GRAND PRAIRIE INDEPENDENT SCHOOL DISTRICT
SPECIAL EDUCATION OPERATING PROCEDURES:

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GRAND PRAIRIE INDEPENDENT SCHOOL DISTRICT
SPECIAL EDUCATION OPERATING PROCEDURES:
FREE APPROPRIATE PUBLIC EDUCATION

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

What is a free appropriate public education (FAPE)?

Every eligible Grand Prairie ISD student with a disability is entitled to a free appropriate public education. Each student's Individualized Education Program (IEP) is the centerpiece of the district's plan for providing appropriate special education and related services that are reasonably calculated to enable the student to make progress appropriate in light of the student's unique and individual circumstances.[1]

[1] 34 C.F.R. § 300.17; *Endrew F. ex rel. Joseph F. v. Douglas County School Dist. RE-1*, 137 S.Ct. 988 (2017); *E.R. v. Spring Branch Indep. Sch. Dist*., 909 F.3d 754 (5th Cir. 2018).

PRACTICE GUIDE—The District shall ensure that the documents produced at a student's ARD committee meeting reflect a consideration of the following 4 factors:

- **The student's IEP is individualized and based on the student's assessment and performance. For example, goals and objects are appropriately ambitious in light of the student's present levels of academic achievement and functional performance. The student's program conforms to current FIE findings and recommendations.**
- **The program is implemented in the student's least restrictive environment (LRE). For example, the ARD committee may review the supplementary aides and services that a student may have received in the general education setting, together with the placement recommendations in a student's most recent FIE.**
- **The services are provided in a coordinated and collaborative manner by the key stakeholders. For example, the ARD committee may obtain parental consent to discuss a student's services with any relevant outside provider or private evaluator. Campus staff and administrators may document any staff meetings regarding the student and her or his educational program. Individual conferences may be held with the parent explaining assessments or other programmatic elements and may promote collaborations, and these efforts are also documented.**
- **The student must demonstrate positive academic and non-academic benefits. For example, the ARD committee may consider the student's achievement on state-mandated assessments, District-wide assessments, benchmarks, grades, progress reports, evaluation results, and participation and engagement in the educational environment, including, as appropriate, extracurricular activities. Behavioral progress as demonstrated by the student's acquisition of social and behavioral skills that may be included in counseling or social skills programming.**

[2]

How is a student's IEP developed?

For each eligible student with a disability, the district shall establish an ARD committee.[3] Each student's ARD committee shall include the following participants:[4]

- a parent or adult student; [5]

- a general education teacher of the student if the student is or may be participating in the general education environment.[6] The student's general education teacher, shall, to the extent appropriate, participate in the development of the student's IEP, including the determination of appropriate positive behavioral interventions and supports and other strategies for the child, supplementary aids and services, program modifications, and support for school personnel;

[2] *Cypress-Fairbanks Indep. Sch. Dist. v. Michael F.*, 118 F.3d 245 (5th Cir.1997).
[3] 19 TEX. ADMIN. CODE § 89.1050(a)
[4] 34 C.F.R. § 300.321 (a); 19 TEX. ADMIN. CODE § 89.1050(c)
[5] 34 C.F.R. § 300.327
[6] U.S. Dept. of Education, 71 Fed. Reg. 46669 (August 14, 2006) ("[i]t would be inappropriate to require that individuals with specific professional knowledge or qualifications attend all IEP Team meetings. These decisions should be made on a case-by-case basis in light of the needs of a particular child").

- a special education teacher of the student. The special education teacher or provider who is a member of the student's ARD committee should be the person who is responsible for implementing the IEP. For example, if the student's disability is a speech impairment, the special education teacher or special education provider could be the speech language pathologist; [7]

- a representative of the district who is qualified to provide, or supervise the provision of, specially designed instruction and is knowledgeable about the general education curriculum and about the availability of district resources. The district's representative may be the Executive Director of Special Education or designee or a campus administrator acting on behalf of the district. The choice of the representative is at the discretion of the district, so long as the Grand Prairie 's representative meets these criteria;[8]

    - Campus Administrator Interns will not serve as a representative of the district established ARD Committee.

- an individual who can interpret the instructional implications of evaluation results, such as a Licensed Specialist in School Psychology (LSSP) or an Educational Diagnostician;

- at the discretion of the parent, guardian or the Grand Prairie, other individuals who have knowledge or special expertise regarding the student, including related services personnel as appropriate; and

- whenever appropriate, the student.

The ARD committee shall also include the following additional participants, as appropriate:

- with the consent of a parent, guardian or a student who has reached the age of majority, a representative of any participating agency likely to be responsible for providing or paying for transition services. The ARD Facilitator], to the extent practicable under the circumstances, shall document efforts to obtain parental consent for the participation of an individual from the representative of any participating agency prior to or at the beginning of a student's ARD committee meeting wherein transition services will be discussed;

- a representative from the Grand Prairie's Career and Technical Education (CTE) when the student's ARD committee is considering placement of a student in CTE;

- if the student is identified as an emergent bilingual student, a professional staff member who is on the district's Language Proficiency Assessment Committee in accordance with Grand Prairie ISD's Policy EHBE(Legal);

[7] U.S. Dept. of Education, 71 Fed. Reg. 46669 (August 14, 2006)
[8] U.S. Dept. of Education, 71 Fed. Reg. 46670 (August 14, 2006)

- if the student is a student with a suspected or documented visual impairment, a teacher who is certified in the education of students with visual impairments;

- if the student is a student who is suspected to be or is documented to be deaf or hard of hearing the student's Teacher of the Deaf and Hard of Hearing; and

- if the student is a student with suspected or documented deaf-blindness, a teacher who is certified in the education of students with visual impairments and a teacher who is certified in the education of students who are deaf or hard of hearing.[9]

Required members must be present for the ARD committee meeting unless properly excused by the parent or guardian and the district. IDEA requires different procedures for different types of excusals, including differentiating between circumstances in which parental consent is required and when an agreement is required to excuse a mandatory ARD committee member from attending an ARD committee meeting. Therefore, Grand Prairie ISD has different procedures in place for the different types of excusals.[10] The two types of excusals triggering the excusal requirements are: (1) when a required ARD committee member's area of the curriculum or expertise is not being modified or discussed; and (2) when a required ARD committee member's area of the curriculum or expertise is being modified or discussed.

With the first type of excusal, parent or guardian and district agreement is required; however, Grand Prairie ISD is given wide latitude about the content of the agreement to excuse a required ARD committee member from the meeting.[11] In general, GPISD does not provide excusals, however, does under some circumstances allow for general education teachers to be excused from ARD committee meetings when a student receives instruction solely on an alternative curriculum in high school.

Grand Prairie ISD does not utilize the second type of excusal, in which parent or guardian consent is also required, and the member must submit in writing, to the parent or guardian and the ARD committee, input into the development of the IEP prior to the meeting. Grand Prairie ISD requires all mandatory ARD committee members to attend an ARD committee meeting in which the member's area of the curriculum or expertise is being changed or discussed.

In Grand Prairie ISD, Speech Language Pathologist, Dyslexia Therapist, and Related Service providers are required to attend all initial ARD committee meetings, and ARD committee meetings in which changes are being discussed in their area of expertise that may impact the students schedule of services or instructional setting.

The parent or guardian must also be informed that if the parent does not consent, the ARD committee meeting must be held with that ARD committee member in attendance.[12] The ARD Committee Member designee shall document all ARD committee meeting participants, including any member who is excused prior to or during the meeting, and shall verify that the excusal procedures have been followed.

[9] *Id.*
[10] US Department of Education, 71 Fed. Reg. 46673 (August 14, 2006)
[11] *Id.*
[12] *Id.*

PRACTICE GUIDE—If a parent brings an attorney to an ARD committee meeting without notice to the District, the ARD committee may reschedule the ARD committee meeting to a time and date that the District's counsel may attend the meeting in-person or by virtual means.

[13]

Within 30 calendar days from the date of the completion of the student's initial special education evaluation report, the student's ARD committee shall make its decisions regarding the student's initial eligibility, and, if appropriate, her or his individualized education program (IEP) and placement.[14]

If the 30th calendar day falls during the summer and school is not in session, the ARD committee must meet not later than the 15th school day of the following school year. If an evaluation report indicates that a student would need extended school year (ESY) services, however, the ARD committee must meet as expeditiously as possible.

At a duly constituted ARD committee meeting *that is conducted after at least 5 school days-notice to the student's parent or guardian*, the student's ARD committee, including the student's parent or guardian, shall develop an IEP, consistent with **this Operating Procedure, below**, by considering—[15]

- the student's strengths; the concerns of the parents or guardians for enhancing the education of the student; the results of the student's initial or most recent evaluation; and the present academic, developmental, and functional needs of the student;

- in the case of a student whose behavior impedes the student's learning or that of others, the use of positive behavioral interventions and supports, and other strategies to address that behavior;

- the language needs of a student with emergent bilingual abilities as those needs relate to the student's IEP;

- providing for instruction in Braille and the use of Braille unless the ARD committee determines, after an evaluation of the student's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the student's future needs for instruction in Braille or the use of Braille), consistent with **the Grand Prairie's Evaluation Procedure Operating Procedure**, that instruction in Braille or the use of Braille is not appropriate for the student;

- the communication needs of the student, including, for a student who is deaf or hard of hearing, the student's opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range

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[13] OSEP's ***Letter to Andel*** (February 17, 2016)("[i]t would be permissible for the public agency to reschedule the meeting to another date and time if the parent agrees so long as the postponement does not result in a delay or denial of a free appropriate public education to the child").

[14] 19 TEX. ADMIN. CODE § 89.1011(d)

[15] 34 C.F.R. § 300.324(a)-(b)

of needs, including opportunities for direct instruction in the student's language and communication mode; and

- the student's need for assistive technology devices and services.

How does the district develop an IEP for a newly enrolled student who had an IEP from another public school?

- **Students who enroll during the summer.** When a student with a disability has an IEP in place from a previous in or out-of-state school district and enrolls in Grand Prairie ISD during the summer are no longer under a different process than other school year transfer students. The requirement to adopt and implement an IEP before the first day of school has been removed. Follow the timelines at 19 TAC §89.1055(s) for in-state and out-of-state transfer students. [16]

- **Students who enroll during the school year with an IEP in effect from another public school in Texas.** When a student transfers to Grand Prairie ISD from another public school in Texas, in the same school year and until it is verified, through the districts receipt of a copy of the student's IEP that the student was receiving special education and related services in the previous district, Grand Prairie ISD will consult with the student's parents and previous school district to provide FAPE, including services comparable to those described in the child's IEP from the previous public school.[17] No later than 20 school days from the date the student is verified as being a student eligible for special education services the Campus Administrator and ARD Committee Member designee shall ensure that the ARD committee is convened to adopt the IEP from the previous public school or develops, adopts and implements a new IEP consistent with **the Operating Procedure,** below.[18]

- **Students who enroll during the school year with an IEP in effect from another public school outside of Texas.** When a student transfers to Grand Prairie ISD from a public school district in a state other than Texas, in the same school year and until it is verified, through the districts receipt of a copy of the student's IEP that the student was receiving special education and related services in the previous district, Grand Prairie ISD will consult with the student's parents and previous school district to provide FAPE, including services comparable to those described in the child's IEP from the previous public school.[19]

  Grand Prairie ISD will determine whether an evaluation is necessary consistent with

[16] 19 TEX. ADMIN. CODE 89.1055(s
[17] 34 C.F.R. § 300.3232(e)
[18] 19 TEX. ADMIN. CODE 89.1050(j)(1)
[19] 34 C.F.R. § 300.323(f)

the Grand Prairie's Child Find Duty and Evaluation Procedure Operating Procedures.[20] [21] If Grand Prairie ISD determines that an evaluation is not necessary, Grand Prairie ISD will ensure that an ARD committee is convened to develop, adopt and implement a new IEP within 20 school days from the date the student is verified as being a student eligible for special education services.[22] [23] If an evaluation is determined necessary, it is considered a full individual and initial evaluation and must be completed consistent with **the Grand Prairie's Evaluation Procedure Operating Procedure**.[24] Grand Prairie ISD will ensure that an ARD committee is convened to develop, adopt and implement a new IEP within 30 calendar days from the date of the completion of the evaluation report.[25]

For students who transfer during the summer or school year, and Grand Prairie ISD is unable to verify that the student was receiving special education services in the previous school district, or the services described in the child's IEP, Grand Prairie ISD will obtain Consent for Disclosure of Confidential Information and request records from the transferring district to ensure the district provides comparable services.

For students who enroll during the school year with an IEP in effect from another public school **inside** of Texas, **in which the FIE and IEP are current,** Grand Prairie ISD will convene an ARD to adopt and implement the IEP within 20 school days. A Transfer ARD is not required.

For students who enroll during the school year with a current IEP in effect from another public school **inside** of Texas, **in which the FIE is not current**, the district will take the following steps:

- adopt and implement IEP within 20 school days
- conduct a review of existing evaluation data and obtain consent for an FIE on the date in which the district adopts and implements the IEP
- complete FIE and ARD within 45 school days of consent for FIE

For students who enroll during the school year with an IEP from another public school **inside** of Texas, **in which the FIE is current but IEP is not current**, the district will take the following steps:

- adopt and implement a new IEP within 20 school days
- IEP will be considered students new Annual ARD

For students who enroll during the school year with a IEP from another public school **inside** of Texas, **in which the FIE and IEP are not current**, the district will take the following steps:

- adopt and implement a new IEP within 20 school days
- IEP will be considered students new Annual ARD
- conduct a review of existing evaluation data and obtain consent for an FIE on the date in which the district adopts and implements the IEP
- complete FIE, adopt and implement a new IEP within 45 school days

For students who enroll during the school year with an IEP in effect from another public school **outside** of Texas, **in which the FIE is not current**, the district will conduct a full and individual initial evaluation and take the following steps:

- schedule a transfer ARD within 10 school days of verification of services
- implement Transfer Agreement
- conduct review of existing evaluation data and request consent for a full and individual initial evaluation
- provide comparable services during the evaluation period
- gather data during evaluation period
- complete FIIE, adopt and implement a new IEP within 45 school days

For students who enroll during the school year with an IEP in effect from another public school **outside** of Texas, **in which the FIE and IEP** are current, Grand Prairie ISD may conduct a review of existing evaluation data and if the district determines that the FIE is consistent with IDEA and TEA requirements may use the FIE to establish eligibility, adopt, and implement an IEP without a Transfer ARD.

