

**SEC. 1.      APPLICABILITY OF TEXAS EDUCATION CODE**

An open-enrollment charter school is subject to a prohibition, restriction, or requirement, as applicable, imposed by Title 2 (Public Education) of the Texas Education Code, or a rule adopted under Title 2 (Public Education) of the Texas Education Code relating to special education programs. (TEC §12.104(b)(2)(F))

Advantage Academy shall comply with the requirements for monitoring compliance with federal and state laws relating to special education pursuant to Texas Education Code Section 29.010.

**SEC. 2.      ASSURANCE**

Open-enrollment charter schools must submit a plan to the Texas Education Agency that provides assurances that the charter school has in effect policies, procedures and programs that are consistent with the State and Federal policies and procedures governing special education. (20 USC §1413(a); 34 CFR §§300.200-.201)

**SEC. 3.      PUBLIC EDUCATION INFORMATION MANAGEMENT SYSTEM (PEIMS)**

“Most of the data TEA requests from school districts and charter schools are gathered using the Public Education Information Management System (“PEIMS”). PEIMS data are used for the Academic Excellence Indicator System (“AEIS”), Foundation School Program (“FSP”), statistical purposes, federal reporting, legislative requests, and audit purposes. Through PEIMS, schools report data including student demographic and academic performance, student attendance, personnel information, financial data, and organizational information.” *Texas Open-Enrollment Charter School Handbook* (TEA, Division of Charter School Administration, September 2011).

**SEC. 4.      APPLICABILITY OF TITLE RELATING TO THE PEIMS**

An open-enrollment charter school is subject to a prohibition, restriction, or requirement, as applicable, imposed by Title 2 (Public Education) of the Texas Education Code, or a rule adopted under Title 2 (Public Education) of the Texas Education Code, relating to the PEIMS to the extent necessary to monitor compliance with Subchapter D (Open-Enrollment Charter School), Chapter 12, Texas Education Code. (TEC §12.104(b)(2)(A))

The Superintendent or designee shall prepare required PEIMS submissions in accordance with PEIMS Data Standards and Module 10 of the Financial Accountability System Resource Guide. The Superintendent or designee may collaborate with the regional education service center in preparing and timely submitting PEIMS reports.

**SEC. 5.      CONTRACTS FOR SERVICES; RESIDENTIAL PLACEMENT**

Advantage Academy may contract with a public or private facility, institution, or agency inside or outside of this State for the provision of services to students with disabilities. Each contract for residential placement must be approved by the Commissioner. The Commissioner may approve a residential placement contract only after at least a programmatic evaluation of personnel qualifications, adequacy of physical plant and equipment, and curriculum content. The Commissioner may approve either the whole or a part of a facility or program. (TEC §29.008(a))

When a student, including one for whom the State is managing conservator, is placed primarily for care or treatment reasons in a private residential facility that operates its own private education program, none of the costs may be paid from public education funds. If a residential placement primarily for care or treatment reasons involves a private residential facility in which the education program is provided by the open-enrollment charter school, the portion of the costs that includes appropriate education services, as determined by the admission, review, and dismissal ("ARD") committee, shall be paid from State and Federal education funds. (TEC §29.008(c))

If Advantage Academy contracts for the provision of education services rather than providing the services, Advantage Academy shall oversee the implementation of the student's individualized education program ("IEP") and shall annually reevaluate the appropriateness of the arrangement. An approved facility, institution, or agency with whom Advantage Academy contracts shall periodically report to Advantage Academy on the services the student has received or will receive in accordance with the contract as well as diagnostic or other evaluative information that Advantage Academy requires in order to fulfill its obligations under Subchapter A (Special Education), Chapter 29, Texas Education Code. (TEC §29.008(d))

#### SEC. 6. FACILITIES

Any construction of new facilities or alteration of existing facilities with authorized Individuals with Disabilities Education Act ("IDEA") program funds must comply with the requirements of:

- Appendix A of Part 36 of Title 28, Code of Federal Regulations (commonly known as the *Americans with Disabilities Accessibility Guidelines for Buildings and Facilities*); and
- Appendix A of Subpart 101-19.6 of Title 41, Code of Federal Regulations (commonly known as the *Uniform Federal Accessibility Standards*).

#### SEC. 7. ADMINISTRATION OF EQUIPMENT

The ARD committee must consider whether the student needs assistive technology devices ("ATDs") as part of the student's special education, related services, or supplementary aids and

services. On a case-by-case basis, the use of school-purchased ATDs in the student's home or in other settings is required if the student's ARD committee determines that the student needs access to those devices in order to receive free appropriate public education. (34 CFR §§300.105; 300.324(a)(2)(v); 20 USC §1414(d)(3)(B)(v))

Assistive technology means any device or equipment used to improve or maintain the function capabilities of a student with a disability. Assistive technology does not include a medical device that is surgically implanted. (34 CFR §§300.5-300.6)

Advantage Academy may transfer an ATD in accordance to TEC, §30.0015. The transfer agreement must include the standards in TEC §30.0015, including the following:

- 1) The transferor and transferee must represent and agree that the terms of the transfer are based on the fair market value of the ATD, determined in accordance with generally accepted accounting principles.
- 2) The informed consent of the parent of the student with a disability, or the adult student, for whom the ATD is being transferred must be obtained before the transfer of an ATD pursuant to TEC, §30.0015. The procedures employed by Advantage Academy in obtaining informed consent shall be consistent with the procedures employed by the school to obtain parental consent under 34 CFR §300.300. Consistent with 34 CFR, §300.505(c), informed parental or adult student consent need not be obtained if the school can demonstrate that it has taken reasonable measures to obtain that consent, and the student's parent or the adult student has failed to respond. To meet the reasonable measures requirement, the school must use procedures consistent with those described in 34 CFR, §300.322(d).
- 3) If the transfer is a sale, then the sale of the ATD shall be evidenced by a "Uniform Transfer Agreement" which includes the following:
  - a. the names of the transferor and the transferee (which may be any individual or entity identified in TEC, §30.0015(b));
  - b. the date of the transfer;
  - c. a description of the ATD being transferred;
  - d. the terms of the transfer (including the transfer of warranties, to the extent applicable); and
  - e. the signatures of authorized representatives of both transferor and transferee.

(19 TAC 89.1056)

**SEC. 8. SPECIAL EDUCATION TEACHER DEFINED (20 U.S.C. §1401(10)(B)(I))**

When used with respect to any public elementary school or secondary school special education teacher teaching in a State, such term means that—the teacher has obtained full State

certification as a special education teacher (including certification obtained through alternative routes to certification), or passed the State special education teacher licensing examination, and holds a license to teach in the State as a special education teacher, except that when used with respect to any teacher teaching in a public charter school, the term means that the teacher meets the requirements set forth in the State's public charter school law.

**SEC. 9. COMPLIANCE WITH FEDERAL AND STATE PERSONNEL STANDARDS FOR INDIVIDUALS SERVING CHILDREN WITH DISABILITIES**

Advantage Academy shall ensure that personnel standards for all individuals serving children with disabilities are met in accordance with the IDEA and its procedures.

Advantage Academy recognizes that both the Every Student Succeeds Act and the IDEA provide that charter school teachers must meet the requirements set forth in the State's public charter school law. 20 U.S.C. §§ 6311(g)(2)(J); 20 U.S.C. §1401(10)(B)(i). In Texas, that means that the charter school special education teacher must be certified.

Advantage Academy shall make an ongoing good-faith effort to recruit and hire appropriately and adequately certified and/or licensed personnel to provide a wide range of special education and related services to students with disabilities who are eligible for special education services. Special education staffing needs come from the individualized decisions made by the ARD committee.

Advantage Academy shall ensure that all personnel necessary to carry out the requirements of the IDEA 2004 are appropriately and adequately certified and/or licensed, prepared and assigned.

Advantage Academy adopts as policy the provisions under State and Federal law concerning personnel, including:

Charter school teachers must only meet the requirements of the State's public charter school law, which differ from the requirements for Texas teacher certification. In Texas, State law does not require a teacher employed by an open-enrollment charter school to be certified unless the teacher is assigned to teach in special education or bilingual education programs, in which case the appropriate State certification is required. The minimum qualification under State law for a teacher at an open-enrollment charter school, other than a special education or bilingual education teacher, is a bachelor's degree. However, the governing body of Advantage Academy may set the qualifications for teachers at a standard above what State law requires.

The open-enrollment charter school shall not employ a person as a teacher unless that person holds a bachelor's degree. (TEC §12.129(a)). In an open-enrollment charter school that serves youth referred to or placed in a residential trade center by a local or state agency, a

person may be employed as a teacher for a non core vocational course without holding a baccalaureate degree if the person has demonstrated subject matter expertise related to the subject taught, such as professional work experience, formal training and education, holding a relevant active professional industry license, certification, or registration, or any combination of work experience, training and education, and industry license, certification, or registration, and received as least 20 hours of classroom management training as determined by the governing body of the open-enrollment charter school. (TEC §12.129(b))

All special education and related service personnel shall be certified, endorsed, or licensed in the area or areas of assignment in accordance with 34 CFR §300.156; TEC §§21.002, 21.003, and 29.304; or appropriate state agency credentials. (19 T.A.C. §89.1131(a))

**SEC. 10.     NOTICE TO PARENTS – QUALIFICATIONS**

The Superintendent or designee shall provide to the parent or guardian of each student enrolled in Advantage Academy written notice of the qualifications of each teacher employed by Advantage Academy.

Additionally, the Superintendent or designee shall, at the beginning of each school year, notify the parents of each student attending Advantage Academy that the parents may request, and Advantage Academy shall provide the parents on request (and in a timely manner), information regarding the professional qualifications of the student's classroom teachers, including, at a minimum, the following:

1. Whether the teacher has met state qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction.
2. Whether the teacher is teaching under emergency or other provisional status through which state qualification or licensing criteria have been waived.
3. Whether the teacher is teaching in the field of discipline of the certification of the teacher.
4. Whether the child is provided services by paraprofessionals and, if so, their qualifications.

Advantage Academy shall also provide to each individual parent timely notice that the parent's child has been assigned, or has been taught for four or more consecutive weeks by, a teacher who does not meet applicable state certification standards or licensure requirements at the grade level and subject area in which the teacher has been assigned.

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**Sec. 6.2.1. ADMISSION, REVIEW AND DISMISSAL COMMITTEES**

**Eagle Advantage Schools, Inc.** shall establish an admission, review, and dismissal (ARD) committee for each eligible student with a disability and for each student for whom a full and individual initial evaluation is conducted. The ARD committee shall be the individualized education program (IEP) team defined at 34 CFR 300.321.

**Sec. 6.2.2. ARD COMMITTEE RESPONSIBILITIES**

The ARD committee and **Advantage Academy** are responsible for:

1. Evaluating, reevaluating, and determining eligibility for special education and related services;
2. Placement of students with disabilities, including disciplinary changes in placement;
3. Development of student IEPs;
4. Development and implementation of service plans for students who have been placed by their parents in private schools and who have been designated to receive special education and related services;
5. Compliance with the least restrictive environment standard;
6. Compliance with state requirements for reading diagnosis and state assessments;
7. Development of personal graduation plans;
8. Development of accelerated instruction under Education Code 28.0211 and intensive programs of instruction under Education Code 28.0213;
9. Evaluation, placement, and coordination of services for students who are deaf, hard of hearing, blind, or visually impaired; and
10. Determining eligibility for extracurricular activities, under Education Code 33.081.

