like all special education services, supplementary aids and services are aids, services, are based on the individual needs of the student, not what the parent may want for the student. Supplementary aids and services are provided in addition to related services, although there can be some overlap between the two.

The ARD Committee will explore, recommend and document the appropriate supplementary aids and services that will support the student in the least restrictive environment. The time to discuss supplementary aids and services should be indicated on the ARD Agenda, following a review of evaluation data, the PLAAFP, and annual goals and objectives. Placement decisions should be made only after the ARD Committee reviews the supplementary aids and support the student will need in order to function in the least restrictive environment. The ARD Committee will also consider those supplementary aids and services as necessary to allow a student with a disability to participate in extracurricular and nonacademic settings with their peers without disabilities. When discussing supplementary aids and services, the ARD Committee should review the student’s entire school day and schedule, including playground activities, lunch, and extracurricular activities.

Special Education

The unique needs of a student with a disability encompass more than mastering academic subjects. The student’s unique needs should be broadly construed to include academic, social, health, emotional, physical, and vocational needs. These needs will be addressed by the student’s ARD Committee.

The IDEA does not require a specific instructional methodology. The District, through decisions made by teachers and service providers, must provide the student an instructional methodology that enables the student to access a FAPE.

When a student needs the curriculum modified, the ARD Committee will develop goals and objectives that modify what the student will be taught and what the student is expected to learn. Modifications may include changes to assignment (answer different test questions, do projects instead of tests, complete different homework assignments) or to the curriculum, (learning different materials, being graded using different standards, being excused from projects, etc.).

At least annually, Campus and District Special Education Personnel will receive training in identifying needed special education services using evidence-based interventions

Related Services

Related services are a support to the commitment that all students with disabilities have available to them a free appropriate public education with special education services designed to meet their specific needs. Some students may need related services to meet their individually designed special education goals. The need for related services is considered during the student's ARD meeting in the review and discussion of the student's evaluation and ongoing assessment data. An ARD Committee's decisions regarding the need to related services to support educational goals must be clearly identified in the student's IEP and must be determined on an individual basis.

In determining whether a particular related service should be provided, the ARD Committee will consider the evaluation and the recommendations of the related service provider who conducted the evaluation. When considering related services, the ARD Committee should be mindful that the IDEA does not include an exhaustive list of related services to be provided. Accordingly, an ARD Committee should consider a variety of services that may assist the student to benefit from special education.

However, the IDEA specifically excludes from related services a medical device that is surgically implanted (e.g. cochlear implant), the optimization of that device's functioning (e.g. mapping), maintenance of that device, or the replacement of that device. This exclusion does not limit the right of a student with a surgically implanted device to receive related services that are determined by the ARD Committee to be necessary for the student to receive FAPE, limit the responsibility of the District to appropriately monitor and maintain medical devices that are needed to maintain the health and safety of the student, including breathing, nutrition, or operation of other bodily functions, while the student is transported to and from school or is at school; or prevent the routine checking of an external component of a surgically implanted device to make sure it's functioning properly.

The following "best service" practices should be considered by the ARD Committee when making decisions regarding related services:

- Related services are a collaborative, integrative service with a focus on early intervention to minimize deficits and diminish the need for services in later years.
- Related Service Providers are members of the collaborative team, providing needed support to the student, teacher, and other team members.
- Related service evaluations are conducted in natural environments during daily activities and focus on the barriers to learning and participation.
- Related service IEP goals and objectives are expressed in terms of desired educational outcomes and all team members will implement (collaborative IEPs).
- Related service delivery will be provided through a continuum of available options.
- Related service intervention is provided in natural settings during daily routines as the problems are occurring. This allows the Related Service Provider to model strategies/solutions for Classroom Personnel.
- Teachers are the foundation of the integrated model and will incorporate the suggestions of the related service providers throughout the school day.

When considering a related service, the Related Service Provider will conduct an evaluation and make recommendations about the need for the service and for service delivery. The evaluation will be in context of the FIE and will focus on accessing instruction. After considering the need for intensive intervention, the age and developmental level of the student, and the student's effort, attitude, and motivation, the ARD Committee determines whether or not the student is eligible for the related service.

In addition to the evaluation and determination of need, the Related Service Provider will provide recommendations for services. Service delivery options include: monitoring; consultation; classroom based integrated services; pull out in an individual or group setting; community-based services; or a combination of these options. It is critical that the ARD Committee clarify the service delivery model as direct services (provided directly to the student by the service provider regardless of the setting) or indirect services/consultation (services provided to teachers or other staff, regardless of setting, to assist the student in accessing the curriculum). Recommendations will also include goals and objectives, and frequency, duration, and location of sessions.

At least annually, Campus and District Special Education Personnel will receive training in identifying needed related services and documenting and considering their effectiveness.

Other Supports

The ARD Committee should be knowledgeable of the various opportunities for a special education student to interact with the student's nondisabled peers both in education-related settings and in extracurricular and nonacademic settings to determine if supports are necessary.

Although training on IEP implementation is only required for staff members who work primarily outside of special education, the District will provide training to staff who work with special education students. The District will solicit input from staff who work directly with students in determining the professional development and training opportunities that the District offers. This training will address how to identify needed supplementary aids and services and program modifications and how to document and consider their effectiveness. Additionally, this training will address how to identify needed supports for school personnel and how to document and consider their effectiveness.

The District Special Education Personnel should ensure that campuses have an intensive program of instruction for those students who are likely not to receive a high school diploma before the fifth school year following the student's enrollment in grade 9.

Each campus should ensure that Special Education Personnel develop and implement an accelerated reading instruction for all special education students who have performed unsatisfactorily on the state assessments.

If a student is not making appropriate progress in light of the student's unique circumstances, the ARD Committee should convene and reconsider the schedule of services. For example, the ARD Committee may consider increasing the amount of inclusion minutes or making the student's placement more restrictive if the student is not progressing. Changes such as these will be reflected in the student's IEP.

The ARD Committee can determine to place a student at a District campus other than the student's zoned residential campus. The ARD Committee may make this decision if it believes another District campus can provide more appropriate supports for the student to access the general education curriculum. If an ARD Committee places a student in a campus other than the student's zoned residential campus, the parent's other children who reside at the home also have the right to attend the campus, if they are otherwise eligible to attend school in the District. The purpose of this transfer rights policy is to accommodate parents with multiple children in the District. Campus Administrators will be made aware of this transfer procedure and must not deny enrollment solely because the other student was not placed at the school by an ARD Committee.

Evidence of Implementation

- FIE

- ARD/IEP
- Referral Documentation
- Teacher Input
- Parent Input
- Support Service Documentation
- Related Service Provider Documentation
- Session Notes
- Progress Reports on Annual Goals
- Report Card Grades
- Benchmarking Testing
- State Assessments
- District-Wide Assessments
- Campus Enrollment Documentation
- Staff Training
- Evidence of Accelerated Instruction Programs

Resources

[Scientifically Based Research - Region 10](#)

[Response to Intervention \(RtI\) Resources – Region 10](#)

[Progress in the General Curriculum \(PGC\) Network – Region 20](#)

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

[Student Success Initiative – Texas Education Agency](#)

[Related Services for Students with Disabilities–Questions and Answers – Texas Education Agency](#)

[National Center on Intensive Intervention – OSEP Technical Assistance Center](#)

[Center for Parent Information and Resources – OSEP Technical Assistance Center](#)

[National Center on Accessible Educational Materials – OSEP Technical Assistance Center](#)

[OSERS Dear Colleague Letter \(November 16, 2015\) – U.S. Department of Education](#)

[OSEP Letter to Chambers \(May 9, 2012\) – U.S. Department of Education](#)

[OSERS Dear Colleague Letter \(Oct. 23, 2015\) – U.S. Department of Education](#)

[OCR Dear Colleague Letter \(Dec. 26, 2007\) – U.S. Department of Education](#)

[OSEP Letter to McWilliams \(July 16, 2015\) – U.S. Department of Education](#)

[OSEP Letter to Spitzer-Resnick, Swedeen, and Pugh \(June 22, 2012\) – U.S. Department of Education](#)

[OSEP Letter to Anonymous \(Sept. 11, 2007\) – U.S. Department of Education](#)

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

[OSERS Questions and Answers on Serving Children with Disabilities Eligible for Transportation \(Nov. 2009\) – U.S. Department of Education](#)

[OSEP Letter to Akron \(Nov. 20, 1990\) – U.S. Department of Education](#)

[OSEP Letter to Ackerhalt \(Sept. 6, 2012\) – U.S. Department of Education](#)

[White v. Ascension Parish School Board \(5th Cir. 2003\)](#)

[OSEP Letter to Trigg \(Nov. 30, 2007\) – U.S. Department of Education](#)

[OSEP Letter to Clarke \(Mar. 8, 2007\) – U.S. Department of Education](#)

Transition Services

34 CFR 300.43(a)-(b), 300.320(b), 300.321(b)(2), 300.324; Texas Education Code 28.025, 29.011, 29.0111, 29.0112(e); Texas Estates Code Ch. 1357; 19 TAC 75.1023, 89.1055(j)-(l)

What is Required

Transition services are the coordinated set of activities for a student with a disability that is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the student with a disability to facilitate the student's movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. Transition services are based on the individual student's needs, taking into account the student's strengths, preferences, and

interests; and includes instruction, related services; community experiences; the development of employment and other post-school adult living objectives; and the acquisition of daily living skills and provision of a functional vocational evaluation, if appropriate. Transition services may be special education, if provided as specially-designed instruction, or a related service, if required to assist the student with a disability to benefit from special education. See [SUPPLEMENTARY AIDS AND SERVICES, SPECIAL EDUCATION, RELATED SERVICES].

Transition planning is done by the ARD Committee and must include the input of the student. If the student does not attend the ARD Committee meeting, the Campus Special Education Personnel must take other steps to ensure the student's preferences and interests are considered during the transition planning. See [ADMISSION, REVIEW, AND DISMISSAL COMMITTEE MEETING] and [ADMISSION, REVIEW, AND DISMISSAL COMMITTEE MEMBERSHIP].

By Age 14

Not later than when the student reaches the age of 14, the ARD Committee must annually consider and, if appropriate, address the following in the student's IEP during transition planning:

- appropriate student involvement in the student's transition to life outside of the public school system;
- appropriate involvement in the student's transition by the student's parent and other persons invited to participate by the parent or the Campus Special Education Personnel (if the student is younger than 18);
- appropriate postsecondary education options, including preparation for postsecondary-level coursework;
- appropriate functional vocational evaluation;
- appropriate employment goals and objectives;
- if the student has reached 18, the availability of age appropriate instructional environments, including community settings or environments that prepare the student for postsecondary education or training, competitive integrated employment, or independent living, in coordination with the adult student's transition goals and objectives;
- appropriate independent living goals and objectives;
- appropriate circumstances for facilitating a referral of a student or the student's parent to a governmental agency for services or public benefits, including a referral to place a student on a waiting list for public benefits; and
- the use and availability of appropriate supplementary aids, services, curricula, and other

opportunities to assist the student in developing decision-making skills and supports and services to foster the student's independence and self-determination, including a supported decision-making agreement.

By Age 16

Not later than the first IEP to be in effect when the student turns 16, the ARD Committee must include and update annually the following in a student's IEP during transition planning:

- appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and independent living skills; and
- Transition services, including courses of study needed to assist the student in reaching those postsecondary goals.

