

# GAINESVILLE INDEPENDENT SCHOOL DISTRICT SPECIAL EDUCATION OPERATING PROCEDURES: PARENT PARTICIPATION

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The Gainesville ISD has entered into an Interlocal Agreement to cooperatively operate its special education programs under the authority of Tex. Ed. Code § 11.157. The Denton County Special Education Services Cooperative may provide for the efficient delivery of legally required special education and related services to the Gainesville’s eligible students with disabilities as set forth in the Interlocal Agreement, including the implementation of these Special Education Operating Procedures.

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**Gainesville ISD Board Policy along with these *Special Education Operating Procedures* constitute the Policies and Procedures of Gainesville ISD, designed to be consistent with the State policies and procedures developed pursuant to the IDEA. Gainesville ISD *Special Education Operating Procedures* are not to be for the purpose of creating a requirement that is not otherwise imposed by the Individuals with Disabilities Education Improvement Act (“IDEA”), together with its implementing federal regulations, state statutes and rules, as they shall from time to time be amended, and shall not be construed to create a higher standard than that established by IDEA. These *Special Education Operating Procedures* will be posted on Gainesville ISD’s website. These *Special Education Operating Procedures* should be interpreted consistent with the IDEA. Gainesville ISD’s *Special Education Operating Procedures* are reviewed and updated, as needed, on at least an annual basis. Gainesville ISD will make timely changes to policies and procedures in response to IDEA amendments, regulatory or rule changes, changes to state policy, or new legal interpretation as are necessary to bring Gainesville ISD into compliance with the requirements of IDEA. Gainesville ISD maintains systems to ensure that all students with disabilities residing in the District, including students with disabilities attending non-public schools, regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated and provided a free appropriate public education. Gainesville ISD maintains systems to ensure that students with disabilities and their parents are afforded the procedural safeguards required under the IDEA (and its implementing federal regulations, state statutes and rules) including with respect to the confidentiality of records and personally identifiable information.**

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## ***How does the District ensure parents or guardians are included in the IEP development process?***

Each ARD committee shall endeavor to ensure that a student’s parent or guardian is included in the process of developing a student’s IEP.<sup>1</sup>

**PRACTICE GUIDE—To facilitate collaboration, ARD committees are encouraged to create an atmosphere where parents are free to ask questions and share ideas during ARD committee meetings and to collaborate with parents as key stakeholders in the placement of students with disabilities.**

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<sup>1</sup> *Buser v. Corpus Christi Indep. Sch. Dist.*, 51 F.3d 490 (5<sup>th</sup> Cir. 1995); *White v. Ascension Parish*, 343 F.3d 373 (5<sup>th</sup> Cir. 2013) (IDEA requirements with respect to parental input are met “[a]bsent any evidence of bad faith exclusion of the parents or refusal to listen to or consider” parental input); 19 TEX. ADMIN. CODE § 89.1050(e); 34 C.F.R. § 300.503.

<sup>2</sup> *Rockwall ISD v. M.C.*, 816 F.3d 329 (5<sup>th</sup> Cir. 2016); *Cypress-Fairbanks Indep. Sch. Dist. v. Michael F.*, 118 F.3d 245 (5<sup>th</sup> Cir.1997).

Each student's The Diagnostician shall—

- **Provide parents or guardians notice of all ARD committee meetings no later than 5 school days prior to each meeting** (unless the parents or guardians agree to a shorter timeframe).<sup>3</sup> In addition to the date and time of the meeting, each meeting notice shall include a list of all meeting participants known at the time the notice is provided to the parent or guardian; a brief description of the purpose of the meeting; and the mode of participation (e.g., in-person or via tele- or video conferencing). A meeting for which parental notice is required does not include informal or unscheduled conversations involving District personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. A meeting also does not include preparatory activities that District personnel engage in to develop a proposal or response to a parent or guardian proposal that will be discussed at a later ARD committee meeting.<sup>4</sup>
  
- **Schedule ARD committee meetings with parents or guardians at a mutually agreed time and place.**<sup>5</sup>
  
