FREE APPROPRIATE PUBLIC EDUCATION

A. Legal Requirements

1. Free Appropriate Public Education

Texas Leadership Charter Academy shall make available to all students a free appropriate public education (FAPE). 20 USC § 1401(9), 1414(d); 34 § CFR 300.101. A FAPE means special education and related services that:

1. Are provided at public expense, under public supervision and direction, and without charge;
2. Meet the standards of TEA;
3. Include preschool, elementary, or secondary school education; and
4. Are provided in conformity with the student's IEP.

34 CFR § 300.101. An IEP means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with the IDEA and its implementing regulations.

2. Admission, Review, and Dismissal Committee

Texas Leadership Charter Academy shall establish an ARD committee for each eligible student with a disability and for each student for whom an FIE is conducted. The ARD committee is the:

1. Group that determines whether the child is a child with a disability and the educational needs of the child;
2. IEP team defined in federal law and regulations that develops the IEP; and
3. Group that determines the educational placement of the child.

i. Membership: General

An ARD committee must include the following members:

1. The parents of the student;
2. Not less than one regular education teacher of the student (if the student 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. Not less than one special education teacher of the student, or where appropriate, not less than one special education provider of the student;
4. A representative of **Texas Leadership Charter Academy** who:
    a. Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of students with disabilities;
    b. Is knowledgeable about the general education curriculum; and
    c. Is knowledgeable about the availability of resources of the district;
5. An individual who can interpret the instructional implications of evaluation results;
6. At the discretion of the parent or the district, other individuals who have knowledge or special expertise regarding the student, including related services personnel, as appropriate;
7. The student with a disability, whenever appropriate, including when the purpose of the meeting will be the consideration of postsecondary goals and transition goals;
8. To the extent appropriate, with the consent of the parents or a student who has reached the age of majority, a representative of any participating agency that is likely to be responsible for providing or paying for transition services;
9. A representative from career and technical education (CTE), preferably the teacher, when considering initial or continued placement of a student in CTE; and
10. If the student is identified as an English language learner, a professional staff member who is on the language proficiency assessment committee.

34 CFR § 300.321; 19 TAC 89.1050. The special education teacher or special education provider that participates in the ARD committee meeting must be appropriately certified or licensed. The determination of the knowledge or special expertise of any individual must be made by the party (parents or charter school) who invited the individual to be a member of the ARD committee.

ii. Membership: Specific Eligibilities and Circumstances

If the student is a student with:

1. A suspected or documented visual impairment, the ARD committee must include a teacher who is certified in the education of students with visual impairments;
2. A suspected or documented auditory impairment, the ARD committee must include a teacher who is certified in the education of students with auditory impairments; or
3. Suspected or documented deaf-blindness, the ARD committee must include a teacher who is certified in the education of students with visual impairments and a teacher who is certified in the education of students with auditory impairments.

34 CFR § 300.321; 19 TAC § 89.1050. If the student was previously served under the Early Childhood Intervention (ECI) program, at the request of the parent, the ARD committee must include, by invitation to the initial ARD committee meeting, the ECI service coordinator or other representatives of the ECI system.

In the case of an ARD committee meeting convened to discuss the expulsion and discretionary placement in the Juvenile Justice Alternative Education Program (JJAEP) of a child with a disability in a county with a JJAEP, for an offense for which a school district may expel a child and discretionarily place the child in JJAEP, a local school district must invite the administrator of the JJAEP or the administrator's designee, including:

1. The school district must provide written notice of the meeting at least five school days before the meeting or a shorter timeframe agreed to by the child's parents;
2. A copy of the child's current IEP must be provided to the JJAEP representative with the notice;
3. If the JJAEP representative is unable to attend the ARD committee meeting, the representative must be given the opportunity to participate in the meeting through alternative means, including conference telephone calls; and
4. The JJAEP representative may participate in the meeting to the extent that the meeting relates to the child's placement in the JJAEP and implementation of the child's current IEP in the JJAEP.

TEC § 37.007, 19 TAC § 89.1052.

iii. Adult Student

The ARD committee must include an adult student after a transfer of rights in accordance with 34 CFR § 300.520, 19 TAC § 89.1049, and TEC § 29.017. The adult student or the charter school may invite individuals who have knowledge or special expertise regarding the adult student, including the parent, to be a member of the ARD committee.

iv. Attendance and Excusal

An ARD committee member is not required to attend an ARD committee meeting, in whole or in part, if the parent and **Texas Leadership Charter Academy** agree in writing that the member's attendance is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting. 34 CFR § 300.321; 19 TAC § 89.1050.

When an ARD committee member's area of the curriculum or related services is being modified or discussed in the ARD committee meeting, the member may be excused from attending the meeting, in whole or in part, if the parent and charter school agree in writing to the excusal and the member submits, in writing, to the parent and ARD committee input into the development of the IEP before the meeting. 34 CFR § 300.321; 19 TAC § 89.1050.

The excusal requirements do not apply to the parent, the child with a disability, an adult student following a transfer of rights, or a discretionary member.

3. *Parent Participation*

Texas Leadership Charter Academy shall provide to the parent a copy of the *Parent's Guide to the Admission, Review and Dismissal Process* (July 2020):

1. As soon as practicable after a referral for possible special education services, but at least five school days before the initial ARD committee meeting; and
2. At any other time on reasonable request of the child's parent.

TEC § 26.0081. **Texas Leadership Charter Academy** shall take steps to ensure that one or both of the parents are present at each ARD committee meeting or are afforded the opportunity to participate. 34 CFR § 300.322, 300.501; 19 TAC § 89.1050. **Texas Leadership Charter Academy** will notify the parents of the meeting early enough to ensure that they will have an opportunity to attend and scheduling the meeting at a mutually agreed upon time and place.

Texas Leadership Charter Academy shall take action to ensure that the parent understands the proceedings of the ARD committee meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English.

Texas Leadership Charter Academy shall allow parents who cannot attend an ARD committee meeting to participate in the meeting through other methods such as through telephone calls or video conferencing. 34 CFR § 300.328.

i. Notice of ARD Committee Meeting

Texas Leadership Charter Academy shall provide the parents with written notice of the ARD committee meeting that meets the requirements at least five (5) school days before the meeting unless the parents agree to a shorter timeframe. 34 CFR § 300.322; 19 TAC § 89.1050. The notice must:

1. Indicate the purpose, time, and location of the meeting and who will be in attendance;
2. Inform the parents of their right to include other individuals on the ARD committee who have knowledge or special expertise about the child; and
3. Inform the parents of their right to request the participation of the Part C service coordinator or other representatives of the Part C system at the initial ARD committee meeting for a child previously served under Part C of the IDEA.

19 TAC § 89.1050. Beginning not later than the first IEP to be in effect when a student turns 16, or younger if determined appropriate by the ARD committee, the notice also must also indicate:

1. That a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the child; and
2. That the charter school will invite the student; and
3. The identity of any other agency that will be invited to send a representative with the consent of the parents or adult student.

If the parent is unable to speak English, **Texas Leadership Charter Academy** will provide the parent with a written notice of an ARD committee meeting in the parent's native language, unless it is clearly not feasible to do so. If the parent's native language is not a written language, **Texas Leadership Charter Academy** will take steps to ensure that the notice is translated orally or by other means to the parent in the parent's native language or other mode of communication so that the parent understands the content of the notice. 19 TAC § 89.1050.

ii. Holding an ARD Committee Meeting without a Parent

Texas Leadership Charter Academy may conduct an ARD committee meeting without the parent in attendance if the charter school is unable to convince the parent to attend. 34 CFR § 300.322The charter school will keep a record of its attempts to arrange a meeting at a mutually agreed on 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 parent 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.

iii. Parent Copy of IEP

Texas Leadership Charter Academy shall give the parent a copy of the child's IEP at no cost. If the child's parent is unable to speak English, the charter school will:

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

19 TAC § 89.1050. A written copy of the student's IEP translated into Spanish or the parent's native language means that all of the text in the IEP in English is accurately translated into the target language in written form. The IEP translated into the target language must be a

comparable rendition of the IEP in English and not a partial translation or summary of the IEP in English.