By Age 17

Not later than one year before the student's 18th birthday, the Campus Special Education Personnel must comply and provide notification to the student and the student's parent of the transfer of rights to the adult student. *See [ADULT STUDENT AND TRANSFER OF RIGHTS].*

By Age 18

For an adult student, the ARD Committee must consider and, if appropriate, address involvement in the student's transition and future by the adult student's parent and other persons, if the parent or other person is invited to participate by the adult student or the Campus Special Education Personnel or has the adult student's consent to participate pursuant to a supported decision-making agreement or other legal document. *See [ADULT STUDENT AND TRANSFER OF RIGHTS].*

Other Issues Relevant to Transition

When determining the course of study, the ARD Committee must consider the student's graduation plan and post-secondary goals. *See [GRADUATION].* In addition, the District must ensure that students with disabilities have access to career and technical education (CTE) classes. When determining placement in a CTE class, the ARD Committee must consider the student's graduation plan, the content of the student's IEP, including the consideration of transition services, and classroom supports. If a participating agency fails to provide the transition services described in the student's IEP, the ARD Committee must identify alternative strategies to meet the transition objectives set out in the IEP.

Transition and Employment Guide

The District must post the *Texas Transition and Employment Guide* (the “Guide”) on the District's website. The ARD Committee will provide written information and, if necessary, assistance to the student or parent regarding how to access the electronic version of the Guide at the first meeting of the student's ARD Committee at which transition is discussed and again at the first ARD Committee meeting at which transition is discussed that occurs after the date on which the Guide is updated. In addition, on request, the Campus Special Education Personnel will provide a printed copy of the Guide to the student or parent.

Transition and Employee Designee (TED)

The District must designate at least one employee to serve as the District’s designee on transition and employment services for special education students. This person is the District’s Transition and Employment Designee or TED. The TED is the District’s primary contact for transition and employment services for students with disabilities. This employee must also be able to provide information and resources about effective transition planning and employment services to school staff, parents, and agency providers, including the following:

- Student Involvement
- Parent Involvement
- Adult Student Support
- Postsecondary Education
- Functional Vocational Evaluation
- Employment
- Age-Appropriate Instructional Environments
- Independent Living
- Referral to State Agency Services
- Self-Determination
- Supported Decision-Making Agreements

In addition, the TED must also help identify contacts at the following state agencies and ensure communication between local staff and regional or local staff at the following agencies:

- Health and Human Services Commission (HHSC)
- Texas Workforce Commission (TWC)
- Department of State Health Services (DSHS); and
- Department of Family and Protective Services (DFPS).

The District will determine which employee will serve in the role of the TED. In determining who will serve as the TED for the District, the District Special Education Director will consider whether the employee is able to lead training and communicate effectively about transition planning and transition assessment, 18-21 services, work-based learning and career experiences, and self-determination. In addition, does the employee feel comfortable answering questions and facilitating discussions with staff, students and parents about agency support and collaboration, supported decision-making agreements, community connections

and outreach, and postsecondary education and training. The employee who serves as the TED must have effective communication skills and must continually work to develop partnerships among school staff, students, parents, and local and regional representatives of state agencies. The employee designated at the TED for the District will be inputted into the AskTED and into the Legal Framework website by the District Special Education Director or designee.

Training

At least once annually, Campus and District Special Education Administration and Campus and District Special Education Personnel who work with students in grades 6 through 12 must participate in training about state transition requirements that must be in place for students by age or younger if determined appropriate by the ARD Committee. Additionally, Campus and District Special Education Administration and Campus and District Special Education Personnel who work with students in grades 9 through 12 must participate in training about the federal transition requirements (courses of study, age-appropriate transition assessments, and postsecondary goals) that must be in place by age 16 or younger if determined appropriate by the ARD Committee. This may be the same training for those who work with students in grades 9 and up.

In addition, the District will provide training to families about transition services for children of all ages, including children younger than age 14, to include information about graduation endorsements, appropriate class and course offerings, career-related training, self-determination resources, opportunities for community participation, and agency resources. The parent will also be provided the name and contact information of the District's TED and the TED's role in facilitating transition services connections between school staff, student, parents, and agency representatives.

Additional Procedures

Transition planning provides the focus for the development of the IEP for students age 14 (or younger if deemed appropriate by the ARD Committee) and older. For students with autism, transition planning can be considered at any age. Transition planning is intended to be flexible, dynamic and appropriate. Transition services emphasize the acquisition of functional skills and hands-on knowledge, enabling students to enter the workforce or continue their education or training. Such services also allow students to live as autonomously as possible, given the extent of their disabilities. At a minimum, the ARD Committee must review the transition information in a student's IEP at least once annually, or more as needed, and update the IEP as necessary. This may be done in the annual ARD meeting or through a revision ARD meeting as needed.

The student's individual transition plan should be individually designed and based on the student's interests, strengths, and preferences. Students should be encouraged and coached to advocate for themselves during the transition planning, at the ARD Committee meeting, and in future environments. The transition planning should always include the student and it is preferable that the student attend at least that portion of the ARD meeting that focuses on transition planning. If the student cannot attend, for behavioral and/or cognitive reasons the

student's general education teacher (if appropriate), CTE teacher (if appropriate) and special education teacher should collaborate on providing feedback regarding the student's interests, strengths, and preferences. The ARD Committee shall document the reason that the student did not attend the ARD meeting, as well as the decisions made on the student's behalf, in the IEP. In addition, if the student's interests are difficult to ascertain, the ARD Committee should consider recommending a functional vocational evaluation to be conducted, if appropriate, to be considered by the ARD Committee during transition planning.

Transition planning is documented by the ARD Committee on the Transition Supplement/Section of the IEP and should include:

- appropriate measurable postsecondary goals that are annually updated and based upon age appropriate transition assessment;
- transition services, including courses of student, that will reasonably enable the student to meet those postsecondary goals;
- annual IEP goals related to the student's transition service needs;
- evidence that the student was invited to the ARD meeting where transition services are discussed or documentation that the student's input was obtained and considered if the student is unable to attend the ARD meeting; and
- if appropriate, evidence that a representative of any participating agency was invited to the ARD Committee meeting with the prior consent of the parent or adult student.

The ARD Committee will determine appropriate measurable postsecondary goals and transitions services to assist the student in meeting those postsecondary goals by reviewing the student's special education eligibility folder, evaluation(s), transition assessments, classwork and assignments, assessments, progress documentation, observations, input from teachers, parent(s), and student, etc. These goals are updated, at a minimum, during the annual ARD meeting to ensure they continue to reflect the student's postsecondary needs.

Campus Special Education Administrator will designate one person on the campus responsible for contacting the outside agencies that are identified as part of the student's transition plan to invite them to the ARD meeting with the consent of the parent and to gather information regarding the agency's services for the ARD Committee to consider during transition planning. This individual is also responsible for identifying the Texas Workforce Commission Vocational Rehabilitation Counselor who works with the District and/or Campus. If the ARD Committee determines that connecting with a participating agency is inappropriate for the student, the decision will be documented in the student's IEP either in the Transition section or in the deliberations, including the rationale for the decision and the data considered when making the decision.

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 annual training, with follow up, to ensure the documentation required is in place and compliant.

Specifically for Secondary Transition, District Special Education Administration will comply with the documentation requirements for State Performance Plan Indicator 13 (SPPI 13). SPPI 13 measures the percent of youth with IEPs aged 16 and above with an IEP in compliance with 7 items:

- (1) appropriate measurable postsecondary goals
- (2) annually updated postsecondary goals
- (3) postsecondary goals based on age-appropriate transition assessment(s)
- (4) transition services, including courses of study, that reasonably enable the student to meet post-secondary goals
- (5) IEP goal(s) related to student's transition services needs
- (6) If appropriate, evidence student invited to ARD; and
- (7) If appropriate, evidence agency representative invited to ARD.

District Special Education Personnel will track and monitor the above compliance items for all special education student's aged 16 and above.

Transition Assessments and Functional Vocational Evaluations

Prior to an ARD meeting to discuss transition planning, District or Campus Transition Personnel and/or Campus Special Education Personnel will assess the student using a variety of transition assessments involving the continual collection of information about a student's strengths, needs, preferences, and interests. The ARD Committee then uses the results to identify appropriate measurable goals and transition services to include in the student's IEP. District or Campus Transition Personnel and/or Campus Special Education Personnel shall determine which assessments are appropriate on a case-by-case basis and ensure that all transition assessments are focused on measurable post-secondary goals. Using a variety of formal and informal assessments that test a student's skills and uses in education/training, employment, independent living/personal allows District or Campus Transition Personnel and/or Campus Special Education Personnel to obtain information on a student's current performance and identify those skills needed for the future. The most commonly administered assessments address student interests (i.e., topics or subjects relating to vocations), aptitudes (i.e., job-related knowledge and abilities), or preferences (i.e., working individually or in groups, working inside or outside, physical activity or sedentary work, etc.).

Transition assessments will be age-appropriate, nondiscriminatory, and sensitive to a student's cultural background. Additionally, transition assessments will consider the student's disability-

related needs, including the student's abilities, communication barriers, and need for various accommodations. Professionals who conduct transition assessments will be knowledgeable and experienced in administering and interpreting a wide range of assessment tools. At least once annually, District or Campus Transition Personnel and/or Campus Special Education Personnel will receive training on the process of conducting transition assignments, as well as the various transition assessments available.

Campus or District Transition Personnel and/or Campus Special Education Personnel will communicate the results of the transition assessments to parents at least annually during ARD meetings and make reasonable efforts to obtain parent input and encourage engagement in transition planning. In addition to annual ARD meetings, Campus or District Personnel and/or Campus Special Education Personnel will attempt to contact the parent prior to conducting transition assessments to obtain relevant information regarding appropriate assessments for the student. Should the parent's native language be a language other than English, the District will provide an interpreter to ensure the parent is able to effectively communicate in the process.

A functional vocational evaluation (FVE), which is an ongoing process that identifies a student's interests, work-related aptitudes and skills, and need for training, may also be conducted. A FVE may be considered when a student has difficulty communicating their career interests, when a student has completed training at multiple job sites, but there is not a clear direction for next steps; and/or when a transition assessment has not provided enough information to develop a comprehensive transition plan. An FVE should include information from multiple sources, including student and parent input, and include recommendations related to career interests, aptitudes, and skills.

Transition Planning for Students with Significant Needs

Students with severe and multiple developmental disabilities demonstrate diverse skills, strengths, limits, and support needs, and generally have associated health conditions of various severity. These students usually present with multiple system impairments that impact the student, family, and community participation. The transition services and supports needed for these students are usually pervasive and extensive in order to achieve community living, employment, and self-sufficiency. As such, transition planning for students with complex or more significant needs should start early, as soon as the student is identified as eligible for special education services.

Transition planning should be reviewed and discussed at the student's initial ARD meeting and at every subsequent ARD meeting to ensure that the needs of the student are met. At the primary levels, grades K through 4, transition discussions should focus on employability skills, independent living skills, and self-determination attitudes. The student's transition planning should be based on the student's need to develop positive work and activities of daily living and to develop an understanding of the student's disability and needed support. At the middle

school grades, the focus for transition planning should shift to career exploration and transition planning related to the course of study as well as developing independent living skills. At that point, the focus should be on the student's need to understand the relationship of school and work; understand the student's interests, preferences, and aptitudes; understand work, education, independent living, and community options; determine a general course of secondary study; and identify needed accommodations and supports for secondary education.

Then, in high school, the student's entire IEP should be focused on career exploration and transition with the focus of transitioning and overlapping into postsecondary environments desired by the student. In the early years of high school, the student needs are to develop meaningful and realistic postsecondary goals, develop work, education, residential, and community participation skills and supports relevant to those goals, and, as much as possible, independently learn to manage disability needs and request accommodations. And, in the last two years of high school, the student should be testing goals through experiences and activities, securing options for postsecondary education and/or employment, developing residential and community participation supports and contacts, developing linkages with adult services, and empowering families to function in adult service environments.