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[20] 34 C.F.R. § 300.323(f)(1)
[21] 19 TEX. ADMIN. CODE § 89.1050(j)(2)
[22] 34 C.F.R. § 300.323(f)(2)
[23] 19 TEX. ADMIN. CODE § 89.1050(j)(2)
[24] 19 TEX. ADMIN. CODE § 89.1050(j)(2)
[25] *Id*

What is in a student's IEP?

- **Parent and Student Concerns.**[26] The Campus Administrator and ARD Committee Member designee shall ensure that the ARD committee elicits, considers, and documents the concerns of the parent or guardian for enhancing the education of her or his child. This may be reflected in a concise statement summarizing the educational, social, behavioral and/or emotional concerns of the parent or guardian and student, as appropriate.

- **Student Strengths and Relevant Evaluation Results**.[27] The Campus Administrator and ARD Committee Member designee shall ensure that the student's IEP identifies the assessment data considered by the ARD committee, including both state and district-wide assessment results, as well as relevant information from any campus. Privately obtained assessments provided by the student's parent or guardian shall be considered in any decision made with respect to the provision of FAPE to the student if it meets district criteria.[28] To the extent appropriate, the student's general education performance shall also be documented. This summary shall also include an explanation of how the student's disability or disabilities impact the student's progress and participation in the general education curriculum.[29]

PRACTICE GUIDE—Designated staff may follow up with the student's teachers to ensure that appropriate data will be prepared for the ARD Committee's consideration. The ARD Committee will ensure District evaluations are current. When a parent provides the District with a copy of a privately obtained evaluation, the designed staff member should prepare a consent for the release of confidential information form for the parent to sign.

- **Present Levels of Academic Achievement and Functional Performance (PLAAFP).**[30] The Campus Administrator and ARD Committee Member designee shall coordinate with the student's relevant ARD committee members, general and special education teachers,

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[26] 34 C.F.R. § 300.324(a)(1)(ii)
[27] 34 C.F.R. § 300.324(a)(1)(i), (iii)
[28] 34 C.F.R. § 300.502(c)(1)
[29] U.S. Dept. of Education, 71 Fed. Reg. 46577 (August 14, 2006)("§ 300.320(a)(2)(i) requires annual IEP goals to be designed to enable the child to be involved in and make progress in the general education curriculum")
[30] 34 C.F.R. § 300.320(a); 34 C.F.R. § 300.324(a)(1)(iv).

and/or related service providers, to ensure, through their preparation and participation in the ARD committee meeting and through the participation of the parent or guardian, that the student's IEP contains an accurate description of how the student is performing in the areas of educational and functional need. The statement of present levels in a student's IEP should convey sufficient information to provide clear levels of the student's current academic and functional performance.

PRACTICE GUIDE—Designated staff should inform teachers to bring appropriate data to support the development of the student's PLAAFP statements; current assessments should be considered and reviewed as appropriate, including but not limited to behavioral and academic data, such as benchmark assessments, teacher made tests, or other classroom based assessments. Teachers should also be encouraged to bring information and data describing how the student's disability impacts their functional performance in the areas of the curriculum. For example, in the area of reading, a teacher may make note of whether a student tracks text from left to right or holds reading material correctly.

- **Measurable Annual Goals.** The Campus Administrator shall ensure that a student's IEP, as developed by the ARD committee includes:
    - a statement of measurable annual goals, including academic and functional goals.
    - timeframe, condition, behavior and criterion
    - goals designed to meet the student's needs that result from the student's disability to enable the student to be involved and make progress in the general education curriculum, and to meet each of the student's other educational needs that result from the student's disability.
    - for students who take alternate assessments aligned to alternate achievement standards, a description of benchmarks[31] and short-term objectives.[32]

[31] Tex. Ed. Code § 39.0263
[32] 34 C.F.R. § 300.320

PRACTICE GUIDE—The ARD committee may include goals, as appropriate, in any academic and nonacademic skills deficit area or areas of educational need identified by the student's ARD committee as part of a student's initial evaluation or any subsequent reevaluation. The ARD committee may ensure individualization by avoiding requiring all students with disabilities to master every TEK. Rather, the ARD committee may look to the evaluation and analyze how the student's disability impacts the student's rate of progress so that appropriately challenging goals may be developed. To help ensure the measurability of annual goals, the student's objectives and benchmarks may describe target behavior, conditions, and outcomes, as well as address the data collection strategy for measuring and documenting progress. The ARD committee may document the ARD committee's consideration of the services from the prior school year and the progress on the prior annual goals, objectives, and benchmarks when developing the student's current measurable annual goals, and consider and document the unique circumstances of the student's disability and past rate of progress when crafting the student's current IEP to develop appropriately challenging goals and objectives.

[33]

- **Supplementary Aids and Services.** The Campus Administrator shall ensure that the student's IEP, as developed by the ARD committee, includes a statement of needed supplementary aids and services (aids, services, and other supports) in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable the student to be educated with non-disabled students to the maximum extent appropriate.[34]

As part of supplementary aids and services, the IEP may include a list or a chart of all accommodations, behavioral or academic, determined by the student's ARD committee to be appropriate to meet the educational needs of the student in the general education setting.

PRACTICE GUIDE—In addition to the FIE, the ARD committee may reference assessment data which could include classroom observations to support the educational need for these services, as appropriate, and consider any relevant peer reviewed research as appropriate.

- **Behavioral Supports and Interventions**.[35] In the case of a student with a disability whose behavior impedes the student's own learning or that of others, the Campus Administrator

[33] *E.R. v. Spring Branch Indep. Sch. Dist*., 909 F.3d 754 (5th Cir. 2018).
[34] 34 C.F.R. § 300.42; 34 C.F.R. § 300.320
[35] 34 C.F.R. § 300.324(a)(2)(i)

or ARD Committee Member designee shall ensure that the student's ARD committee considers the use of positive behavioral interventions and supports, and other strategies, to address that behavior, and includes as part of the IEP any needed interventions, supports and strategies.[36] The student's ARD committee may determine that a behavior improvement plan or a behavioral intervention plan (BIP) is appropriate for a student. In such instances, the ARD committee determines the appropriate components of a BIP for the student's individual needs; there are no formal requirements for a BIP.[37] If the student's ARD committee determines that a BIP is appropriate, the BIP shall be included as part of the student's IEP and provided to each responsible teacher.[38] If a BIP is included as part of a student's IEP, the Campus Administrator or ARD Committee Member designee shall ensure that the ARD committee reviews the BIP at least annually and more frequently if appropriate to address the safety of the student or others, or changes in the student's circumstances that may impact the student's behavior.[39] Circumstances that may impact the student's behavior may include but are not limited to: a change of placement to a different educational setting; an increase or persistence in disciplinary actions for similar types of behavior; a pattern of unexcused absences; or unauthorized unsupervised departure from an educational setting.[40] Students will be subject to the Student Code of Conduct (SCOC) consistent with students without disabilities, provided that any discipline under the SCOC shall be subject to the timelines and protections provided to a student with a disability under the IDEA, including holding an ARD Committee (MDR) meeting in connection with any "disciplinary change of placement" in accordance with the district's **FOF(Legal)** policy.

- **Specially Designed Instruction.**[41] The Campus Administrator designee shall ensure that the student's IEP as developed by the ARD committee includes a statement of needed special education services. Special education means "specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability."[42] Specially designed instruction means—

    - "adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction-

        - To address the unique needs of the child that result from the child's disability; and
        - To ensure access of the child to *the general curriculum*, so that the child can meet *the educational standards within the jurisdiction of the public agency that apply to all children*." [43]

[36] 34 C.F.R. § 300.324(a)(2)(i)
[37] *Alex R. v. Forestville Valley Community Unit School Grand Prairie,* 375 F.3d 603 (7th Cir. 2004)
[38] Tex. Ed. Code § 29.005(g)
[39] Tex. Ed. Code § 29.005(h)
[40] *Id.*
[41] 34 C.F.R. § 300.320; 34 C.F.R. § 300.38(b)(3)
[42] 34 C.F.R. §300.39(a)(1)
[43] 34 C.F.R. §300.39(b)(3)(emphasis added)

The general curriculum and educational standards that "apply to all children" in Grand Prairie ISD are the **Texas Essential Knowledge and Skills (TEKS)** as well as the district's Policy **EIE(Local)**.[44] The state-wide assessments that determine a student's progress toward meeting those educational standards are the **State of Texas Assessments of Academic Readiness (STAAR)**.

When developing specifically designed instruction, the student's ARD committee shall consider—

- How content, methodology and delivery of instruction will be modified from the general curriculum.

- Student performance criteria that accurately and appropriately evidences the modification of the content of the performance or assessment.

- **Program Modifications and Supports for School Personnel.** The Campus Administrator shall ensure that the student's IEP as developed by the ARD committee includes a statement of any needed program modifications or supports for campus and other district personnel that will be provided to enable the student: to advance appropriately toward attaining the annual goals in the student's IEP; to be involved in and make progress in the general education curriculum; to participate in extracurricular and other nonacademic activities[45]; and to be educated and participate with other students with disabilities and non-disabled students.[46]

PRACTICE GUIDE—The District may identify a person knowledgeable about specialized resources or trainings available for teachers to assist with this provision.

- **Related Services**. The Campus Administrator or ARD Committee Member designee shall ensure that the student's IEP as developed by the ARD committee includes any needed related services and the projected date for the beginning of the student's related services, together with the anticipated frequency, location, and duration of the student's related services. Related services means transportation and such developmental, corrective, and other supportive services ***as are required*** to assist a student with a disability to benefit from special education, and includes: speech-language pathology and audiology services; interpreting services; psychological services; physical and occupational therapy; recreation, including therapeutic recreation; early identification and assessment of disabilities in children; counseling services, including rehabilitation counseling; orientation and mobility services; and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services,

[44] The educational standards applicable to all children in the state of Texas are also outlined in Tex. Ed. Code § 28.002 and in 19 TEX. ADMIN. CODE § 74.1.
[45] 34 C.F.R. § 300.320(a)(4)(iii).
[46] 34 C.F.R. § 300.320

social work services in schools, and parent counseling and training.[47] The Campus Administrator or ARD Committee Member designee shall further ensure that the IEP developed by the ARD committee includes sufficient information about the amount and type of services, so that it is clear to the parent, as well as to the student's related service providers and teachers, what level of support the student is to receive.[48]

- **Consideration of Strategies for Students with Autism.** The Campus Administrator or ARD Committee Member designee will ensure that for a student eligible for special education and related services as a student with Autism, the student's ARD committee considers the eleven strategies as described in the district's AUTISM IEP SUPPLEMENT, and includes as part of the IEP any strategies deemed necessary and appropriate for the student.[49] Those strategies deemed necessary and appropriate for the student may be incorporated throughout the IEP and/or described in a supplement.
- **Transition Services.** Beginning not later than the first IEP to be in effect when a student turns 14 and then updated annually, the Campus Administrator or ARD Committee Member designee shall ensure that the student's IEP as developed by the student's ARD committee includes:
    - appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and
    - the transition services (including courses of study) needed to assist the student in reaching those goals.[50]

The Campus Administrator shall further ensure that the student's ARD committee complies with Grand Prairie ISD's **Policy EHBAD(Legal)** ("Special Education Transition Services") regarding the procedures for including representatives from the **Texas Workforce Commission** on a student's ARD committee.

- **State and districtwide Assessment.** The Campus Administrator shall ensure that the student's IEP as developed by the ARD committee includes a statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the student on State and district-wide assessments. The ARD Committee will follow TEA guidelines when determining how a student will participate in the Texas Statewide Assessment Program, including how to select allowable accommodations, and in deciding whether a student with a disability meets the criteria to be assessed based on modified or alternate academic achievement standards. If the ARD committee determines that the student must take an alternate assessment instead of a particular regular State or district-wide assessment of student achievement, the Campus Administrator shall ensure as appropriate that the student's IEP as developed by the ARD committee includes a statement of why the student cannot participate in the regular

[47] 34 C.F.R. § 300.34(a)
[48] U.S. Department of Education, 71 Fed. Reg. 46667(2006)
[49] 19 TEX. ADMIN. CODE § 89.1055(h)
[50] 34 C.F.R. § 300.320(b)(1); U.S. Department of Education, 71 Fed. Reg. 46668 (2006)

assessment and why the particular alternate assessment selected is appropriate for the student.

- **Placement in the Least Restrictive Environment and the Justification for any Removal from General Education.**

- **Extended School Year (ESY) Services.** Whenever appropriate, the student's ARD committee shall determine whether the student requires an extended school year based on a regression-recoupment analysis. The need for ESY services shall be documented from formal and/or informal evaluations provided by the district or the student's parents or guardians. The documentation must demonstrate that in one or more critical areas addressed in the student's current IEP goals and objectives, the student has exhibited, or reasonably may be expected to exhibit, severe or substantial regression that cannot be recouped within a reasonable period of time. Severe or substantial regression means that the student has been, or will be, unable to maintain one or more acquired critical skills in the absence of ESY services.[51] It is important to remember that ARD committee determinations regarding ESY services are prospective in nature and not intended to make up for past denials of FAPE, if any.[52]

PRACTICE GUIDE—Designated special education staff may coordinate with the student's teacher(s) regarding collection of data regarding regression and recoupment at appropriate intervals.