An audio recording of the student's IEP translated into Spanish or the parent's native language means that all of the content in the child's IEP in English is orally translated into the target language and recorded with an audio device. **Texas Leadership Charter Academy** may provide the parent with an audio recording of an ARD committee meeting at which the parent was assisted by an interpreter as long as the audio recording provided to the parent contains an oral translation into the target language of all of the content in the child's IEP in English.

If a parent's native language is not a written language, **Texas Leadership Charter Academy** shall take steps to ensure that the student's IEP is translated orally or by other means to the parent in his or her native language or other mode of communication.

4. ARD Committee Meetings

At the beginning of each school year, **Texas Leadership Charter Academy** shall have in effect, for each child with a disability, an IEP. **Texas Leadership Charter Academy** shall provide prior written notice in accordance with 34 CFR § 300.503 and 19 TAC § 89.1050.

i. Initial Meeting

The ARD committee must make its decisions regarding the child's initial eligibility determination and, if appropriate, IEP and placement within 30 calendar days from the date of the completion of the written full individual and initial evaluation report unless one of the following situations applies:

1. If the 30th day falls during the summer and school is not in session, the ARD committee has until the first day of classes in the fall to finalize its decisions, unless the initial evaluation indicates that the child will need extended school year services during that summer; or
2. If **Texas Leadership Charter Academy** received the written consent for the evaluation from the parent at least 35 but fewer than 45 school days before the last instructional day of the school year and the child was not absent from school three or more days between the time that the LEA received written consent and the last instructional day of the school year, the ARD committee must meet not later than the 15th school day of the following school year, unless the initial evaluation indicates that the child will need extended school year services during that summer.

19 TAC § 89.1011. When one of the above situations applies and the initial evaluation indicates that the child will need extended school year services during the summer, the ARD committee must meet as expeditiously as possible.

For purposes of determining the timeline for an initial ARD committee meeting, school day does not include a day that falls after the last instructional day of the spring school term and before the first instructional day of the subsequent fall school term.

ii. Developing the IEP

Texas Leadership Charter Academy shall ensure that all members of the ARD committee have the opportunity to participate in a collaborative manner in developing the IEP. 19 TAC § 89.1050. In developing each student's IEP, the ARD committee must consider the following (1) the strengths of the child; (2) the concerns of the parents for enhancing the education of their child; (3) the results of the initial or most recent evaluation of the child; and (4) the academic, developmental, and functional needs of the child. 34 CFR § 300.324. The ARD committee must also:

1. In the case of a student whose behavior impedes the student's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior;
2. In the case of a student with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP;
3. In the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the ARD committee determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child;
4. Consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and
5. Consider whether the child needs assistive technology devices and services.

34 CFR § 300.324. The ARD committee may agree to an annual IEP or an IEP of shorter duration. As soon as possible following development of the IEP, **Texas Leadership Charter Academy** shall ensure that special education and related services are made available to the child in accordance with the child's IEP.

iii. Review and Revision of the IEP

The student's ARD committee will review the IEP periodically, but at least annually, to determine whether the annual goals are being achieved. 34 CFR § 300.324. The ARD committee must revise the IEP as appropriate to address:

1. Any lack of expected progress toward the annual goals and in the general education curriculum, where appropriate;
2. The results of any reevaluation;
3. Information about the child provided to, or by the parent, in the REED;

4. The child's anticipated needs; or
5. Other matters.

To the extent possible, **Texas Leadership Charter Academy** must encourage the consolidation of reevaluation meetings for the child and other ARD committee meetings for the child.

iv. Recessing and Reconvening a Meeting

A decision of the ARD committee concerning required elements of the IEP must be made by mutual agreement wherever possible. 19 TAC § 89.1050. When mutual agreement about all required elements of the IEP is not achieved, **Texas Leadership Charter Academy** shall offer the parent who disagrees a single opportunity to recess and reconvene the ARD committee meeting.

The period of time for reconvening the ARD committee meeting must not exceed 10 school days, unless the parties mutually agree otherwise. The ARD committee must schedule the reconvened meeting at a mutually agreed upon time and place.

The opportunity to recess and reconvene is not required when the child's presence on the campus presents a danger of physical harm to the child or others or when the child has committed an expellable offense or an offense that may lead to a placement in a disciplinary alternative education program.

During the recess, the ARD committee members must (1) consider alternatives; (2) gather additional data; (3) prepare further documentation; and/or (4) obtain additional resource persons who may assist in enabling the ARD committee to reach mutual agreement.

When an ARD committee agrees to recess and reconvene due to a lack of mutual agreement, the parent and charter school may request an independent facilitator from the TEA by completing and submitting the required form within five days of the ARD committee meeting that ended in disagreement. The form is available in English and Spanish at https://tea.texas.gov/academics/special-student-populations/special-education/programs-and-services/individualized-education-program-facilitation.

If a recess is implemented and the ARD committee still cannot reach mutual agreement, **Texas Leadership Charter Academy** shall implement the IEP that it has determined to be appropriate for the child.

The ARD committee may recess an ARD committee meeting for reasons other than the failure to reach mutual agreement about all required elements of an IEP.

v. Mutual Agreement

The IEP must include: (1) the date of the meeting; (2) the name, position, and signature of each ARD committee member participating in the meeting; and (3) an indication of whether the child's parents, the adult student, if applicable, and the administrator agreed or disagreed with the decisions of the ARD committee. 19 TAC § 89.1055.

When mutual agreement is not reached, the ARD committee must include a written statement of the basis for the disagreement in the IEP and each member, including the parent, who disagrees with the IEP developed by the ARD committee is entitled to include a statement of disagreement in the IEP.

vi. Parent Request for an ARD Committee Meeting

Upon receipt of a written request for an ARD committee meeting from a parent, **Texas Leadership Charter Academy** shall schedule and convene a meeting in accordance with the applicable notice requirements or within five school days, provide the parent with written notice explaining why the charter school refuses to convene a meeting. 19 TAC § 89.1050.

vii. Amendment without a Meeting

After the annual ARD meeting, changes to the IEP may be made either by the entire ARD committee or by amending the IEP rather than by redrafting the entire IEP. 34 CFR § 300.324. Eligibility determinations, changes of placement, and manifestation determination reviews will not be conducted through the amendment without a meeting process. 34 CFR §§ 300.116, 300.306, 300.530.

To amend the IEP without an ARD committee meeting the parent and the charter school must agree not to convene an ARD committee meeting for the purpose of making changes to the IEP and must develop a written document to amend or modify the child's current IEP. 34 CFR § 300.324.

If changes are made to the student's IEP by agreement without an ARD committee meeting, **Texas Leadership Charter Academy** shall ensure that the student's ARD committee is informed of those changes. Upon request, the parent must be provided with a revised copy of the IEP with the amendments incorporated. 34 CFR § 300.324.

5. *Determination of Eligibility*

Upon completion of the FIE, the ARD committee must determine whether the child has a disability; and by reason of the disability, the child needs special education and related services.

If it is determined, through an appropriate FIE, that the child has one of the disabilities but only needs a related service and not special education, the child is not a child with a disability under the IDEA.

i. Analysis of Determinant Factors

A child must not be determined by the ARD committee to be a child with a disability if the determinant factor for such determination is:

1. Lack of appropriate instruction in reading, including in the essential components of reading instruction as defined in the Elementary and Secondary Education Act which

means explicit and systematic instruction in phonemic awareness, phonics, vocabulary development, reading fluency, including oral reading skills, and reading comprehension strategies;
2. Lack of appropriate instruction in math; or
3. Limited English proficiency.

20 USC § 1021; 34 CFR § 300.306.

ii. Documentation

The local educational agency must provide a copy of the evaluation report and the documentation of determination of eligibility to the parent. 34 CFR § 300.306.