Self-Determination Skills

Self-determination is a combination of skills, knowledge, and beliefs that enables a student to engage in goal-directed, self-regulated, and autonomous behavior. Self-determination allows a student with disabilities to understand the student's strengths and limitations together with a belief in oneself as capable and effective. As part of the self-determination curriculum, students will be able to identify areas of strength, difficulties, interests, and values. Additionally, students will understand their disabilities and be able to explain them to others.

Self-determination instruction is typically provided through embedded TEKS and supplemental lessons as needed. Students will be taught the skills associated with self-determination including choice making, decision making, problem solving, goal setting, planning, goal attainment, self-management, self-advocacy, self-awareness, and self-knowledge. They will then be provided opportunities to use and practice those skills, and be provided supports and accommodations, as necessary, in order to lead self-determined lives.

Outside Agencies

Students transitioning from high school to adulthood may require services and supports from outside agencies to live independently. At least annually in ARD meetings, Campus and District Transition Personnel shall provide information to students with disabilities and their parents

regarding the services and supports available within the community to assist in the transition process.

Many services are available through waiver programs, meaning certain Medicaid requirements do not apply. Some of the services available through these waivers include personal care services, nursing care, home modifications, car modifications, respite care, and various therapies. Texas has seven waivers, and each one has its own interest list. Waivers are managed by the Health and Human Services Commission (“HHSC”) and the Department of State Health Services (“DSHS”). Parents should be encouraged to add students to as many waiver interest lists as soon as possible and preferably as soon as the child is diagnosed with a disability or special health care need. Students will be added to these programs once there is availability. District and Campus Personnel will inform parents of the HHSC waiver list and the process for enrollment in annual ARD meetings as early as Early Childhood Intervention and Early Childhood Special Education.

Prior to a student turning 14, Campus and District Transition Personnel will encourage parents to identify any needs for long-term services and supports and the type of long-term services and supports needed. Additionally, Campus and District Transition Personnel will encourage parents to explore the community and long-term services and supports that are available and provide contact information for community and long-term services and support agencies. Campus and District Transition Personnel shall be available to assist parents in applying for long-term services and supports as appropriate.

When or before a student turns 16, Campus and District Transition Personnel will encourage parents to identify natural supports for students and routinely contact HHSC for updates in positions on waiver lists. If the parent and/or adult student has not already done so when or before the student turns 18, Campus and District Transition Personnel will provide parents and/or adult students information on applying for long-term services and supports, if appropriate.

Evidence of Implementation

- ARD/IEP
- Transition Supplement/Section of ARD/IEP
- Documentation of Student Participation in Transition Planning
- Course of Study
- Transition/Vocational Assessments
- Contacts with Outside Agencies
- Consent to Invite Outside Agency Representative to ARD
- Prior Written Notice
- Document Acknowledging Receipt of *Texas Transition and Employment Guide*
- Transition Services Training
- Transition and Employment Services Designee

- Self-Determination Curriculum/Instruction
- Documentation for the State in TSDS, PEIMS, and SPP

Resources

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

[Secondary Transition Guidance \(TEA\)](#)

[Texas Transition and Employment Guide](#)

[Texas Transitions Network \(TEA\)](#)

[Students with Disabilities Preparing for Postsecondary Education: Know Your Rights and Responsibilities \(OCR\)](#)

[OSERS Questions and Answers on Secondary Transition \(2011\)](#)

[SPEDTEX - Secondary Transition in Texas](#)

Virtual Learning Days

34 CFR 300.114(a)(2), 300.115

What is Required

If the District provides virtual learning days or remote learning for its general education students due to a school or class closure, such learning must be also available to an eligible special education student. However, according to the U.S. Department of Education, the District is still responsible for providing special education and related services in accordance with a student's IEP in the least restrictive environment on virtual learning days.

Additional Procedures

If a District provides virtual learning days, the District may provide special education and related services through various methods, so long as the services provided align with the services set forth in a student's IEP. When possible, synchronous instruction via Zoom, Google Classrooms, or other virtual platforms will be provided. However, should synchronous instruction not be possible or appropriate, the District shall provide special education and related services through asynchronous instruction through various online learning platforms, recorded lessons, packets, workbooks, etc. Direct or indirect instruction may also be provided via phone calls or other

methods of service delivery. The provision of special education and related services on virtual learning days must be individualized based on a student's unique needs.

During virtual learning, service providers should consider the following:

- What skills does this student most need to work on given the current learning environment?
- What skills, if strengthened now, will best position this student to make progress on goals once traditional instruction resumes?
- Are there any barriers to services, such as a lack of access to technology or privacy concerns?
- Is this method of service appropriate for the student?
- Is the student receiving the same or close to the same amount of instruction as provided for in the IEP?
- Is it possible to provide services synchronously rather than asynchronously?

Campus and District Special Education Personnel are responsible for ensuring platforms used for virtual learning are accessible and useable for students with disabilities. This is particularly important for students who have Deaf and Hard of Hearing, Visual Impairments, Deaf/Blindness, Intellectual Disabilities, as well as Emergent Bilingual students with disabilities.

Special education and related services may be provided virtually in an individual or group setting, depending on what is set forth in the student's IEP. Campus or District Special Education Personnel shall provide a consent form to the parent of each student participating in virtual services in a group setting to protect confidentiality, and other precautions shall be taken on online platforms to prevent the disclosure of a student's name to the parent of another student participating in the virtual group services.

If a student is not available or refuses to participate in virtual special education or related services, Campus and District Special Education Personnel shall document the reasons, if known; inform the parent of the offer of services; and document the offer of services. If a lack of access to technology is preventing the student from participating in virtual learning, the District will provide access to technology, such as a laptop or hotspot, where possible. If the District is unable to provide sufficient resources to enable the student access, Campus and District Special Education Personnel shall send work to the student in paper form and document efforts to educate the student.

Communication with parent(s) during extended period of virtual learning days will be documented through a communication log. This communication log will record the name of the parent, date and time of the conversation, method of communication, and a summary of the conversation.

Campus and District Special Education Administration and Campus and District Personnel, including but not limited to special education teachers, general education teachers, and service providers, will be trained annually regarding the provision of special education and related services during virtual learning days. This training will include information regarding the provision of instructional phone calls, videoconferencing, homework packets, online lessons, and other available distance-based learning approaches. This training will also address maintaining documentation of the provision of services and progress during virtual learning and the procedures for conducting virtual ARD meetings.

Documentation during Virtual Learning

The ARD Committee shall document all decisions made regarding virtual learning in the IEP. Campus and District Special Education Personnel shall document what services are provided virtually, including the date, amount, duration, and mode of delivery. Campus and District Special Education Personnel are responsible for monitoring and documenting student progress during virtual learning days. Documentation should be sufficiently detailed for the ARD Committee to determine whether and/or to what extent additional services may be needed once the student returns to in-person instruction.

Virtual ARD Meetings

If a District offers the option for parents and Campus Personnel to attend ARD meetings remotely, the legal requirements for virtual ARD meetings remain the same as the legal requirements for in-person ARD meetings. See [ADMISSION, REVIEW, AND DISMISSAL COMMITTEE MEETING] & [ADMISSION, REVIEW, AND DISMISSAL COMMITTEE MEMBERSHIP]. This includes the requirement to provide prior notice of an ARD meeting to a parent at least five (5) school days prior to the meeting, identifying the location as virtual/video-conference, the reason for convening virtually, and the issues to be discussed during the meeting.

Campus Special Education Personnel shall document attempts to have the parent participate in a virtual ARD meeting, including any efforts to provide access to parents. Campus and District members of the ARD Committee must have access to the proper technology to participate in the ARD meeting and be trained on how to access the technology prior to the ARD meeting. Additionally, all mandatory members of the ARD Committee are still required to sign the IEP at the end of the ARD meeting to indicate agreement. Electronic signatures are considered valid and legal signatures.

Virtual ARD meetings should be treated in the same manner as in-person ARD meetings. As such, Campus and District members of the ARD Committee must maintain a professional and

courteous tone during virtual ARD meetings. Each virtual ARD meeting shall have a clear agenda, and the ARD Committee shall remain focused on the agenda. Cameras should be turned on during virtual ARD meetings to ensure all members are in attendance and participating. As with in-person ARD meetings, the ARD Committee shall listen to and document the parent's concerns and include the District's response in the IEP.

Assistive Technology

The District must permit the use of assistive technology at home or in other settings if the ARD Committee determines it is necessary. Should virtual learning be needed for an extended period, a student's ARD Committee shall determine whether an IEP amendment is necessary to document the necessity of at-home access to assistive technology. District Special Education Personnel may need to facilitate a temporary transfer to the student's home if the assistive technology is not easily portable. The transfer of assistive technology to a student's home shall be documented in writing, and the parent must confirm receipt of the assistive technology in writing.

Compensatory Services

Upon returning to in-person instruction, the ARD Committee will make an individualized determination whether and to what extent compensatory services may be needed, consistent with the applicable requirements, to make up for any skills that may have been lost during virtual learning. This decision shall be made on a case-by-case basis, considering the following individual data for each student:

- What services were temporarily reduced or suspended due to virtual learning;
- Benchmark data from before virtual learning;
- Progress documentation during virtual learning;
- Services provided and student's response to the services;
- If adequate progress was not made, any documentation as to why it was not; and
- Any additional considerations or documentation necessary to determine whether the student requires compensatory services.

If the ARD Committee determines that compensatory services are necessary, the ARD Committee should determine type, location, duration, and frequency of services. This does not require a minute-for-minute computation of services but rather a qualitative analysis of what the student needs to continue to make progress. Compensatory services may be provided

before or after school or during the summer months but cannot be provided during regular school hours, during ESY, or through remediation programs offered to all general education students.

Evidence of Implementation

- ARD/IEP
- ARD/IEP amendments
- Virtual lesson plans
- Communication logs with parents
- Service logs
- Evidence of participation in virtual learning from online platform
- Training documentation
- Documentation for the State in TSDS, PEIMS, and SPP
- [DISTRICT FORMS]

Resources

[At Home Learning for Students with Disabilities - Texas Education Agency](#)

[Supplemental Fact Sheet Addressing the Risk of COVID in Preschool, Elementary, and Secondary Schools While Serving Children with Disabilities – U.S. Department of Education](#)

[Questions and Answers on Providing Services to Children with Disabilities During the Coronavirus Disease 2019 Outbreak - U.S. Department of Education](#)

[Letter to Wolfram and Mandlawitz \(Jan. 10, 2022\) - U.S. Department of Education](#)

IV. CONSENT

<u>Process</u>	<u>Timeline</u>
Full and Initial Evaluation (FIE) is Requested	Timeline begins once the parent and/or CARE Team request special education testing. The Student Review Committee reviews all data and decides whether to test or not. The committee decision is shared with parents within 15 school days of requests.
Counselor Prepares Referral Packet	If the school determines that a FIE is needed, the school counselor will complete the special education referral packet within ten (10) school days of the Student Review Committee Meeting.
Parental Consent	The appropriate assessment professional (diagnostician, speech pathologist) will contact parent for written consent for testing. This assessment professional will also explain the testing process and provide parents/guardian with the Notice of Procedural Safeguards and Guide to ARD Process with the consent for testing. The 45-school-day testing window begins once the parent signs the consent.
FIE Report Due	The FIE Report must be completed within 45 school days of parent consent.