- **Response to Bullying or Harassment.** Following an investigation of a student with a disability who is an alleged victim or perpetrator of bullying or harassment in violation of the district's **FFH(Local)** and **FFI(Local)** policies, an ARD committee meeting shall be held to review the conduct and to consider the impact, if any, of the bullying conduct on the provision of FAPE to the student.[53] The ARD Committee Member designee will provide notice of an ARD committee meeting in collaboration with the Campus Administrator.

[51] 19 TEX. ADMIN. CODE § 89.1065 ; *Alamo Heights ISD v. State Board of Ed.,* 790 F2d. 1153 (5th Cir. 1986)(severe or substantial regression required for ESY).

[52] OSEP. ***Part B Implementation of IDEA Provision of Services in the Current COVID-19 Environment Q&A Document*.** September 28, 2020.

[53] Tex. Ed. Code § 37.001(b-1)

PRACTICE GUIDE—Draft IEPs may be prepared prior to the ARD committee meeting at the discretion of the District. However, if the District elects to prepare a draft IEP prior to an ARD committee meeting including in response to a parent's written request for a draft, the District or designee shall clarify to the parent or guardian at the start of the ARD committee meeting and in any written correspondence with the parent providing the proposed draft IEP, that the draft IEP is the District's preliminary recommendations for review and revision with the parent at the ARD meeting. The District's decision to prepare or to decline to prepare a draft IEP at a parent's request is an administrative decision at the discretion of the District.

[54]

How does the district use Prior Written Notice (PWN) to inform parents about the decisions of a student's ARD committee?

Prior Written Notice (PWN) [55] shall include the following—

- A description of the action proposed or refused by the district.
- An explanation of why the district proposes or refuses to take an action.
- A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action.
- A statement that the parents of a student with a disability have protection under **TEA's *Notice of Procedural Safeguards.***
- Sources for parents to contact to obtain assistance in understanding the provisions of a Prior Written Notice, such as the **Education Service Center** or **TEA.**
- A description of other options that the ARD committee considered and the reasons why those options were rejected.
- A description of other factors that are relevant to the district's proposal or refusal.

Minutes or Deliberations. The written statement of an IEP shall document the decisions of the student's ARD committee with respect to issues discussed at each ARD committee meeting or IEP Amendment. While deliberations are not required, the ARD Committee Member designee shall ensure that the documents from an ARD committee meeting and the written statement of an IEP include the date of the meeting; the name, position, and signature of each member participating in

[54] US Department of Education, 71 Fed. Reg. 46678 (2006)("[w]e do not encourage public agencies to prepare a draft IEP prior to the IEP Team meeting, particularly if doing so would inhibit a full discussion of the child's needs. However, if a public agency develops a draft IEP prior to the IEP Team meetings, the agency should make it clear to the parents at the outset of the meeting that the services proposed by the agency are preliminary recommendations for review and discussion with the parents"; *White ex rel. White v. Ascension Parish School Board*, 343 F.3d 373 (5th Cir. 2003).

[55] 34 C.F.R. § 300.503(b)

the meeting; and an indication of whether the student's parents or guardians, the adult student, if applicable, and the administrator agreed or disagreed with the decisions of the committee.[56]

- **Documentation of the decisions of the student's ARD committee** may be done through preparation of ARD committee meeting deliberations or minutes. Prior Written Notice (PWN) shall be issued after each ARD committee meeting. A completed PWN would satisfy Grand Prairie's obligation to document the decisions of a student's ARD committee. Grand Prairie ISD may use the IEP and the deliberations or minutes as part of the PWN so long as the document(s) the parent or guardian receives meet all the requirements of prior written notice.[57] The deliberations and/or the Prior Written Notice may be used to establish how the Grand Prairie is providing a FAPE to a student and collaborating with a parent or to document other factors relevant to a student's IEP.

PRACTICE GUIDE—When preparing the documents from the ARD committee meeting, the District collaborates with parents concerning the form and content of these documents; however, final decisions concerning the form and content of written documents is an administrative decision within the discretion of the District. There is no requirement to read the minutes aloud at the end of an ARD committee meeting or to project the documents at issue on a screen. If there is a dispute about the contents, the District may attach a *Parent Addendum* to the student's IEP. The *Parent Addendum* would not be binding on the District or the student's ARD committee; however, the *Parent Addendum* would become part of the student's educational records maintained by the District.

- IDEA does not require that the district include additional information in a student's IEP beyond what is expressly required under 20 U.S.C. § 1414; 34 C.F.R. § 300.320 (d)(1). By way of example and not limitation, a student's IEP does not need to include—
  - The identity of specific teachers or specific educational methodology.[58]
  - Extracurricular activities unrelated to the student's IEP.[59]
  - Services that are unrelated to the student's special education program.[60]

[56] Tex. Ed. Code § 29.005(b-1)
[57] U.S. Department of Education, 71 Fed. Reg. 46691 (August 14, 2006)
[58] *Letter to Hall*, 21 IDELR 58 (OSERS 1994).
[59] *Letter to Anonymous,* 17 IDELR 180 (OSEP 1990).
[60] *Letter to Montano*, 18 IDELR 1232 (OSEP 1992).

How does a student's ARD committee make a placement decision? [61]

To the maximum extent appropriate, students with disabilities must be educated with students who are nondisabled, and special classes, separate schooling, or other removal of students with disabilities from the general educational environment occurs only if the nature or severity of the disability is such that education in general education classes, with the use of supplementary aids and services, cannot be achieved satisfactorily.[62] Once a student's IEP is fully developed, the Campus Administrator shall ensure that the student's ARD committee considers, and the student's IEP documents, a placement determination based upon the individual needs of the particular student and the appropriate and least restrictive educational environment in which the IEP can be implemented. When making a placement decision, the district shall ensure that the ARD committee considers a continuum of alternative placements.

PRACTICE GUIDE—Location of a particular classroom or program is an administrative decision not within the purview of an ARD committee. Location is different from the determination of an individual student's special education placement. The location of classrooms and programs is an administrative decision within the discretion of the District. School district administration may centralize the location of certain programs to efficiently use the District's resources in the service of students with disabilities. [63]

What does it mean to have a continuum of placement options for students? The district shall make available a continuum of alternative placements listed in the definition of special education under 34 C.F.R. § 300.38 (e.g., instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions), and make provision for supplementary services to be provided in conjunction with placement in the general education setting to facilitate such placement.[64] The IEP, evaluations and other relevant data guide the ARD committee in making placement decisions.

PRACTICE GUIDE—The ARD committee may determine that additional evaluations, updated assessment or other information are needed to make a placement decision. Consider having the student's evaluation team review the continuum of placements within the District for potential recommendations to the student's ARD committee, as appropriate. The student's ARD committee shall ensure that the student is not removed from education in age-appropriate general education classrooms solely because of needed modifications in the general curriculum.

[61] *A.B. v. Clear Creek ISD*, 75 IDELR, 787 F.App'x 217 (5th Cir. 2019); *Daniel RR v. State Bd. of Ed.*, 874 F.2d 1036 (5th Cir. 1989); *J.H. v. Fort Bend Indep. Sch. Dist.*, 482 Fed. Appx. 915 (5th Cir. 2012)
[62] 34 C.F.R. § 300.114 (a)
[63] *White ex rel. White v. Ascension Parish School Board*, 343 F.3d 373 (5th Cir. 2003).
[64] 34 C.F.R. § 300.115(b); 34 C.F.R. § 300.115(b); 19 TEX. ADMIN CODE §89.1005

Before moving a student to a more restrictive environment[65], the student's ARD committee shall consider ---

- Has the district taken steps to accommodate the student with disabilities in general education?
- Were these efforts sufficient or token?
- Will the student receive an educational benefit from general education?
- What will the student's overall educational experience be in the general education environment, balancing the benefits of general and special education?
- What effect does the student's presence have on the general education classroom environment? [66]

PRACTICE GUIDE—The ARD committee will take steps to accommodate the student in general education and may document attempted services and accommodations. The District is not required to provide every conceivable aid or service to assist the student. General education instructors are not required to devote all or most of their time to one student or to modify the general education program beyond recognition. Data may be collected to determine the student's overall educational experience in the general education environment. Should the student's presence be so disruptive in the general education classroom that the education of other students is significantly impaired, then the needs of the student with a disability cannot be met in that environment.

Residential Treatment Centers (RTCs) or private residential programs are included in the continuum of placements.[67] The district is not required to place a student in a private residential program unless such placement is necessary to provide special education and related services. In order for a residential placement to be appropriate under the IDEA, the placement must be (1) essential in order for the student to receive a meaningful educational benefit, and (2) primarily oriented toward enabling the student to obtain an education. The district is not required to bear the costs of private residential services that are primarily aimed at treating a student's medical difficulties or enabling the student to participate in non-educational activities. [68] [69]

[65] 34 C.F.R. § 300.116(e)
[66] *Daniel RR v. State Bd. of Ed.*, 874 F.2d 1036 (5th Cir. 1989)
[67] 34 C.F.R. § 300.115
[68] *Richardson ISD v. Michael Z*, 580 F.3d 286 (5th Cir. 2009); 34 C.F.R. § 300.104
[69] Tex. Ed. Code § 29.008; Tex. Ed. Code § 29.012; 19 TEX. ADMIN. CODE § 89.1092; 34 C.F.R. § 300.325(a)

PRACTICE GUIDE—The student's ARD committee will follow and ensure the criteria are met for any residential educational placement for a student with disabilities at the onset of any consideration for such a placement. Before a student's ARD committee places a student in a Residential Treatment Center, the District must initiate and conduct a meeting to develop an IEP placing the student at the private residential setting. A designee of the ARD committee will ensure that a representative of the private school or facility attends the meeting. If the representative cannot attend, the District will use other methods to ensure participation by the private school or facility, including individual or conference telephone calls. Initiating the RTC placement process with TEA is among the steps for ensuring the availability of RTC as option for an ARD committee's consideration. The Director of Special Education or designee may visit the proposed facility prior to any final decisions regarding placement and complete the RTC placement application process as an administrative action to verify whether placement in an RTC is a viable option considering the student's individual circumstances.

How does the district respond to a parent or guardian's request for private placement when there is a disagreement regarding FAPE?

If the parents or guardians of a student with a disability, who previously attended the district, enroll the student in a private preschool, elementary school, or secondary school without the consent of or referral by the district, a court or a hearing officer may require the district to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the district had not made FAPE available to the student in a timely manner prior to that enrollment, and that the private placement is appropriate. The cost of reimbursement may be reduced or denied:

- if, at the most recent ARD committee meeting that the parents or guardians attended prior to removal of the student from the district, the parents or guardian did not inform the ARD committee that they were rejecting the placement proposed by the district to provide FAPE to the student, including stating their concerns and their intent to enroll the student in a private school at public expense;

- if, at least 10 district business days (including any holidays that occur on a business day) prior to the removal of the student from the district, the parents or guardians did not give written notice to the district that they were withdrawing the student and seeking reimbursement from the district for the cost of the private school placement;

- if, prior to the parents or guardians' removal of the student from the district, the district informed the parents or guardians, through the notice requirements described in these Operating Procedures, of its intent to evaluate the student (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the student available for the evaluation; or

- if a hearing officer or judge finds that the parents acted unreasonably. [70]

PRACTICE GUIDE—The student's campus special education staff may consider the need to conduct a District evaluation; schedule an ARD committee meeting to consider revisions to the student's IEP to address the parents' concerns and ensure the availability of FAPE to the student; request information from the student's private school, and request from the parents any privately obtained evaluations.

What happens if an ARD committee meeting ends in disagreement?

All members of the student's ARD committee shall have the opportunity to participate in a collaborative manner when developing the student's IEP.[71] A decision of the ARD committee concerning the required elements of the student's IEP should be made by mutual agreement, if possible. No decision is made by majority vote. If a student's ARD committee cannot reach consensus, the ARD Committee Member designee shall provide the parents with Prior Written Notice of the ARD committee's proposals and/or refusals and the basis of the disagreement.

When mutual agreement about all required elements of the IEP is not achieved, the parent who disagrees shall be offered a **single opportunity** to recess and reconvene the ARD committee meeting. The period of time for reconvening the ARD committee meeting shall not exceed 10 school days, unless the parties mutually agree otherwise. The ARD committee shall schedule the reconvened meeting at a mutually agreed upon time and place.[72]

- Should mutual agreement not be met, Grand Prairie offers an optional resolution process designed to resolve parent concerns, disputes, or contentious matters related to the Full and Individual Evaluation (FIE) and Individualized Education Program (IEP) developed for your student. The resolution process is designed to ensure that federal and state law, and local special education operating guidelines are adhered to, and that the application of these guidelines facilitate the educational progress of students with disabilities. The process is voluntary, free of charge, and does not take the place of procedural safeguards that are provided by or required by federal or state law for either the parent or school district. Specifically, the GPISD resolution process may not deny or delay a special education complaint, mediation, or due process hearing in accordance with federal or state law.

Process:

The resolution process involves the participation of a GPISD Special Education Department facilitator who will assist the ARD committee with concerns related to evaluation, IEP development, and IEP implementation. Facilitators are not a member of the ARD committee and have no decision-making authority. Facilitators must remain objective and impartial in the

[70] *School Comm. of Burlington v. Department of Educ. of Mass.,* 471 U.S. 359, 369 (1985); *see also,* 34 C.F.R. 300.148(c)*; Forest Grove Sch. Dist. v. T.A.,* 557 U.S. 230, 129 S. Ct. 2484, 2496 (2009)
[71] 19 TEX. ADMIN. CODE § 89.1050(g)
[72] 19 TEX. ADMIN. CODE § 89.1050(g)(1)

development of the IEP, and in decisions concerning evaluation. The resolution process and a request for a Facilitator should be initiated when the ARD committee is unable to reach mutual agreement about the required components of the IEP or concerns regarding the FIE and has agreed to recess and reconvene at a mutually agreeable time.