6. Transition Services

Transition services means a coordinated set of activities for the 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 with a disability to facilitate the child's movement from school to post-school activities, including:
    a. Post-secondary education;
    b. Vocational education;
    c. Integrated employment, including supported employment;
    d. Continuing and adult education;
    e. Adult services;
    f. Independent living; or
    g. 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.

34 CFR § 300.43. Transition services may be special education, if provided as specially-designed instruction, or a related service, if required to assist the child with a disability to benefit from special education.

If the child does not attend the ARD committee meeting where transition services are discussed, **Texas Leadership Charter Academy** must take other steps to ensure the child's preferences and interests are considered. 34 CFR § 300.321.

i. By the time the student turns 14

Not later than when the child reaches age 14, the ARD committee must consider and, if appropriate, address:

1. Appropriate child involvement in the child's transition to life outside the public school system;
2. If the child is younger than age 18, appropriate involvement in the child's transition by the child's parent and other persons invited to participate by:
    a. The child's parent; or
    b. The school in which the child is enrolled.
3. Appropriate postsecondary education options, including preparation for postsecondary-level coursework;
4. Appropriate functional vocational evaluation;
5. Appropriate employment goals and objectives;
6. If the child has reached age 18, the availability of age-appropriate instructional environments, including community settings or environments that prepare the student for postsecondary education or training, competitive integrated employment, or independent living, in coordination with the adult student's transition goals and objectives;
7. Appropriate independent living goals and objectives;
8. Appropriate circumstances for facilitating a referral of a child or the child's parent to a governmental agency for services or public benefits, including a referral to a governmental agency to place the child on a waiting list for public benefits available to the child; and
9. The use and availability of appropriate:
    a. Supplementary aids, services, curricula, and other opportunities to assist the child in developing decision-making skills; and
    b. Supports and services to foster the child's independence and self-determination, including a supported decision-making agreement.

TEC § 29.011; 19 TAC § 89.1055. A child's ARD committee will annually review and, if necessary, update the portion of the child's IEP that addresses these issues.

i. <u>By the time the student turns 16</u>

Beginning not later than the first IEP to be in effect when the child turns 16, 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:
    a. Training;
    b. Education;
    c. Employment; and
    d. Where appropriate, independent living skills; and

2. Transition services, including courses of study, needed to assist the child in reaching those postsecondary goals.

34 CFR § 300.320; 19 TAC § 89.1055.

ii. By the time the student turns 17

Not later than one year before the 18th birthday of the child with a disability, **Texas Leadership Charter Academy** must comply with the notification of transfer of rights provisions found in 34 CFR § 300.520, 19 TAC § 89.1049, and TEC § 29.017.

iii. By the time the student turns 18

For an adult student the ARD committee must consider and, if appropriate, address involvement in the student's transition and future by the adult student's parent and other persons, if the parent or other person:

1. Is invited to participate by the adult student or the charter school in which the adult student is enrolled; or
2. Has the adult student's consent to participate pursuant to a supported decision-making agreement.

TEC § 29.011; 19 TAC § 89.1055. When a child with a disability reaches age 18, **Texas Leadership Charter Academy** must comply with the notification of transfer of rights provisions found in 34 CFR § 300.520, 19 TAC § 89.1049, and TEC § 29.017.

iv. Other Transition Issues

When determining the courses of study, the ARD committee must consider the student's graduation.

Texas Leadership Charter Academy shall ensure that children with disabilities have access to CTE classes. 19 TAC § 75.1023. When determining placement in a CTE classroom, the ARD committee must consider the child's graduation plan, the content of the IEP, including the consideration of transition services, and classroom supports.

If a participating agency, other than **Texas Leadership Charter Academy**, fails to provide the transition services described in the IEP, the charter school must reconvene the ARD committee to identify alternative strategies to meet the transition objectives for the child set out in the IEP. 34 CFR § 300.324.

v. Transition and Employment Guide

Texas Leadership Charter Academy must post the *Texas Transition and Employment Guide* the charter school's website. **Texas Leadership Charter Academy** must provide written information and, if necessary, assistance to the child or parent regarding how to access the electronic version of the guide at:

1. The first meeting of the child's ARD committee at which transition is discussed; and
2. The first ARD committee meeting at which transition is discussed that occurs after the date on which the guide is updated.

TEC § 29.0112. On request, a printed copy of the guide will be provided to the child or parent.

1. Present Levels

The ARD committee must provide a statement of the child's present levels of academic achievement and functional performance (PLAAFP). 34 CFR § 300.320. The statement of present levels must include how the child's disability affects the child's involvement and progress in the general education curriculum or how the disability affects the preschool child's participation in appropriate activities.

2. Annual Goals

The ARD committee must include in the child's IEP a statement of measurable annual academic and functional goals designed to: (1) meet the child's needs that result from the child's disability to enable the child to be involved in and to make progress in the general education curriculum; and (2) meet each of the child's other educational needs that result from the child's disability. 34 CFR § 300.320 For the child who takes an alternate state assessment aligned to alternate achievement standards, the ARD committee must include a description of benchmarks or short-term objectives in the IEP.

The ARD committee must include in the IEP a description of how the child's progress toward meeting the annual goals will be measured and when periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided. 34 CFR § 300.320.

1. Special Factors

i. Behavior

In the case of the child whose behavior impedes the child's learning or that of others, the ARD committee must consider the use of positive behavioral interventions and supports and other strategies to address that behavior. 34 CFR § 300.324.

If the ARD committee determines that a behavior improvement plan or a behavioral intervention plan (BIP) is appropriate for the child, the plan must be included as part of the child's IEP and provided to each teacher with responsibility for educating the child. TEC § 29.005; 19 TAC § 89.1055.

When considering time-out, as part of the child's IEP and/or BIP, the ARD committee must comply with provisions regarding restraint and time-out in 19 TAC § 89.1053 and TEC Ch. 37, address any necessary documentation or data collection, and use any collected data to judge the effectiveness of the intervention and provide a basis for making determinations regarding its continued use. 19 TAC § 89.1053.

ii. English Learners (ELs)

In the case of the child with limited English proficiency, the ARD committee must consider the language needs of the child as such needs relate to the child's IEP. 34 CFR §§ 300.24, 300.324. The ARD committee in conjunction with the language proficiency assessment committee (LPAC) must implement assessment procedures that differentiate between language proficiency and disabling conditions. 19 TAC §§ 89.1226, 89.1230.

If the child is identified as an EL, the ARD committee must include a professional member of the LPAC to serve on the ARD committee. 19 TAC §§ 89.1050, 89.1203.

The decision for entry into a bilingual education or English as a second language program must be determined by the ARD committee in conjunction with the LPAC and must comply with the state and districtwide assessments provisions found herein. 19 TAC § 89.1226.

The ARD committee in conjunction with the LPAC must identify a child as an EL if the child's ability in English is so limited or the child's disabilities are so severe that the English language proficiency assessment cannot be administered. 19 TAC § 89.1226.

For ELs who are also eligible for special education services, the standardized process for EL program exit is followed. 19 TAC § 89.1226. However, annual meetings to review progress and make recommendations for program exit must be made in all instances by the ARD committee in conjunction with the LPAC.

For an EL with significant cognitive disabilities, the ARD committee in conjunction with the LPAC may determine that the state's English language proficiency assessment for exit is not appropriate because of the nature of the child's disabling condition. 19 TAC § 89.1226. In that case, the ARD committee in conjunction with the LPAC may recommend that the child take the state's alternate English language proficiency assessment and must determine an appropriate performance standard requirement for exit by language domain.

iii. Blind or Visually Impaired

In the case of the child who is blind or visually impaired, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media, including an evaluation of the child's future needs for instruction in braille or the use of braille, the ARD committee must either: (1) provide for reading and writing instruction in braille and the use of braille; or (2) determine that instruction in braille or the use of braille is not appropriate. 34 CFR § 300.324.