Initial ARD	The student's initial ARD must take place within 30-calendar days from the FIE Report date.
--------------------	--

Consent for Initial Evaluation

Board Policy EHBA and EHBAE; 34 CFR 300.300, 300.2, 300.9; 73 Fed. Reg. 73,014 (2008); Texas Education Code 29.004(a), 29.0041(a)–(c)

What is Required

Before conducting an initial evaluation to determine whether a student is a student with a disability in need of special education or related services, District Assessment Personnel must obtain written informed consent from the parent of the student or the adult student who is being proposed for an evaluation. See [PARENT] and [ADULT STUDENT AND TRANSFER OF RIGHTS]. Such written consent may be obtained only after District Assessment Personnel provide to the parent or adult student Prior Written Notice of the evaluation. See [PRIOR WRITTEN NOTICE]. However, parental consent for an initial evaluation does not constitute consent for the provision of special education and related services. See [CONSENT FOR SERVICES].

Elements of Consent

To constitute informed consent for the initial evaluation, the following must occur:

- The parent has been fully informed of all information related to the initial evaluation in the parent's native language or other mode of communication;
- The parent understands and agrees in writing to the District conducting the initial evaluation;
- The consent describes the initial evaluation and lists any records that will be released and to whom; and
- The parent understands that the granting of consent is voluntary by the parent and may

be revoked at any time.

If the parent revokes consent, the revocation is not retroactive. Thus, it does not negate any action occurring after the consent was given, but before the consent was revoked.

Information and Consent for Certain Psychological Examinations or Tests

Upon request by the parent, before obtaining the parent's consent to perform any psychological examination or test that is included as part of the evaluation of the student's need for special education, District Assessment Personnel must provide the parent the name and type of the examination or test that will be used, as well as an explanation of how the examination or test will be used to develop an appropriate IEP for the student.

If District Assessment Personnel determine that an additional psychological examination or test is necessary for the evaluation after parental consent has been obtained, District Assessment Personnel should provide the parent information relating to the additional examination or test and must obtain additional consent for the examination or test. The parent's consent is considered denied if the parent fails to provide consent for the additional psychological examination or test within 20 calendar days after District Assessment Personnel provided the information regarding the additional evaluation to the parent. The time required for District Assessment Personnel to provide information and seek consent for the additional evaluation does not count towards the 45-school day timeline for the completion of an initial evaluation. See [EVALUATION PROCEDURES].

Children Who Are Wards of the State

District Assessment Personnel do not need to obtain informed consent from a parent if the student is a ward of the state and not residing with the parent and:

- District Assessment Personnel cannot locate the parent of the student despite reasonable efforts to do so;
- The parent's rights have been terminated in accordance with state law; or
- A judge has removed the rights of the parent to make educational decisions on behalf of the student in accordance with state law, and the individual appointed by the judge to represent the student has provided consent for the initial evaluation.

Overriding Lack of Consent

Where a parent of a student enrolled in or seeking to be enrolled in the District does not provide consent for an initial evaluation or fails to respond to a request to provide consent, the

District may, but is not required to, continue pursuing the initial evaluation and attempt to override the parent's lack of consent by utilizing the mediation or due process hearing procedures. However, the District does not violate its child find duties and/or evaluation obligations if it chooses not to pursue the evaluation. See [CHILD FIND DUTY] and [EVALUATION PROCEDURES].

Children Who Are Home Schooled or Private Schooled

District Assessment Personnel must also obtain informed consent before evaluating a student who is home schooled or who attends a private school. However, if the parent of a student who is home schooled or placed in a private school at parental expense does not provide consent for the initial evaluation or fails to respond to the District's request for consent, District Assessment Personnel may not pursue the initial evaluation by utilizing the procedural safeguards but need not consider the student as eligible for special education services provided by the District. See [PROPORTIONATE SHARE FUNDING FOR CHILDREN WITH DISABILITIES PARENTALLY-PLACED IN PRIVATE SCHOOLS] and [CHILDREN IN PRIVATE SCHOOLS].

Actions That Do Not Require Consent

District Assessment Personnel are not required to obtain parental consent before Consent for Initial Evaluation Customized by conducting a Review of Existing Evaluation Data ("REED") as part of an initial evaluation or reevaluation. Likewise, District Assessment Personnel do not need to obtain parental consent before administering a test or other evaluation that is administered to all students. In addition, the screening of the student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation is not an evaluation for eligibility for special education and related services; thus, consent is not required for such screenings.

Definitions

An "evaluation" is the collection of information to determine whether a student is a student with a disability and to determine the educational needs of the student. The team who collects or reviews evaluation data, referred to as the multidisciplinary team, must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information, including information provided by the parent. An evaluation may include giving individual tests, observing the student, looking at educational records, and talking with the student, teachers, and parents.

A "psychological examination or test" is a test or examination that assesses emotional or behavioral disturbance for educational purposes using psychological techniques and procedures in accordance with the practice of psychology.

Additional Procedures

District Assessment Personnel will document all attempts to obtain informed consent from the parent through a Communication Log. In the Communication Log, District Assessment Personnel will record the method of communication utilized (i.e. phone call, email, letter, or home visit), who made the attempt, and when the attempt was made. Further, the District Assessment Personnel will document the results of the attempt (i.e. whether contact was made and consent was obtained) in the Communication Log.

If the parent makes a written request for an initial evaluation to any District employee, District Assessment Personnel will respond to the request within 15 school days by seeking consent for the evaluation or by providing the parent Prior Written Notice of the District's refusal to evaluate the student, along with a copy of the Notice of Procedural Safeguards. See [REFERRAL FOR SPECIAL EDUCATION SERVICES] and [PRIOR WRITTEN NOTICE] and [EVALUATION PROCEDURES].

If the District is requesting the evaluation, District Assessment Personnel will invite the parent of the student to any referral meeting where the recommendation for an evaluation will be made to ensure full parental participation. If the parent has not confirmed the time for the referral meeting at least 5 days before the scheduled meeting, District Assessment Personnel will, at a minimum, attempt to contact the parent at different times of the day at least three times before the meeting. Additionally, District Assessment Personnel will follow up with a written letter to the parent sent through certified mail and sent home with the student. District Assessment Personnel will also consider visiting the parent at the parent's home or place of employment. All attempts to contact the parent related to the referral meeting should be documented in the Communication Log.

District Assessment Personnel may seek to obtain consent immediately after the recommendation at the referral meeting. If the parent is not in attendance at the referral meeting, District Assessment Personnel will contact the parent as soon as possible after the meeting to obtain consent. When possible, consent should be obtained in-person. The parent will be provided a copy of the Notice of Procedural Safeguards, as well as the Parent's Guide to the Admission, Review, and Dismissal (ARD) Process. District Assessment Personnel should have the parent sign a Receipt for Explanation of Procedural Safeguards form, acknowledging receipt of both these documents. After providing the parent Prior Written Notice regarding the request to evaluate the student, District Assessment Personnel should have the parent sign a Notice and Consent for Full and Individual Evaluation form, indicating receipt of the notice and consent for the FIE. The consent form must include an acknowledgement by the parent regarding all of the above elements of consent. In addition, parental consent for an initial evaluation must not be construed as consent for initial provision of special education and related services. See [CONSENT FOR SERVICES].

When obtaining consent, District Assessment Personnel will document in writing that the parent fully understands the information. If the parent's native language is a language other

than English, District Assessment Personnel will document on the consent form all efforts to provide an interpreter in the parent's native language and note whether the parent is declining the use of an interpreter in their native language.

When obtaining consent, District Assessment Personnel will explain that the initial evaluation will assess in all areas of suspected disabilities. The parent may not sign consent for a partial assessment or limit the scope of the evaluation by only providing consent for certain areas. Furthermore, District Assessment Personnel are only required to obtain consent to the evaluation itself—not to any specific evaluation methodology.

Refusal to Provide Consent or Withdraw of Consent

If the parent refuses to provide consent for the initial evaluation or revokes consent for the evaluation during the evaluation process, District Assessment Personnel must have the parent indicate, in writing, their refusal on the Notice and Consent for Full and Individual Evaluation form or the Revocation of Consent form. District Assessment Personnel must then notify the Special Education Director who will determine whether or not the District wishes to continue to pursue the evaluation through mediation or by filing a request for due process hearing to override the parent's lack of consent. A special education hearing officer in a due process hearing may issue an order or decision that authorizes the evaluation of the student. Such an order or decision authorizes the evaluation of the student without parental consent. If the parent revokes consent during the evaluation process, District Assessment Personnel will immediately cease the referral process and notify the parent of the right to re-initiate the referral at any time by once again going through the steps in the referral process and consenting to the initial evaluation. See [REFERRAL FOR POSSIBLE SPECIAL EDUCATION SERVICES]. Campus Personnel should consider whether there are other general education supports that may benefit the student at that time or whether the student should be referred to the Campus or District Personnel responsible for compliance with Section 504 to determine whether the student is eligible for accommodations or services as a student with a disability under Section 504. Further, the fact that a parent has revoked consent does not impact the parent's right under the IDEA to request a subsequent initial evaluation.

If the parent withdraws consent while the evaluation is ongoing, District Assessment Personnel will cease all assessment activities immediately. However, if the parent does not withdraw consent until after the evaluation is completed, District Assessment Personnel must complete the report and convene an ARD meeting to review the evaluation and determine if the student is a student with a disability and, if necessary, create an IEP. The Parent may then refuse to consent to special education services at the ARD meeting. See [CONSENT FOR SERVICES]

Actions That Do and Do Not Require Consent

Consent is required to do a functional behavior analysis ("FBA") conducted as part of the initial evaluation to determine the nature and extent of the special education and related services that the student needs, including the need for a behavior intervention plan ("BIP").

District Assessment Personnel are not required to obtain informed consent prior to collecting academic functional assessment data from all students in a general education setting at the primary level of an RTI framework, as the data collection would not be focused on the educational and behavioral needs of an individual student at that stage. However, if a teacher were to collect academic functional assessment data to determine whether an individual student has, or continues to have, a disability and to determine the nature and extent of the special education and related services that the student needs during the secondary or tertiary level of an RTI framework, informed consent by the parent would be required.

Evidence of Implementation

- Prior Written Notice
- Notice and Consent for Full and Individual Evaluation form
- Notice of Procedural Safeguards
- Parent's Guide to the ARD Process
- Receipt for Explanation of Procedural Safeguards form
- Receipt for Parent's Guide to the ARD Process
- Communication Log
- Revocation of Consent form
- Full and Individual Initial Evaluation

Resources

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

[OSEP Letter to Sarzynski \(Sept. 5, 2007\) - U.S. Department of Education](#)

[OSEP Letter to Gallo \(Apr. 2, 2013\) - U.S. Department of Education](#)

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

[OSEP Letter to Copenhagen \(Oct. 19, 2007\) - U.S. Department of Education](#)

[Initial Evaluations - Texas Education Agency](#)

[Special Education Full and Individual Initial Evaluation \(FIIE\) Timeline - Texas Education Agency](#)

[Special Education Full and Individual Initial Evaluation \(FIIE\) Assessment Log - Texas Education Agency](#)

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

[OSERS Questions and Answers on Discipline Procedures \(Revised June 2, 2009\) - U.S. Department of Education](#)

Consent for Services

Board Policy EHBA and EHBAE; 34 CFR 300.300(b), 300.9(a)–(c), 300.322(d)

What is Required

Once a student has been identified as a student with a disability in need of special education services, the ARD Committee must develop the student's IEP and determine the special education and related services the student will receive from the District. However, before initially providing special education and related services to a student, Campus Special Education Personnel must obtain informed consent for initial services from the parent or adult student. Such written consent for initial services may be obtained only after the Campus Special Education Personnel provide to the parent or adult student Prior Written Notice of the ARD Committee's decisions regarding services.