- A Facilitator will be assigned based on the nature of the disagreement by the Executive Director of Special Education or designee.

Facilitator Role:

- Review FIE, IEP, and other relevant documents related to area of concern(s) as requested by ARDC
- Guide discussion on area of concern with focus on resolution, consensus, and mutual agreement
- Ensure meaningful participation of all ARDC members
- Ensure the IEP is developed in a way that is reasonably calculated, provides meaningful educational benefit, and considers the least restrictive environment

Requesting a Facilitator:

- The ARD committee designee or parent must complete the FIE & IEP Resolution Request Form within 3 school days of the ARD committee meeting ending in disagreement

PRACTICE GUIDE—The ARD committee can recess a meeting for reasons other than disagreement. There is no mandate on time to return when the parties table for reasons other than reaching agreement on FAPE.

During the recess, the student's ARD committee members[73] shall consider alternatives for any disputed educational programming, gather additional data, prepare further documentation, and/or obtain additional resource persons who may assist in enabling the ARD committee to reach mutual agreement, if possible.[74] The 10-day recess is not required when the student's presence on the campus presents a danger of physical harm to the student or others or when the student has committed an expellable offense or an offense that may lead to placement in a DAEP.[75]

[73] 19 TEX. ADMIN. CODE § 89.1050(g)(2)
[74] *Id.*
[75] 19 TEX. ADMIN. CODE § 89.1050(g)(1)

PRACTICE GUIDE—The ARD committee may consider obtaining additional evaluation, retaining a consultant in an area of disagreement; offer the parent an opportunity to visit classrooms at issue; consider whether the issue of dispute could better be resolved administratively, such as personnel-related issues; consider training options; consider ARD facilitation and/or mediation to reach consensus; and ensure effective collaboration by reviewing rules of decorum and expectations for participation.

When mutual agreement is not reached, the ARD Committee Member designee shall ensure that a written statement of the basis for the disagreement is thoroughly documented. Following Prior Written Notice, the district will implement the IEP that it has determined to be appropriate for the student.[76]

PRACTICE GUIDE—The ARD committee does not have to secure parent agreement to implement the IEP with which the parent disagrees. The designated staff member will provide Prior Written Notice 5 school days prior to implementation; consider whether mediation or ARD facilitation is appropriate; and provide the parent with a copy of TEA's *Notice of Procedural Safeguards* (consider also—TEA's *Parent's Guide to the Admission, Review and Dismissal Process*). The ARD committee shall also offer the parent, who disagrees with the IEP implemented by the District, the option of writing a statement of disagreement.

[77]

When and how is a student's IEP updated?

In making changes to a student's IEP after the annual ARD committee meeting for a school year, a parent or guardian and the district may agree not to convene an ARD committee meeting for the purpose of making those changes, and instead may develop a written document to amend or modify the student's current IEP without a meeting. If changes are made to the student's IEP by IEP Amendment without a meeting, the ARD Committee Member designee shall ensure that the student's ARD committee and the individuals responsible for the implementation of the student's IEP are informed of those changes. The ARD Committee Member designee will provide the parent or guardian with Prior Written Notice of the amendments to the IEP.[78] Upon request, a parent or guardian shall be provided with a revised copy of the IEP with the amendments incorporated.[79]

[76] 19 TEX. ADMIN. CODE § 89.1050(g)(3)
[77] 19 TEX. ADMIN. CODE § 89.1050(g)(4) ; **TEA's *Notice of Procedural Safeguards*; *Parent's Guide to the Admission, Review and Dismissal Process***
[78] OSERS, ***Questions and Answers on Individualized Education Programs (IEPs), Evaluations, and Reevaluations***. Revised September 2011.
[79] 34 C.F.R. § 300.324(a)(6)

Grand Prairie ISD only utilizes the IEP Amendment process without a meeting for the following purposes:

- changes to accommodations for instruction, district/state assessments
- transportation
- accelerated learning plan(s)

PRACTICE GUIDE—The District may consider using the IEP Amendment process to address changes to goals and objectives, accommodations, and supplementary aids and service. Whenever the District proposes to amend an IEP without a meeting, the District should ensure that the parent understands that the parent can choose not to agree, and instead have an IEP Team meeting. Changes in placement and manifestation determination reviews cannot be addressed via an IEP Amendment.

80

The student's ARD committee shall review and revise the student's IEP as follows:

- to periodically, but not less than annually, to determine whether the annual goals for the student are being achieved;

- to address any lack of expected progress toward the annual goals in the IEP and in the general education curriculum, if appropriate;

- to review the results of any reevaluation of the student or any information about the student provided to, or by, the parents or guardians, relevant to the student's program of special education and related services; and

- to consider the student's anticipated needs and other matters, as appropriate.[81]

How does the district ensure parents or guardians are included in the IEP development process?

Each ARD committee shall endeavor to ensure that a student's parent or guardian is included in the process of developing a student's IEP.[82]

[80] US Department of Education, 71 Fed. Reg. 46685 (August 14, 2006).
[81] 34 C.F.R. § 300.324
[82] *Buser v. Corpus Christi Indep. Sch. Dist*., 51 F.3d 490 (5th Cir. 1995); *White v. Ascension Parish*, 343 F.3d 373 (5th Cir. 2013) (IDEA requirements with respect to parental input are met "[a]bsent any evidence of bad faith exclusion of the parents or refusal to listen to or consider" parental input); 19 TEX. ADMIN. CODE § 89.1050(e); 34 C.F.R. § 300.503.

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

[83]

Grand Prairie ISD requires a draft of IEP goals and objectives be shared with a student's parent or guardian no later than 5 days prior to the scheduled ARD committee meetings.

Grand Prairie ISD when considering initial placement after the completion of a Full and Individual Initial Evaluation (FIIE) requires that the Assessment and Related Services personnel conducting the evaluation review the evaluation with the parent or guardian no later than 5 days prior to the scheduled ARD committee meetings.

Each student's ARD Committee Member designee shall—

- **Provide parents or guardians notice of all ARD committee meetings no later than 5 school days prior to each meeting** (unless the parents or guardians agree to a shorter timeframe).[84] In addition to the date and time of the meeting, each meeting notice shall include a list of all meeting participants known at the time the notice is provided to the parent or guardian; a brief description of the purpose of the meeting; and the mode of participation (e.g., in-person or via tele- or video conferencing). A meeting for which parental notice is required does not include informal or unscheduled conversations involving district personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. A meeting also does not include preparatory activities that district personnel engage in to develop a proposal or response to a parent or guardian proposal that will be discussed at a later ARD committee meeting.[85]

  Grand Prairie ISD will provide written Notice of ARD no later than 10 school days prior to the scheduled ARD committee meeting.

- **Schedule ARD committee meetings with parents or guardians at a mutually agreed time and place**.[86]

  Grand Prairie ISD will provide written Notice of ARD with three choices of dates and time of the ARD committee meeting, no later than 10 school days prior to the scheduled ARD committee meeting. The Notice of ARD includes the following options: (1) Agree with proposed date and time and will attend, (2) cannot attend at the suggested time, need to reschedule, or (3) will not attend, proceed without me and I want to be notified of the results

[83] *Rockwall ISD v. M.C.*, 816 F.3d 329 (5th Cir. 2016); *Cypress-Fairbanks Indep. Sch. Dist. v. Michael F.*, 118 F.3d 245 (5th Cir.1997).
[84] 19 TEX. ADMIN. CODE § 89.1050(d)
[85] 34 C.F.R. § 300.501(b)(3)
[86] 34 C.F.R. § 300.322(a)(2)

If the parent or guardian selects options 1 or 3 the ARD committee meeting will proceed as scheduled on the first date indicated on the Notice of ARD.

If the parent or guardian selects options 2, the ARD Committee Member designee will contact the parent to coordinate a mutually agreeable date and time.

If there is no response to the Notice of ARD, the ARD Committee Member designee will provide a second notice, and/or a third notice as necessary to schedule the ARD committee meeting at a mutually agreeable time. However, if the district receives no response, the district will proceed with the ARD committee meeting as scheduled.

Grand Prairie ISD will make every effort to convene an ARD committee meeting at a mutually agreeable time and place, however there is no requirement that the district convene an ARD committee meeting outside of regular district business hours.

- **Document all efforts to schedule an ARD committee meeting with parents or guardians.** If no parent or guardian can participate in an ARD committee meeting, the ARD Committee Member designee shall offer a parent or guardian the opportunity to participate in the meeting by tele- or video conferencing or other virtual means. The Grand Prairie may convene an ARD committee meeting without the involvement of a parent or guardian if the ARD Committee Member designee is unable to convince the parents or guardians that they should attend. *Document and keep a record of attempts to arrange a mutually agreed upon time and place for the ARD committee meeting*.[87] These attempts may include—

    - Detailed records of telephone calls made or attempted and the results of those calls.

    - Copies of correspondence or e-mails sent to the parents or guardians and any responses received.

    - Detailed records of visits made to the parent or guardian's home or place of employment and the results of those visits.[88]

    - If requested. Grand Prairie ISD agrees to schedule another ARD committee meeting to review the ARD committee meeting decisions in which the parent or guardian was not in attendance.

- **Ensure and document receipt by the parent or guardian of a copy of the procedural safeguards notice** at least once a year, and also [89]

    - Upon initial referral or parental request for evaluation.[90]

[87] 34 C.F.R. § 300.501(c)
[88] 34 C.F.R. § 300.322(d)
[89] 89 34 C.F.R. 300.504(a)
[90] 90 34 C.F.R. 300.504(a)(1)

- Upon the first occurrence of the filing of a due process hearing complaint.[91]
- Following any disciplinary action requiring a manifestation determination review.[92]
- At any other time on reasonable request of the student's parent or guardian.[93]

- **Ensure that any education records, as defined by the district's FL(LOCAL) policy, requested by a parent or guardian of a student with a disability may be inspected and reviewed** by a parent or guardian or the parent or guardian's representative (with informed written consent of the parent or guardian)—
  - Before any ARD committee meeting.
  - Before any mediation session or resolution session that is part of a special education due process hearing request.
  - Without unnecessary delay but in no case more than 45 days.[94]

Copies of educational records may be provided in accordance with the district's **FL(LOCAL)** policy. Fees may be charged for those copies so long as the fee does not effectively prevent the parent or guardian from exercising their right to inspect and review the requested records.[95]

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

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[91] 91 34 C.F.R. 300.504(a)(2)
[92] 92 34 C.F.R. 300.504(a)(3)
[93] 93 34 C.F.R. 300.504(a)(4)
[94] 34 C.F.R. § 300.613
[95] 34 C.F.R. § 300.617 (The Grand Prairie may not charge a fee to search for or to retrieve the educational records.)

If a parent or guardian makes a written request for an ARD committee meeting, the district shall schedule the meeting as soon as appropriate under the circumstances, or within 5 school days provide a brief written explanation of why the district refuses to schedule the requested ARD committee meeting.[97] When a parent or guardian makes a written request for an ARD committee meeting, the Executive Director of Special Education or designee will provide the written explanation above or coordinate with the student's parents, guardians, teachers and related service providers to schedule the ARD committee meeting.

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

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

If the parent or guardian is one with emergent bilingual abilities and the parent or guardian's native language is Spanish, the district will provide notices to the parent or guardian in Spanish. If the parent or guardian's native language is other than English or Spanish, the district will make a good faith effort to provide notices to the parent or guardians in the parent or guardian's native language unless it is clearly not feasible to do so. The term "native language" means the language normally used by the parent or guardian.[98] *Emergent Bilingual* is equivalent to *English Learner* (EL) in the special education context.[99]

If the parent or guardian is one with emergent bilingual abilities and the parent or guardian's native language is Spanish, the district will provide at any ARD committee meeting a person who is able to interpret for the parent or guardian. If a parent or guardian's native language is other than Spanish, the district will make a good faith effort to obtain an interpreter or translator to assist the parent or guardian.[100] The Campus Administrator shall coordinate with the student's ARD Committee Member designee to ensure that the parents or guardians of students with a disability whose native language is other than English are able to participate in the ARD committee meeting with the assistance of translators and interpreters, as appropriate. The ARD Committee Member designee shall document these efforts in ARD committee documents and preserve in the student's special education file all written correspondence or communications logs with parents or guardians and other individuals regarding the district's efforts.

[96] "IDEA does not address the use of audio or video recording devices at IEP meetings, and no other Federal statute either authorizes or prohibits the recording of an IEP meeting by either a parent or a school official. Therefore, [the Grand Prairie] has the option to require, prohibit, limit or otherwise regulate the use of recording devices at IEP meetings." **OSEP 2003**.
[97] 19 TEX. ADMIN. CODE § 89.1050(e); Tex. Ed. Code § 29.005(c)
[98] 20 U.S.C. § 1401(20)
[99] 34 C.F.R. § 300.27
[100] 34 C.F.R. § 300.322(e)

If the student's parent or guardian is unable to speak English and the parent or guardian's native language is Spanish, the district shall provide a written copy or audio recording of the student's IEP translated into Spanish.[101] If the parent or guardian's native language is a language other than Spanish, the district shall make a good faith effort to provide the parent with a written copy or audio recording of the student's IEP translated into the parent or guardian's native language. When translating a student's IEP, all of the text in the student's IEP shall be accurately translated, resulting in a comparable rendition of the IEP in English and not a partial translation or summary.[102]

How does the district ensure that a student's IEP is implemented?

After the IEP is written and a placement is determined, the Case Manager and ARD Committee Member designee shall coordinate with the student's special and general education teachers and related service providers to ensure the student is provided the special education and related services identified in the IEP.[103] The ARD Committee Member designee shall make the student's IEP accessible to each regular education teacher, special education teacher, related service provider, and any other service provider who is responsible for its implementation.[104] Additionally, the Case Manager and ARD Committee Member designee shall inform each regular teacher, special education teacher, related service provider, and any other service provider who is responsible for the implementation of the student's IEP, of each of her or his specific responsibilities related to implementation of the student's IEP and the specific accommodations, modifications, and supports that must be provided for the student as identified in the IEP.[105]

PRACTICE GUIDE—Teachers and other providers must comply with confidentiality requirements of FERPA and the District's Board Policy FL(Local).