Before placing the child with a visual impairment in a classroom setting, or within a reasonable period of time after placement, **Texas Leadership Charter Academy** must provide evaluation of the impairment; and instruction in an expanded core curriculum, which is required for the child to succeed in classroom settings and derive lasting, practical benefits from the education by the charter school, including instruction in:

1. Compensatory skills, such as braille and concept development, and other skills needed to access the rest of the curriculum;
2. Orientation and mobility;
3. Social interaction skills;
4. Career planning;
5. Assistive technology, including optical devices;
6. Independent living skills;
7. Recreation and leisure enjoyment;
8. Self-determination; and
9. Sensory efficiency.

TEC § 30.002. The ARD committee must develop an IEP that provides a detailed description of the arrangements made to provide the child with an evaluation of the impairment and instruction in the expanded core curriculum required for children with visual impairments. The IEP must also set forth the plans and arrangements made for contacts with and continuing services to the child beyond regular school hours to ensure the child receives the instruction required for children with visual impairments. The IEP shall reflect that the child has been provided a detailed explanation of the various service resources available in the community and throughout the state.

In the development of the IEP for the child with a visual impairment, proficiency in reading and writing is a significant indicator of the child's satisfactory educational progress.

The IEP for a child with a visual impairment must include instruction in braille and the use of braille unless the child's ARD committee determines and documents that braille is not an appropriate literacy medium for the child. TEC § 30.002. The ARD committee's determination must be based on an evaluation of the child's appropriate literacy media and literacy skills and the child's current and future instructional needs.

Braille instruction may be used in combination with other special education services appropriate to the child's educational needs, and must be provided by a teacher certified to teach children with visual impairments. TEC § 30.002.

Each person assisting in the development of the child's IEP must receive information describing the benefits of braille instruction. **Texas Leadership Charter Academy** must provide each parent with the state-adopted form that contains written information about programs offered by state institutions. TEC § 30.004.

For a child with a visual impairment who is placed in the Texas School for the Blind and Visually Impaired, the LEA in which the child resides is responsible for assuring that a free appropriate public education is provided to the child and that all legally required meetings for the purpose of developing and reviewing the child's IEP are conducted. TEC § 30.021.

iv. Communication

The ARD committee must consider the communication needs of the child. 34 CFR § 300.324.

v. Deaf or Hard of Hearing

In the case of the child who is deaf or hard of hearing, the ARD committee must consider:

1. The child's language and communication needs;
2. The child's opportunities for direct communications with peers and professional personnel in the child's language and communication mode;
3. The child's academic level; and
4. The child's full range of needs, including opportunities for direct instruction in the child's language and communication mode.

34 CFR § 300.324. **Texas Leadership Charter Academy** shall ensure that the child who is deaf or hard of hearing has an education in which the child's unique communication mode is respected, used, and developed to an appropriate level of proficiency. TEC § 29.303.

Texas Leadership Charter Academy shall provide each parent with the state-adopted form that contains written information about programs offered by state institutions. TEC § 30.004.

vi. Assistive Technology

The ARD committee must consider whether the child needs assistive technology devices and services. 34 CFR § 300.324. The term assistive technology device (ATD) is any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of the child with a disability. 34 CFR § 300.5. The term ATD does not include a medical device that is surgically implanted, or the replacement of such device.

The term assistive technology service means any service that directly assists the child with a disability in the selection, acquisition, or use of an ATD, and includes:

1. The evaluation of the needs of the child, including a functional evaluation of the child in the child's customary environment;
2. Purchasing, leasing, or otherwise providing for the acquisition of ATDs by the child;
3. Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing ATDs;
4. Coordinating and using other therapies, interventions, or services with ATDs, such as those associated with existing education and rehabilitation plans and programs;
5. Training or technical assistance for the child or, where appropriate, the family of the child; and
6. Training or technical assistance for professionals, including individuals providing education and rehabilitation services, employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of the child.

34 CFR § 300.6.

vii. Autism

In the case of the child with autism, the strategies below must 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** (for example: extended day and/or extended school year services that consider the duration of programs/settings based on assessment of behavior, social skills, communication, academics, and self-help skills);

2. **Daily schedules** reflecting minimal unstructured time and active engagement in learning activities (for example: lunch, snack, and recess periods that provide flexibility within routines; adapt to individual skill levels; and assist with schedule changes, such as changes involving substitute teachers and pep rallies);

3. **In-home and community-based training** or viable alternatives that assist the child with acquisition of social/behavioral skills (for example: strategies that facilitate maintenance and generalization of such skills from home to school, school to home, home to community, and school to community);

4. **Positive behavior support strategies** based on relevant information (for example: antecedent manipulation, replacement behaviors, reinforcement strategies, and data-based decisions; and a BIP developed from a functional behavioral assessment that uses current data related to target behaviors and addresses behavioral programming across home, school, and community-based settings);

5. Beginning at any age, consistent with requirements for transition services, **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 that, for example: provides a family with skills necessary for the child to succeed in the home/community setting; includes information regarding resources; and facilitates parental carryover of in-home training;

7. **Suitable staff-to-child 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 as determined by, for example: adaptive behavior evaluation results; behavioral accommodation needs across settings; and transitions within the school day;

8. **Communication interventions**, including language forms and functions that enhance effective communication across settings (for example: augmentative, incidental, and naturalistic teaching);

9. **Social skills supports and strategies** based on social skills assessment/curriculum and provided across settings (for example: trained peer facilitators [e.g., circle of friends], video modeling, social stories, and role playing);

10. **Professional educator/staff support** (for example: training provided to personnel who work with the child to assure the correct implementation of techniques and strategies described in the IEP); and

11. **Teaching strategies** based on peer-reviewed, research-based practices for children with autism spectrum disorder (for example: those associated with discrete-trial training; visual supports, applied behavior analysis, structured learning, augmentative communication, or social skills training).

34 CFR § 300.320; 19 TAC § 89.1055. If the ARD committee determines that services are not needed in one or more of the areas specified above, the ARD committee must include a statement in the IEP to that effect and the basis upon which the determination was made. 19 TAC § 89.1055.

2. Supplementary Aids and Services, Special Education and Related Services

Supplementary aids and services, special education, and related services must be based on peer-reviewed research to the extent practicable. 34 CFR § 300.320.

The ARD committee must determine needed supplementary aids and services to be provided to the child, or on behalf of the child. 34 CFR § 300.320; 19 TAC § 89.1050. The term supplementary aids and services means aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable the child with a disability to be educated with nondisabled children to the maximum extent appropriate. 34 CFR § 300.42.

The ARD committee must determine needed special education services. 34 CFR § 300.320; 19 TAC § 89.1050. The term special education means specially-designed instruction, at no cost to parents, to meet the unique needs of the child with a disability. 34 CFR § 300.39.

The ARD committee must determine needed related services. 34 CFR § 300.320; 19 TAC § 89.1050. The term related services means transportation, and such developmental, corrective, and other supportive services as may be required to assist the child with a disability to benefit from special education. 34 CFR § 300.34.

A child is eligible to receive audiology services provided under the school health and related services program of the Health and Human Services Commission, as set forth in TEC § 38.033.

If the student has been placed in a residential setting by the ARD committee, the home school district will be responsible for transportation at the beginning and end of the term and for regularly scheduled holidays when the children are expected to leave the residential campus. 19 TAC § 89.1090. When the ARD committee determines it is necessary for the safety of the child to be accompanied by an adult designated by the ARD committee, round-trip transportation for that adult must also be provided. 19 TAC § 89.1090.

i. Program Modifications and Supports for School Personnel

The ARD committee must determine needed program modifications or supports for school personnel that will be provided to the child to enable the child to:

1. Advance appropriately toward attaining the annual goals;
2. Be involved in and make progress in the general education curriculum, and be afforded an equal opportunity to participate in extracurricular and other nonacademic activities including, to the maximum extent appropriate, in nonacademic settings and services; and
3. Be educated and participate with other children with disabilities and nondisabled children.