Elements of Informed Consent for the Initial Provision of Services

- Campus Special Education Personnel have fully informed the parent of all information related to the initial provision of special education and related services in the parent's native language or other mode of communication;
- The parent is provided consent that describes the initial provision of special education and related services and lists any records that will be released and to whom;
- The parent understands and agrees in writing to the District providing the initial provision of special education and related services;
- The parent understands and agrees in writing that consent is voluntary and may be revoked at any time, but understands that the revocation is not retroactive (i.e. it does not negate an action that has occurred after the consent was given and before the consent was revoked); and
- The parent understands that if the parent revokes consent in writing for their student's receipt of special education services after services have been initiated, the District is not required to amend the student's educational records to remove any references to the student's receipt of special education and related services because of the revocation of consent.

When Consent is Not Obtained for the Initial Provision of Services

Campus Special Education Personnel must make reasonable efforts to obtain informed consent for the initial provision of special education and related services. Despite reasonable efforts, the parent may refuse to respond or refuse to consent to the initial provision of services. Unlike

with consent for an initial evaluation, Campus Special Education Personnel may not use mediation, due process procedures or other procedural safeguards available under the IDEA, to obtain agreement or a ruling that services may be provided to the child where the parent refuses to respond or refuses to consent to the initial provision of services. However, the District will not be liable for failure to provide a FAPE to the child where the parent refuses to provide consent for the provision of services and is not required to convene an ARD meeting to develop an IEP for the child.

When Consent for the Continued Provision of Services Is Revoked

According to the Department of Education, a parent has a right to remove his/her student from special education programs unilaterally. The Campus must grant the parent's request to revoke consent for the continued provision of special education and related services, so long as the parent has revoked consent in writing. If the parent revokes consent for the continued provision of special education and related services at any time after the initial provision of services, Campus Special Education Personnel must stop providing special education and related services to the student. However, Campus Special Education Personnel must provide Prior Written Notice to the parent before discontinuing the provision of special education and related services. The Prior Written Notice must explain the change in the educational program that will result from the parent's revocation of services and give the parent the information and time to consider fully the ramifications of the revocation of consent.

Likewise, District Special Education Administration may not use procedural safeguards, including the mediation or due process procedures, to obtain agreement or a ruling that the services may be provided to the student. However, the District will not be liable for failing to provide FAPE to the student if the District does not provide the student with further special education and related services where the parent revoked consent. Further, Campus Special Education Personnel are not required to convene an ARD meeting to develop an IEP where consent for services has been revoked.

If the parent revokes consent, the revocation is not retroactive. Thus, it does not negate any action occurring after the consent was given but before the consent was revoked. Furthermore, if the parent revokes consent in writing for their student's receipt of special education and related services after the child has been provided special education and related services, Campus Special Education Personnel do not need to amend the child's educational records to remove any reference to the provision of special education and related services.

Once the District has properly discontinued the provision of special education and related services upon a parent's revocation of services, the child becomes a general education student. As a result, the District may place the student in accordance with the placement procedures of general education students. However, the fact that a parent revoked consent does not impact a parent's right to request subsequent evaluations for eligibility. Such a request will be treated as a request for an initial evaluation.

Additional Procedures

Upon completion of the initial evaluation, the ARD Committee will convene to discuss the results of the evaluation, determine eligibility for special education services, and draft the student's IEP, if appropriate. Prior Written Notice regarding the decisions in the ARD Committee meeting should be given to the parent with the ARD document. See [PRIOR WRITTEN NOTICE]. If the parent is present at the ARD meeting and is provided the ARD paperwork and the Prior Written Notice, Campus Special Education Personnel may ask the parent to provide written consent for the initial provision of special education services and placement by signing the Consent for the Initial Provision of Special Education Services form at the meeting. However, Campus Special Education Personnel should not force the parent to sign the consent at the meeting where the parent requests additional information or time to consider the information. If the parent is not present at the ARD meeting, Campus Special Education Personnel should provide the parent a copy of the ARD documents and the Prior Written Notice within 24 hours of the meeting and seek consent for services to begin. If the parent has not signed and returned the Consent for the Initial Provision of Special Education Services form within 3 school days of receiving it, Campus Special Education Personnel will, at a minimum, attempt to contact the parent at different times of the day on at least three (3) separate occasions. Additionally, Campus Special Education Personnel will follow up with a written letter to the parent both via certified mail and sent home with the student. Campus Special Education Personnel will also consider whether a visit to the parent's home or place of employment is necessary. Campus Special Education Personnel will document all efforts to obtain consent from the parent in a Communication Log. The Communication Log should include the method of communication utilized (i.e. phone call, email, letter, or home visit), who attempted to make the contact, when the contact attempt was made, and the results of the attempted contact (i.e. whether contact was made and consent was obtained).

Once it becomes known that the parent will not give consent for special education and related services, Campus Special Education Personnel should provide the parent with the Refusal to Consent to Initial Services form and ask the parent to sign the form. If the parent refuses to sign the form or respond, Campus Special Education Personnel must document the parent's non-responsiveness on the Refusal to Consent to Initial Services form and in the Communication Log. All documentation regarding the parent's consent or refusal to consent, including the Communication Log, should be maintained in the student's special education file.

When Consent for the Continued Provision of Services Is Revoked

An ARD meeting does not need to be held for the parent or adult student to revoke services for special education and related services. In addition, the District may not require a parent/adult student to provide an explanation, either orally or in writing, regarding the reason the parent/adult student revokes consent for services. If a parent or adult student requests that services be revoked verbally, the parent or adult student should be notified that the request must be in writing. E-mail is an acceptable form of writing for revocation of consent. Campus

Special Education Personnel should place a copy of the request to withdraw consent at the front of the ARD section of the student's special education folder.

Within 3 school days upon receipt from a parent or adult student revoking services, a Prior Written Notice must be provided. If an adult student revokes consent for the continued provision of special education and related services, Campus Special Education Personnel must provide Prior Written Notice to both the adult student and the parent. Special education and related services should not be discontinued until 5 school days after the Prior Written Notice is provided to the parent or adult student. The parent or adult student may submit a written note to rescind the request to revoke services within these 5 school days. If the parent submits a written request to rescind the revocation during the 5 school day period, the Campus Special Education Personnel should obtain the parent's signature on the Consent for the Initial Provision of Special Education Services form with the date that the parent now consented to the special education services. However, if the parent or adult student seeks to reinstate special education services after these 5 school days have passed, the request for reinstatement should be treated as a request for an initial evaluation.

The right to revoke consent only applies to the provision of all special education and related services—consent may not be revoked for the continuation of some services and not others. If a parent or adult student wants to discontinue certain services, the ARD Committee will convene to discuss whether it is appropriate to remove those services from the student's IEP. If the ARD Committee disagrees with the request to discontinue those services, the parent or adult student may utilize the dispute resolution process outlined in the Notice of Procedural Safeguards to resolve the issue.

Once a parent/adult student revokes consent for the student to receive special education and related services, the student is considered a general education student under the Elementary and Secondary Education Act (ESEA) and will have his/her progress tracked in the same manner as students who do not receive special education and related services. However, once consent has been revoked, the student should be referred to the Student Support Team to discuss relevant changes following the discontinuance of special education services for the student. In addition to discontinued services, this may also impact the student's state testing, graduation, schedule, and discipline, which should be considered by the Student Support Team and Campus Administration. The Student Support Team should determine if any general education interventions should be implemented for the student. If appropriate, the Student Support Team may also consider making a referral for the student to a Section 504 Committee to determine whether the student is eligible for accommodations or services as a student with a disability under Section 504.

Evaluations Following Revocation of Consent

The District is not relieved of its Child Find duties solely because a parent or adult student has revoked consent for special education and related services. See [CHILD FIND DUTY]. Campus Special Education Personnel still have a duty to identify, locate, or evaluate a student whom it

suspects of having a disability and having a need for special education and related services. However, the District's child find obligations will not be triggered except for where there is reason to suspect that the student has needs other than those previously identified and addressed in the IEP for which consent was revoked.

A parent or adult student may request an evaluation to determine eligibility for special education and related services after consent is revoked. See [REFERRAL FOR POSSIBLE SPECIAL EDUCATION SERVICES]. The District will not deny the parent this right solely because the parent has previously revoked consent for the provision of special education and related services. District Assessment Personnel will determine if a full evaluation is necessary following a review of existing data to identify what additional data, if any, are needed to determine eligibility and educational need. See [REVIEW OF EXISTING EVALUATION DATA].

Evidence of Implementation

- Prior Written Notice
- Consent for the Initial Provision of Special education Services
- ARD/IEP
- Revocation of Consent for the Provision of Special Education Services
- Notice of Procedural Safeguards
- Communication Log
- Student Support Team Documentation
- Section 504 Committee Documentation

Resources

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

[Guidance on Revocation or Parental Consent for Special Education Services -Texas Education Agency](#)

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

[Revocation of Consent - SPEDTex](#)

[OSEP Letter to Gerl \(June 6, 2012\) - U.S. Department of Education](#)

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

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

Consent for Reevaluation

Board Policy EHBA and EHBAE; 34 CFR 300.300(c)–(d), 300.302, 300.322, 300.9; Texas Education Code 29.0041(a)–(c)

What is Required

The District must ensure that a reevaluation of each child with a disability is conducted:

- If the ARD Committee determines, through the Review of Existing Evaluation Data (“REED”) process, that the educational or related services needs, including improved academic achievement and functional performance, of the student warrant a reevaluation ;
- If a reevaluation is requested by the student’s parent or teacher; or
- Before determining that the child is no longer a child with a disability.

See [EVALUATION PROCEDURES]. A reevaluation must occur not more frequently than once a year (unless the parent and the District agree otherwise); and at least once every three years, unless the parent and the ARD Committee agree that a reevaluation is unnecessary through the REED process.

District Assessment Personnel must obtain informed consent from the parent/adult student before conducting any reevaluation of the student with a disability. When seeking written consent for a reevaluation, District Assessment Personnel must also provide Prior Written Notice of the District’s proposal to conduct a reevaluation.

Actions That Do Not Constitute An Evaluation

The following are not considered an evaluation and therefore do not require informed consent:

- Screening to determine strategies for implementing the curriculum;
- Conducting a REED as part of an initial evaluation or a reevaluation, and
- Administering a test or other evaluation that is administered to all students.

Elements of Consent for Reevaluation

To constitute informed consent to conduct a reevaluation, the following must occur:

- The parent has been fully informed of all information related to the reevaluation in the parent's native language or other mode of communication;
- The parent understands and agrees in writing to the District conducting the reevaluation;
- The consent describes the reevaluation and lists any records that will be released and to whom; and
- The parent understands that the granting of consent is voluntary by the parent and may be revoked at any time, except that if the parent revokes consent, the revocation is not retroactive (i.e. it does not negate any action occurring after the consent was given but before the consent was revoked).

Information and Consent for Certain Psychological Examinations or Tests

Upon request of the student's parent, before obtaining the parent's consent to administer any psychological examination or test when evaluating a student's need for special education, District Assessment Personnel must provide the parent the name and type of the examination or test and an explanation of how the examination or test will be used to develop an appropriate IEP for the student.

If District Assessment Personnel determine that an additional psychological examination or test is necessary for the evaluation after parental consent has been obtained, District Assessment Personnel should provide the parent information relating to the additional examination or test and must obtain additional consent for the examination or test. The parent's consent is considered denied if the parent fails to provide consent for the additional psychological examination or test within 20 calendar days after District Assessment Personnel provided the information regarding the additional evaluation to the parent.