The district shall maintain an eligibility folder for each student receiving special education services, in addition to the student's cumulative record. The eligibility folder shall include, but need not be limited to, copies of referral data; documentation of notices and consents; evaluation reports and supporting data; ARD committee reports; and the student's IEPs.[106]

Each campus shall ensure that each teacher who provides instruction to a student with disabilities:

- has access to the student's current IEP;
- is informed of the teacher's specific responsibilities related to implementation of the IEP, such as goals and objectives;
- is informed of needed accommodations, modifications, and supports for the student that must be provided for the student in accordance with the IEP; and

[101] 19 TEX. ADMIN. CODE § 89.1050(i); Tex. Ed. Code § 29.005(d)
[102] 19 TEX. ADMIN. CODE § 89.1050(i)(1)
[103] 34 C.F.R. § 300.323(c)
[104] 34 C.F.R. § 300.323(d)
[105] *Id.*
[106] 19 TEX. ADMIN. CODE § 89.1075(a)

- has an opportunity to request assistance regarding implementation of the student's IEP.[107]

Each campus shall develop a process to be used by a teacher who instructs a student with a disability in a regular classroom setting to:

- request a review of the student's IEP; and
- provide input in the development of the student's IEP.

Each campus shall timely respond to the teacher's request; and provide for notification to the student's parent or guardian of the teacher's response.[108]

PRACTICE GUIDE—The campus designee may provide the teacher with information regarding how to access student data, including a student's most recent IEP and the data discussed at the student's most recent ARD committee meeting, which may include accommodations and the student's BIP. The Director of Special Education will ensure that the District's electronic file retrieval system contains the appropriate student information in a readily accessible format for internal review. In some circumstances, it may be helpful to request acknowledgement of receipt or confirmation of review of relevant student data.

How does the district determine compensatory services for students whose FIIE was delayed or whose IEP was interrupted, reduced, delayed, suspended, or discontinued during the 2019-2020 or 2020-2021 school years?[109]

Grand Prairie ISD will ensure that the IEP for each student who was enrolled in the district's special education program during the 2019-2020 or 2020-2021 school year, includes a written supplement that indicates whether that student's FIIE was completed during the 2019-2020 or 2020-2021 school year, and if so, whether the report was completed by the date required by Tex. Ed. Code § 29.0052. [110] [111] Grand Prairie ISD will also, if applicable, indicate whether the student's initial IEP was developed by the date required by **the Grand Prairie's Evaluation Procedure Operating Procedure.**[112] Grand Prairie ISD will also indicate whether the provision of special education services to that student under an IEP during the 2019-2020 or 2020-2021 school year was interrupted, reduced, delayed, suspended, or discontinued.[113]

[107] 19 TEX. ADMIN. CODE § 89.1075(c)
[108] 19 TEX. ADMIN. CODE § 89.1075(d)
[109] 19 TEX. ADMIN. CODE § 89.1075(c)
[110] Tex. Ed. Code § 29.0052(a)(1)
[111] Tex. Ed. Code § 29.0052(b)
[112] Tex. Ed. Code § 29.0052(a)(2)
[113] Tex. Ed. Code § 29.0052(a)(3)

Based on these or any other factors, the ARD committee will determine and document whether compensatory educational services are appropriate for the student.[114] [115]

How does the district ensure adult students are included in the IEP development process?

At least one year before a student with a disability turns 18, the ARD Committee Member designee shall ensure that the student's IEP contains a statement regarding the transfer of special education rights and responsibilities at the age of 18. The student's IEP shall also state that the student has been provided information and resources regarding guardianship, alternatives to guardianship, including a supported decision-making agreement and other supports and services that may enable the student to live independently. When the student turns 18, the ARD Committee Member designee shall notify the adult student and her or his parent or guardian of the transfer of parental rights and shall begin sending both the parent or guardian and student any notice required in these Operating Procedures.[116]

What happens when a student with an IEP graduates with a regular high school diploma?

Graduation from the district with a regular high school diploma terminates a student's eligibility to receive special education and related services.[117] A student who receives special education services may graduate and be awarded a regular high school diploma if the student has demonstrated mastery of the required state standards (or district standards, if greater) and completed credit requirements (for graduation under the Foundation High School Program) specified in the Foundation High School Program that are applicable to students in general education, as well as 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.[118]

The Campus Administrator shall ensure that whenever a student's eligibility for special education and related services is terminated through receipt of a regular high school diploma or because the

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[114] Tex. Ed. Code § 29.0052(a)(4)

[115] "Other considerations [when addressing the adverse impact of caused by COVID-19] could include, but are not limited to, revising the IEP to address (1) lost skills or a lack of expected progress toward attaining the child's annual IEP goals and in the general curriculum at the end of the 2020–2021 school year; (2) updated data (e.g., information gathered from formal and informal assessments, parent input) that reflect the child's present levels of academic achievement and functional performance following the extended time without face-to-face, in-person special education and related services; (3) all areas of need, whether or not commonly related to the child's disability category, or if the child may require different or other services to address new areas of need (e.g., behavioral, social, emotional, and mental health needs, needs that arose during the pandemic); and (4) implementing COVID-19 prevention measures such as wearing a face covering/mask or practicing social distancing to provide a safe and healthy school environment and safe participation in the community." *Return to School Roadmap: Development and Implementation of Individualized Education Programs In the Least Restrictive Environment Under the Individuals with Disabilities Education Act*, OSERS, October 2021.

[116] 19 TEX. ADMIN. CODE § 89.1049
[117] 19 TEX ADMIN. CODE § 89.1070(a)
[118] 19 TEX. ADMIN. CODE § 89.1070(b)(1)

student no longer meets age eligibility requirements for special education and related services, the ARD Committee Member designee shall provide the student a written summary of the student's then-present level of academic achievement and functional performance. This summary must consider, as appropriate, the views of the parent or guardian and student, and written recommendations from adult service agencies on how to assist the student in meeting postsecondary goals. An evaluation or REED shall be included as part of the summary.[119]

For students who receive a diploma based upon successful completion of the IEP and other relevant factors, the ARD committee shall determine needed educational services upon the request of the student or the student's parent or guardian to resume services, as long as the student meets the age eligibility requirements set out in **the district's Child Find Duty Operating Procedure**.[120]

What are the district's obligations to children transitioning from IDEA Part C Early Intervention Services (EIS) to IDEA Part B Early Childhood Special Education (ECSE)?

Grand Prairie ISD coordinates with **Texas Health and Human Services Commission (THHSC)**[121] or its local designees—the Early Intervention Agency—to notify parents or guardians of children in the district who are at least 3 years of age but younger than 6 years of age and who are potentially eligible for enrollment in Grand Prairie ISD's IDEA Part B Early Childhood Special Education (ECSE) program of the availability of the program.[122] Additionally, at least 90 days before the 3rd birthday of a child with a disability under Part C EIS, who may be eligible for preschool special education and related services under Part B, the Early Intervention Agency—must notify the district that the child will shortly reach the age of eligibility for Grand Prairie ISD's ECSE program.[123] The Early Childhood Assessment Team is an appropriate contact to receive such notice at ecat@gpisd.org or 972-522-3152.

If a child is potentially eligible for Grand Prairie ISD's ECSE program, with family approval, a transition conference will be convened by the Early Intervention Agency, with an invitation to the Grand Prairie, not fewer than 90 days and not more than 9 months before the child's 3rd birthday, to discuss any potential special education and related services the child could receive from the district.

If the Early Intervention Agency determines that the child is eligible for **Early Intervention Services (EIS)** more than 45 but less than 90 days before the child's 3rd birthday and if that child may be eligible for ECSE services under Part B, the Early Intervention Agency, as soon as possible after determining the child's eligibility, must notify Grand Prairie ISD that the child on his 3rd birthday will reach the age of eligibility for the Grand Prairie's ECSE program.[124] The Early Childhood Assessment Team is an appropriate contact to receive such notice at ecat@gpisd.org or 972-522-3152.

[119] 19 TEX. ADMIN. CODE § 89.1070(g)
[120] 19 TEX. ADMIN. CODE § 89.1070(j)
[121] 34 C.F.R. § 303.22
[122] Tex. Ed. Code § 29.009
[123] 34 C.F.R. § 303.209(b)(1)(i); ***Early Childhood Transition FAQs*** (OSEP 2009).
[124] 34 C.F.R. § 303.209 (b)(1)(ii).

The ARD Committee Member designee shall ensure that an IEP is in effect for an IDEA B eligible child with a disability who had previously received IDEA Part C services by the child's 3rd birthday while complying with the procedures in **the Grand Prairie's Evaluation Procedure Operating Procedure**. If a child's 3rd birthday occurs during the summer, the student's ARD committee shall determine the date when services will begin.[125]

If Grand Prairie ISD knows that a child served in Part C via an *Individualized Family Service Plan* (IFSP) developed by the Early Intervention Agency and referred to IDEA Part B will turn 3 over the summer and that appropriate Grand Prairie ISD personnel won't be available to conduct evaluations and hold ARD committee meetings during the summer, the Coordinator of Assessment and Relates Services or designee shall ensure that required activities such as conducting the evaluations, and convening the ARD committee meeting occurs before the end of the school year.[126]

When the Early Intervention Agency provides notification to Grand Prairie ISD of a potentially eligible child fewer than 90 days before the student's 3rd birthday, the Early Intervention Agency must provide a written explanation to the district stating the reason for the delay. The Early Childhood Assessment Team is an appropriate contact to receive such notice at ecat@gpisd.org or 972-522-3152. If notification is given between 45-89 days before the student's 3rd birthday, he Early Childhood Assessment Team shall ensure that eligibility is determined as soon as possible.

If a student with a disability was served under IDEA Part C via an *IFSP*, the student's IFSP may serve as the IEP of a child with a disability aged 3 through 5 (or, at the discretion of the state educational agency, a 2-year-old child with a disability who will turn age 3 during the school year), if the IFSP was developed in accordance with ARD committee procedures, is consistent with state policy, and agreed to by Grand Prairie ISD and the student's parents or guardians.[127]

If a student's IFSP was incorrectly developed by the Early Intervention Agency and Grand Prairie ISD and the parent or guardian agree to use the IFSP in lieu of an IEP, Grand Prairie ISD shall modify the IFSP so that it meets the requirements for an IEP.[128]

While IDEA Part B requires coordination to assure the continuity of services, it does not compel Grand Prairie ISD to provide all the same services in an IEP that were in a student's IFSP.

Are there limitations on the right to FAPE?

If the parent of a student enrolled in Grand Prairie ISD or is seeking to be enrolled in the Grand Prairie does not provide consent for the student's full individual and initial evaluation, or the parent fails to respond to a request to provide consent, Grand Prairie ISD may, but is not required to, pursue the initial evaluation of the child by utilizing the procedural safeguards under IDEA. Grand Prairie ISD will use reasonable efforts to obtain parental consent. Grand Prairie ISD will also document its efforts to obtain parental consent and maintain such documentation in the student's special education file. The level of effort shall be appropriate to the situation. The actions of Grand

[125] 34 C.F.R. § 300.101
[126] ***Early Childhood Transition FAQs*** (OSEP 2009)
[127] 34 C.F.R. § 300.323 (b)(1); 20 USC § 1414 (d)(2)
[128] 34 C.F.R. § 300.323 (b); U.S. Department of Education, 71 Fed. Reg. 46679 (2006)

Prairie ISD when seeking parental consent will reflect genuine effort and will include more than one effort or means. If the parent or guardian does not provide consent for the student's full individual and initial evaluation after the district has requested and sought to obtain such consent, the district does not violate its *Child Find* and FAPE obligations to the student, if the district declines to pursue the evaluation under these circumstances by requesting a due process hearing to override the parent's lack of consent. [129]

The district shall obtain informed consent from the parent or guardian of a student before the initial provision of special education and related services to the student. Grand Prairie ISD will not construe consent for initial evaluation as consent for initial provision of special education and related services. The ARD Committee Member designee shall make reasonable efforts to obtain informed consent from the parent or guardian for the initial provision of special education and related services; however, if the parent or guardian fails to respond to a request for, or refuses to consent to, the initial provision of special education and related services, Grand Prairie ISD cannot seek to override the parent's refusal to consent to the initial provision of special education and related services to the student. If the parent does not provide informed written consent for the initial provision of special education and related services, Grand Prairie ISD will not be considered to be in violation of the requirement to make FAPE available to the student because of the failure to provide the student with the special education and related services for which the parent refuses to or fails to provide consent. Grand Prairie ISD is also not required to convene an ARD committee meeting or develop an IEP for the student.[130]

If, at any time subsequent to the initial provision of special education and related services, the parent or guardian of a student revokes consent in writing for the continued provision of special education and related services, Grand Prairie ISD:

- may not continue to provide special education and related services to the student, but shall provide **Prior Written Notice, including TEA's *Notice of Procedural Safeguards,* *before*** ceasing the provision of special education and related services;

- may not use the dispute resolution procedures in IDEA in order to obtain agreement or a ruling that the services may be provided to the student;

- will not be considered to be in violation of the requirement to make FAPE available to the student because of the failure to provide the student with further special education and related services; and

- is not required to convene an ARD committee meeting or develop an IEP for further provision of special education and related services.[131]

[129] 34 C.F.R. § 300.300(a)(3)
[130] 34 C.F.R. § 300.300(b)(3)
[131] 34 C.F.R. § 300.300(b)(4)

Grand Prairie ISD will request an ARD Committee meeting with all parents/guardians or adult students when a request to revoke consent for the continued provision of special education and related services is received. GPISD will ensure the parent/guardian or adult student is aware of all implications of this decision and document it by providing prior written notice. The request to meet is voluntary.