19 TAC 89.1050(a); 34 CFR 300.116(a), 300.321(a).

**Sec. 6.2.3. COMMITTEE MEMBERS**

**Advantage Academy** shall ensure that each ARD committee meeting includes all of the following:

1. The parents of a child with a disability;
2. At least one regular education teacher of the child (if the child is, or may be, participating in the regular education environment) who must, to the extent practicable, be a teacher who is responsible for implementing a portion of the student's IEP;
3. At least one special education teacher, or where appropriate, at least one special education provider of the child;
4. A representative of **Advantage Academy** who:

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- a. Is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of children with disabilities;
- b. Is knowledgeable about the general education curriculum; and
- c. Is knowledgeable about the availability of **Advantage Academy**'s resources;
5. An individual who can interpret the instructional implications of evaluation results, who may be a member of the ARD committee (who may be a member of the committee listed in items 2–5);
6. At the discretion of the parent or **Advantage Academy**, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate;
7. The child, whenever appropriate;
8. A representative from career and technical education, preferably the teacher, when considering initial or continued placement of a student in a career and technical education program;
9. For a child with limited English proficiency, a member of the child's language-proficiency assessment committee (LPAC) when deciding upon the selection of assessments and appropriate accommodations;
10. For a child with an auditory impairment, including deaf-blindness, a teacher who is certified in the education of children with auditory impairments; and
11. For a child with a visual impairment, including deaf-blindness, a teacher who is certified in the education of children with visual impairments.

20 U.S.C. 1414(d)(1)(B); 34 CFR 300.321; 19 TAC 75.1023(d)(1), 89.1131(b)(3)–(4), 101.1009.

A **Advantage Academy** member of the ARD committee shall not be required to attend an IEP meeting, in whole or in part, if the parent and **Advantage Academy** agree in writing that the attendance is not necessary because the member's area of the curriculum or related services is not being modified or discussed during the meeting.

A **Advantage Academy** member of the ARD committee may be excused from attending an IEP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of curriculum or related services if the parent, in writing, and **Advantage Academy** consent to the excusal and the member submits, in writing, to the parent and the ARD committee, input into the development of the IEP before the meeting.

20 U.S.C. 1414(d)(1)(C); 34 CFR 300.321(e).

**Sec. 6.2.3.1. Transition Meeting Membership**

If the ARD committee is meeting to consider postsecondary goals and the transition services needed to assist the student in reaching those goals, **Advantage Academy** shall invite:

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1. The student. If the student does not attend, **Advantage Academy** shall take other steps to ensure that the student's preferences and interests are considered.
2. To the extent appropriate, and with the consent of the parent or student who has reached the age of majority, a representative of any other agency that is likely to be responsible for providing or paying for transition services.

34 CFR 300.321(b).

**Sec. 6.2.4. PARENTAL INVOLVEMENT**

**Advantage Academy** shall take steps to ensure that one or both of the parents of a student with a disability are present at each ARD committee meeting or are afforded the opportunity to participate, including:

1. Notifying the parents of the meeting early enough to ensure that they will have an opportunity to attend (the notice shall include all information required by applicable regulation); and
2. Scheduling the meeting at a mutually agreed time and place.

If the purpose of the meeting is to consider transition services, the notice must also indicate this purpose, indicate that the Student will invite the student, and identify any other agency that will be invited to send a representative. 34 CFR 300.322(a)–(b); 19 TAC 89.1045.

**Sec. 6.2.5. ALTERNATIVE PARTICIPATION METHODS**

If neither parent can attend an ARD committee meeting, **Advantage Academy** must use other methods to ensure parent participation, including individual or conference telephone calls. 20 U.S.C. 1414(f); 34 CFR 300.322(c).

An ARD committee meeting may be conducted without a parent in attendance if **Advantage Academy** is unable to convince the parents that they should attend. In such event, **Advantage Academy** must keep a record of its attempts to arrange a mutually agreed time and place, such as:

1. Detailed records of telephone calls made or attempted and the results of those calls;
2. Copies of correspondence sent to the parents and any responses received; and
3. Detailed records of visits made to the parent's home or place of employment and the results of those visits.

34 CFR 300.322(d).

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**Sec. 6.2.6. ARD COMMITTEE MEETINGS**

**Advantage Academy** shall initiate and conduct ARD committee meetings for the purpose of developing, reviewing, and revising the IEP of a student with a disability. The committee shall review each student's IEP periodically, and, if appropriate, revise the IEP. A meeting must be held for this purpose at least once a year. The ARD committee must also determine the child's placement once per year.

A meeting does not include informal or unscheduled conversations involving **Advantage Academy** 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 **Advantage Academy** personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting. 20 U.S.C. 1414(d)(4); 34 CFR 300.116(b)(1), 300.324(b), (c)(1); 300.501(b)(3).

**Sec. 6.2.6.1. Meeting at Parent Request**

A parent may request an ARD committee meeting at any mutually agreeable time to address specific concerns about his or her child's special education services. **Advantage Academy** must respond to the request by holding the meeting or requesting TEA's assistance through the mediation process. **Advantage Academy** shall inform parents of the functions of the ARD committee and the circumstances or types of problems for which requesting an ARD committee meeting would be appropriate. 19 TAC 89.1045(b)

**Sec. 6.2.6.2. Transfer Students**

If a student transfers to **Advantage Academy**, and the student had a previous IEP in place, **Advantage Academy** shall provide the student with a FAPE, including services comparable to those described in the previous IEP, in consultation with the parents, until:

1. In the case of a student who transfers within the state, **Advantage Academy** adopts the previous IEP or develops, adopts, and implements a new IEP.
2. In the case of a student who had an IEP in effect in another state, **Advantage Academy** conducts an evaluation, if determined necessary by **Advantage Academy**, and develops, adopts, and implements a new IEP, if appropriate.

20 U.S.C. 1414(d)(2)(C)(i); 34 CFR 300.323(e), (f).

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**Sec. 6.2.6.3. Transfer of Records**

**Advantage Academy** shall take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the child's previous district. 20 U.S.C. 1414(d)(2)(C)(ii); 34 CFR 300.323(g).

**Sec. 6.2.6.4. Military Dependents**

**Advantage Academy** shall initially provide comparable services to a military student with disabilities based on his or her current IEP. This does not preclude **Advantage Academy** from performing subsequent evaluations to ensure appropriate placement of the student. Education Code 162.002 art. V, § C.

**Sec. 6.2.7. ELIGIBILITY DETERMINATIONS**

Upon completion of the administration of assessments and other evaluation measures, a team of qualified professionals and the parent shall make the determination of whether the child has a disability and of the educational needs of the child.

**Advantage Academy** shall provide a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent. 20 U.S.C. 1414(b)(4)(B); 34 CFR 300.306(a).

The admission, review, and dismissal ("ARD") committee must make its decisions regarding a student's initial eligibility determination and, if appropriate, individualized education program ("IEP") and placement within 30 calendar days from the date of the completion of the written full individual and initial evaluation report. If the 30th day falls during the summer and school is not in session, the student's ARD committee has until the first day of classes in the fall to finalize decisions concerning the student's initial eligibility determination, IEP, and placement, unless the full individual and initial evaluation indicates that the student will need extended school year (ESY) services during that summer.

When a report is provided to a parent not later than June 30 as described at Timeframe for Completion of Written Report, above, the ARD committee must meet not later than the 15th school day of the following school year to consider the evaluation. If, however, an evaluation indicates that a student will need ESY services, the ARD committee must meet as expeditiously as possible. 19 TAC 89.1011(d), (e).

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**Sec. 6.2.8. INDIVIDUALIZED EDUCATION PROGRAM (IEP)**

**Advantage Academy** shall develop, review, and revise an IEP for each child with a disability. 20 U.S.C. 1412(a)(4); 34 CFR 300.320(a).

**Advantage Academy** shall have an IEP in effect for each child with a disability at the beginning of each school year. 20 U.S.C. 1414(d)(2)(A); 34 CFR 300.323(a).

The term “individualized education program” means a written statement for each child with a disability that includes:

1. A statement of the child’s present levels of academic achievement and functional performance;
2. A statement of measurable annual goals, including academic and functional goals;
3. A description of how the child’s progress toward the annual goals will be measured and when periodic reports on the progress of the child will be provided;
4. A statement of the specific special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child;
5. A statement of the program modifications or supports for school personnel that will be provided for the child;
6. An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in extracurricular and nonacademic activities;
7. The projected dates for initiation of services and modifications and the anticipated frequency, location, and duration of these services and modifications;
8. A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on state or system-wide assessments;
9. If the ARD committee determines that the child must take an alternative assessment instead of a particular regular state or system-wide assessment, a statement of why the child cannot participate in the regular assessment and why the particular assessment selected is appropriate for the child;
10. Beginning not later than the first IEP to be in effect when the child is 16, or younger if determined appropriate by the ARD committee, and updated annually thereafter, a statement of appropriate, measurable postsecondary goals and transition services needed to assist the child in reaching those goals; and
11. Beginning not later than one year before the child reaches the age of 17, a statement that the child has been informed of the rights that will transfer to the child upon reaching the age of majority.

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20 U.S.C. 1414(d); 34 CFR 300.320; 19 TAC 89.1055

**Sec. 6.2.9. TRANSLATING IEPs**

If the child's parent is unable to speak English, **Advantage Academy** shall:

1. Provide the parent with a written or audio-taped copy of the child's IEP translated into Spanish if Spanish is the parent's native language; or
2. If the parent's native language is a language other than Spanish, make a good faith effort to provide the parent with a written or audiotaped copy of the child's IEP translated into the parent's native language.

TEC § 29.005(d).

**Sec. 6.2.10. AUTISM/PERVASIVE DEVELOPMENTAL DISORDERS**

For students with autism/pervasive developmental disorders, the following strategies shall be considered by the ARD committee, based on peer-reviewed, research-based educational programming practices to the extent practicable and, when needed, addressed in the IEP:

1. Extended educational programming;
2. Daily schedules reflecting minimal unstructured time and active engagement in learning activities;
3. In-home training and community-based training or viable alternatives that assist the student with the acquisition of social/behavioral skills;
4. Positive behavior support strategies based on relevant information;
5. Beginning at any age, futures planning for integrated living, work, community, and educational environments that considers skills necessary to function in current and post-secondary environments;
6. Parent/family training and support, provided by qualified personnel with experience in Autism Spectrum Disorders (ASD);
7. Suitable staff-to-student ratio appropriate to identified activities and as needed to achieve social/behavioral progress based on the child's developmental and learning level (acquisition, fluency, maintenance, generalization) that encourages work towards individual independence;
8. Communication interventions, including language forms and functions that enhance effective communication across settings;
9. Social skills supports and strategies based on social skills assessment/curriculum and provided across settings;
10. Professional educator/staff support; and

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11. Teaching strategies based on peer-reviewed, research-based practices for students with ASD.