When Despite Reasonable Efforts, The Parent Fails to Respond

District Assessment Personnel must make reasonable efforts to obtain informed consent for a reevaluation. However, informed consent is not required if District Assessment Personnel can demonstrate that they have made reasonable efforts to obtain such consent and the parent failed to respond to those efforts.

When The Parent Refuses to Consent to a Reevaluation

Where a parent of a student enrolled in the District refuses to provide consent for a reevaluation, the District may, but is not required to, continue pursuing the reevaluation by utilizing the procedural safeguards, including the mediation or due process hearing procedures. However, the District does not violate its obligations under child find and/or its legal obligations related to evaluations if it declines to pursue the reevaluation.

When Consent Is Not Obtained for The Reevaluation of a Private School Child

District Assessment Personnel must also make reasonable efforts to obtain informed consent before reevaluating a student who is home schooled or private schooled at parental expense. However, if the parent of a student who is home schooled or placed in a private school at parental expense does not provide consent for the reevaluation or fails to respond to the District's request for consent, District Assessment Personnel may not pursue the reevaluation by utilizing the procedural safeguards (including mediation or the due process procedures) and need not consider the student as eligible for special education services provided by the District.

Definitions

"Reevaluation" is a student evaluation that is conducted by the District to determine the educational or related service needs of the student after a previous evaluation. If the student's parents or teacher request a reevaluation, it must occur not more frequently than once a year unless the parent and the District agree otherwise, and at least once every three years unless the parent and the District agree that a reevaluation is unnecessary.

A "Review of Existing Evaluation Data ("REED")" must take place as part of an initial evaluation, if appropriate, and as part of a reevaluation. It is conducted by members of the ARD Committee, including the parent, but it does not have to take place in a meeting. Members review existing evaluation data about the child, including information provided by the parent, to determine the scope of the evaluation.

An "evaluation" is the collection of information to determine whether a student is a student with a disability and to determine the educational needs of the student. The team who collects or reviews evaluation data, referred to as the multidisciplinary team, must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information, including information provided by the parent. An evaluation may include giving individual tests, observing the student, looking at educational records, and talking with the student, teachers, and parents.

A "psychological examination or test" is a test or examination that assesses emotional or behavioral disturbance, for educational purposes, using psychological techniques and procedures in accordance with the practice of psychology.

Additional Procedures

A REED is required as part of any reevaluation. The REED should occur at least 90 days prior to the due date for the three-year reevaluation. On the basis of the REED, and input from the student's parents, the ARD Committee will determine if a formal reevaluation is necessary.

If it is determined by the ARD Committee through the REED that a formal reevaluation is necessary or if the parent or teacher of the student requests a reevaluation (regardless of the results of the REED), District Assessment Personnel will seek to obtain consent immediately after the recommendation or request. Consent for a reevaluation should be obtained in-person. The parent will be provided a copy of the Notice of Procedural Safeguards, as well as the Parent's Guide to the Admission, Review, and Dismissal (ARD) Process. District Assessment Personnel should have the parent sign a Receipt for Explanation of Procedural Safeguards form, acknowledging receipt of both these documents. The parent must be provided the Prior Written Notice regarding the request to reevaluate the student. District Assessment Personnel should have the parent sign a Notice and Consent for Full and Individual Evaluation form, indicating receipt of the notice and consent for the reevaluation. The consent form must include an acknowledgement by the parent regarding all of the above elements of consent for the reevaluation.

When obtaining consent, District Assessment Personnel will document in writing that the parent fully understands the information. If the parent's native language is a language other than English, District Assessment Personnel will document on the consent form all efforts to provide an interpreter in the parent's native language and note whether the parent is declining the use of an interpreter in their native language.

When obtaining consent, District Assessment Personnel will explain that the reevaluation will assess in all areas of suspected disabilities. The parent may not sign consent for a partial assessment or limit the scope of the evaluation by only providing consent for certain areas. Furthermore, District Assessment Personnel are only required to obtain consent to the reevaluation itself—not to any specific reevaluation methodology. Unlike an initial evaluation, there is no timeline for a reevaluation once consent is obtained, but District Assessment Personnel will make efforts to complete it within a reasonable amount of time, as agreed upon by the ARD Committee, but no later than the three-year anniversary date of the previous evaluation.

When Despite Reasonable Efforts, The Parent Fails to Respond

District Special Education Personnel should document all attempts to seek informed consent from the parent for the reevaluation, including phone calls, emails, certified mail, and home visits, through a Communication Log. In the Communication Log, District Assessment Personnel will record the method of communication utilized (i.e. phone call, email, letter, or home visit), who made the attempt, and when the attempt was made. Further, the District Assessment Personnel will document the results of the attempt (i.e. whether contact was made and consent was obtained) in the Communication Log.

If the parent has not provided signed consent within 5 school days after the notice of the reevaluation is sent to the parent, District Assessment Personnel will, at a minimum, make three attempts to contact the parent on three different days at different times of the day utilizing at least two delivery methods, including a written letter to the parent provided both via

certified mail and sent home with the student. District Assessment Personnel will also consider visiting the parent at the parent's home or place of employment. All attempts to contact the parent related to the reevaluation should be documented in the Communication Log.

If the parent fails to respond after three documented attempts, Campus Special Education Personnel will then send a letter to the parent both via certified mail and sent home with the student documenting the reasonable efforts to obtain the parent's consent and notifying the parent that the reevaluation will proceed without the parent's consent. District Assessment Personnel will then proceed with the reevaluation. The Communication Log and all correspondence with the parent should be maintained in the student's special education file.

When Parent Refuses to Consent to a Reevaluation

If the parent of an enrolled special education student refuses to consent for the reevaluation or revokes consent for the reevaluation during the evaluation process, District Assessment Personnel must have the parent indicate, in writing, their refusal on the Notice and Consent for Full and Individual Evaluation form or the Revocation of Consent form. District Assessment Personnel must then notify the Special Education Director who will determine whether or not the District wishes to continue to pursue the reevaluation through mediation or by filing a request for due process hearing to override the parent's refusal to consent. A special education hearing officer in a due process hearing may issue an order or decision that authorizes the evaluation of the student. Such an order or decision authorizes the reevaluation of the student without parental consent.

Evidence of Implementation

- REED
- Prior Written Notice Regarding the REED
- Notice of Proposal to Reevaluate and Consent to Reevaluate forms
- Notice of Procedural Safeguards
- Parent's Guide to the ARD Process
- Receipt for Explanation of Procedural Safeguards form
- Receipt for Parent's Guide to the ARD Process
- Communication Log
- Letter Documenting Reasonable Efforts
- Revocation of Consent Form
- Full Individual Evaluation

Resources

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

[Review of Existing Evaluation Data Frequently Asked Questions - Texas Education Agency](#)

[Evaluations & Reevaluations FAQ - Partner Resource Network](#)

[OSEP Letter to Sarzynski \(Sept. 5, 2007\) - U.S. Department of Education](#)

[OSEP Letter to Sarzynski \(May 6, 2008\) - U.S. Department of Education](#)

[OSEP Letter to Anonymous \(Feb. 6, 2007\) - U.S. Department of Education](#)

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

[Reevaluations - SPEDTex](#)

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

CONSENT TO EXCUSE MEMBER FROM ATTENDING ARD COMMITTEE MEETING

Board Policy EHBAB and EHBAE; 34 CFR 300.321(e), 300.9; 71 Fed. Reg. 46,674 (2006); 19 Texas Administrative Code 89.1050(c)(4)

What is Required

The IDEA dictates who must attend an ARD Committee meeting. With written agreement from the parent and the District, a member of the ARD Committee may not be required to attend a specific meeting if the member's area of curriculum or related services is not being modified or discussed in the meeting. Even where an ARD Committee member's area of curriculum or related services is being modified or discussed, the member may be excused from attending the meeting, in whole or in part, if the parent and the District consent to the excusal in writing and the member submits input into the development of the IEP in writing to the parent and the ARD Committee prior to the meeting. See [ADMISSION, REVIEW, AND DISMISSAL COMMITTEE MEMBERSHIP]. However, the District must obtain informed consent from the parent before excusing a required member from attending an ARD Committee meeting, in whole or in part.

These excusal and consent requirements do not apply to the following ARD Committee members: the parent, the student with a disability, an adult student following a transfer of rights, and/or a discretionary member (i.e. an individual not required by the IDEA to attend the ARD Committee meeting, but who has been invited at the discretion of the parent or the District as a person with relevant knowledge or special expertise regarding the student).

Elements of Consent for Excusal

To constitute informed consent to excuse a member from attending an ARD meeting, in whole or in part, the following must occur:

- The parent has been fully informed of all information related to the excusal of the member from attending the ARD meeting in the parent's native language or other mode of communication;
- The parent understands and agrees in writing to the excusal of the ARD member from attending the ARD meeting, in whole or in part;
- The consent describes the excusal of the member from attending the ARD meeting and lists any records that will be released and to whom; and
- The parent understands that the granting of consent is voluntary by the parent and may be revoked at any time, except that if the parent revokes consent, such revocation is not retroactive (i.e. it does not negate any action occurring after the consent was given but before the consent was revoked).

Additional Procedures

The District believes that it is exceedingly important that all members of the ARD Committee are present at the student's ARD meetings, especially initial or annual ARD meetings. While it is best for all ARD Committee members to attend all ARD meetings, the IDEA recognizes that it may not always be feasible. Campus Administration will consider each excusal request carefully on a case-by-case basis before requesting that the parent agree or consent to an ARD member's nonattendance at an ARD meeting. Each Campus must be careful to avoid a pattern or routine of excusing required ARD Committee members from attending ARD meetings, as such a practice may be considered a violation of FAPE.

In order to excuse a member of the ARD Committee meeting whose area of curriculum or related services is being modified or discussed, both the parent and the Campus Special Education Administrator must consent in writing. Prior to the ARD meeting, Campus Special Education Personnel will ensure that all elements of informed consent for excusal are met, including informing the parent of the relevant information in the parent's native language or mode of communication and ensuring that the parent understands that granting consent for

the excusal is voluntary and can be revoked at any time. In addition, the member to be excused must submit to the parent and the ARD Committee, in writing, input into the development of the IEP prior to the meeting.

Campus Special Education Personnel will provide the parent notice of the proposed excusal as soon as possible before the ARD meeting. This will provide the ARD Committee the opportunity to reschedule the meeting within a reasonable time, if necessary, or allow the member seeking excusal enough time to make arrangements to attend the ARD meeting, should the parent not agree to the excusal. This notice will clearly indicate whether the member will be excused from the whole or only part of the meeting and specify the part(s) of the ARD meeting for which the excusal is being requested.

Campus Special Education Personnel will ensure that proper documentation of an ARD Committee member's excusal from a particular meeting is completed. The Campus Special Education Personnel will also attach the signed consent of a member's excusal (as well as the written input provided prior to the ARD) to the ARD documentation.

When Informed Consent Is Not Required

There is a difference between the excusal of ARD Committee members whose area of service is being modified or discussed and those whose area of service is not being modified or discussed. The requirements related to an agreement regarding the excusal of an ARD Committee member because the member's area of the curriculum or related services is not being modified or discussed are not as stringent as the requirements for informed consent. Rather, if an ARD Committee member's area of the curriculum or related services is not being modified or discussed in the meeting, the member is not required to attend the meeting, in whole or in part, if Campus Special Education Personnel obtain a written agreement signed by the Campus Special Education Administrator and the parent, agreeing that the person's attendance is not necessary because the member's area of the curriculum or related service is not being modified or discussed during the ARD meeting. The other elements of informed consent are not required, and the excused member will not need to provide written input.