- **Document all efforts to schedule an ARD committee meeting with parents or guardians.** If no parent or guardian can participate in an ARD committee meeting, the Campus Administrator shall offer a parent or guardian the opportunity to participate in the meeting by tele- or video conferencing or other virtual means. The District may convene an ARD committee meeting without the involvement of a parent or guardian if the Campus Administrator is unable to convince the parents or guardians that they should attend. *Document and keep a record of attempts to arrange a mutually agreed upon time and place for the ARD committee meeting.*<sup>6</sup> These attempts may include—
  - Detailed records of telephone calls made or attempted and the results of those calls.
  - Copies of correspondence or e-mails sent to the parents or guardians and any responses received.
  - Detailed records of visits made to the parent or guardian's home or place of employment and the results of those visits.<sup>7</sup>

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<sup>3</sup> 19 TEX. ADMIN. CODE § 89.1050(d)

<sup>4</sup> 34 C.F.R. § 300.501(b)(3)

<sup>5</sup> 34 C.F.R. § 300.322(a)(2)

<sup>6</sup> 34 C.F.R. § 300.501(c)

<sup>7</sup> 34 C.F.R. § 300.322(d)

**PRACTICE GUIDE—When the ARD committee provides the parent a copy of the IEP and Prior Written Notice generated from the meeting the parent did not attend, the ARD committee may offer to schedule another ARD committee meeting to review the ARD committee’s decisions with the non-attending parent. The District’s correspondence may note that the District welcomes and encourages parental participation.**

- **Ensure and document receipt by the parent or guardian of a copy of the procedural safeguards notice** at least once a year, and also <sup>8</sup>
  - Upon initial referral or parental request for evaluation.<sup>9</sup>
  - Upon the first occurrence of the filing of a due process hearing complaint.<sup>10</sup>
  - Following any disciplinary action requiring a manifestation determination review.<sup>11</sup>
  - At any other time on reasonable request of the student’s parent or guardian.<sup>12</sup>
- **Ensure that any education records, as defined by the District’s **FL(LOCAL)** policy, requested by a parent or guardian of a student with a disability may be inspected and reviewed** by a parent or guardian or the parent or guardian’s representative (with informed written consent of the parent or guardian)—
  - Before any ARD committee meeting.
  - Before any mediation session or resolution session that is part of a special education due process hearing request.
  - Without unnecessary delay but in no case more than 45 days.<sup>13</sup>

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<sup>8</sup> 89 34 C.F.R. 300.504(a)

<sup>9</sup> 90 34 C.F.R. 300.504(a)(1)

<sup>10</sup> 91 34 C.F.R. 300.504(a)(2)

<sup>11</sup> 92 34 C.F.R. 300.504(a)(3)

<sup>12</sup> 93 34 C.F.R. 300.504(a)(4)

<sup>13</sup> 34 C.F.R. § 300.613

Copies of educational records may be provided in accordance with the District's **FL(LOCAL)** policy. Fees may be charged for those copies so long as the fee does not effectively prevent the parent or guardian from exercising their right to inspect and review the requested records.<sup>14</sup>

**PRACTICE GUIDE—Unless the student’s parent is entitled to an audio recording of a student’s ARD committee meeting as outlined in CHILD FIND: Section 1.5, the District does not regularly record ARD committee meetings and does not maintain recordings of ARD committee meetings or other special education related meeting audio recordings as educational records in accordance with the *Family Educational Rights and Privacy Act (FERPA)*. If a parent elects to record an ARD committee meeting, the parent must (1) inform the members of the ARD committee at the start of the ARD committee meeting that she or he is recording the meeting, and (2) upon request, provide the District with an unredacted copy of the audio recording. Each parent who records an ARD committee meeting in accordance with this procedure assumes responsibility for the audio recording and any claims or issues related thereto. The District reserves the option, at its discretion, to record an ARD committee meeting for administrative purposes. If the District does make an audio recording of an ARD committee meeting, upon request, the District will provide the parent with an unredacted copy of the audio recording. The District does not allow video recordings of meetings.**

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If a parent or guardian makes a written request for an ARD committee meeting, the District shall schedule the meeting as soon as appropriate under the circumstances, or within 5 school days provide a brief written explanation of why the District refuses to schedule the requested ARD committee meeting.<sup>16</sup> When a parent or guardian makes a written request for an ARD committee meeting, the Diagnostician will provide the written explanation above or coordinate with the student’s parents, guardians, teachers and related service providers to schedule the ARD committee meeting.