If the ARD committee determines that services are not needed in one or more of the areas in 1–11 above, the IEP shall include a statement reflecting that decision and the basis upon which the determination was made. 19 TAC 89.1055(e)–(f).

**Sec. 6.2.11. VISUAL IMPAIRMENT**

**Advantage Academy** shall adopt written procedures as required in Education Code 30.002(c)(10) for providing special education services to students with visual impairments, if such services are necessary. 19 TAC 89.1075(b).

**Sec. 6.2.12. COLLABORATIVE PROCESS**

All members of the ARD committee shall have the opportunity to participate in a collaborative manner in developing the IEP. Decisions concerning the required elements of the IEP shall be made by agreement of the required members, if possible. The ARD committee may agree to an annual IEP or an IEP of shorter duration.

**Sec. 6.2.12.1. Recess**

When agreement about all required elements of the IEP is not achieved, the parent or adult student who disagrees shall be offered a single opportunity to have the committee recess for a period not to exceed ten school days. This recess is not required when:

1. The student's presence on campus represents a danger of physical harm to the student or others;
2. The student has committed an expellable offense; or
3. The student has committed an offense that may lead to placement in a disciplinary alternative education program.

These requirements do not prohibit the members of the ARD committee from recessing an ARD committee meeting for reasons other than failure of the parents and **Advantage Academy** to reach agreement about all required elements of an IEP.

During the recess, the committee members shall consider alternatives, gather additional data, prepare further documentation, and/or obtain additional resource persons to enable the committee to reach agreement.

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The date, time, and place for continuing the ARD committee meeting shall be determined by agreement before the recess.

**Sec. 6.2.12.2. No Agreement Reached**

If, after the ten-day recess, the ARD committee still cannot reach agreement, **Advantage Academy** shall implement the IEP it has determined to be appropriate for the student. A written statement of the basis for the disagreement shall be included in the IEP. The members who disagree shall be offered the opportunity to write their own statements.

When **Advantage Academy** implements an IEP with which the parents or adult student disagree, it shall provide prior written notice in compliance with applicable regulations and **Advantage Academy** policy.

Parents shall have the right to file a complaint, request mediation, or request a due process hearing at any point, when they disagree with ARD committee decisions. 19 TAC 89.1050(h).

**Sec. 6.2.13. IEP MODIFICATION**

Changes to an IEP may be made either by the entire ARD committee or by amending the IEP by agreement, rather than redrafting the entire IEP.

After the annual IEP meeting for a school year, the parent and **Advantage Academy** may agree not to convene an IEP meeting for the purposes of making changes to the IEP and instead may develop a written document to amend or modify the child's current IEP.

Upon request, a parent shall be provided with a revised copy of the IEP with amendments incorporated.

To the extent possible, **Advantage Academy** shall encourage the consolidation of reevaluation meetings for the child and other ARD meetings for the child. 20 U.S.C. 1414(d)(3)(D)-(F); 34 CFR 300.324(a)(4)-(a)(6).

**Sec. 6.2.14. LEAST RESTRICTIVE ENVIRONMENT**

**Advantage Academy** shall ensure that, to the maximum extent possible, children with disabilities shall be educated with children who are not disabled. Special classes, special schooling, or other removal of children with disabilities from the regular educational environment shall occur only when the nature or severity of the child's disability is such that education in regular classes with the use of supplementary aids and services cannot be satisfactorily achieved. 20 U.S.C. 1412(a)(5); 34 CFR 300.114(a)(2).

**Sec. 6.2.15. EXTENDED SCHOOL-YEAR SERVICES**

**Advantage Academy** shall ensure that extended school-year (ESY) services are available as necessary to provide a student with a disability with a FAPE.

ESY services must be provided only if the ARD committee determines, on an individual basis, that the services are necessary for a FAPE. **Advantage Academy** may not limit ESY services to particular categories of disability or unilaterally limit the type, amount, or duration of ESY services. 34 CFR 300.106; 19 TAC 89.1065.

**Sec. 6.2.16. GRADUATION**

A student receiving special education services who successfully completes the requirements of his or her IEP, including performance on a state assessment required for graduation, shall receive a high school diploma. A student's admission, review, and dismissal (ARD) committee shall determine if the student will be required to meet satisfactory performance on an assessment for purposes of graduation. 19 TAC 101.3023(a).

**Sec. 6.2.17. STATE ASSESSMENTS**

TEA shall develop or adopt appropriate criterion-referenced alternative assessment instruments to be administered to each student in a special education program for whom a state assessment instrument adopted under Education Code 39.023(a), even with allowable accommodations, would not provide an appropriate measure of student achievement, as determined by the student's admission, review, and dismissal ("ARD") committee, including assessment instruments approved by the Commissioner that measure growth. The assessment instruments developed or adopted, including the assessment instruments approved by the Commissioner, must, to the extent allowed under federal law, provide a district with options for the assessment of students.

TEA may not adopt a performance standard that indicates that a student's performance on the alternate assessment does not meet standards if the lowest level of the assessment accurately represents the student's developmental level as determined by the student's ARD committee.

The student's ARD committee shall determine whether any allowable modification is necessary in administering to the student a required EOC assessment instrument under Education Code 39.023(c), and whether the student is required to achieve satisfactory performance on an EOC assessment instrument to receive a high school diploma.

**Sec. 6.2.18. TRANSPORTATION**

**Advantage Academy** shall provide special transportation with federal funds only when the ARD committee determines that the condition of the student warrants the service in order for the student to receive the special education and related services (if any) set forth in the IEP. 19 TAC 89.1096(e).

**Sec. 6.2.19. TRANSITIONING SERVICES**

**Sec. 6.2.19.1. Definitions**

“Transition services” means a coordinated set of activities for a child with a disability that:

1. Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child to facilitate the child’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.
2. Is based on the individual child’s needs, taking into account the child’s strengths, preferences, and interests; and includes:
  - a. Instruction;
  - b. Related services;
  - c. Community experiences;
  - d. The development of employment and other post-school adult living objectives; and
  - e. If appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.

*20 U.S.C. 1401(34); 34 CFR 300.43.*

**Sec. 6.2.19.2. Individual Transition Planning**

In accordance with Education Code 29.011 and 29.0111, not later than when a student reaches 14 years of age, the admission, review, and dismissal (“ARD”) committee must consider, and if appropriate, address the following issues in the individualized education program (“IEP”):

1. Appropriate student involvement in the student's transition to life outside the public school system;
2. If the student is younger than 18 years of age, appropriate parental involvement in the student's transition;
3. If the student is at least 18 years of age, appropriate parental involvement in the student's transition, if the parent is invited to participate by the student or **Advantage Academy**;

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4. Any postsecondary education options;
5. A functional vocational evaluation;
6. Employment goals and objectives;
7. If the student is at least 18 years of age, the availability of age-appropriate instructional environments;
8. Independent living goals and objectives; and
9. Appropriate circumstances for referring a student or the student's parents to a governmental agency for services.

In accordance with 34 C.F.R. 300.320(b), beginning not later than the first IEP to be in effect when the student turns 16 years of age, or younger if determined appropriate by the ARD committee, and updated annually thereafter, the IEP must include the following:

1. Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and
  2. The transition services, including courses of study, needed to assist the student in reaching the postsecondary goals developed under paragraph (1) of this subsection.
- 20 U.S.C. 1414(d)(1)(A)(i)(VIII), 1414(d)(6); 34 C.F.R. 300.320(b); Education Code 29.0111; 19 TAC 89.1055(h), (j).*

### **Sec. 6.2.19.3. Graduation**

Graduation with a regular high school diploma under 19 TAC 89.1070(b)(1), (b)(2)(D), (f)(1), (f)(2), or (f)(3)(D) terminates a student's eligibility for special education services. For students who receive a diploma according to 19 TAC 89.1070(b)(2)(A), (B), or (C) or (f)(3)(A), (B), or (C), the ARD committee shall determine needed educational services upon the request of the student or parent to resume services, as long as the student meets the age requirements.

Graduation from high school with a regular diploma constitutes a change in placement that requires written prior notice to parents.

**Advantage Academy** is not required to conduct an evaluation before termination of eligibility due to graduation from secondary school with a regular high school diploma or due to exceeding the age eligibility for a FAPE under state law.

**Advantage Academy** shall provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.

*20 U.S.C. 1414(c)(5); 34 CFR 300.102(a)(3), 300.305(e)(2); 19 TAC 89.1070.*

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**ADULT STUDENT**

**Sec. 6.3.1. AGE OF MAJORITY – TRANSFER OF RIGHTS**

Not later than one year before the 18th birthday of a student with a disability, **Advantage Academy** shall:

1. Provide to the student and the student's parents:
  - a. Written notice regarding the transfer of rights; and
  - b. Information and resources regarding guardianship, alternatives to guardianship, including a supported decision-making agreement under Estates Code, Chapter 1357, and other supports and services that may enable the student to live independently; and
2. Ensure that the student's IEP includes a statement that **Advantage Academy** provided the required notice, information, and resources.

When a student reaches the age of majority (18 years of age), **Advantage Academy** shall provide written notice to the student and the student's parents of the transfer of parental rights. The notice must include the information required above.

This notice is separate and distinct from the requirement that, beginning at least one year before the student reaches the age of 18, the student's IEP include a statement regarding transfer of parental rights.

If a student with a disability or the student's parent requests information regarding guardianship or alternatives to guardianship, **Advantage Academy** shall provide the student or parent information and resources on supported decision-making agreements under Estates Code, Chapter 1357.

A student with a disability who is 18 years of age or older or whose disabilities of minority have been removed for general purposes under Chapter 31, Family Code, shall have the same right to make educational decisions as a student without a disability. All other rights accorded to parents under Chapter 29, Subchapter A of the Education Code or 20 U.S.C. 1415 transfer to the student.

(34 CFR 300.520; Education Code 29.017(a), (c), (c-1), (c-2); 19 TAC 89.1049(c))

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**Sec. 6.4.1. PREKINDERGARTEN PROGRAMS**

**Sec. 6.4.1.1. Tuition-Free Program**

**Advantage Academy** shall offer tuition-free prekindergarten classes if it identified 15 or more eligible children who are at least four years of age. **Advantage Academy** may offer tuition free prekindergarten classes if it identifies 15 or more eligible children who are at least three years of age.

**Sec. 6.4.1.1.1. Exemption**

**Advantage Academy** may apply to the Commissioner for an exemption from the requirement that it provide a free prekindergarten program if **Advantage Academy** would be required to construct classroom facilities in order to provide the program.

**Sec. 6.4.1.1.2. Half-Day Basis**

A tuition-free prekindergarten class shall be operated on a half-day basis.