34 CFR §§ 300.107, 300.117, 300.320; 19 TAC § 89.1050. A determination that the child is unable to complete the requirement to receive instruction in cardiopulmonary resuscitation is made by the ARD committee. TEC § 28.0023; 19 TAC § 74.38.

ii. Training to Implement the IEP

Texas Leadership Charter Academy is required to provide training to an educator who works primarily outside the area of special education only if the educator does not possess the knowledge and skills necessary to implement the IEP developed for the child receiving instruction from the educator. TEC § 21.451. **Texas Leadership Charter Academy** will determine the time and place at which the training is delivered.

Texas Leadership Charter Academy must include training that is evidence-based, relates to instruction of children with disabilities, including students with disabilities who also have other intellectual or mental health conditions, and is designed for educators who work primarily outside the area of special education. TEC § 21.451.

In developing or maintaining the training, **Texas Leadership Charter Academy** must consult with persons with expertise in research-based practices for children with disabilities. TEC § 21.451.

iii. Intensive Program of Instruction

For a child who did not perform satisfactorily on a state assessment or who is likely not to receive a high school diploma before the fifth school year following the child's enrollment in grade 9, the ARD committee must design the intensive program of instruction to enable the child to attain a standard of annual growth on the basis of the child's IEP and if applicable, to carry out the purposes of the Student Success Initiative. TEC §§ 28.0213, 39.023.

iv. Accelerated Reading Instruction

For the child in kindergarten or grades 1 or 2 who did not perform satisfactorily on a reading instrument selected from the list adopted by the commissioner of education or by the district-level committee, the ARD committee must determine the manner in which the child will participate in an accelerated reading instruction program. TEC § 28.006; 19 TAC § 89.1050.

v. Initiation, Frequency, and Duration of Services

The ARD committee must determine and include in the child's IEP (1) the projected date for the beginning of the services and modifications; (2) the anticipated frequency of those services and modifications; and (3) the anticipated duration of those services and modifications. 34 CFR § 300.320.

The ARD committee must determine the appropriate length of school day and specify the length of school day in the IEP. 19 TAC § 89.1075. Children with disabilities must have available an instructional day commensurate with that of children without disabilities. 19 TAC § 89.1075.

vi. Location

The ARD committee must determine and include in the IEP the anticipated location of the services and modifications. 34 CFR § 300.320; 19 TAC § 89.1050.

3. Placement

i. Least Restrictive Environment (LRE)

Texas Leadership Charter Academy shall ensure that to the maximum extent appropriate, children with disabilities are educated with children who are nondisabled. 34 CFR § 300.114. Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment will occur only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. 34 CFR § 300.114.

In providing or arranging for the provision of nonacademic and extracurricular services and activities, **Texas Leadership Charter Academy** shall ensure that each child with a disability participates with nondisabled children in the extracurricular services and activities to the maximum extent appropriate to the needs of the child. 34 CFR § 300.117.

ii. Continuum of Placements

Texas Leadership Charter Academy shall ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services. The continuum must: (1) include instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions; and (2) make provision for supplementary services such as resource room or itinerant instruction, to be provided in conjunction with regular placement. 34 CFR § 300.115.

iii. Placement Decisions

In determining the educational placement of a child with a disability, including a preschool child with a disability, **Texas Leadership Charter Academy** shall ensure that the placement decision is made by the ARD committee, including the parents and in conformity with LRE provisions. 34 CFR § 300.116; 19 TAC § 89.1050.

Texas Leadership Charter Academy shall also ensure that the student's placement is determined at least annually, is based on the child's IEP, and is as close as possible to the child's home. 34 CFR § 300.116. Unless the IEP of a child with a disability requires some other arrangement, the child shall be educated in the school that he or she would attend if nondisabled.

The IEP must include 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 other nonacademic activities. 34 CFR § 300.320. The ARD committee must determine the appropriate instructional setting for the child and specify the instructional setting in the IEP. 19 TAC § 89.1075.

iv. Preschool-Aged Children

Texas Leadership Charter Academy must comply with the legal requirements for children ages 0–5 found in 20 USC 1436, 34 CFR Parts 300 and 303, Texas Education Code, Texas Government Code, and 19 TAC Chapter 89. LEAs must provide a FAPE in the LRE to preschool-aged children even if the LEA does not provide free preschool programs to all preschool-aged children.

v. Career and Technical Education (CTE) Programs

If a child is unable to receive a FAPE in a regular CTE program, the child may be served in separate programs designed to address the child's occupational/training needs, such as CTE for children with disabilities programs. 19 TAC § 75.1023. When determining placement in a CTE classroom, the ARD committee will consider the child's graduation plan, the content of the IEP, including the consideration of transition services, and classroom supports. Enrollment numbers in a CTE classroom must not create a harmful effect on learning for a child with or without disabilities.

vi. Regional Day School Program for the Deaf

LEAs must have access to regional day school programs for the deaf and the child must be eligible for consideration for the Regional Day School Program for the Deaf, subject to the ARD committee recommendations, if the child has a hearing impairment which (1) severely impairs processing linguistic information through hearing, even with recommended amplification; and (2) adversely affects educational performance. 19 TAC § 89.1080.

4. Placement in a Residential Facility

Texas Leadership Charter Academy may contract with a residential facility to provide some or all of the special education services listed in the contracted child's IEP. 19 TAC § 89.61.

When the ARD committee determines that a residential placement is necessary in order for the child to receive a free appropriate public education, the ARD committee must:

1. List the services in the child's IEP which the charter school is unable to provide and which the facility will provide;
2. Establish, in writing, criteria and estimated timelines for the child's return to the charter school;

3. Document in the child's IEP the appropriateness of the facility for the individual child; and
4. Verify during the initial residential placement ARD committee meeting and each annual ARD committee meeting that the facility meets minimum standards for health and safety, the residential placement is needed and is documented in the IEP, and the educational program provided at the residential facility is appropriate and the placement is the least restrictive environment for the child.

19 TAC § 89.61.

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

When placing the child at the TSBVI or the TSD, the ARD committee must include in the child's IEP those services which the TSBVI or the TSD can appropriately provide and the criteria and estimated timelines for returning the child to the charter school. 19 TAC § 89.1085.

When placing the child at the TSBVI or the TSD, **Texas Leadership Charter Academy** may make an on-site visit to verify that the TSBVI or the TSD can and will offer the services listed in the child's IEP and to ensure that the school offers an appropriate educational program for the child.

Texas Leadership Charter Academy may contract for an in-state residential placement of the child only with public or private residential facilities which maintain current and valid licensure for the particular disabling condition and age of the child. 19 TAC § 89.61.

Texas Leadership Charter Academy may contract for an out-of-state residential placement in accordance with this legal framework. 19 TAC § 89.61. If **Texas Leadership Charter Academy** contracts for an out-of-state residential placement, it must do so in accordance with the rules for in-state residential placement, except that the facility must be approved by the appropriate agency in the state in which the facility is located, rather than by the commissioner of education in Texas.

When making a residential placement, **Texas Leadership Charter Academy** must comply with the all law governing the use of funds for contract services, including residential placements. 19 TAC § 89.61. **Texas Leadership Charter Academy** must also make an initial and an annual on-site visit to verify that the residential facility can, and will, provide the services listed in the child's IEP which the facility has agreed to provide to the child.

ii. Residential Application Process

If the facility provides any educational services listed in the child's IEP, the facility's education program must be approved by the commissioner of education. 19 TAC § 89.61. **Texas Leadership Charter Academy** must notify the TEA of its intent to contract for the residential placement through the residential application process. **Texas Leadership Charter Academy** must comply with the all law governing the use of funds for contract services, including residential placements.

Requests for approval of state and federal funding for residentially-placed children must be negotiated on an individual basis through a residential application submitted by the charter school to the TEA. 19 TAC § 89.61. A residential application may be submitted for educational purposes only.