Likewise, consent is not necessary for the excusal of individuals who are attending the ARD in addition to the designated required member (i.e. multiple general education teachers as long as one general education teacher is in attendance for the entire meeting). Furthermore, the consent and/or excusal requirements do not apply to other individuals who have knowledge or special expertise regarding the student who attend at the discretion of the District or parent (i.e. discretionary members).

While the ARD Committee shall document all attempts to secure parental attendance at an ARD meeting, the rules for excusal from an ARD meeting do not apply to the parent, the child with a disability, and/or an adult student following a transfer of rights. See [PARENT PARTICIPATION].

Evidence of Implementation

- Notice of Procedural Safeguards
- Parent’s Guide to the Admission, Review, and Dismissal Process
- Notice of Request to Excuse ARD Committee Member
- Written Input of Member Excused for IEP
- Consent to Excuse ARD Committee Member
- Agreement to Excuse ARD Committee Member Whose Attendance is Not Necessary
- ARD/IEP
- Signature/Attendance Page

Resources

[The Legal Framework for the Child-Centered Special Education Process: Consent to Excuse Member from Attending the ARD Committee Meeting - Region 18](#)

[The Legal Framework for the Child-Centered Special Education Process: Admission, Review, and Dismissal Committee Membership - Region 18](#)

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

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

[OSEP Letter to Finch \(Apr. 10, 2012\) - U.S. Department of Education](#)

[OSEP Letter to Rangel-Diaz \(Apr. 25, 2011\) - U.S. Department of Education](#)

CONSENT TO ACCESS PUBLIC BENEFITS

34 CFR 99.30(a)–(b); 300.154(d), 300.503(c)

What is Required

With the written consent of the parent/adult student, the District may use Medicaid or other public benefits or insurance programs in which the student participates to provide or pay for services required under the IDEA, as allowed under the public benefits or insurance program, except as provided below. However, prior to accessing the child’s or the parent’s public benefits or insurance for the first time, and annually thereafter, the District must provide written notice to the parent regarding the District’s access to the public benefits and the requirements of

consent. The District may not refuse to provide special education services to an eligible student with a need simply because the parent refuses to consent to access the student's or parent's public insurance or benefits.

Elements of Required Notice

Special Education Personnel must provide written notice to the parent in the language understandable to the general public and in the parent's native language or other mode of communication (unless it is clearly not feasible to do so) prior to accessing the student's or parent's public benefits or insurance for the first time, and annually thereafter. This notice must contain:

- A statement of the parental consent provisions, including the personally identifiable information that may be disclosed, the purpose of the disclosure, and the agency to which the disclosure may be made. The statement must also affirm that the parent understands and agrees that the District may access the parent's or student's public benefits or insurance to pay for special education and related services under the IDEA;
- A statement that the parent understands that the granting of consent is voluntary on the part of the parent and can be revoked at any time;
- A statement that the parent's withdrawal of consent or refusal to consent to disclose personally identifiable information to Medicaid does not relieve the District of its responsibility to ensure that all required services are provided at no cost to the parents;
- A statement that the District cannot require the parent to (a) sign up for or enroll in public health benefits or insurance programs in order for the student to receive a FAPE or (b) incur an out-of-pocket cost, such as the payment of a deductible or co-pay amount incurred in filing a claim; and
- A statement that the District cannot use the student's benefits under a public benefits or insurance program if doing so would:
 - Decrease available lifetime coverage or any other insured benefit;
 - Cause the family to pay for services that would otherwise be covered by the public benefits or insurance program and that are required for the student outside of the time the student is in school;

- Increase premiums or lead to the discontinuation of benefits or insurance for the parent or student; or
- Risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures.

Elements of Consent to Access Public Benefits

After Special Education Personnel provides written notice to the parent as required above, Special Education Personnel must obtain written parental consent that is signed and dated before accessing the student's or the parent's public benefits or insurance for the first time. The consent must specify:

- The personally identifiable information that may be disclosed (e.g. records or information about the services that may be provided);
- The purpose of the disclosure (e.g. billing services);
- The agency to which the disclosure may be made (e.g. Medicaid); and
- That the parent understands and agrees that the District may access the parent's or the child's public benefits or insurance to pay for services under the IDEA.

Additional Procedures

School Health and Related Services ("SHARS")

Medicaid services provided by the District to Medicaid-eligible students are known as School Health and Related Services ("SHARS"). Oversight of SHARS is a joint effort between the TEA and Texas Health and Human Services Commission. SHARS allows the District to seek reimbursement from Medicaid for certain health-related services documented in the student's IEP so long as the parent consents to the District doing so.

Notification and Consent to Access Public Benefits and Insurance

The initial notification and consent may either be mailed or emailed to the parent. Digital or electronic signatures are acceptable. An electronic form must identify and authenticate the parent as the source of the consent and indicate the parent's approval of the information contained in the consent. Both paper and electronic consent forms must include a statement that the parent understands and agrees that the District can access the student's or parent's public benefits or insurance to pay for special education services. If the parent has not yet provided consent to access public benefits or insurance.

After the initial consent is obtained, the District is not required to obtain consent to access public benefits or insurance annually. However, Special Education Personnel will provide annual written notification to parents of students in special education to ensure that parents understand their rights when the District uses the student's or parent's public benefits or insurance. At the beginning of each school year or at the annual ARD for the student, Special Education Personnel will send the notice to parents ensuring that they are fully aware of their rights. This written notification can be mailed or e-mailed to the parents. Special Education Personnel shall maintain documentation of the delivery of this notice to the parent including the date the notice was sent and the method of delivery. Such documentation should be maintained in the student's special education folder.

No-Cost Provisions

The District will ensure that all "no cost" provisions outlined in the required notice are met before providing written notification and seeking consent to use the student's or parent's public benefits or insurance to pay for special education services. For example, if the District's use of public benefits for physical therapy will limit the amount of physical therapy the student can receive outside of school, the District will not use the student's or parent's public benefit or insurance to pay for that services. However, the District is still responsible under the IDEA for providing those services at no cost to the parent.

Where a Parent Has Previously Declined Consent

If a parent has previously declined to provide consent or withdrawn consent to disclose personally identifiable information to the State's public benefits or insurance program for billing purposes, the District may make reasonable subsequent requests to obtain parental consent after providing written notification. However, the District is still responsible for ensuring that all required services are provided at no cost to the parents, even if the parent has withdrawn consent or refused to provide consent to disclose personally identifiable information to the agency responsible for administering the public benefits or insurance program.

Students Who Transfer

If a student transfers to a different campus within the District, the District is not required to obtain new consent prior to disclosing personally identifiable information for billing purposes. However, if a student transfers from another school district into the District, Special Education Personnel will provide the parent written notification, informing the parent of their rights and protections when access to the student's or parent's public benefits or insurance is sought. Special Education Personnel will then obtain parental consent to disclose personally identifiable information to the public benefits or insurance program for billing purposes before the District may access the child's or parent's public benefits or insurance for the first time.

Communicating the Benefits of Providing Consent to Access Public Benefits

When explaining the notice and consent provisions to the parent, Special Education Personnel should also explain that signing the consent form allows the District to recover federal funds (in the case of Medicaid) that help defray a portion of the high costs associated with providing health-related services to students with disabilities. This also aides the District in attracting and retaining highly-qualified personnel to assist the students. Furthermore, it may allow the District the opportunity to obtain more expensive and specialized equipment and to allocate more resources for professional development and parent training.

Third-Party Liability

Under SHARS, Medicaid will pay the District for services before seeking third party reimbursement (i.e. through private insurance). However, once the District has sought reimbursement through Medicaid for services, the state may then seek to recover funding from the student's private insurance. The state may seek recovery for claims for up to 3 years. If the third-party insurance denies a claim for an acceptable reason, no further action will be taken. No additional consent is required on behalf of the parent for third party recovery.

Evidence of Implementation

- Initial Notification of Access to Public Benefits and Insurance Form
- Consent for Access to Public Benefits and Insurance Form
- Annual Notification of Access to Public Benefits and Insurance Form
- *Notice of Procedural Safeguards*

Resources

[The Legal Framework for the Child-Centered Special Education Process: Consent to Access Public Benefits - Region 18](#)

[School Health and Related Services - Texas Education Agency](#)

[Non-Regulatory Guidance on the IDEA Part B Regulations Regarding Parental Consent for the Use of Public Benefits or Insurance to Pay for Services under the IDEA \(Feb. 14, 2013\) - U.S. Department of Education](#)

[OSERS Memorandum to State Directors of Special Education - IDEA Part B Written Notification Regarding Use of Public Benefits or Insurance \(June 11, 2013\) - U.S. Department of Education](#)

[IDEA Part B Final Regulations Related to Parental Consent to Access Public Benefits or Insurance - U.S. Department of Education](#)

[IDEA Part B Issue Brief: Parental Consent for Use of Public Benefits or Insurance to Provide or Pay for Services Under IDEA Part B - American Speech-Language Hearing Association](#)

[OSEP Letter to PAVE \(Sept. 5, 2013\) - U.S. Department of Education](#)

[OSEP Letter to Kinney \(July 23, 2008\) - U.S. Department of Education](#)

[OSEP Letter to Kinney \(May 7, 2008\) - U.S. Department of Education](#)

[OSEP Letter to Hill \(Mar. 8, 2007\) - U.S. Department of Education](#)

[OSEP Letter to Smith \(Jan. 23, 2007\) - U.S. Department of Education](#)

[OSEP Letter to DuRant \(Nov. 6, 2002\) - U.S. Department of Education](#)

[Update to HHSC Third Party Liability for SHARS Interim Claims - Texas Education Agency](#)

[Information on School Health and Related Services \(SHARS\) - Texas Association of School Boards](#)

CONSENT TO ACCESS PRIVATE INSURANCE

Board Policy EHBAE; 34 CFR 300.154, 300.9

What is Required

The District may access the parent's private insurance proceeds to pay for special education and related services required to provide the student FAPE so long as the District obtains informed consent from the parent each time the District proposes to access the parent's private insurance proceeds.

Elements of Consent to Access Private Insurance

To constitute informed consent for the District to access private insurance, the following must occur:

- The parent has been fully informed of all information related to the District accessing the parent's private insurance in the parent's native language or other mode of communication;
- The parent is informed that the parent's refusal to allow the District to access the parent's private insurance does not relieve the District of its duty to ensure all required

special education services are provided at no cost to the parents;

- The parent understands and agrees in writing to the District accessing the parent's private insurance;
- The consent describes the activity of the District accessing the parent's private insurance and lists any records that will be released and to whom; and
- The parent understands that the granting of consent is voluntary by the parent and may be revoked at any time, except that if the parent revokes consent, the revocation is not retroactive (i.e. it does not negate any action occurring after the consent was given but before the consent was revoked).

The Use of IDEA Part B Funds

The District may use IDEA-B funds to pay for a specified service required under the IDEA to provide FAPE when the District cannot obtain parental consent to use the parent's private insurance, and the parent would incur a cost for a specified service required under the IDEA. Additionally, the District may use IDEA-B funds to pay the cost that the parent otherwise would have to pay to use the parent's benefits or insurance if the parent would incur a cost and consent to use private insurance or public benefits to pay for services required to ensure the child receives FAPE, if the parent could avoid financial cost.