**Sec. 6.4.1.1.3. Program Eligibility**

A child is eligible for enrollment in free prekindergarten if the child is at least three years of age and:

1. Is unable to speak and comprehend the English language;
2. Is educationally disadvantaged;
3. Is homeless, as defined by federal law, regardless of the residence of the child, of either parent of the child, or of the child's guardian or other person having lawful control;
4. Is the child of an active duty member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who is ordered to active duty by proper authority;
5. Is the child of a member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who was injured or killed while serving on active duty; or
6. Is or ever has been in the conservatorship of the Department of Family and Protective Services following an adversary hearing under Family Code 262.201.
7. Is the child of a person eligible for the Star of Texas Award as:
  - a. A peace officer under Section 3106.002, Government Code;
  - b. A firefighter under Section 3106.003, Government Code; or
  - c. An emergency medical first responder under Section 3106.004, Government Code.

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A child who is eligible for enrollment under item 4 or 5 above remains eligible if the child's parent leaves the armed forces, or is no longer on active duty, after the child begins the prekindergarten class.

Sec. 6.4.1.1.4. Public Notice

The Superintendent shall develop a system to notify the population in the community with children eligible or enrollment of the availability of the program. The system must include public notices issued in English and Spanish.

**Sec. 6.4.2. PRESCHOOL-AGED CHILDREN**

If **Advantage Academy** offers preschool, **Advantage Academy** must provide a free appropriate public education (FAPE) in the least restrictive environment to preschool-aged students even if **Advantage Academy** does not provide free preschool programs to all preschool-aged children. (34 C.F.R. §§300.101(a)-(b) and §300.116)

**Advantage Academy** may provide opportunities for the participation of the preschool students with disabilities in other preschool programs operated by public agencies or by locating classes for preschool students with disabilities in regular elementary schools. However, **Advantage Academy** is not required to initiate preschool programs or to establish extensive contact programs with private schools which serve both students with disabilities and students without disabilities solely to satisfy the requirements regarding placement in the least restrictive environment. (OSEP Policy Memo 89-23; 34 C.F.R. §300.102(a))

**Advantage Academy** shall develop a system to notify residents within the **Advantage Academy** boundaries with children who are at least three and younger than six and who are eligible for enrollment in a special education program of the availability of such programs. (TEC §29.009)

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**Sec. 6.5.1. CHILD FIND**

**Eagle Advantage Schools, Inc.** shall ensure that all children residing within the **Advantage Academy** boundaries who have disabilities, regardless of the severity of their disabilities, and who are in need of special education and related services are identified, located, and evaluated. This requirement applies to:

1. Homeless children;
2. Children who are wards of the state;
3. Children attending private schools;
4. Highly mobile children (including migrant children); and
5. Children who are suspected of being in need of special education but who are advancing from grade to grade.

20 U.S.C. 1412(a)(3)(A); 34 CFR 300.111(a)(1)(i), (c).

**Sec. 6.5.2. PRIVATE SCHOOL STUDENTS**

**Advantage Academy** shall conduct a timely and meaningful consultation with private school representatives regarding the child find process and the provision of special education and related services to children enrolled in private schools within the **Advantage Academy** boundaries.

**Advantage Academy** shall undertake activities similar to those undertaken for public school children and shall complete the child find process for children enrolled in private schools in a time period comparable to that for other students attending the public schools within the **Advantage Academy** boundaries. 20 U.S.C. 1412(a)(10)(A)(ii)–(iv).

**Sec. 6.5.2.1. Preschool Students**

**Advantage Academy** shall develop a system to notify residents within the **Advantage Academy** boundaries with children who are at least three and younger than six and who are eligible for enrollment in a special education program of the availability of such programs. Education Code 29.009

**Sec. 6.5.3. STUDENT RECORDS**

After each student is enrolled in **Advantage Academy**, **Advantage Academy** will promptly request all student records from the student's previous school.

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**CHILDREN WHO TRANSFER**

**Sec. 6.6.1. STUDENTS WHO TRANSFER WITH AN IEP**

When a student transfers to **Advantage Academy** from another school within Texas, **Advantage Academy** shall provide a free appropriate public education to the student. **Advantage Academy** shall provide comparable services as those described in the IEP the student transferred with until **Advantage Academy** adopts the student's IEP from the previous school, or develops, adopts and implements a new IEP.

If the student with a disability transfers to from a school outside of Texas, **Advantage Academy** shall provide the student with FAPE, including comparable services, until **Advantage Academy** conducts an evaluation and develops, adopts, and implements a new IEP. (34 CFR §300.323)

A new IEP must be implemented within 30 school days from the date the student is verified as being a student eligible for special education services.

If a student transfers from **Advantage Academy**, **Advantage Academy** will furnish the student's special education records to the student's new school not later than the 10th working day after the date a request for the information is received by **Advantage Academy**. (19 TAC §89.1050(j)(3))

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**Sec. 6.8.1. PROCEDURAL SAFEGUARDS**

The Superintendent of **Advantage Academy** shall establish and maintain procedures to ensure that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of a free appropriate public education (FAPE). 20 U.S.C. 1415(a)–(b).

These procedures shall include:

1. An opportunity for the parents to review all education records and to participate in meetings relating to the identification, evaluation, and educational placement of the child and the provision of FAPE to the child. 34 CFR 300.501.
2. An opportunity for the parents to obtain an independent educational evaluation of the child. 34 CFR 300.502.
3. Assignment of an individual to act as a surrogate for the parent when no parent can be identified, **Advantage Academy** cannot locate the parents, or the child is a ward of the state. 34 CFR 300.519.
4. Prior written notice to the parents whenever **Advantage Academy** proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or educational placement of the child, or the provision of FAPE to the child. 34 CFR 300.503.
5. Procedures to allow parties to resolve disputes through a mediation process. 34 CFR 300.506.
6. An opportunity for any party to file a due process complaint on any matter relating to the identification, evaluation, or educational placement of the child, or the provision of FAPE to the child. 34 CFR 300.507.
7. Procedures that require either party, or the attorney representing a party, to provide to the other party a due process complaint (which shall remain confidential). 34 CFR 300.508.

**Sec. 6.8.2. CONSENT**

Consent means that:

1. The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication;
2. The parent understands and agrees in writing to the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and
3. The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time. A revocation of consent is not retroactive.

If the parent revokes consent in writing for his or her child's receipt of services after the child is initially provided special education and related services, **Advantage Academy** is not required to

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amend the child's education records to remove any references to the child's receipt of services because of the revocation of consent.

34 CFR 300.9

**Sec. 6.8.3. LANGUAGE OF NOTICES**

The procedural safeguards and prior notices described below must be written in language understandable to the general public. The notice must be 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. 34 CFR 300.503(c), 300.504(d).

**Sec. 6.8.3.1. Electronic Delivery of Notices**

A parent may of a child with a disability may elect to receive required notices by electronic mail, if **Advantage Academy** makes that option available. 34 CFR 300.505.

**Sec. 6.8.4. NOTICE OF PROCEDURAL SAFEGUARDS**

**Advantage Academy** shall provide a copy of the procedural safeguards to parents only once per year, except that a copy also shall be given to the parents:

1. Upon initial referral or parental request for evaluation;
2. Upon receipt of the first state complaint and upon receipt of the first due process complaint in a school year;
3. On the date of a decision to make a disciplinary removal that is a change in placement; and
4. Upon request by a parent.

**Advantage Academy** may also place a current copy of the procedural safeguards notice on its Internet website.

**Sec. 6.8.4.1. Contents of Notice**

The notice shall include a full explanation of the procedural safeguards relating to:

1. Independent educational evaluations;
2. Prior written notice;
3. Parental consent;
4. Access to educational records;

5. Opportunity to present and resolve complaints through the due process complaint and state complaint procedures, including:
  - a. The time period in which to file a complaint,
  - b. The opportunity for **Advantage Academy** to resolve the complaint; and
  - c. The difference between the due process complaint and the state complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures.
6. The availability of mediation;
7. The child's placement during pendency of any due process proceedings;
8. Procedures for children who are subject to placement in an interim alternative educational setting;
9. Requirements for unilateral placement by parents of children in private schools at public expense;
10. Hearings on due process complaints, including requirements for disclosure of evaluation results and recommendations;
11. Civil actions, including the time period in which to file such actions; and
12. Attorneys' fees.

20 U.S.C. 1415(a)–(b), (d); 34 CFR 300.504(c).

#### **Sec. 6.8.5. PRIOR NOTICE AND CONSENT**

**Advantage Academy** shall provide prior written notice to the parents within a reasonable time before the School proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or educational placement of a child or the provision of a FAPE to the child. 34 CFR 300.503(a).

“Reasonable time” is defined as at least five school days, unless the parents agree otherwise. 19 TAC 89.1015.

##### **Sec. 6.8.5.1. Contents of Notice**

The notice must include:

1. A description of the action proposed or refused by **Advantage Academy**;
2. An explanation of why **Advantage Academy** proposes or refuses to take the action;
3. A description of each evaluation procedure, assessment, record, or report **Advantage Academy** used as a basis for the proposed or refused action;
4. A statement that the parents have protection under the procedural safeguards and, if this notice is not an initial referral for evaluation, the means by which a copy of the procedural safeguards can be obtained;

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5. Sources for parents to contact to obtain assistance in understanding the IDEA rules;
6. A description of other options the ARD committee considered and the reasons why those options were rejected; and
7. A description of other factors relevant to **Advantage Academy's** proposal or refusal.

34 CFR 300.503(b)

**Sec. 6.8.6. CONSENT TO INITIAL EVALUATION**

Before **Advantage Academy** conducts an initial evaluation, it shall provide prior written notice, including a description of any evaluation **Advantage Academy** proposes to conduct, and obtain informed consent for the evaluation from the parents. 20 U.S.C. 1414(a)(1)(D), (E); 34 CFR 300.304(a).

**Sec. 6.8.7. CONSENT TO SERVICES**

**Advantage Academy** shall seek informed consent from the parent before providing special education and related services to a child. 20 U.S.C. 1414(a)(1)(D).

**Sec. 6.8.8. CONSENT TO REEVALUATION**

**Advantage Academy** shall obtain informed parental consent before conducting any reevaluation of a child with a disability, except that such informed parental consent need not be obtained if **Advantage Academy** can demonstrate that it has taken reasonable measures to obtain such consent and the parent has failed to respond. 20 U.S.C. 1414(c)(3).

**Sec. 6.8.9. CONSENT TO EXCUSE MEMBER FROM ATTENDING ARD COMMITTEE MEETING**

A **Advantage Academy** member of the ARD committee may be excused from attending an IEP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of curriculum or related services if the parent, in writing, and **Advantage Academy** consent to the excusal and the member submits, in writing, to the parent and the ARD committee, input into the development of the IEP before the meeting.

**Sec. 6.8.10. PSYCHOLOGICAL EXAMINATIONS AND TESTS**

On request of a child's parent, before obtaining the parent's consent for the administration of any psychological examination or test to the child as part of the evaluation of the child's need for special education, **Advantage Academy** shall provide to the child's parent:

1. The name and type of the examination or test; and

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2. An explanation of how the examination or test will be used to develop an appropriate IEP for the child.

If **Advantage Academy** determines that an additional examination or test is required for the evaluation of a child's need for special education, **Advantage Academy** shall provide the information above to the parent regarding the additional examination or test and shall obtain additional consent for the examination of test. Education Code 29.0041(a), (b).