The residential application will not be approved if the application indicates that the:

1. Placement is due primarily to the child's medical problems;
2. Placement is due primarily to problems in the child's home;
3. The LEA does not have a plan, including timelines and criteria, for the child's return to the local school program;
4. The LEA did not attempt to implement lesser restrictive placements prior to residential placement, except in emergency situations as documented by the child's ARD committee;
5. Placement is not cost effective when compared with other alternative placements; and/or
6. Residential facility provides unfundable/unapprovable services.

19 TAC § 89.61.

iii. Residential Approval Process

Residential facilities which provide educational services must have their educational programs approved for contracting purposes by the commissioner of education. 19 TAC § 89.61. If the education program of a residential facility which is not approved by the commissioner of education is being considered for a residential placement by the charter school, the charter school should notify the TEA in writing of its intent to place the child at the facility.

The TEA will begin approval procedures and conduct an on-site visit to the facility within 30 calendar days after the TEA has been notified by the charter school. 19 TAC § 89.61. Approval of the education program of a residential facility may be for one, two, or three years.

The commissioner of education will renew approvals and issue new approvals only for those facilities which have contract children already placed or which have a pending request for residential placement from the charter school. 19 TAC § 89.61.

The approval does not apply to residential facilities which only provide related services or residential facilities in which the accredited LEA where the facility is located provides the educational program. 19 TAC § 89.61.

iv. Reporting and Responsibility

When the child who is residentially placed by the charter school changes residence to another Texas LEA, and the child continues in the contracted placement, the LEA which negotiated the contract must be responsible for the residential contract for the remainder of the school year. 19 TAC § 89.61.

An approved facility, institution, or agency with whom the charter school contracts must periodically report to the charter school on the services the child has received or will receive in accordance with the contract as well as diagnostic or other evaluative information that the charter school requires in order to fulfill its obligations under the IDEA. TEC § 29.008.

5. *State and Districtwide Assessments*

i. Participation in State and Districtwide Assessments

All children with disabilities are included in all general state and districtwide assessment programs, including assessments described under the Elementary and Secondary Education Act, with appropriate accommodations and alternate assessments where necessary and as indicated in their respective IEPs. 34 CFR § 300.160.

ii. Accommodation Guidelines

The TEA, or in the case of a districtwide assessment, the charter school, will develop guidelines for the provision of appropriate accommodations. 34 CFR § 300.160. The TEA's, or charter school's, guidelines will identify only those accommodations for each assessment that do not invalidate the score and instruct the ARD committee select, for each assessment, only those accommodations that do not invalidate the score.

iii. Alternate Assessments

If the TEA has adopted alternate academic achievement standards for children with the most significant cognitive disabilities as permitted by the Every Student Succeeds Act (ESSA), the TEA or, in the case of a districtwide assessment, an LEA, will develop and implement alternate assessments and guidelines for the participation of those children with disabilities who cannot participate in general assessments, even with accommodations, as indicated in their respective IEPs. 34 CFR § 300.160; TEC § 39.023.

Alternate assessments and guidelines will: (1) be aligned with the challenging state academic content standards and alternate academic achievement standards under the ESSA; and (2) measure the achievement of children with disabilities who are students with the most significant cognitive disabilities against those standards. 34 CFR § 300.160.

The TEA, or in the case of a districtwide assessment, the charter school, will:

1. Provide the ARD committee with a clear explanation of the differences between assessments based on grade-level academic achievement standards and those based on alternate academic achievement standards, including any effects of the TEA or charter school policies on the child's education resulting from taking an alternate assessment based on alternate academic achievement standards, such as how participation in such assessments may delay or otherwise affect the child from completing the requirements for a regular high **school** diploma; and

2. Not preclude the child who takes an alternate assessment aligned with alternate academic achievement standards from attempting to complete the requirements for a regular high school diploma.

34 CFR § 300.160. The TEA, or in the case of a districtwide assessment, the charter school, will ensure that parents of children selected to be assessed with an alternate state or districtwide assessment are informed: (1) that their child's achievement will be measured based on alternate academic achievement standards; and (2) of how participation in such assessments may delay or otherwise affect the child from completing the requirements for a regular high school diploma. 34 CFR §§ 200.2, 300.160

iv. Assessment Requirements for Graduation

For the child in grades 9-12, the ARD committee will determine whether the child is required to achieve satisfactory performance on the end-of-course assessment instruments to receive a high school diploma. TEC § 39.025; 19 TAC §§ 74.1025, 101.3023.

v. IEP Documentation

The ARD committee will include a statement in the child's IEP of the individualized appropriate and allowable accommodations that are necessary to measure the academic achievement and functional performance of the child on any state or districtwide assessment. 34 CFR § 300.320; TEC § 39.023; 19 TAC §§ 89.1055, 191.3013.

If the ARD committee determines that the child will take an alternate assessment on a particular state or districtwide assessment, the IEP will include a statement of why: (1) the child cannot participate in the general assessment; and (2) the particular alternate assessment selected is appropriate for the child. 34 CFR § 300.320; 19 TAC § 89.1055.

For the English Learner (EL), the ARD committee in conjunction with the LPAC will: (1) select the appropriate assessments; (2) document the decisions and justifications in the child's IEP; and (3) determine and document any allowable testing accommodations. 19 TAC § 101.1005.

vi. Annual Assessment of English Language Proficiency

Texas Leadership Charter Academy will annually administer state-identified English language proficiency assessments to the child with limited English proficiency who is in kindergarten through grade 12 in the areas of listening, speaking, reading, and writing. 19 TAC §§ 89.1203, 101.1003.

In rare cases, the ARD committee in conjunction with the LPAC may determine that it is not appropriate for an EL who receives special education services to participate in an English language proficiency assessment for reasons associated with the child's particular disability. 19 TAC § 101.1003.

If the ARD committee and the LPAC determine that it is not appropriate for the child to participate in an English language proficiency assessment for reasons associated with the child's

particular disability, the ARD committee will document the decisions and justifications in the child's IEP. 19 TAC § 101.1003. For the EL who receives special education services, the ARD committee in conjunction with the LPAC will determine the need for allowable testing accommodations.

6. Graduation

Except as specifically provided as follows, graduation with a regular high school diploma terminates a child's eligibility for special education services and:

1. Requires compliance with the summary of performance provisions found in 34 CFR § 300.305 and 19 TAC § 89.1070;
2. Constitutes a change of placement and requires compliance with the prior written notice provisions found in 34 CFR § 300.503 and 19 TAC §§ 89.1050, 89.1011.

19 TAC §§ 89.1035, 89.1070; 34 CFR § 300.102.

Employability and self-help skills are those skills directly related to the preparation of children for employment, including general skills necessary to obtain or retain employment. 19 TAC § 89.1070.
Modified curriculum and modified content refer to any reduction of the amount or complexity of the required Texas Essential Knowledge and Skills. 19 TAC § 89.1070.

Substitutions that are specifically authorized in statute or rule must not be considered modified curriculum or modified content. 19 TAC § 89.1070.

i. Foundation High School Program

A child entering grade 9 in the 2014-15 school year and thereafter who receives special education services may graduate and be awarded a regular high school diploma if the child meets the following criteria:

1. Demonstrates mastery of the required state standards or charter school standards if they are greater;
2. Satisfactorily completes the credit requirements for graduation under the Foundation High School Program; and
3. Achieves satisfactory performance on the required state assessments, unless the student's ARD committee has determined that satisfactory performance on the required state assessments is not necessary for graduation.

TEC §§ 28.025, 39.025; 19 TAC §§ 74.12, 89.1070, 101.3023.