Unless a parent or guardian has enrolled a student in private school as described in Section 3.6, above, that student's enrollment in a private school relieves Grand Prairie ISD of any responsibility for the provision of a FAPE, but the student may be considered for proportionate share services.[132] Likewise, students attending a homeschool program are not entitled to FAPE but may be considered for proportionate share services. TEA, and therefore Grand Prairie ISD, does not regulate, index, monitor, approve, register, or accredit the programs available to parents who choose to home school. This is consistent with the Texas Supreme Court decision rendered in *Texas Education Agency v. Leeper*.[133]

How does the district provide FAPE via virtual or remote instruction?

In accordance with **guidance from the TEA**, each student's Campus Administrator is encouraged to offer to convene ARD committee meetings to develop emergency contingency plans as part of a student's IEP that provides for virtual or other remote services and instruction during periods of cessation of normal school operations in response to a natural disaster, pandemic and/or other public health and safety crisis in accordance with federal, state and local authorities. A student's Campus Administrator may also propose that a student's ARD committee and the parent(s) or guardian(s) agree to modify a student's IEP to include a separate schedule of related services and accommodations that will be followed during periods of remote or virtual instruction. Each ARD Committee Member designee, together with input from the parent or guardian and the student's ARD committee, may choose to use the model ***Special Education Emergency Contingency Plan*** developed by the **TEA** or other plan as determined by the Grand Prairie.

According to nonbinding guidance from **OSEP on September 28, 2020**, ARD committees should consider—

- "how a student's IEP will be implemented with traditional in-person instruction
- how services also could be provided through remote/distance instruction if circumstances require a change to distance learning or a hybrid model."[134]

When ARD committees make these determinations, the ARD committee, together with the parent or guardian, may also consider:

- alternate available instructional methodologies or delivery;

[132] 19 TEX. ADMIN. CODE § 89.1096
[133] *Texas Education Agency v. Leeper,* 893 S.W.2d 432 (Tex. 1994)
[134] OSEP. ***Part B Implementation of IDEA Provision of Services in the Current COVID-19 Environment Q&A Document*.** September 28, 2020.

- online instruction, teleconference, direct instruction via telephone or video conferencing; and

- consultative services to the parent, if feasible and appropriate.[135]

The Coordinator of Assessment and Related Services will investigate all appropriate assessment instruments and tools to determine if some can be administered or completed remotely during the natural disaster, pandemic and/or other public health and safety crisis, provided that evaluation of the student is based on personal observation (whether in person or through tele- or video conferencing).

The Coordinator of Assessment and Related Services may coordinate with the developers of their current assessment instruments to determine if the instruments can be administered or completed remotely, without significantly impacting the validity and reliability of the results. Tests and other evaluation materials must be used for the purposes for which the assessments or measures are valid and reliable and must be administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the assessments.[136]

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

- Training materials
- ARD committee reports
- ARD committee meeting invitations and notices
- The results of the student's initial or most recent evaluation; and the present academic, developmental, and functional needs of the student.
- Assessment data presented for considered by the ARD committee, including both state and district-wide assessment results, as well as other relevant information from the campus.
- Privately obtained assessments provided by the student's parent or guardian
- Forms demonstrating the district's request for consent for disclosure between the campus and private service providers
- Formal and/or informal evaluations provided by the district or the student's parents or guardians in connection with consideration of Extended School Year eligibility

[135] *Id.*
[136] 34 C.F.R. § 300.304(c)(l)(iii)-(v)

GRAND PRAIRIE INDEPENDENT SCHOOL DISTRICT
SPECIAL EDUCATION OPERATING PROCEDURES:
ADMISSION, REVIEW, & DISMISSAL COMMITTEE MEETING

How is a student's IEP developed?

For each eligible student with a disability, the district shall establish an ARD committee.[137] Each student's ARD committee shall include the following participants:[138]

- a parent or adult student; [139]

- a general education teacher of the student if the student is or may be participating in the general education environment.[140] The student's general education teacher, shall, to the extent appropriate, participate in the development of the student's IEP, including the determination of appropriate positive behavioral interventions and supports and other strategies for the child, supplementary aids and services, program modifications, and support for school personnel;

- a special education teacher of the student. The special education teacher or provider who is a member of the student's ARD committee should be the person who is responsible for implementing the IEP. For example, if the student's disability is a speech impairment, the special education teacher or special education provider could be the speech language pathologist; [141]

- a representative of the district who is qualified to provide, or supervise the provision of, specially designed instruction and is knowledgeable about the general education curriculum and about the availability of district resources. The district's representative may be the Executive Director of Special Education or designee or a campus administrator acting on behalf of the district. The choice of the representative is at the discretion of the district, so long as the Grand Prairie 's representative meets these criteria;[142]

    - Campus Administrator Interns will not serve as a representative of the district established ARD Committee.

- an individual who can interpret the instructional implications of evaluation results, such as a Licensed Specialist in School Psychology (LSSP) or an Educational Diagnostician;

[137] 19 TEX. ADMIN. CODE § 89.1050(a)
[138] 34 C.F.R. § 300.321 (a); 19 TEX. ADMIN. CODE § 89.1050(c)
[139] 34 C.F.R. § 300.327
[140] U.S. Dept. of Education, 71 Fed. Reg. 46669 (August 14, 2006) ("[i]t would be inappropriate to require that individuals with specific professional knowledge or qualifications attend all IEP Team meetings. These decisions should be made on a case-by-case basis in light of the needs of a particular child").
[141] U.S. Dept. of Education, 71 Fed. Reg. 46669 (August 14, 2006)
[142] U.S. Dept. of Education, 71 Fed. Reg. 46670 (August 14, 2006)

- at the discretion of the parent, guardian or the district, other individuals who have knowledge or special expertise regarding the student, including related services personnel as appropriate; and

- whenever appropriate, the student.

The ARD committee shall also include the following additional participants, as appropriate:

- with the consent of a parent, guardian or a student who has reached the age of majority, a representative of any participating agency likely to be responsible for providing or paying for transition services. The ARD Committee Member designee, to the extent practicable under the circumstances, shall document efforts to obtain parental consent for the participation of an individual from the representative of any participating agency prior to or at the beginning of a student's ARD committee meeting wherein transition services will be discussed;

- a representative from the district's Career and Technical Education (CTE) when the student's ARD committee is considering placement of a student in CTE;

- if the student is identified as an emergent bilingual student, a professional staff member who is on the district's Language Proficiency Assessment Committee in accordance with Grand Prairie ISD's Policy EHBE(Legal);

- if the student is a student with a suspected or documented visual impairment, a teacher who is certified in the education of students with visual impairments;
- if the student is a student who is suspected to be or is documented to be deaf or hard of hearing the student's Teacher of the Deaf and Hard of Hearing; and

- if the student is a student with suspected or documented deaf-blindness, a teacher who is certified in the education of students with visual impairments and a teacher who is certified in the education of students who are deaf or hard of hearing.[143]

Required members must be present for the ARD committee meeting unless properly excused by the parent or guardian and the district. IDEA requires different procedures for different types of excusals, including differentiating between circumstances in which parental consent is required and when an agreement is required to excuse a mandatory ARD committee member from attending an ARD committee meeting. Therefore, Grand Prairie ISD has different procedures in place for the different types of excusals.[144] The two types of excusals triggering the excusal requirements are: (1) when a required ARD committee member's area of the curriculum or expertise is not being modified or discussed; and (2) when a required ARD committee member's area of the curriculum or expertise is being modified or discussed.

[143] *Id.*
[144] US Department of Education, 71 Fed. Reg. 46673 (August 14, 2006)

With the first type of excusal, parent or guardian and district agreement is required; however, Grand Prairie ISD is given wide latitude about the content of the agreement to excuse a required ARD committee member from the meeting.[145] In general, GPISD does not provide excusals, however, does under some circumstances allow for general education teachers to be excused from ARD committee meetings when a student receives instruction solely on an alternative curriculum. Grand Prairie ISD does not utilize the second type of excusal, in which parent or guardian consent is also required, and the member must submit in writing, to the parent or guardian and the ARD committee, input into the development of the IEP prior to the meeting. Grand Prairie ISD requires all mandatory ARD committee members to attend an ARD committee meeting in which the member's area of the curriculum or expertise is being modified or discussed.

In Grand Prairie ISD, Speech and Related Service providers are required to attend all initial ARD committee meetings, and ARD committee meetings in which changes are being discussed in their area of expertise that may impact the students schedule of services or instructional setting.

The parent or guardian must also be informed that if the parent does not consent, the ARD committee meeting must be held with that ARD committee member in attendance.[146] The ARD Committee Member designee shall document all ARD committee meeting participants, including any member who is excused prior to or during the meeting, and shall verify that the excusal procedures have been followed.

PRACTICE GUIDE—If a parent brings an attorney to an ARD committee meeting without notice to the District, the ARD committee may reschedule the ARD committee meeting to a time and date that the District's counsel may attend the meeting in-person or by virtual means.

[147]

Within 30 calendar days from the date of the completion of the student's initial special education evaluation report, the student's ARD committee shall make its decisions regarding the student's initial eligibility, and, if appropriate, her or his individualized education program (IEP) and placement.[148]

At a duly constituted ARD committee meeting *that is conducted after at least 5 school days-notice to the student's parent or guardian*, the student's ARD committee, including the student's parent or guardian, shall develop an IEP, consistent with **the district's FAPE Composite Operating Procedure**, by considering—[149]

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[145] *Id.*

[146] *Id.*

[147] OSEP's ***Letter to Andel*** (February 17, 2016)("[i]t would be permissible for the public agency to reschedule the meeting to another date and time if the parent agrees so long as the postponement does not result in a delay or denial of a free appropriate public education to the child").

[148] 19 TEX. ADMIN. CODE § 89.1011(d)

[149] 34 C.F.R. § 300.324(a)-(b)

- the student's strengths; the concerns of the parents or guardians for enhancing the education of the student; the results of the student's initial or most recent evaluation; and the present academic, developmental, and functional needs of the student;

- in the case of a student whose behavior impedes the student's learning or that of others, the use of positive behavioral interventions and supports, and other strategies to address that behavior. Further, if a BIP is included as part of a student's IEP, the Campus Administrator or ARD Committee Member designee shall ensure that the ARD committee reviews the BIP at least annually and more frequently if appropriate to address the safety of the student or others, or changes in the student's circumstances that may impact the student's behavior.[150] Circumstances that may impact the student's behavior may include but are not limited to: a change of placement to a different educational setting; an increase or persistence in disciplinary actions for similar types of behavior; a pattern of unexcused absences; or unauthorized unsupervised departure from an educational setting.[151]

- the language needs of a student with emergent bilingual abilities as those needs relate to the student's IEP;

- providing for instruction in Braille and the use of Braille unless the ARD committee determines, after an evaluation of the student's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the student's future needs for instruction in Braille or the use of Braille), consistent with **the district's Evaluation Procedure Operating Procedure**, that instruction in Braille or the use of Braille is not appropriate for the student;

- the communication needs of the student, including, for a student who is deaf or hard of hearing, the student's 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 student's language and communication mode; and

- the student's need for assistive technology devices and services.

How does the district develop an IEP for a newly enrolled student who had an IEP from another public school?

- **Students who enroll during the summer.** When a student with a disability has an IEP in place from a previous in or out-of-state school district and enrolls in Grand Prairie ISD during the summer are no longer under a different process than other school year transfer students. The requirement to adopt and implement an IEP before the first day of school has been removed. Follow the timelines at 19 TAC §89.1055(s) for in-state and out-of-state transfer students.[152]

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[150] Tex. Ed. Code § 29.005(h); 19 TAC § 89.1055(g)

[151] *Id.*

[152] 19 TEX. ADMIN. CODE 89.1050(s)

- **Students who enroll during the school year with an IEP in effect from another public school in Texas.** When a student transfers to Grand Prairie ISD from another public school in Texas, in the same school year and until it is verified, through the districts receipt of a copy of the student's IEP that the student was receiving special education and related services in the previous district, Grand Prairie ISD will consult with the student's parents and previous school district to provide FAPE, including services comparable to those described in the child's IEP from the previous public school.[153] No later than 30 school days from the date the student is verified as being a student eligible for special education services the Campus Administrator and ARD Committee Member designee shall ensure that the ARD committee is convened to adopt the IEP from the previous public school or develops, adopts and implements a new IEP consistent with **the Operating Procedure,** below.[154]

- **Students who enroll during the school year with an IEP in effect from another public school outside of Texas.** When a student transfers to Grand Prairie ISD from a public school district in a state other than Texas, in the same school year and until it is verified, through the districts receipt of a copy of the student's IEP that the student was receiving special education and related services in the previous district, Grand Prairie ISD will consult with the student's parents and previous school district to provide FAPE, including services comparable to those described in the child's IEP from the previous public school.[155]

  Grand Prairie ISD will determine whether an evaluation is necessary consistent with **the Grand Prairie's Child Find Duty and Evaluation Procedure Operating Procedures**.[156] [157] If Grand Prairie ISD determines that an evaluation is not necessary, Grand Prairie ISD will ensure that an ARD committee is convened to develop, adopt and implement a new IEP within 20 school days from the date the student is verified as being a student eligible for special education services.[158] [159] If an evaluation is determined necessary, it is considered a full individual and initial evaluation and must be completed consistent with **the Grand Prairie's Evaluation Procedure Operating Procedure**.[160] Grand Prairie ISD will ensure that an ARD committee is convened to develop, adopt and implement a new IEP within 30 calendar days from the date of the completion of the evaluation report.[161]

  For students who transfer during the summer or school year and Grand Prairie ISD is unable to verify that the student was receiving special education services in the previous school district, or the services described in the child's IEP, Grand Prairie ISD will obtain

[153] 34 C.F.R. § 300.3232(e)
[154] 19 TEX. ADMIN. CODE 89.1050(j)(1)
[155] 34 C.F.R. § 300.323(f)
[156] 34 C.F.R. § 300.323(f)(1)
[157] 19 TEX. ADMIN. CODE § 89.1050(j)(2)
[158] 34 C.F.R. § 300.323(f)(2)
[159] 19 TEX. ADMIN. CODE § 89.1050(j)(2)
[160] 19 TEX. ADMIN. CODE § 89.1050(j)(2)
[161] *Id.*

Consent for Disclosure of Confidential Information and request records from the transferring district to ensure the district provides comparable services.