**Sec. 6.8.11. PARENTAL CONSENT TO ACCESS PUBLIC BENEFITS**

**Advantage Academy** shall obtain informed consent from the parent each time that access to a parent's private insurance proceeds or to public benefits or an insurance program is sought. (34 CFR §300.154(d)(2)(iv)(A))

**Sec. 6.8.12. PARENTAL CONSENT FOR TRANSFER OF ASSISTIVE TECHNOLOGY DEVICES**

**Advantage Academy** shall obtain informed consent from the parent or the adult student if the adult student has the legal capacity to enter into a contract before transferring an assistive technology device through a transfer agreement that incorporates the standards of the state.

**Sec. 6.8.13. OTHER CONSENT REQUIREMENTS**

Parental consent is not required before **Advantage Academy** may:

1. review existing data as part of the student's evaluation or a reevaluation; or
2. give the student a test or other evaluation that is given to all students unless, before that test or evaluation, consent is required from parents of all students. 34 CFR 300.300(d)

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**DISTRICT AND CAMPUS IMPROVEMENT PLANS**

**District and Campus Improvement Plan**

It is the policy of **Advantge Academy** to annually conduct a comprehensive needs assessment and to conduct district and campus improvement plans, if required by state and federal funding requirements.

**Sec. 6.14.1. FULL AND INDIVIDUAL EVALUATION (FIE)**

**Advantage Academy** shall ensure that upon completion of the administration of such tests and other evaluation materials administered according to the evaluation procedures of the IDEA, and preparation of the written report, the ARD committee determines if the student is a student with a disability under state and federal standards.

**Advantage Academy** shall conduct a full and individual initial evaluation (FIE) prior to providing special education and related services to any student. All students must be evaluated in accordance with the IDEA and Texas Education Code.

**Advantage Academy** shall have in place procedures to ensure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of students with disabilities are selected and administered so as to not be racially, culturally, or gender discriminatory. Assessment and procedures shall be provided and administered in the student's native language or most proficient 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 clearly not feasible to do so. (34 CFR §300.301; TEC §29.310)

All implementing assessment procedures must differentiate between language proficiency and handicapping condition. Additionally, placement procedures must ensure that placement in a bilingual education or English as a second language program is not refused solely because the student has a disability. (19 TAC §89.1230)

No single procedure shall be the sole criterion for determining whether a student is a student with a disability or for determining an appropriate education program for a student with a disability. The evaluation must be sufficiently comprehensive to identify all of the student's special education and related services' needs. Each student must be evaluated in all suspected areas of disability. (34 CFR §§300.301 and 300.304; TEC §29.310)

All assessments must be administered in accordance with the instructions provided and by a trained and knowledgeable person. (34 CFR §§300.301 and 300.304)

**Sec. 6.14.2. TIMELINE**

If parent provides a written request for an evaluation to the school's director of special education services or to a district administrative employee, **Advantage Academy** shall within 15 school days (1) provide the parent with prior written notice of its proposal to conduct an evaluation, a copy of the procedural safeguards, and an opportunity to give written consent for the evaluation, or (2) provide prior written notice and procedural safeguards if the school is denying the request for evaluation. (TEC §29.004(c)).

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**EVALUATION**

A written FIE report must be completed not later than the 45th school day following the date on which **Advantage Academy** receives written consent for the evaluation, signed by the student's parent or legal guardian. If the student is absent for more than three days in that time period, the timeline must be extended by the number of days the student was absent. (TEC §29.004(a))

This time frame shall not apply if:

1. A student enrolls in the current school after the relevant time frame has begun and before the previous school made a determination as to whether the student has a disability, but only if the current school is making sufficient progress to ensure a prompt completion of the evaluation and the parent and current school agree to a specific time for completion of the evaluation; or
2. The parent repeatedly fails or refuses to produce the student for the evaluation.

(34 CFR §300.301(d))

Following the completion of the FIE, the ARD committee must meet within 30 calendar days from the date of completion to review and determine eligibility. (TEC 29.004). If the 30th day falls during the summer and school is not in session, the student's ARD committee has until the first day of classes in the fall to finalize decisions concerning the student's initial eligibility determination, IEP, and placement, unless the full individual and initial evaluation indicates that the student will need extended school year services during that summer.

If the student is an English language learner, the language proficiency assessment committee (LPAC) must also attend the meeting to determine services. (19 TAC §89.1230)

If **Advantage Academy** receives written consent for an FIE from a student's parent or guardian at least 35 but less than 45 school days before the last instructional day of the school year, the evaluation must be completed and the written report of the evaluation must be provided to the parent or legal guardian not later than June 30 of that year. The ARD committee must meet by the 15th school day of the following school year to consider the evaluation.

If **Advantage Academy** receives written consent signed by a student's parent or legal guardian less than 35 school days before the last instructional day of the school year or if the school receives the written consent at least 35 but less than 45 school days before the last instructional day of the school year but the student is absent from school during that period on three or more days, the FIE must be completed not later than the 45th school day after receiving consent.

School days do not include days following the last instructional day of the spring term and before the first day of the fall term.

(TEC 29.004)

**Sec. 6.14.3. SPECIFIC LEARNING DISABILITY EVALUATION**

The Texas Education Agency (TEA) cannot require **Advantage Academy** to use the severe discrepancy between intellectual ability and achievement for determining whether a student has a specific learning disability. TEA must permit the use of a process based on the child's response to scientific, research-based intervention; and may permit the use of other alternative research-based procedures for determining whether a student has a specific learning disability. (34 CFR §300.307)

The evaluation process for specific learning disability includes an observation of the child in the learning environment, including the regular classroom setting, to document academic performance and behavior in the areas of difficulty. 34 CFR § 300.310 (a).

**Sec. 6.14.4. FUNCTIONAL BEHAVIOR ASSESSMENT (FBA)**

A functional behavior assessment (FBA) may be necessary for a student whose behavior impedes their education. Prior to completing an FBA, **Advantage Academy** shall get consent from the parent. (34 CFR §§300.9)

If an ARD committee determines a change of placement is necessary due to the student's behavior, it must conduct an FBA and implement a BIP. If an FBA was already completed, the ARD committee must review and update the BIP. (34 CFR §300.350(f))

**Sec. 6.14.5. REVIEW OF EXISTING EVALUATION DATA (REED)**

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 admission, review, and dismissal (ARD) committee members and other qualified professionals, as appropriate. The ARD committee members may conduct the review without a meeting.

The REED must include a review of the following:

- Evaluations and information provided by the parents of the student;
- Current classroom-based, local, or State assessments, and classroom-based observations;  
and
- Observations by teachers and related services providers.

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

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- Whether the student is a student with a disability, and the educational needs of the student, or, in case of a reevaluation of a 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 a 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 (IEP) of the student and to participate, as appropriate, in the general education curriculum.

**Advantage Academy** shall administer any assessments or other evaluation measures needed to produce the data identified by the REED in accordance with applicable procedural requirements regarding notice and consent.

If additional data is not needed, the ARD committee must notify the parent of the determination decision and provide information about the parent's right to request additional assessments to determine student needs and eligibility. (34 CFR §300.305)

**Advantage Academy** shall conduct a reevaluation of the student if the school determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation or if the child's parent or teacher requests a reevaluation. A reevaluation may not occur more than once per year, unless agreed to by the school and the parent. A reevaluation must occur at least every three years, unless the school and parent agree the evaluation is unnecessary. (34 CFR §300.303).

**Sec. 6.14.6. CHANGE IN ELIGIBILITY**

**Advantage Academy** shall evaluate a student with a disability before determining a student is no longer eligible for special education and related services.

An evaluation is not required if a student is no longer eligible due to graduation or exceeding the age eligibility in Texas. **Advantage Academy** shall create a summary of performance and include recommendations on how to assist the student in meeting postsecondary goals. (34 CFR §300.305(e))

**Sec. 6.14.7. CONSIDERATION OF SERVICES PROVIDED IN REGULAR EDUCATION SETTING**

To ensure that underachievement in the student suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group of qualified professionals, as part of a full and individual evaluation, must consider

- Data that demonstrate that prior to, or as part of, the referral process, the student was provided appropriate instruction in regular education settings, delivered by qualified personnel; and
- Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of progress during instruction, which was provided to the student's parents. (34 CFR 300.309(b))

**Sec. 6.14.8. COORDINATION OF EVALUATIONS WITH PRIOR AND SUBSEQUENT SCHOOLS**

The school shall ensure that evaluations of students who transfer from one LEA to another in the same academic year are coordinated with the student's prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of evaluations. (20 U.S.C. 1414(b)(3)(D))

**Sec. 6.14.9. PSYCHOLOGICAL EXAMINATIONS AND TESTS**

On request of a child's parent, before obtaining the parent's consent for the administration of any psychological examination or test to the child as part of the evaluation of the child's need for special education, **Advantage Academy** shall provide to the child's parent:

1. The name and type of the examination or test; and
2. An explanation of how the examination or test will be used to develop an appropriate IEP for the child.

If **Advantage Academy** determines that an additional examination or test is required for the evaluation of a child's need for special education, **Advantage Academy** shall provide the information above to the parent regarding the additional examination or test and shall obtain additional consent for the examination of test. Education Code 29.0041(a), (b).

If **Advantage Academy** determines that an additional examination or test is required for the evaluation, **Advantage Academy** shall provide the information required by Education Code 29.0041(a) and shall obtain parental consent. If a parent does not give consent within 20 calendar days after the School provides the information, the parent's consent is considered denied.

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The time required for **Advantage Academy** to provide information and seek consent may not be counted toward the timeframe for completion of an evaluation. Education Code 29.0041.

**Sec. 6.14.10. EXTENSION OF TIMELINES**

For a specific learning disability, the timelines for evaluation under this policy may be extended by mutual written agreement of the student's parents and the admission, review, and dismissal (ARD) committee. (34 CFR 300.309(c))

**Sec. 6.14.11. EVALUATION CONDUCTED PURSUANT TO A SPECIAL EDUCATION DUE PROCESS HEARING**

A special education hearing officer in an impartial due process hearing brought under 20 U.S.C. §1415 may issue an order or decision that authorizes one or more evaluations of a student who is eligible for, or who is suspected as being eligible for, special education services. Such an order or decision authorizes the evaluation of the student without parental consent as if it were a court order for purposes of any State or federal law providing for consent by order of a court. (TEC §29.016)

**Sec. 6.14.12. INDEPENDENT EDUCATIONAL EVALUATIONS**

The parent of a student with a disability has the right to obtain an independent educational evaluation (IEE) of the parent's child if the parent disagrees with the evaluation of the student that was obtained by the open-enrollment charter school.

If the parent requests an IEE, **Advantage Academy** must provide the parent with information about where the parent may obtain an independent educational evaluation and about the open-enrollment charter school's criteria that apply to IEE.

**Sec. 6.14.13. DEFINITIONS**

Independent educational evaluation (IEE) means an evaluation conducted by a qualified examiner who is not employed by the school responsible for the education of a student.

Public expense means that the open-enrollment charter school 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 Part B of IDEA, which allow each State to use whatever State, local, Federal, and private sources of support are available in the State to meet the requirements of Part B of IDEA.