A child entering grade 9 in the 2014-15 school year and thereafter who receives special education services may also graduate and be awarded a regular high school diploma if the child meets the following criteria:

1. Demonstrates mastery of the required state standards or charter school standards if they are greater;

2. Satisfactorily completes the credit requirements for graduation under the Foundation High School Program through courses, one or more of which contain modified curriculum that is aligned to the standards applicable to general education;
3. Achieves satisfactory performance on the required state assessments, unless the child's ARD committee has determined that satisfactory performance on the required state assessments is not necessary for graduation; and
4. Successfully completes the IEP and meets one of the following conditions:
    a. Consistent with the IEP, has obtained full-time employment, based on the child's abilities and local employment opportunities, in addition to mastering sufficient self-help skills to enable the child to maintain the employment without direct and ongoing educational support of the charter school;
    b. Consistent with the IEP, has demonstrated mastery of specific employability skills and self-help skills that do not require direct ongoing educational support of the LEA;
    c. Has access to services that are not within the legal responsibility of public education or employment or educational options for which the child has been prepared by the academic program; or
    d. No longer meets age eligibility requirements.

TEC §§ 28.025, 39.025; 19 TAC §§ 74.12, 89.1070, 101.3023.

A child receiving special education services may earn an endorsement by:

1. Successfully completing, with or without modification of the curriculum: (1) the curriculum requirements for graduation under the Foundation High School Program; and (2) the additional endorsement curriculum requirements; and
2. Successfully completing all curriculum requirements for that endorsement: (1) without modification of the curriculum; or (2) with modification of the curriculum, provided that the curriculum as modified, is sufficiently rigorous as determined by the child's ARD committee.

TEC § 28.025; 19 TAC § 74.12. The ARD committee of a child in a special education program will determine whether the child is required to achieve satisfactory performance on an end-of-course assessment instrument to earn an endorsement on the child's transcript.

A child who is classified in grade 11 or 12 who has taken each of the required state assessments but failed to achieve satisfactory performance on no more than two of the assessments is eligible to receive an endorsement if the child meets the other requirements for an endorsement. 19 TAC § 89.1070.

In order for a child receiving special education services to use a course to satisfy both a requirement under the Foundation High School Program and a requirement for an endorsement, the child must satisfactorily complete the course without any modified curriculum. 19 TAC § 89.1070.

ii. Transition to the Foundation High School Program for Children who Entered Grade 9 Before the 2014-15 School Year

A child receiving special education services who entered grade 9 before the 2014-15 school year may graduate and be awarded a high school diploma under the Foundation High School Program, if the child's ARD committee determines that the child should take courses under that program and the child satisfies the requirements of that program. TEC § 28.025; 19 TAC §§ 74.1021, 89.1070.

A child transitioning to the Foundation High School Program may earn an endorsement if the child meets the requirements for an endorsement. 19 TAC § 89.1070.

A child transitioning to the Foundation High School Program who is classified in grade 11 or 12 who has taken each of the required state assessments but failed to achieve satisfactory performance on no more than two of the assessments may graduate if the child has satisfied all other applicable graduation requirements. 19 TAC §§ 89.1070, 101.3022.

iii. Substitutions Under the Foundation High School Program

A child, who due to a disability, is unable to complete two credits in the same language in a language-other-than-English (LOTE), may substitute a combination of two credits from English language arts, mathematics, science, or social studies or two credits in career and technical education, technology applications, or other academic electives for the LOTE credit requirements if the ARD committee determines that the child is unable to complete the LOTE credit requirements. TEC § 28.025; 19 TAC § 74.12.
A child who is unable to participate in physical activity due to a disability or illness may substitute one credit in English language arts, mathematics, science, social studies, a locally-designed course that meets the state criteria for substitution under state law, or one academic credit elective for the physical education (PE) credit requirement if the ARD committee determines that the child is unable to participate in physical activity. TEC § 28.025; 19 TAC § 74.12.

A credit allowed to be substituted for LOTE or PE credit may not be used to satisfy any other graduation credit requirement. TEC § 28.025.

iv. Distinguished Achievement, Recommended, and Minimum High School Programs

A child receiving special education services who entered grade 9 before the 2014-15 school year may graduate and be awarded a regular high school diploma if the child:

1. Demonstrates mastery of the state standards or charter school standards if they are greater;
2. Satisfactorily completes credit requirements for graduation, under the recommended or distinguished achievement high school programs; and
3. Achieves satisfactory performance on the required state assessments.

TEC § 28.025, 39.025; 19 TAC §§ 74.1021, 89.1070, 101.3023. A child who is classified in grade 11 or 12 who has taken each of the required state assessments but failed to achieve satisfactory performance on no more than two of the assessments is eligible to graduate under the recommended or distinguished achievement high school program if the child meets all other applicable graduation requirements.

A child receiving special education services who entered grade 9 before the 2014-15 school year may also graduate and be awarded a regular high school diploma if the child:

1. Demonstrates mastery of the state standards or charter school standards if they are greater;
2. Satisfactorily completes credit requirements for graduation, under the minimum high school program; and
3. Participates in or satisfactorily performs on the required state assessments, as determined by the ARD committee.

TEC § 28.025, 39.025; 19 TAC §§ 74.1021, 89.1070, 101.3023.

A child receiving special education services who entered grade 9 before the 2014-15 school year may also graduate and be awarded a regular high school diploma if the child:

1. Demonstrates mastery of the state standards or charter school standards if they are greater through courses, one or more of which contain modified content that is aligned to the standards required under the minimum high school program;
2. Satisfactorily completes credit requirements under the minimum high school program;
3. Participates in or satisfactorily performs on the required state assessments, as determined by the ARD committee; and
4. Successfully completes the IEP and meets one of the following conditions:
    a. Consistent with the IEP, has obtained full-time employment, based on the child's abilities and local employment opportunities, in addition to mastering sufficient self-help skills to enable the child to maintain the employment without direct and ongoing educational support of the charter school;
    b. Consistent with the IEP, has demonstrated mastery of specific employability skills and self-help skills that do not require direct ongoing educational support of the charter school;
    c. Has access to services that are not within the legal responsibility of public education or employment or educational options for which the child has been prepared by the academic program; or
    d. No longer meets age eligibility requirements.

TEC § 28.025, 39.025; 19 TAC §§ 89.1070, 101.3023.

v. Children Eligible to Return to School After Graduating

A child who meets the age ranges for eligibility (34 CFR § 300.101; TEC § 29.003; 19 TAC § 89.1035) may return to school as long as the child was awarded a diploma that met the following conditions: (1) The child was required to successfully complete the child's IEP; and (2) the child was required to:

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

19 TAC §§ 89.1035, 89.1070. The ARD committee must determine the needed educational services upon the request of the child or parent to resume services. 19 TAC § 89.1070.

vi. Certificates of Attendance and Participation in Graduation Ceremonies

Texas Leadership Charter Academy must issue a certificate of attendance to the child who has completed four years of high school but has not completed the IEP. TEC § 28.025. **Texas Leadership Charter Academy** must allow the child who receives a certificate of attendance to participate in a graduation ceremony with children receiving high school diplomas. The child may participate in only one graduation ceremony to receive a certificate of attendance. The child who receives a certificate of attendance is not prevented from receiving a diploma if the child completes the IEP.

vii. Financial Aid Application Requirement

Beginning with students enrolled in grade 12 during the 2021-22 school year, before graduating from high school, each student must complete and submit a free application for federal student aid (FAFSA) or a Texas application for state financial aid (TAFSA). TEC § 28.0256. The student is not required to submit the FAFSA or the TAFSA if:

1. The student's parent or other person standing in parental relation submits a signed form indicating that the parent or other person authorizes the student to decline to complete and submit the financial aid application;
2. The student signs and submits the form on the student's own behalf if the student is 18 years of age or older or the student's disabilities of minority have been removed for general purposes; or
3. A school counselor authorizes the student to decline to complete and submit the financial aid application for good cause, as determined by the school counselor.

TEC § 28.0256. **Texas Leadership Charter Academy** must adopt a form to be used for purposes of documenting the waiver to submit the FAFSA or TASFA, and the form must be: (1) approved by the TEA; and (2) made available in English, Spanish, and any other language spoken by a majority of the children enrolled in a bilingual education or special language program in the district or school. TEC § 28.0256.