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<sup>14</sup> 34 C.F.R. § 300.617 (The District may not charge a fee to search for or to retrieve the educational records.)

<sup>15</sup> “IDEA does not address the use of audio or video recording devices at IEP meetings, and no other Federal statute either authorizes or prohibits the recording of an IEP meeting by either a parent or a school official. Therefore, [the District] has the option to require, prohibit, limit or otherwise regulate the use of recording devices at IEP meetings.” [OSEP 2003](#).

<sup>16</sup> 19 TEX. ADMIN. CODE § 89.1050(e); Tex. Ed. Code § 29.005(c)

**PRACTICE GUIDE—The Director of Special Education or designee may consider some of these reasons for declining a parent’s request for an ARD committee meeting: personnel-related matters, extracurriculars, location of services, attendance and requirements related to public health and safety issues.**

***How does the District ensure that parents or guardians with emergent bilingual abilities are included in the IEP development process?***

If the parent or guardian is one with emergent bilingual abilities and the parent or guardian’s native language is Spanish, the District will provide notices to the parent or guardian in Spanish. If the parent or guardian’s native language is other than English or Spanish, the District will make a good faith effort to provide notices to the parent or guardians in the parent or guardian’s native language unless it is clearly not feasible to do so. The term “native language” means the language normally used by the parent or guardian.<sup>17</sup> *Emergent Bilingual* is equivalent to *English Learner (EL)* in the special education context.<sup>18</sup>

If the parent or guardian is one with emergent bilingual abilities and the parent or guardian’s native language is Spanish, the District will provide at any ARD committee meeting a person who is able to interpret for the parent or guardian. If a parent or guardian’s native language is other than Spanish, the District will make a good faith effort to obtain an interpreter or translator to assist the parent or guardian.<sup>19</sup> The Diagnostician shall coordinate with the student’s Campus Administrator to ensure that the parents or guardians of students with a disability whose native language is other than English are able to participate in the ARD committee meeting with the assistance of translators and interpreters, as appropriate. The Diagnostician shall document these efforts in ARD committee documents and preserve in the student’s special education file all written correspondence or communications logs with parents or guardians and other individuals regarding the District’s efforts.

If the student's parent or guardian is unable to speak English and the parent or guardian's native language is Spanish, the District shall provide a written copy or audio recording of the student's IEP translated into Spanish.<sup>20</sup> If the parent or guardian's native language is a language other than Spanish, the District shall 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 or guardian's native language. When

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<sup>17</sup> 20 U.S.C. § 1401(20)

<sup>18</sup> 34 C.F.R. § 300.27

<sup>19</sup> 34 C.F.R. § 300.322(e)

<sup>20</sup> 19 TEX. ADMIN. CODE § 89.1050(i); Tex. Ed. Code § 29.005(d)

translating a student's IEP, all of the text in the student's IEP shall be accurately translated, resulting in a comparable rendition of the IEP in English and not a partial translation or summary.<sup>21</sup>

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**Demonstrations of this procedure's implementation may include, but are not limited to, examples such as:**

- Training materials
- ARD committee reports
- ARD committee meeting invitations and notices
- Check-lists
- Telephone logs of calls made and attempted in an effort to convince parents to participate in ARD committee meetings
- Records of written correspondence sent in an effort to convince parents to participate in ARD committee meetings
- Records of visits to the parent's home or place of employment in an effort to convince parents to participate in ARD committee meetings
- Privately obtained assessments provided by the student's parent or guardian
- Forms demonstrating the District's request for consent for disclosure between the campus and private service providers
- Formal and/or informal evaluations provided by the District or the student's parents or guardians in connection with consideration of Extended School Year eligibility

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<sup>21</sup> 19 TEX. ADMIN. CODE § 89.1050(i)(1)