For students who enroll during the school year with an IEP in effect from another public school **inside** of Texas, **in which the FIE and IEP are current** Grand Prairie ISD will convene an ARD to adopt and implement the IEP. A Transfer ARD is not required.

For students who enroll during the school year with an IEP in effect from another public school **inside** of Texas, **in which the FIE and/or the IEP are not current**, the district will take the following steps:

- schedule a transfer ARD within 7 school days of verification of services
- request consent for and complete a full and individual evaluation during the transfer period
- provide comparable services during the transfer period
- gather data during transfer period
- review FIE, adopt and implement a new IEP within 20 school days

For students who enroll during the school year with an IEP in effect from another public school **outside** of Texas, **in which the FIE and/or the IEP are not current**, the district will conduct a full and individual initial evaluation and take the following steps:

- schedule a transfer ARD within 7 school days of verification of services
- request consent for and complete a full and individual initial evaluation
- provide comparable services during the evaluation period
- gather data during evaluation period
- review FIIE, adopt and implement a new IEP within 45 school days

For students who enroll during the school year with an IEP in effect from another public school **outside** of Texas, **in which the FIE and IEP** are current Grand Prairie ISD may conduct a review of existing evaluation data and if the district determines that the FIE is consistent with IDEA and TEA requirements may use the FIE to establish eligibility, adopt, and implement an IEP without a Transfer ARD.

What is in a student's IEP?

- **Parent and Student Concerns.**[162] The Campus Administrator and ARD Committee Member designee shall ensure that the ARD committee elicits, considers, and documents the concerns of the parent or guardian for enhancing the education of her or his child. This may be reflected in a concise statement summarizing the educational, social, behavioral and/or emotional concerns of the parent or guardian and student, as appropriate.

- **Student Strengths and Relevant Evaluation Results**.[163] The Campus Administrator and ARD Committee Member designee shall ensure that the student's IEP identifies the

[162] 34 C.F.R. § 300.324(a)(1)(ii)
[163] 34 C.F.R. § 300.324(a)(1)(i), (iii)

assessment data considered by the ARD committee, including both state and district-wide assessment results, as well as relevant information from any campus. Privately obtained assessments provided by the student's parent or guardian shall be considered in any decision made with respect to the provision of FAPE to the student if it meets district criteria.[164] To the extent appropriate, the student's general education performance shall also be documented. This summary shall also include an explanation of how the student's disability or disabilities impact the student's progress and participation in the general education curriculum.[165]

PRACTICE GUIDE—Designated staff may follow up with the student's teachers to ensure that appropriate data will be prepared for the ARD Committee's consideration. The ARD Committee will ensure District evaluations are current. When a parent provides the District with a copy of a privately obtained evaluation, the designed staff member should prepare a consent for the release of confidential information form for the parent to sign.

- **Present Levels of Academic Achievement and Functional Performance (PLAAFP).**[166] The Campus Administrator and ARD Committee Member designee shall coordinate with the student's relevant ARD committee members, general and special education teachers, and/or related service providers, to ensure, through their preparation and participation in the ARD committee meeting and through the participation of the parent or guardian, that the student's IEP contains an accurate description of how the student is performing in the areas of educational and functional need. The statement of present levels in a student's IEP should convey sufficient information to provide clear levels of the student's current academic and functional performance.

PRACTICE GUIDE—Designated staff should inform teachers to bring appropriate data to support the development of the student's PLAAFP statements; current assessments should be considered and reviewed as appropriate, including but not limited to behavioral and academic data, such as benchmark assessments, teacher made tests, or other classroom based assessments. Teachers should also be encouraged to bring information and data describing how the student's disability impacts their functional performance in the areas of the curriculum. For example, in the area of reading, a teacher may make note of whether a student tracks text from left to right or holds reading material correctly.

[164] 34 C.F.R. § 300.502(c)(1)
[165] U.S. Dept. of Education, 71 Fed. Reg. 46577 (August 14, 2006)("§ 300.320(a)(2)(i) requires annual IEP goals to be designed to enable the child to be involved in and make progress in the general education curriculum")
[166] 34 C.F.R. § 300.320(a); 34 C.F.R. § 300.324(a)(1)(iv).

- **Measurable Annual Goals.** The Campus Administrator shall ensure that a student's IEP, as developed by the ARD committee includes:
    - a statement of measurable annual goals, including academic and functional goals.
    - timeframe, condition, behavior and criterion
    - goals designed to meet the student's needs that result from the student's disability to enable the student to be involved and make progress in the general education curriculum, and to meet each of the student's other educational needs that result from the student's disability.
    - for students who take alternate assessments aligned to alternate achievement standards, a description of benchmarks[31] and short-term objectives.[168]

PRACTICE GUIDE—The ARD committee may include goals, as appropriate, in any academic and nonacademic skills deficit area or areas of educational need identified by the student's ARD committee as part of a student's initial evaluation or any subsequent reevaluation. The ARD committee may ensure individualization by avoiding requiring all students with disabilities to master every TEK. Rather, the ARD committee may look to the evaluation and analyze how the student's disability impacts the student's rate of progress so that appropriately challenging goals may be developed. To help ensure the measurability of annual goals, the student's objectives and benchmarks may describe target behavior, conditions, and outcomes, as well as address the data collection strategy for measuring and documenting progress. The ARD committee may document the ARD committee's consideration of the services from the prior school year and the progress on the prior annual goals, objectives, and benchmarks when developing the student's current measurable annual goals, and consider and document the unique circumstances of the student's disability and past rate of progress when crafting the student's current IEP to develop appropriately challenging goals and objectives.

[169]

- **Supplementary Aids and Services.** The Campus Administrator shall ensure that the student's IEP, as developed by the ARD committee, includes a statement of needed supplementary aids and services (aids, services, and other supports) in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable the student to be educated with non-disabled students to the maximum extent appropriate.[170]

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[167] Tex. Ed. Code § 39.0263
[168] 34 C.F.R. § 300.320
[169] *E.R. v. Spring Branch Indep. Sch. Dist.*, 909 F.3d 754 (5th Cir. 2018).
[170] 34 C.F.R. § 300.42; 34 C.F.R. § 300.320

As part of supplementary aids and services, the IEP may include a list or a chart of all accommodations, behavioral or academic, determined by the student's ARD committee to be appropriate to meet the educational needs of the student in the general education setting.

PRACTICE GUIDE—In addition to the FIE, the ARD committee may reference assessment data which could include classroom observations to support the educational need for these services, as appropriate, and consider any relevant peer reviewed research as appropriate.

- **Behavioral Supports and Interventions**.[171] In the case of a student with a disability whose behavior impedes the student's own learning or that of others, the Campus Administrator or ARD Committee Member designee shall ensure that the student's ARD committee considers the use of positive behavioral interventions and supports, and other strategies, to address that behavior, and includes as part of the IEP any needed interventions, supports and strategies.[172] The student's ARD committee may determine that a behavior improvement plan or a behavioral intervention plan (BIP) is appropriate for a student. In such instances, the ARD committee determines the appropriate components of a BIP for the student's individual needs; there are no formal requirements for a BIP.[173] If the student's ARD committee determines that a BIP is appropriate, the BIP shall be included as part of the student's IEP and provided to each responsible teacher.[174] If a BIP is included as part of a student's IEP, the Campus Administrator or ARD Committee Member designee shall ensure that the ARD committee reviews the BIP at least annually and more frequently if appropriate to address the safety of the student or others, or changes in the student's circumstances that may impact the student's behavior.[175] Circumstances that may impact the student's behavior may include but are not limited to: a change of placement to a different educational setting; an increase or persistence in disciplinary actions for similar types of behavior; a pattern of unexcused absences; or unauthorized unsupervised departure from an educational setting.[176] Students will be subject to the Student Code of Conduct SCOC) consistent with students without disabilities, provided that any discipline under the SCOC shall be subject to the timelines and protections provided to a student with a disability under the IDEA, including holding an ARD Committee (MDR) meeting in connection with any "disciplinary change of placement" in accordance with the district's **FOF(Legal)** policy.

- **Specially Designed Instruction.**[177] The Campus Administrator shall ensure that the student's IEP as developed by the ARD committee includes a statement of needed special education services. Special education means "specially designed instruction, at no cost to

[171] 34 C.F.R. § 300.324(a)(2)(i)
[172] 34 C.F.R. § 300.324(a)(2)(i)
[173] *Alex R. v. Forestville Valley Community Unit School Grand Prairie* , 375 F.3d 603 (7th Cir. 2004)
[174] Tex. Ed. Code § 29.005(g)
[175] Tex. Ed. Code § 29.005(h); 19 TAC § 89.1055(g)

[176] *Id.*
[177] 34 C.F.R. § 300.320; 34 C.F.R. § 300.38(b)(3)

the parents, to meet the unique needs of a child with a disability."[178] Specially designed instruction means—

- "adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction-

  - To address the unique needs of the child that result from the child's disability; and
  - To ensure access of the child to *the general curriculum*, so that the child can meet *the educational standards within the jurisdiction of the public agency that apply to all children*." [179]

The general curriculum and educational standards that "apply to all children" in Grand Prairie ISD are the **Texas Essential Knowledge and Skills (TEKS)** as well as the district's Policy **EIE(Local)**.[180] The state-wide assessments that determine a student's progress toward meeting those educational standards are the **State of Texas Assessments of Academic Readiness (STAAR)**.

When developing specifically designed instruction, the student's ARD committee shall consider—

- How content, methodology and delivery of instruction will be modified from the general curriculum.

- Student performance criteria that accurately and appropriately evidences the modification of the content of the performance or assessment.

- **Program Modifications and Supports for School Personnel.** The Campus Administrator shall ensure that the student's IEP as developed by the ARD committee includes a statement of any needed program modifications or supports for campus and other district personnel that will be provided to enable the student: to advance appropriately toward attaining the annual goals in the student's IEP; to be involved in and make progress in the general education curriculum; to participate in extracurricular and other nonacademic activities[181]; and to be educated and participate with other students with disabilities and non-disabled students.[182]

PRACTICE GUIDE—The District may identify a person knowledgeable about specialized resources or trainings available for teachers to assist with this provision.

- **Related Services**. The Campus Administrator or ARD Committee Member designee shall ensure that the student's IEP as developed by the ARD committee includes any needed

[178] 34 C.F.R. §300.39(a)(1)
[179] 34 C.F.R. §300.39(b)(3)(emphasis added)
[180] The educational standards applicable to all children in the state of Texas are also outlined in Tex. Ed. Code § 28.002 and in 19 TEX. ADMIN. CODE § 74.1.
[181] 34 C.F.R. § 300.320(a)(4)(iii).
[182] 34 C.F.R. § 300.320

related services and the projected date for the beginning of the student's related services, together with the anticipated frequency, location, and duration of the student's related services. Related services means transportation and such developmental, corrective, and other supportive services ***as are required*** to assist a student with a disability to benefit from special education, and includes: speech-language pathology and audiology services; interpreting services; psychological services; physical and occupational therapy; recreation, including therapeutic recreation; early identification and assessment of disabilities in children; counseling services, including rehabilitation counseling; orientation and mobility services; and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training.[183] The Campus Administrator or ARD Committee Member designee shall further ensure that the IEP developed by the ARD committee includes sufficient information about the amount and type of services, so that it is clear to the parent, as well as to the student's related service providers and teachers, what level of support the student is to receive.[184]

- **Consideration of Strategies for Students with Autism.** The Campus Administrator or ARD Committee Member designee will ensure that for a student eligible for special education and related services as a student with Autism, the student's ARD committee considers the eleven strategies as described in the district's AUTISM IEP SUPPLEMENT, and includes as part of the IEP any strategies deemed necessary and appropriate for the student.[185] Those strategies deemed necessary and appropriate for the student may be incorporated throughout the IEP and/or described in a supplement.
- **Transition Services.** Beginning not later than the first IEP to be in effect when a student turns 14 and then updated annually, the Campus Administrator or ARD Committee Member designee shall ensure that the student's IEP as developed by the student's ARD committee includes:
    - appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and
    - the transition services (including courses of study) needed to assist the student in reaching those goals.[186]

The Campus Administrator shall further ensure that the student's ARD committee complies with Grand Prairie ISD's **Policy EHBAD(Legal)** ("Special Education Transition Services") regarding the procedures for including representatives from the **Texas Workforce Commission** on a student's ARD committee.

- **State and districtwide Assessment.** The Campus Administrator shall ensure that the student's IEP as developed by the ARD committee includes a statement of any individual appropriate accommodations that are necessary to measure the academic achievement and

[183] 34 C.F.R. § 300.34(a)
[184] U.S. Department of Education, 71 Fed. Reg. 46667(2006)
[185] 19 TEX. ADMIN. CODE § 89.1055(h)
[186] 34 C.F.R. § 300.320(b)(1); U.S. Department of Education, 71 Fed. Reg. 46668 (2006)

functional performance of the student on State and district-wide assessments. The ARD Committee will follow TEA guidelines when determining how a student will participate in the Texas Statewide Assessment Program, including how to select allowable accommodations, and in deciding whether a student with a disability meets the criteria to be assessed based on modified or alternate academic achievement standards. If the ARD committee determines that the student must take an alternate assessment instead of a particular regular State or districtwide assessment of student achievement, the Campus Administrator shall ensure as appropriate that the student's IEP as developed by the ARD committee includes a statement of why the student cannot participate in the regular assessment and why the particular alternate assessment selected is appropriate for the student.