If a school counselor notifies the charter school whether a student has complied with the financial aid application requirement, the school counselor may only indicate whether the student

has complied with this section and may not indicate the manner in which the student complied. TEC § 28.0256.

1. Extended School Year Services.

Extended school year (ESY) services means special education and related services that are provided to the child with a disability beyond the normal school year, in accordance with the child's IEP, and at no cost to the parents of the child. ESY services must meet the standards of the TEA. 34 CFR § 300.106. **Texas Leadership Charter Academy** must ensure that ESY services are available as necessary to provide a FAPE.

The provision of ESY services is limited to the educational needs of the child and must not supplant or limit the responsibility of other public agencies to continue to provide care and treatment services pursuant to policy or practice, even when those services are similar to, or the same as, the services addressed in the child's IEP. 19 TAC § 89.1065. However, no child will be denied ESY services because the child receives care and treatment services under the auspices of other agencies.

In determining the need for and in providing ESY services, **Texas Leadership Charter Academy** will 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.

i. Determination of Need

Texas Leadership Charter Academy will only provide ESY services if the child's ARD committee determines, on an individual basis, that the services are necessary for the provision of FAPE. 34 CFR § 300.106; 19 TAC § 89.1065. If the charter school does not propose ESY services for discussion at the annual review of the child's IEP, the parent may request that the ARD committee discuss ESY services. 19 TAC § 89.1065.

If the child for whom ESY services were considered and rejected loses critical skills because of the decision not to provide ESY services, and if those skills are not regained after the reasonable period of time for recoupment, the ARD committee must reconsider the current IEP if the child's loss of critical skills interferes with the implementation of the child's IEP. 19 TAC § 89.1065.

The ARD committee must determine the need for ESY services from formal and/or informal evaluations provided by the charter school or the parents. 19 TAC § 89.1065. For a child enrolling in the charter school during the school year, ARD committee may consider information obtained from the prior school as well as information collected during the current year to determine the need for ESY services.

ii. Regression-Recoupment Analysis

The ARD committee must identify the critical areas addressed in the current IEP goals and objectives, if any, in which the child has exhibited, or reasonably may be expected to exhibit, severe or substantial regression that cannot be recouped within a reasonable period of time. 19 TAC § 89.1065.

Severe or substantial regression means that the child has been, or will be, unable to maintain one or more acquired critical skills in the absence of ESY services. A skill is critical when the loss of that skill results, or is reasonably expected to result, in any of the following occurrences during the first eight weeks of the next regular school year:

1. Placement in a more restrictive instructional arrangement;
2. Significant loss of acquired skills necessary for the child to appropriately progress in the general curriculum;
3. Significant loss of self-sufficiency in self-help skill areas as evidenced by an increase in the number of direct service staff and/or amount of time required to provide special education or related services;
4. Loss of access to community-based independent living skills instruction or an independent living environment provided by noneducational sources as a result of regression in skills; or
5. Loss of access to on-the-job training or productive employment as a result of regression in skills.

19 TAC § 89.1065. The reasonable period of time for recoupment of acquired skills must be determined on the basis of needs identified in the child's IEP. If the loss of acquired critical skills would be particularly severe or substantial, or if such loss results, or reasonably may be expected to result, in immediate physical harm to the child or to others, ESY services may be justified without consideration of the period of time for recoupment of such skills. In any case, the period of time for recoupment must not exceed eight weeks.

iii. Documentation in the IEP

If the ARD committee determines that the child is in need of ESY services, then the IEP must identify which of the goals and objectives in the current IEP will be addressed during ESY services. 19 TAC § 89.1055.

A. Local Procedures

Texas Leadership Charter Academy has adopted Local Procedures to implement its duty to provide students a FAPE. **Texas Leadership Charter Academy** incorporates by reference the following Local Procedures:

1. *ARD Committee Membership*
2. *Parent Participation*
3. *ARD Committee Meeting*
4. *Amendment Without a Meeting*
5. *FAPE Composite*
6. *Transition and Graduation Composite*
7. *Least Restrictive Environment Composite*

These Local Procedures identify staff responsible, applicable timelines, and evidence of practice. **Texas Leadership Charter Academy** shall maintain sufficient records regarding FAPE activities.

3. Resources

Texas Leadership Charter Academy incorporates by reference the following resources regarding FAPE to assist it with complying with federal, state, and local requirements.

ARD meetings and IEP Development

- The Legal Framework for the Child-Centered Process: Glossary of Terms (Region 18 ESC)
- IEP Model Form (TEA)
- Model Form: Individualized Education Program (OSEP)
- OSERS Questions and Answers on Individualized Education Programs (IEPs), Evaluations, and Reevaluations (September 2011)
- *Guidance on ARD Guide Production and Required Dissemination* (TEA)
- *Parent's Guide to the Admission, Review, and Dismissal Process* April 2016 (Region 18 ESC)
- Individualized Education Program Facilitation (TEA)
- Texas Behavior Support (TBS) (Region 4 ESC)
- Positive Behavioral Interventions & Supports (PBIS) (OSEP Technical Assistance Center)
- Guidance Related to ARD Committee and LPAC Collaboration (TEA)
- Process for Considering Special Exit Criteria from Bilingual/English as a Second Language (ESL) Services (TEA)
- Texas School for the Blind and Visually Impaired (TSBVI)
- Programs and Administrative-Information and Resources (TSBVI)
- American Printing House for the Blind, Inc. (APH-Nonprofit)
- Sensory Impairments (TEA)

- Texas School for the Deaf (TSD)
- Educational Resource Center on Deafness (ERCOD) (TSD)
- Assistive Technology (TEA)
- Texas Assistive Technology Network (TATN) (Region 4 ESC)
- Texas State Leadership for Autism Training (TSLAT) (Region 13 ESC)

Transition Services

- Secondary Transition Guidance (TEA)
- Texas Transition - A Bridge to the Future (Region 11 ESC)
- General Information – SPP Indicator 13 (TEA)
- Transition of Students with Disabilities to Postsecondary Education: A Guide for High School Educators (OCR)
- NTACT: National Technical Assistance Center on Transition (Funded by USDE)

Present Levels, Annual Goals, Special Education and Related Services

- IEP Goal Development in Texas-Online Training (Region 20 ESC)
- Standards-Based Individualized Education Program Guidance (TEA)
- Texas Essential Knowledge and Skills (TEKS) (TEA)
- A Seven-Step Process to Creating Standards-Based IEPs (OSEP)
- Standards-Based IEP: Implementation Update (NASDSE)
- Standards-Based IEP Examples (NASDSE)
- IEP Annual Goal Development Question & Answer Document (TEA & PGC Network)
- Scientifically Based Research (Region 10 ESC)
- Response to Intervention (RtI) Resources (Region 10 ESC)
- Progress in the General Curriculum (PGC) Network (Region 20 ESC)
- Accelerated Instruction and Intensive Programs of Instruction for Students in Special Education Programs (TEA)
- Student Success Initiative (TEA)
- Related Services for Students with Disabilities–Questions and Answers (TEA)
- National Center on Intensive Intervention (OSEP Technical Assistance Center)
- Center for Parent Information and Resources (OSEP Technical Assistance Center)
- National Center on Accessible Educational Materials (OSEP Technical Assistance Center)

Least Restrictive Environment

- PGC Network: Least Restrictive Environment (Region 20 ESC)

Residential Placement

- Nonpublic Day and Residential Placement Notification and Application (TEA)

Assessment

- Assessments for Students with Disabilities (TEA)
- Accommodation Resources (TEA)
- Guidance Related to ARD Committee and LPAC Collaboration (TEA)
- STAAR Alternate 2 Resources (TEA)

Graduation

- Graduation Guidance (TEA)
- State Graduation Requirements (TEA)
- Individual Graduation Committee Frequently Asked Questions (TEA)
- Texas Essential Knowledge and Skills (TEA)

Extended School Year

- Extended School Year Services for Students with Disabilities (TEA)

4.