(34 CFR §300.502)

**Sec. 6.14.14. RIGHT TO EVALUATION AT PUBLIC EXPENSE**

The parent has the right to request an IEE of the parent's child at public expense if the parent disagrees with an evaluation of the student completed by **Advantage Academy**.

If the parent requests an IEE, **Advantage Academy** must respond to the parent by either:

1. without unnecessary delay, file a due process complaint to request a hearing to show that its evaluation of the student is appropriate; or
2. provide an IEE at public expense, unless the open-enrollment charter school demonstrates in a due process hearing that the evaluation of the student that the parent obtained did not meet the open-enrollment charter school's criteria.

If **Advantage Academy** requests a hearing and the final decision is that the open-enrollment charter school's evaluation of the student is appropriate, the parent still has the right to an IEE, but not at public expense.

If the parent requests an IEE of the student, **Advantage Academy** may ask why the parent objects to the evaluation of the student obtained by **Advantage Academy**; however, **Advantage Academy** may not require an explanation and may not unreasonably delay either providing the IEE of the student at public expense or filing a due process complaint to request a due process hearing to defend **Advantage Academy's** evaluation of the student.

The parent is entitled to only one IEE of the student at public expense each time the open-enrollment charter school conducts an evaluation of the student with which the parent disagrees. (34 CFR §300.502)

**Sec. 6.14.15. PARENT-INITIATED EVALUATIONS**

If the parent obtains an independent educational evaluation (IEE) of the student at public expense or the parent shares with **Advantage Academy** an evaluation of the student that the parent obtained at private expense:

1. the open-enrollment charter school must consider the results of the evaluation of the student, if it meets **Advantage Academy's** criteria for IEE, in any decision made with respect to the provision of a free appropriate public education (FAPE) to the student; and
2. the parent or **Advantage Academy** may present the evaluation as evidence at a due process hearing regarding the student.

(34 CFR §300.502)

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**Sec. 6.14.16. REQUESTS FOR EVALUATIONS BY HEARING OFFICERS**

If a hearing officer requests an IEE of the student as part of a due process hearing, the cost of the evaluation must be at public expense.

**Sec. 6.14.17. OPEN-ENROLLMENT CHARTER SCHOOL CRITERIA**

The criteria under which the independent evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the public agency uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an independent educational evaluation.

**Sec. 6.4.17.1 Location**

The evaluator conducting an IEE of a child with a disability at public expense must be located within a 100-mile radius of **Advantage Academy**. This will allow the evaluator access to **Advantage Academy** for observation of the student and access to the student's cumulative and special education eligibility folders.

**Sec. 6.4.17.1 Cost**

Parents are free to select whomever they choose to perform the IEE, so long as the examiner meets **Advantage Academy's** criteria. **Advantage Academy** will pay a fee for an IEE that allows a parent to choose from among qualified professionals in the area.

**Advantage Academy** will not pay unreasonably excessive fees. An unreasonably excessive fee is one which is 20% above the prevailing fees in the area as established by the Medicaid/Medicare Service Provider Manual for the specific test being considered.

Parents will be offered the opportunity to demonstrate to their child's ARD committee that unique circumstances exist which justify an IEE that does not meet **Advantage Academy** criteria outlined in this document.

When evaluators have a sliding scale fee based on parent income, **Advantage Academy** will pay the amount charged to the parent if the evaluator meets **Advantage Academy** criteria or **Advantage Academy** has approved the IEE that does not meet **Advantage Academy** criteria.

In the event a parent pursues an IEE independently or pursues an IEE provider that is not on **Advantage Academy** independent evaluator list, **Advantage Academy** will determine if the evaluator meets **Advantage Academy** criteria prior to authorizing payment or reimbursement. If

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payment will be authorized, an original billing form and an original written report with original signature must be submitted to **Advantage Academy** prior to payment.

**Advantage Academy** will deny payment for an IEE conducted by an evaluator who does not meet **Advantage Academy** criteria. **Advantage Academy** will deny payment for an IEE that does not meet Texas Education Agency criteria for the specific disability identified.

If a hearing officer requests an IEE as part of a hearing on a due process complaint, the cost of the evaluation must be at public expense.

Travel costs for evaluators will not exceed **Advantage Academy** rates for travel as established by state guidelines.

A contract for an IEE between an evaluator and **Advantage Academy** will not exceed one year. All terms will become void after the expiration date of one year.

**Sec. 6.4.17.1 Evaluator Criteria**

The evaluator conducting the IEE must meet **Advantage Academy** criteria and possess comparable credentials to the examiner that conducted the evaluation that is in dispute.

Evaluators must possess current licensure/certification to conduct the evaluation and must provide copies of his or her license or certification with the evaluation, if not previously provided.

Evaluators must comply with all requirements specified in state and federal law, including those outlined in the professional board responsible for providing the license or certification.

Evaluators must meet the examiner qualifications for the tests administered as outlined by the test producer.

The evaluator will have access to the student's cumulative folder and special education folders in gathering information about the student.

The evaluator will have the ability to interview teachers and observe the student in the educational setting.

Prior to conducting the assessment, the evaluator agrees to submit to a national criminal history review and to provide any and all information necessary to secure the national criminal history review, including fingerprints and photographs, or other information required by Texas Education Code § 22.0834 concerning Contractor or Contractor's Subcontractors.

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The evaluator agrees to conduct a thorough evaluation in the area(s) performed by **Advantage Academy** with which the parent disagrees.

Copies of protocols must be provided to **Advantage Academy**.

The report must comply with all federal and state requirements, including addressing the presence or absence of a disability condition as defined under the Individuals with Disabilities Education Act (IDEA) and the Texas Education Code (TEC).

The evaluation must be provided to **Advantage Academy** upon completion.

Except for the criteria described above, an open-enrollment charter school may not impose conditions or timelines related to obtaining an IEE at public expense. (34 CFR 300.502(e))

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**REFERRAL FOR POSSIBLE SPECIAL EDUCATION SERVICES**

**Sec. 6.15.1. REFERRAL FOR FULL AND INDIVIDUAL INITIAL EVALUATION**

Referral of students for a full and individual initial evaluation for possible special education services shall be a part of **Advantage Academy** overall general education referral or screening system. Either a parent, TEA, another state agency, or **Advantage Academy** may initiate a request for an initial evaluation.

**Sec. 6.15.1.1. Obligation to Refer**

Before referral, students experiencing difficulty in the general classroom should be considered for all support services available to all students. If a student continues to experience difficulty in the general classroom after the provision of interventions, **Advantage Academy** personnel must refer the student for a full and individual initial evaluation. 20 U.S.C. 1414(a)(1); 34 CFR 300.301; 19 TAC 89.1011.

**Sec. 6.15.1.2. Parent Request**

If a parent submits a written request for a full individual and initial evaluation of a student, **Advantage Academy** shall, not later than the 15th school day after the date **Advantage Academy** receives the request:

1. Provide the parent with prior written notice of its proposal to conduct an evaluation consistent with 34 CFR 300.503, a copy of the procedural safeguards notice required by 34 CFR 300.504, and an opportunity to give written consent for the evaluation; or
2. Provide the parent with prior written notice of its refusal to conduct an evaluation consistent with 34 CFR 300.503, and a copy of the procedural safeguards notice required by 34 CFR 300.504.

20 U.S.C. 1414(a)(1); 34 C.F.R. 300.301; 19 TAC 89.1011(a), (b); Education Code 29.004(c).

**Sec. 6.15.2. NOTICE OF RIGHTS**

**Advantage Academy** shall provide written notice to a student's parent or guardian within a reasonable time before proposing or refusing to initiate the identification, evaluation, or educational placement of a student or the provision of a FAPE. 20 U.S.C. 1415(b)(3); 34 CFR 300.503(a).

**Sec. 6.15.3. INITIAL EVALUATION**

**Advantage Academy** shall conduct a full and individual initial evaluation before the initial provision of special education and related services. 20 U.S.C. 1414(a)(1)(A).

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**Advantage Academy** shall ensure that evaluations of children who transfer from one district to another in the same academic year are coordinated with the children's prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of evaluations. 20 U.S.C. 1414(b)(3)(D).

The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services. 20 U.S.C. 1414(a)(1)(E).

**Sec. 6.15.3.1. Consent for Initial Evaluation**

**Advantage Academy** shall make reasonable efforts to obtain informed parental consent before conducting an initial evaluation.

If the parent does not provide consent for an initial evaluation or fails to respond to a request to provide consent, **Advantage Academy** may—but is not required to—pursue the initial evaluation by utilizing due process procedures, except to the extent inconsistent with state law relating to such parental consent.

Parental consent to initial evaluation shall not be construed as consent for placement for special education and related services. 20 U.S.C. 1414(a)(1)(D)(i)(1); 34 CFR 300.300.

**Sec. 6.15.3.1.1. Wards of the State**

If the child is a ward of the state and is not residing with the child's parent, **Advantage Academy** shall make reasonable efforts to obtain the informed consent from the parent for an initial evaluation, unless:

1. **Advantage Academy** cannot discover the whereabouts of the parent, despite reasonable efforts to do so;
2. The rights of the parent have been terminated; or
3. The rights of the parent to make educational decisions have been subrogated and an individual appointed by a judge to represent the student has given consent for an initial evaluation.

20 U.S.C. 1414(a)(1)(D)(iii); 34 CFR 300.300(a)(2).

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**Sec. 6.15.4. PROVIDING ASSISTANCE TO STUDENTS WHO HAVE LEARNING DIFFICULTIES OR NEED SPECIAL EDUCATION SERVICES**

If a student is experiencing learning difficulties, the parent may contact their child's campus principal to learn about **Advantage Academy's** overall general education referral or screening system for support services. This system links students to a variety of support options, including referral for a special education evaluation. Students having difficulty in the regular classroom should be considered for tutorial, compensatory, and other academic or behavior support services that are available to all students, including a process based on Response to Intervention ("RtI"). The implementation of RtI has the potential to have a positive impact on **Advantage Academy's** ability to meet the needs of all struggling students.

At any time, a parent is entitled to request an evaluation for special education services by presenting a written request to **[DIRECTOR OF SPECIAL EDUCATION SERVICES]** or to a **Advantage Academy** administrative employee. **Advantage Academy** must, within 15 school days of receiving the request, either (1) give the parent an opportunity to give written consent for the evaluation or (2) refuse to provide the evaluation and provide the parent with written notice that explains why the child will not be evaluated. This written notice will include a statement that informs the parents of their rights if they disagree with **Advantage Academy**. Additionally, the parent will receive a copy of the *Notice of Procedural Safeguards – Rights of Parents of Students with Disabilities*.

If consent for evaluation is obtained, **Advantage Academy** must generally complete the evaluation and report within 45 school days of the date **Advantage Academy** receives the written consent. **Advantage Academy** must give a copy of the evaluation report to the parent.