Additional Procedures

Campus Special Education Personnel will seek informed consent from the parent each time the District seeks to access the parent's private insurance. Likewise, at the beginning of each school year, Campus Special Education Personnel will send a letter to parents ensuring that they are fully aware of their rights, including the fact that the District cannot deny special education and related services to the student if the parent refuses to authorize the use of private insurance and that such consent is completely voluntary. This written notification can be mailed or e-mailed to the parents. Campus Special Education Personnel will request that the parent sign the letter and return it to the Campus Special Education Personnel. This signed letter should be maintained in the student's special education folder.

In addition to the consent to access private insurance, Campus Special Education Personnel will also obtain a consent for disclosure of the student's personally identifiable information for the private insurance company and/or health care providers, as necessary, to process claims for

reimbursement for covered health-related services, evaluations for these services, and transportation as outlined in the student's IEP.

The District cannot deny services if the parent refuses to provide consent to access private health insurance. Furthermore, the District will not attempt to access the parent's private insurance where doing so would result in any cost to the parent. When providing notice to the parent, Campus Special Education Personnel will disclose the possible costs associated with the use of private insurance, including a possible co-payment; deductible or reduction of a cap on coverage; decrease in available lifetime benefits covered or decrease in any other policy benefit; an increase in premiums; and the cancellation or nonrenewal of coverage. The notice should also encourage parents to check with their insurance provider regarding possible consequences before giving consent. Campus Special Education Personnel will ensure that the parent understands that private health insurance payers can reduce or eliminate coverage of special education services that are required to provide the student FAPE because private insurers are not bound by IDEA regulations.

The District may offer to pay any financial costs related to accessing private insurance, so long as the parent agrees. This decision will be made by District Special Education Administration on a case-by-case basis.

The parent has the exclusive right to use or not use private insurance for medical evaluations. Likewise, as the IDEA requires the District to provide an independent educational evaluation ("IEE") at public expense, the District cannot require a parent to submit the bills for the cost of the evaluation to their private insurance company.

The Use of IDEA Part B Funds

Should the parent notify Campus Special Education Personnel of the refusal to provide parental consent for the use of private insurance, Campus Special Education Personnel will communicate the refusal to District Special Education Administration. The District will then use its Part B funds or other District funds to pay for special education services for that student. Campus Special Education Personnel will also indicate to District Special Education Administration if the parent has notified Campus Special Education Personnel that the refusal to provide consent to use private insurance is solely to avoid personal financial cost associated with doing so. District Special Education Administration will then determine if the District will use its Part B funding or other District funds to pay the cost that the parents otherwise would have to pay to use the insurance.

Evidence of Implementation

- Initial Notification of Requesting Access to Private Insurance Benefits
- Annual Notification Requesting Access to Private Benefits and Insurance form
- Consent(s) for Access to Private Insurance Benefits
- Consent for Disclosure of Information to Private Insurance

Resources

[The Legal Framework for the Child-Centered Special Education Process: Consent to Access Private Insurance - Region 18](#)

[The Legal Framework for the Child-Centered Special Education Process: Use of IDEA Part B Formula Amounts in General - Region 18](#)

[OSEP Letter to Thompson \(Mar. 29, 2000\) - U.S. Department of Education](#)

[OSEP Letter to DuRant \(Nov. 6, 2002\) - U.S. Department of Education](#)

CONSENT TO TRANSFER ASSISTIVE TECHNOLOGY DEVICES

Board Policy EHBAE; 34 CFR 80.32(e), 300.300(b)–(d), 300.322(d), 300.9; Texas Education Code 30.0015(b)–(c), 89.1056(b)

What is Required

When the child or adult student with a disability using an assistive technology device (“ATD”) that the District has purchased for the student enrolls in another campus within the District or leaves the District altogether, the District may transfer the ATD to the school or LEA in which the student enrolls, a state agency that provides services to the student following graduation from high school, or to the student’s parents or the adult student.

Before transferring an ATD, the District must obtain informed consent from the parent or the adult student with capacity to enter into a contract through a transfer agreement that incorporates the requirements outlined below. Campus Special Education Personnel are responsible for making reasonable efforts to obtain informed consent from the parent or adult student for the transfer of ATDs.

Elements of Consent to Transfer ATDs

To constitute informed consent to transfer ATDs, the following must occur:

- The parent or adult student has been fully informed of all information related to the

transfer in the parent’s or the adult student’s native language or other mode of communication;

- The parent or adult student understands and agrees in writing to the transfer;
- The consent describes the transfer and lists any records that will be released and to whom; and
- The parent or adult student understands that the granting of consent is voluntary by the parent or adult student and may be revoked at any time, except that if the parent or adult student revokes consent, the revocation is not retroactive (i.e. it does not negate any action occurring after the consent was given but before the consent was revoked).

The procedures employed by the District in obtaining informed consent to transfer an ATD must be consistent with the procedures employed by the District to obtain parental consent for an initial evaluation or reevaluation.

When Despite Reasonable Efforts, Consent is Not Obtained

The District can transfer the ATDs without informed parental or adult student consent if the District can demonstrate that it has taken reasonable measures to obtain the consent and the parent or adult student has failed to respond.

Definitions

“Assistive technology device” is any device, including equipment or a product system, that is used to increase, maintain, or improve functional capabilities of the student with a disability. This does not include a medical device that is surgically implanted (e.g. cochlear implant) or the replacement of such a device.

“Equipment” includes machinery, utilities, and built-in equipment, and any necessary enclosures or structures to house such machinery, utilities, or equipment; and all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as:

- Instructional equipment and necessary furniture;
- Printed, published, and audio-visual instructional materials;

- Telecommunications, sensory, and other technological aids and devices; and
- Books, periodicals, documents, and other related materials.

“Transfer” is the process by which the District that has purchased the ATD may sell, lease, or loan the device for the continuing use by the student or adult student with a disability changing the school of attendance in the District or leaving the District.

Additional Procedures

The parent or adult student, the District, the district where the student is transferring to, or an outside agency may request the transfer of a student’s ATD. District Special Education Personnel will consider the following upon request for a transfer:

- Does the District actually own the ATD or have the authority to transfer the ATD?
- Is the child actually exiting the District?
- Did the student use the ATD while at the District?
- Is a transfer necessary or appropriate based on the student’s unique circumstances?

To ensure full parental or adult student informed consent, the Campus Special Education Personnel will ensure that the parent or adult student receives all necessary information relating to the transfer of the ATDs and is provided the opportunity to participate in any ARD meeting where a transfer is discussed. If the parent refuses to consent to the transfer, no transfer will occur. If the parent fails to respond to a request for consent to transfer, the District may transfer the ATD without parent/adult student consent. Campus Special Education Personnel should document all attempts to seek signed consent from the parent or adult student, including phone calls, emails, certified mail, hand delivery, and visits to the home or place of employment, through a Communication Log. Special Education Personnel shall make a minimum of three documented attempts to seek consent on three different days at different times, utilizing at least two different methods of delivery.

Evidence of Implementation

- ARD/IEP
- Request for Transfer of ATD
- Transfer Agreement
- Consent to Transfer ATD

- Communication Log

Resources

[The Legal Framework for the Child-Centered Special Education Process: Consent to Transfer Assistive Technology Devices – Region 18](#)

[The Legal Framework for the Child-Centered Special Education Process: Administration of Equipment – Region 18](#)

[Uniform Transfer Agreement - Texas Education Agency](#)

[OSEP Letter to Goodman \(June 21, 1998\) - U.S. Department of Education](#)

[2 Code of Federal Regulations §200.313](#)

[Assistive Technology - SPEDTex](#)

CONSENT FOR DISCLOSURE OF CONFIDENTIAL INFORMATION

Board Policies EHBAE and FL; 34 CFR 99.30; 300.321(b); 300.622(a)–(b); 300.9

What is Required

A student’s personally identifiable information is protected from disclosure under the Family Education Rights and Privacy Act (“FERPA”). Generally, the District must obtain informed consent from the parent before disclosing personally identifiable information to third parties, except in certain circumstances.

Circumstances when informed consent is required to disclose confidential information of a special education student include:

- When disclosure is to officials of agencies providing or paying for transition services;
- When the District invites a representative of a participating agency to join the ARD Committee if the agency is likely to be responsible for providing or paying for transition services; and
- If the child is enrolled or is going to enroll in a private school that is not located in the

District, when disclosure is to the school district where the private school is located.

Elements of Consent to Disclose Confidential Information

To constitute informed consent for the disclosure of confidential information, the following must occur:

- The parent has been fully informed of all information related to the disclosure of confidential information in the parent’s native language or other mode of communication, including:
 - Specifying the records that may be disclosed;
 - Stating the purpose of the disclosure; and
 - Identifying the party or class of parties to whom the disclosure may be made;
- The parent understands and agrees in writing to the District disclosing the confidential information;
- The consent is signed and dated; and
- The parent understands that the granting of consent is voluntary by the parent and may be revoked at any time, except that if the parent revokes consent, the revocation is not retroactive (i.e. it does not negate any action occurring after the consent was given but before the consent was revoked).

Definitions

“Disclosure” means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record.

“Personally identifiable information” includes the student’s name, the name of the parent, the name of another family member, the parent’s address, any personal identifier (e.g. social security number), or a list of characteristics that would make it possible to identify the student with reasonable certainty.

Additional Procedures

Campus Special Education Personnel will attempt to obtain parental consent for the disclosure of confidential information by identifying the parent and providing the parent with the Consent for Disclosure of Confidential Information form by phone, email, certified mail, or in person. See [PARENT].

The Consent for Disclosure of Confidential Information form will request the following:

- The name of the person and/or agency to whom the information will be disclosed;
- The address, phone number, fax and/or email address of the individual or agency to whom the information will be disclosed;
- The records that are requested or the records that are to be released;
- The purpose of the disclosure;
- The contact information of Campus Special Education Personnel for the parent to receive more information;
- An acknowledgement that the parent has been fully informed of the request in the parent's native language or other mode of communication and fully understands the request;
- An acknowledgement that the parent understands that the consent is voluntary and may be revoked at any time, but that the revocation will not be retroactive; and
- An acknowledgement that the parent consents to the disclosure of confidential information.

The Consent for Disclosure of Confidential Information form should also include a date or period of time upon which the authorization will expire. After signing the Consent for Disclosure

of Confidential Information form, the parent should return the form to the Campus Special Education Personnel identified in the form as soon as possible.

Examples of when the District will need to obtain consent to disclose confidential information include, but are not limited to, the following:

- Transition Services;
- Outside agency individuals participating in ARD meeting;
- Parent invitees to ARD meetings who are not employees of the District;
- Independent Educational Evaluations; and
- Parental placement in a private school located outside of the District's boundaries.

Consent may be obtained electronically so long as it (1) identifies and authenticates a particular person as the source of the electronic signature; and (2) indicates such person's approval of the information contained in the electronic format.

Inviting Outside Agencies to ARD Meetings

While the District may invite officials from another agency to an ARD meeting, the District will need to obtain parental consent for the individual to participate in the ARD meeting. Campus Special Education Personnel will obtain consent for the disclosure of confidential information for each ARD meeting prior to inviting a representative of another agency. One-time consent is not sufficient.

Evidence of Implementation

- Consent for Release of Confidential Information Form
- FERPA Notice
- Access Log

Resources

[The Legal Framework for the Child-Centered Special Education Process: Consent for Disclosure of Confidential Information - Region 18](#)

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

[OSEP Letter to Gray \(Mar. 17, 2008\) - U.S. Department of Education](#)

[Student Record FAQ's - Texas Education Agency](#)

[OSEP Letter to Reisman \(Nov. 30, 2012\) - Texas Education Agency](#)