**Sec. 6.15.5. NOTIFICATION TO PARENTS REGARDING INTERVENTION STRATEGIES**

Each school year, **Advantage Academy** shall notify a parent of each child, other than a child enrolled in a special education program, who receives assistance from the **Advantage Academy** for learning difficulties, including through the use of intervention strategies that **Advantage Academy** provides to the child. The notice must:

1. Be provided when the child begins to receive the assistance for that school year;
2. Be written in English or, to the extent practicable, the parent's native language; and
3. Include:
  - a. A reasonable description of the assistance that may be provided to the child, including any intervention strategies that may be used;
  - b. Information collected regarding any intervention in the base tier of a multi-tiered system of supports that has previously been used with the child;

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- c. An estimate of the duration for which the assistance, including through the use of intervention strategies, will be provided;
- d. The estimated time frames within which a report on the child's progress with the assistance, including any intervention strategies used, will be provided to the parent; and
- e. A copy of 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. The explanation must state that a parent is entitled at any time to request an evaluation of the parent's child for special education services or for aids, accommodations, or services under Section 504 of the Rehabilitation Act.

The notice under this policy may be provided to a child's parent at a Section 504 meeting.

A parent is entitled to access to all written records of **Advantage Academy** concerning the parent's child, including attendance records, test scores, grades, disciplinary records, counseling records, psychological records, applications for admission, health and immunization information, teacher and school counselor evaluations, reports of behavioral progress, and records relating to assistance provided for learning difficulties, including information collected regarding any intervention strategies used with the child.

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**FUNDING – SHARED SERVICES ARRANGEMENTS**

PG-6.19

**SEC. 1.     SHARED SERVICES ARRANGEMENT**

Advantage Academy may enter into a written contract to jointly operate its special education programs. Funds to which the cooperating schools/charter schools are entitled may be allocated to the schools/charter schools jointly as shared services arrangement units or shared services arrangement funds in accordance with the shared services arrangement schools/charters' agreement, TEA Guidance and Govt. Code Chapter 791 (interlocal agreements).

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**Sec. 6.19.1. APPLICABILITY OF TITLE RELATING TO HIGH SCHOOL GRADUATION**

**Advantage Academy** is subject to a prohibition, restriction, or requirement, as applicable, imposed by Title 2 (Public Education) of the Texas Education Code, or a rule adopted under Title 2 (Public Education) of the Texas Education Code, relating to high school graduation under TEC §28.025. (TEC §12.104(b)(2)(E))

**Sec. 6.19.2. ARD COMMITTEE AND IEP**

For each student who is at least 14 years of age and qualifies for special education, the admission, review, and dismissal (ARD) committee must begin transition planning. The ARD committee must also consider the student's graduation plan and what state assessments are required for graduation. (TEC §29.0111; 19 TAC §89.1070)

**Sec. 6.19.3. SPECIAL EDUCATION ELIGIBILITY UPON GRADUATION**

Graduation with a regular high school diploma terminates a student's eligibility for special education and related services. Termination of eligibility based on graduation requires **Advantage Academy** to complete a summary of performance in accordance with 34 CFR §300.305(e)(3), and prior written notice must be provided to the parent. (34 CFR §300.102)

A student who receives a diploma, but took one or more classes with a modified curriculum, may return to school as long as the student meets the age eligibility requirements. Modified curriculum is defined as curriculum or content that is reduced in amount or complexity of the required TEKS. (19 TAC §89.1070)

**Sec. 6.19.4. GRADUATION REQUIREMENTS UNDER THE FOUNDATION HIGH SCHOOL PROGRAM**

A student with disability that receives special education services and who enters 9th grade in or after the 2014-2015 school year, may receive a regular high school diploma if the student:

1. Demonstrates mastery of the required states standards
2. Completes the credit requirements under the Foundation High School Program
3. Achieves satisfactory performance on the required state assessment unless the ARD committee determines that satisfactory performance on the required state assessment is not necessary for graduation

A student who receives special education services entering 9th grade in 2014-2015 or after may also earn a high school diploma if the student the student meets the above requirements and successfully completes the IEP and meets one of the following:

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1. consistent with the IEP, the student obtains full-time employment and masters sufficient self-help skills to enable the student to maintain employment without direct or ongoing educational support;
2. consistent with the IEP, demonstrated mastery of specific employability skills and self-help skills that do not require ongoing educational support;
3. has access to services that are not within the legal responsibility of **Advantage Academy** or educational options for which the student has been prepared for by the academic program; or
4. no longer meets eligibility requirements

(19 TAC §89.1070; TEC §28.025)

**Sec. 6.19.5. ENDORSEMENTS UNDER THE FOUNDATION HIGH SCHOOL PROGRAM**

A student receiving special education services, may receive an endorsement if the student:

1. Completes the requirements for graduation under the Foundation High School Program and completes the additional credits requirements in mathematics, science, and elective courses required for an endorsement with or without modified curriculum;
2. Completes the courses required for the endorsement without modified curriculum; and
3. Performs satisfactorily on the state assessment

A student who is in 11th or 12th grade in 2014-2015, 2015-2016, or 2016-2017 school years who took each of the required assessments, but failed to achieve satisfactorily on no more than two assessments is eligible for an endorsement if the student meets the other endorsement requirements.

For students receiving special education services, if the student wants to use a course to satisfy both the Foundation High School Program requirements and for the endorsement requirement, the course must be completed without modified curriculum.

(19 TAC §89.1070; TEC §28.025)

**Sec. 6.19.6. TRANSITIONING TO THE FOUNDATION HIGH SCHOOL PROGRAM**

For students who entered 9th grade prior to the 2014-2015 school year, a student may receive a diploma under the Foundation High School Program if the student's ARD committee determines the student should take courses under the Foundations program and the student completes the requirements.

A student transitioning may also receive an endorsement if he or she meets the requirements.

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A student who is in 11th or 12th grade in the 2014-2015, 2015-2016, or 2016-2017 school years and transitioning to the Foundation High School Program, who took each of the required assessments, but failed to achieve satisfactorily on no more than two assessments may graduate if the student met the other graduation requirements.

(19 TAC §89.1070; TEC §28.025)

**Sec. 6.19.7. SUBSTITUTIONS UNDER THE FOUNDATION HIGH SCHOOL PROGRAM**

**Sec. 6.19.7.1. Language other than English**

If the ARD committee determines that a student with a disability is unable to complete two credits in the same language other than English, the ARD committee may determine to:

1. substitute a combination of two credits from ELA, math, science, or social studies; or
2. substitute two credits of CTE, technology applications, or other academic electives.

(TEC §74.12(b)(5)(D)(i); §28.025(b-14)(1))

**Sec. 6.19.7.2. Physical Education**

In accordance with State Board of Education (SBOE) rules, a student who is unable to participate in physical activity due to disability or illness is allowed to substitute one credit in English language arts, mathematics, science, or social studies or one academic elective credit for the required physical education credit. A credit allowed to be substituted may not also be used by the student to satisfy a graduation requirement other than completion of the physical education credit. The determination regarding a student's ability to participate in physical activity must be made by:

- The student's ARD committee, if the student receives special education services under the IDEA and Texas Education Code Chapter 29;
- The student's 504 committee, if the student does not receive special education services under the IDEA or Texas Education Code Chapter 29, Subchapter A but is covered by Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Section 794; or
- If each of the described committees is inapplicable, a committee established by the school of persons with appropriate knowledge regarding the student.

(TEC §28.025(b-11))

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Credits allowed as a substitution for the language and PE requirement may not be used to satisfy other graduation credit requirements.

(TEC §28.025(b-11) and (b-14))

**Sec. 6.19.8. DISTINGUISHED ACHIEVEMENT, RECOMMENDED, AND MINIMUM HIGH SCHOOL PROGRAM**

A student receiving special education services who entered 9th grade before the 2014-2015 school year, may graduate with a regular diploma if the student:

1. Demonstrates mastery of the state standards;
2. Completes credit requirements for graduation under the recommended or distinguished program; and
3. Achieves satisfactory performance on the required state assessment

A student who is in 11th or 12th grade in 2014-2015, 2015-2016, or 2016-2017 school years and who took each of the required assessments, but failed to achieve satisfactorily on no more than two assessments may graduate under the recommended or distinguished program if the student met the other graduation requirements.

A student receiving special education services who entered 9th grade before the 2014-2015 school year, may also graduate with a regular diploma if the student:

1. Demonstrates mastery of the state standards;
2. Completes credit requirements for graduation under the minimum program; and
3. Participates in or satisfactorily performs on the required state assessment as determined by the ARD committee.

A student receiving special education services who entered 9th grade before the 2014-2015 school year, may also graduate with a regular diploma if the student:

1. Demonstrates mastery of the state standards through courses, one or more of which contained modified content and is aligned with the requirements under the minimum high school program;
2. Completes credit requirements for graduation under the minimum program;
3. Participates in or satisfactorily performs on the required state assessment as determined by the ARD committee; and
4. Successfully completes the IEP and meets one of the following conditions:

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- a. consistent with the IEP, the student obtains full-time employment and masters sufficient self-help skills to enable the student to maintain employment without direct or ongoing educational support;
- b. consistent with the IEP, demonstrated mastery of specific employability skills and self-help skills that do not require ongoing educational support;
- c. has access to services that are not within the legal responsibility of **Advantage Academy** or educational options for which the student has been prepared for by the academic program; or
- d. No longer meets eligibility requirements.

(19 TAC §89.1070)

**Sec. 6.19.9. HIGH SCHOOL DIPLOMA AND CERTIFICATE; ACADEMIC ACHIEVEMENT RECORD**

**Advantage Academy** does issue a certificate of coursework completion to a student who successfully completes the curriculum requirements identified by the State Board of Education (SBOE) under TEC §28.025(a) but who fails to comply with TEC §39.025 (Secondary-Level Performance Required) relating to exit-level assessment requirements. **Advantage Academy** does allow a student who receives a certificate to participate in a graduation ceremony with students receiving high school diplomas. (TEC §28.025(d))

**Sec. 6.19.10. CERTIFICATE OF ATTENDANCE**

**Advantage Academy** does issue a Certificate of Attendance to a student who receives special education services under the Individuals with Disabilities Education Act (IDEA), and who has completed four years of high school but has not completed the student's individualized education program (IEP). **Advantage Academy** shall allow a student who receives a certificate to participate in a graduation ceremony with students receiving high school diplomas. A student may participate in only one graduation ceremony. Receiving a Certificate of Attendance does not preclude a student from receiving a diploma. (TEC §28.025(f))

**Sec. 6.19.11. PROMOTION TO 6TH OR 9TH GRADE**

A student may not be promoted to 6th grade if the student does not perform satisfactorily on the 5th grade mathematics and reading assessments.

A student may not be promoted to 9th grade if the student did not perform satisfactorily on the 8th grade mathematics and reading assessments.

Each time a student fails to perform satisfactorily on an assessment administered under Section 39.023(a) in the 3rd, 4th, 5th, 6th, 7th, or 8th grade, **Advantage Academy** shall provide the

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student with accelerated instruction in the applicable subject area. Accelerated instruction may require participation of the student before or after normal school hours and may include participation at times of the year outside normal school operations.

The ARD committee of a student who participates in **Advantage Academy's** special education program and who does not perform satisfactorily on an assessment shall determine:

1. the manner in which the student will participate in an accelerated instruction program under this section; and
2. whether the student will be promoted or retained under this section.

(TEC §28.0211)

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**Sec. 6.20.1. NONDISCRIMINATION POLICY**

No qualified student with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any service, program, or activity provided or offered by **Advantage Academy**. 42 U.S.C. 12132; 29 U.S.C. 794(a); 34 CFR 104.4(a).

**Sec. 6.20.2. FREE APPROPRIATE PUBLIC EDUCATION**

Eligible students with disabilities shall enjoy the right to a free appropriate public education (FAPE), which may include instruction in the regular classroom, instruction through special teaching, or instruction through approved contracts. Instruction shall be supplemented by the provision of related services when appropriate. Education Code 29.003(a).

FAPE means special education and related services that:

1. Have been provided at public expense, under public supervision and direction, and without charge;
2. Meet standards set out by TEA;
3. Include an appropriate preschool, elementary school, or secondary school education; and
4. Are provided in conformity with the student's individualized education program (IEP).

20 U.S.C. 1401(9); 34 CFR 300.13, 300.17, 300.36.

**Sec. 6.20.3. LEAST RESTRICTIVE ENVIRONMENT**

**Advantage Academy** shall ensure that, to the maximum extent possible, children with disabilities shall be educated with children who are not disabled. Special classes, special schooling, or other removal of children with disabilities from the regular educational environment shall occur only when the nature or severity of the child's disability is such that education in regular classes with the use of supplementary aids and services cannot be satisfactorily achieved. 20 U.S.C. 1412(a)(5); 34 CFR 300.114(a)(2).

**Sec. 6.20.4. DISCIPLINE**

All disciplinary actions regarding students with disabilities shall be determined in accordance with applicable federal regulations, Education Code Chapter 37, and 19 Administrative Code 89.1053. 19 TAC 89.1050(g).

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**Sec. 6.20.5. INSTRUCTIONAL ARRANGEMENTS AND SETTINGS**

Instructional arrangements and settings shall be based on the individual needs and IEPs of eligible students receiving special education services. Instructional arrangements and settings include:

1. Mainstream: services provided in the regular classroom in accordance with the student's IEP;
2. Homebound: services provided at home or hospital bedside;
3. Hospital class: services provided in a classroom, hospital facility, or residential care and treatment facility not operated by **Advantage Academy**;
4. Speech therapy: speech therapy services provided, whether in a regular education classroom or other setting;
5. Resource room/services: services provided in a setting other than the regular classroom for less than 50% of the regular school day;
6. Self-contained (mild, moderate, or severe) regular campus: services provided to a student who is in a self-contained program for 50% or more of the regular school day on a regular school campus;
7. Off home campus: services provided in an interdistrict program, through **Advantage Academy** personnel in a non-**Advantage Academy** facility, or at a **Advantage Academy** campus that provides only special education and related services.
8. Nonpublic day school: services provided through a contractual agreement with a nonpublic school;
9. Vocational adjustment class/program: services provided to a student who is placed on a job with regularly scheduled direct involvement by special education personnel in the implementation of the student's IEP;
10. Residential care and treatment facility (not **Advantage Academy** resident): services provided to students who reside in care and treatment facilities and whose parents do not reside within the boundaries of **Advantage Academy**;
11. State supported living center: services provided to a student who resides at a state supported living center when the services are provided at the state supported living center location; or
12. Other program options, including contracts with other districts and programs approved by TEA.

19 TAC 89.63(c), (f).

**Sec. 6.20.6. RELATED SERVICES**

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“Related services” means transportation, and such developmental, corrective, and other supportive services as may be required to assist a child with a disability to benefit from special education, including the early identification and assessment of disabling conditions in children.

The term includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, school nurse services designed to enable a child with a disability to receive a FAPE as described in the child’s IEP, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services, except that medical services shall be for diagnostic and evaluation purposes only.

The term does not include a medical device that is surgically implanted, the optimization of the device’s functioning, or the replacement of such device. 20 U.S.C. 1401(26); 34 CFR 300.34.

**EAGLE ADVANTAGE SCHOOLS, INC. BOARD POLICY MANUAL PG-6.21**  
**POLICY GROUP 6 - SPECIAL EDUCATION**  
**GENERAL AND FISCAL GUIDELINES**

**Sec. 6.21.1. COMPLIANCE WITH GENERAL AND FISCAL GUIDELINES**

**Eagle Advantage Schools, Inc.** must comply with the Texas Education Agency General and Fiscal Guidelines.

**Sec. 6.21.2. CHARGING COSTS TO SPECIAL EDUCATION GRANT**

Eagle Advantage Schools, Inc. may charge costs to a special education grant when those costs follow the Eagle Advantage Schools, Inc.'s local written procedures for allowability of costs and meet the following criteria:

- Are reasonable for the performance of the special education grant and are allocable under the applicable cost principles;
- Conform to limitations or exclusions set forth in applicable cost principles or the special education grant agreement as to types or amount of costs;
- Are consistent with policies and procedures that apply uniformly to federally or state-funded activities funded from other sources;
- Are accorded consistent treatment among all grant programs, regardless of funding source;
- Are not included as a cost or used to meet cost-sharing or matching requirements of any other federally or state-funded program in the current or a prior period; and
- Are adequately documented.

**Sec. 6.21.3. REASONABLE COST**

A cost can be considered reasonable if it meets the following standards:

- The cost is of a type generally recognized as ordinary and necessary for the operation of Eagle Advantage Schools, Inc. or grant performance;
- Restrictions or requirements are imposed for generally accepted sound business practices, arms-length bargaining, federal or state laws and regulations, and grant award terms and conditions;
- Consideration is given to market prices for comparable goods or services for the geographical area;
- Individuals are acting with prudence in the circumstances of responsibility to Eagle Advantage Schools, Inc. and federal and state government; and
- There are no significant deviations from established practices of the Eagle Advantage Schools, Inc. that may unjustifiably increase grant costs.

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**Sec. 6.21.4. Allocating Costs**

A cost is allocable to the special education grant in accordance with relative benefits received if it is treated consistently with other costs incurred for the same purposes in like circumstance and if it meets the following:

- Is incurred specifically for the grant;
- Benefits both the grant and the other work and can be distributed in reasonable proportion to the benefits received; and
- Is necessary to the overall operation of the Eagle Advantage Schools, Inc. and is assignable in part to the special education grant award in accordance with the principles of this framework.

Legal Framework: [Child Find Duty](#)

Category: Child Find

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“The regulations at 34 CFR §300.301 (b) allow a parent to request an initial evaluation at any time to determine if a child is a child with a disability. The use of RTI strategies cannot be used to delay or deny the provision of a full and individual evaluation, pursuant to 34 CFR §§300.304-300.311, to a child suspected of having a disability under 34 CFR §300.8. If the LEA agrees with a parent who refers their child for evaluation that the child may be a child who is eligible for special education and related services, the LEA must evaluate the child. The LEA must provide the parent with notice under 34 CFR §§300.503 and 300.504 and obtain informed parental consent, consistent with 34 CFR §300.9, before conducting the evaluation. Although the IDEA and its implementing regulations do not prescribe a specific timeframe from referral for evaluation to parental consent, it has been the Department's longstanding policy that the LEA must seek parental consent within a reasonable period of time after the referral for evaluation, if the LEA agrees that an initial evaluation is needed. See Assistance to States for the Education of Children with Disabilities and Preschool Grants for Children with Disabilities, Final Rule, 71 Fed. Reg., 46540, 46637 (August 14, 2006).” [OSEP Memorandum 11-07](#).

“If, however, the LEA does not suspect that the child has a disability, and denies the request for an initial evaluation, the LEA must provide written notice to parents explaining why the public agency refuses to conduct an initial evaluation and the information that was used as the basis for this decision. 34 CFR §300.503(a) and (b). The parent can challenge this decision by requesting a due process hearing under 34 CFR §300.507 or filing a State complaint under 34 CFR §300.153 to resolve the dispute regarding the child's need for an evaluation. It would be inconsistent with the evaluation provisions at 34 CFR §§300.301 through 300.111 for an LEA to reject a referral and delay provision of an initial evaluation on the basis that a child has not participated in an RTI framework.” [OSEP Memorandum 11-07](#).

“We do not believe there is a conflict between section 89.1011 of the Texas Education Code and OSEP Memorandum 11-07. It is appropriate that, as section 89.1011 states, ‘[p]rior to referral, students experiencing difficulty in the general classroom should be considered for all support services available to all students, such as tutorial; remedial, compensatory; response to scientific, research-based intervention; and other academic or behavior support services.’ Pursuant to [OSEP Memorandum 11-07](#), the implementation of an [Response to Intervention (RtI)] RTI process cannot be used to delay or deny the full and individual evaluation of a child suspected of having a disability under 34 CFR § 300.8, whether the disability is suspected by school personnel or the child's parent. Nothing in Texas Education Code section 89.1011 prohibits school personnel or the child's parent from referring a child suspected of having a disability for

an initial evaluation prior to completion of the RTI process.” [OSEP Letter to Ferrara \(February 29, 2012\)](#).

“The implementation of an RTI process is not a reason to fail to respond to a parent's request for an initial evaluation.” [OSEP Letter to Ferrara \(February 29, 2012\)](#).

“The IDEA regulations in 34 CFR §300.307 require States to allow, as part of their criteria for determining whether a child has a specific learning disability (SLD), the use of a process based on the child's response to scientific, research-based intervention. Although the regulations specifically address the use of RTI for determining if a child has an SLD, information obtained through RTI strategies may also be used as a component of evaluations for children suspected of having other disabilities, if appropriate. However, RTI is only one component of an individual evaluation under the IDEA, and does not replace the need for a comprehensive evaluation of a child whom the LEA suspects has a disability and needs special education and related services.” [OSERS Letter to Morath with Monitoring Visit Letter Enclosure \(January 11, 2018\)](#).

“Dyslexia is a condition that could qualify a child as a child with a specific learning disability under the IDEA. Under the IDEA and its implementing regulations, “specific learning disability” is defined, in part, as 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, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.” 20 U.S.C. §1401(30) and 34 CFR §300.8(c)(IO). That is, where a child is identified with dyslexia and needs special education and related services under the IDEA, that child must be evaluated under the IDEA, subject to parental consent. Moreover, regardless of whether a child has dyslexia or any other condition explicitly included in this definition of “specific learning disability,” where the child is suspected to need special education and related services, the LEA must conduct an evaluation in accordance with 34 CFR §§300.304-300.311 to determine whether that child meets the criteria for specific learning disability or any of the other disabilities listed in 34 CFR §300.8.” [OSERS Letter to Morath with Monitoring Visit Letter Enclosure \(January 11, 2018\)](#).

#### Application Guidance

##### Response to Intervention (TEA)

Through the implementation of the policies and procedures as outlined in the [Legal Framework](#) for the Child-Centered Special Education Process, the LEA ensures parent participation in admission, review, and dismissal (ARD) committee meetings as required by the Individuals with Disabilities Education Act (IDEA) and its accompanying federal regulations, state statutes and regulations.