- **Placement in the Least Restrictive Environment and the Justification for any Removal from General Education.**

- **Extended School Year (ESY) Services.** Whenever appropriate, the student's ARD committee shall determine whether the student requires an extended school year based on a regression-recoupment analysis. The need for ESY services shall be documented from formal and/or informal evaluations provided by the district or the student's parents or guardians. The documentation must demonstrate that in one or more critical areas addressed in the student's current IEP goals and objectives, the student has exhibited, or reasonably may be expected to exhibit, severe or substantial regression that cannot be recouped within a reasonable period of time. Severe or substantial regression means that the student has been, or will be, unable to maintain one or more acquired critical skills in the absence of ESY services.[187] It is important to remember that ARD committee determinations regarding ESY services are prospective in nature and not intended to make up for past denials of FAPE, if any.[188]

PRACTICE GUIDE—Designated special education staff may coordinate with the student's teacher(s) regarding collection of data regarding regression and recoupment at appropriate intervals.

- **Response to Bullying or Harassment.** Following an investigation of a student with a disability who is an alleged victim or perpetrator of bullying or harassment in violation of the district's **FFH(Local)** and **FFI(Local)** policies, an ARD committee meeting shall be held to review the conduct and to consider the impact, if any, of the bullying conduct on the provision of FAPE to the student.[189] The ARD Committee Member designee will provide notice of an ARD committee meeting in collaboration with the Campus Administrator.

[187] 19 TEX. ADMIN. CODE § 89.1065 ; *Alamo Heights ISD v. State Board of Ed.,* 790 F2d. 1153 (5th Cir. 1986)(severe or substantial regression required for ESY).

[188] OSEP. ***Part B Implementation of IDEA Provision of Services in the Current COVID-19 Environment Q&A Document*.** September 28, 2020.

[189] Tex. Ed. Code § 37.001(b-1)

PRACTICE GUIDE—Draft IEPs may be prepared prior to the ARD committee meeting at the discretion of the District. However, if the District elects to prepare a draft IEP prior to an ARD committee meeting including in response to a parent's written request for a draft, the District or designee shall clarify to the parent or guardian at the start of the ARD committee meeting and in any written correspondence with the parent providing the proposed draft IEP, that the draft IEP is the District's preliminary recommendations for review and revision with the parent at the ARD meeting. The District's decision to prepare or to decline to prepare a draft IEP at a parent's request is an administrative decision at the discretion of the District.

[190]

How does the district use Prior Written Notice (PWN) to inform parents about the decisions of a student's ARD committee?

Prior Written Notice (PWN) [191] shall include the following—

- A description of the action proposed or refused by the district.
- An explanation of why the district proposes or refuses to take an action.
- A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action.
- A statement that the parents of a student with a disability have protection under **TEA's *Notice of Procedural Safeguards.***
- Sources for parents to contact to obtain assistance in understanding the provisions of a Prior Written Notice, such as the **Education Service Center** or **TEA.**
- A description of other options that the ARD committee considered and the reasons why those options were rejected.
- A description of other factors that are relevant to the district's proposal or refusal.

Minutes or Deliberations. The written statement of an IEP shall document the decisions of the student's ARD committee with respect to issues discussed at each ARD committee meeting or IEP Amendment. While deliberations are not required, the ARD Committee Member designee shall ensure that the documents from an ARD committee meeting and the written statement of an IEP include the date of the meeting; the name, position, and signature of each member participating in

[190] US Department of Education, 71 Fed. Reg. 46678 (2006)("[w]e do not encourage public agencies to prepare a draft IEP prior to the IEP Team meeting, particularly if doing so would inhibit a full discussion of the child's needs. However, if a public agency develops a draft IEP prior to the IEP Team meetings, the agency should make it clear to the parents at the outset of the meeting that the services proposed by the agency are preliminary recommendations for review and discussion with the parents"; *White ex rel. White v. Ascension Parish School Board*, 343 F.3d 373 (5th Cir. 2003).

[191] 34 C.F.R. § 300.503(b)

the meeting; and an indication of whether the student's parents or guardians, the adult student, if applicable, and the administrator agreed or disagreed with the decisions of the committee.[192]

- **Documentation of the decisions of the student's ARD committee** may be done through preparation of ARD committee meeting deliberations or minutes. Prior Written Notice (PWN) shall be issued after each ARD committee meeting. A completed PWN would satisfy the district's obligation to document the decisions of a student's ARD committee. Grand Prairie ISD may use the IEP and the deliberations or minutes as part of the PWN so long as the document(s) the parent or guardian receives meet all the requirements of prior written notice.[193] The deliberations and/or the Prior Written Notice may be used to establish how the district is providing a FAPE to a student and collaborating with a parent or to document other factors relevant to a student's IEP.

PRACTICE GUIDE—When preparing the documents from the ARD committee meeting, the District collaborates with parents concerning the form and content of these documents; however, final decisions concerning the form and content of written documents is an administrative decision within the discretion of the District. There is no requirement to read the minutes aloud at the end of an ARD committee meeting or to project the documents at issue on a screen. If there is a dispute about the contents, the District may attach a *Parent Addendum* to the student's IEP. The *Parent Addendum* would not be binding on the District or the student's ARD committee; however, the *Parent Addendum* would become part of the student's educational records maintained by the District.

- IDEA does not require that the district include additional information in a student's IEP beyond what is expressly required under 20 U.S.C. § 1414; 34 C.F.R. § 300.320 (d)(1). By way of example and not limitation, a student's IEP does not need to include—
  - The identity of specific teachers or specific educational methodology.[194]
  - Extracurricular activities unrelated to the student's IEP.[195]
  - Services that are unrelated to the student's special education program.[196]

How does a student's ARD committee make a placement decision? [197]

To the maximum extent appropriate, students with disabilities must be educated with students who are nondisabled, and special classes, separate schooling, or other removal of students with

[192] Tex. Ed. Code § 29.005(b-1)
[193] U.S. Department of Education, 71 Fed. Reg. 46691 (August 14, 2006)
[194] *Letter to Hall*, 21 IDELR 58 (OSERS 1994).
[195] *Letter to Anonymous,* 17 IDELR 180 (OSEP 1990).
[196] *Letter to Montano*, 18 IDELR 1232 (OSEP 1992).
[197] *A.B. v. Clear Creek ISD*, 75 IDELR, 787 F.App'x 217 (5th Cir. 2019); *Daniel RR v. State Bd. of Ed.*, 874 F.2d 1036 (5th Cir. 1989); *J.H. v. Fort Bend Indep. Sch. Dist.*, 482 Fed. Appx. 915 (5th Cir. 2012)

disabilities from the general educational environment occurs only if the nature or severity of the disability is such that education in general education classes, with the use of supplementary aids and services, cannot be achieved satisfactorily.[198] Once a student's IEP is fully developed, the Campus Administrator shall ensure that the student's ARD committee considers, and the student's IEP documents, a placement determination based upon the individual needs of the particular student and the appropriate and least restrictive educational environment in which the IEP can be implemented. When making a placement decision, the district shall ensure that the ARD committee considers a continuum of alternative placements.

PRACTICE GUIDE—Location of a particular classroom or program is an administrative decision not within the purview of an ARD committee. Location is different from the determination of an individual student's special education placement. The location of classrooms and programs is an administrative decision within the discretion of the District. School district administration may centralize the location of certain programs to efficiently use the District's resources in the service of students with disabilities. [199]

What does it mean to have a continuum of placement options for students? The district shall make available a continuum of alternative placements listed in the definition of special education under 34 C.F.R. § 300.38 (e.g., instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions), and make provision for supplementary services to be provided in conjunction with placement in the general education setting to facilitate such placement.[200] The IEP, evaluations and other relevant data guide the ARD committee in making placement decisions.

PRACTICE GUIDE—The ARD committee may determine that additional evaluations, updated assessment or other information are needed to make a placement decision. Consider having the student's evaluation team review the continuum of placements within the District for potential recommendations to the student's ARD committee, as appropriate. The student's ARD committee shall ensure that the student is not removed from education in age-appropriate general education classrooms solely because of needed modifications in the general curriculum.

Before moving a student to a more restrictive environment[201], the student's ARD committee shall consider ---

- Has the district taken steps to accommodate the student with disabilities in general education?

- Were these efforts sufficient or token?

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[198] 34 C.F.R. § 300.114 (a)
[199] *White ex rel. White v. Ascension Parish School Board*, 343 F.3d 373 (5th Cir. 2003).
[200] 34 C.F.R. § 300.115(b); 34 C.F.R. § 300.115(b); 19 TEX. ADMIN CODE §89.1005
[201] 34 C.F.R. § 300.116(e)

- Will the student receive an educational benefit from general education?
- What will the student's overall educational experience be in the general education environment, balancing the benefits of general and special education?
- What effect does the student's presence have on the general education classroom environment? [202]

PRACTICE GUIDE—The ARD committee will take steps to accommodate the student in general education and may document attempted services and accommodations. The District is not required to provide every conceivable aid or service to assist the student. General education instructors are not required to devote all or most of their time to one student or to modify the general education program beyond recognition. Data may be collected to determine the student's overall educational experience in the general education environment. Should the student's presence be so disruptive in the general education classroom that the education of other students is significantly impaired, then the needs of the student with a disability cannot be met in that environment.

Residential Treatment Centers (RTCs) or private residential programs are included in the continuum of placements.[203] The district is not required to place a student in a private residential program unless such placement is necessary to provide special education and related services. In order for a residential placement to be appropriate under the IDEA, the placement must be (1) essential in order for the student to receive a meaningful educational benefit, and (2) primarily oriented toward enabling the student to obtain an education. The district is not required to bear the costs of private residential services that are primarily aimed at treating a student's medical difficulties or enabling the student to participate in non-educational activities. [204] [205]

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[202] *Daniel RR v. State Bd. of Ed.*, 874 F.2d 1036 (5th Cir. 1989)
[203] 34 C.F.R. § 300.115
[204] *Richardson ISD v. Michael Z*, 580 F.3d 286 (5th Cir. 2009); 34 C.F.R. § 300.104
[205] Tex. Ed. Code § 29.008; Tex. Ed. Code § 29.012; 19 TEX. ADMIN. CODE § 89.1092; 34 C.F.R. § 300.325(a)

PRACTICE GUIDE—The student's ARD committee will follow and ensure the criteria are met for any residential educational placement for a student with disabilities at the onset of any consideration for such a placement. Before a student's ARD committee places a student in a Residential Treatment Center, the District must initiate and conduct a meeting to develop an IEP placing the student at the private residential setting. A designee of the ARD committee will ensure that a representative of the private school or facility attends the meeting. If the representative cannot attend, the District will use other methods to ensure participation by the private school or facility, including individual or conference telephone calls. Initiating the RTC placement process with TEA is among the steps for ensuring the availability of RTC as option for an ARD committee's consideration. The Director of Special Education or designee may visit the proposed facility prior to any final decisions regarding placement and complete the RTC placement application process as an administrative action to verify whether placement in an RTC is a viable option considering the student's individual circumstances.

How does the district respond to a parent or guardian's request for private placement when there is a disagreement regarding FAPE?

If the parents or guardians of a student with a disability, who previously attended the district, enroll the student in a private preschool, elementary school, or secondary school without the consent of or referral by the district, a court or a hearing officer may require the district to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the district had not made FAPE available to the student in a timely manner prior to that enrollment, and that the private placement is appropriate. The cost of reimbursement may be reduced or denied:

- if, at the most recent ARD committee meeting that the parents or guardians attended prior to removal of the student from the district, the parents or guardian did not inform the ARD committee that they were rejecting the placement proposed by the district to provide FAPE to the student, including stating their concerns and their intent to enroll the student in a private school at public expense;

- if, at least 10 district business days (including any holidays that occur on a business day) prior to the removal of the student from the district , the parents or guardians did not give written notice to the district that they were withdrawing the student and seeking reimbursement from the district for the cost of the private school placement;

- if, prior to the parents or guardians' removal of the student from the district, the district informed the parents or guardians, through the notice requirements described in these Operating Procedures, of its intent to evaluate the student (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the student available for the evaluation; or

- if a hearing officer or judge finds that the parents acted unreasonably. [206]

PRACTICE GUIDE—The student's campus special education staff may consider the need to conduct a District evaluation; schedule an ARD committee meeting to consider revisions to the student's IEP to address the parents' concerns and ensure the availability of FAPE to the student; request information from the student's private school, and request from the parents any privately obtained evaluations.

What happens if an ARD committee meeting ends in disagreement?

All members of the student's ARD committee shall have the opportunity to participate in a collaborative manner when developing the student's IEP.[207] A decision of the ARD committee concerning the required elements of the student's IEP should be made by mutual agreement, if possible. No decision is made by majority vote. If a student's ARD committee cannot reach consensus, the ARD Committee Member designee shall provide the parents with Prior Written Notice of the ARD committee's proposals and/or refusals and the basis of the disagreement.

When mutual agreement about all required elements of the IEP is not achieved, the parent who disagrees shall be offered a **single opportunity** to recess and reconvene the ARD committee meeting. The period of time for reconvening the ARD committee meeting shall not exceed 10 school days unless the parties mutually agree otherwise. The ARD committee shall schedule the reconvened meeting at a mutually agreed upon time and place.[208]

- Should mutual agreement not be met, Grand Prairie offers an optional resolution process designed to resolve parent concerns, disputes, or contentious matters related to the Full and Individual Evaluation (FIE) and Individualized Education Program (IEP) developed for your student. The resolution process is designed to ensure that federal and state law, and local special education operating guidelines are adhered to, and that the application of these guidelines facilitate the educational progress of students with disabilities. The process is voluntary, free of charge, and does not take the place of procedural safeguards that are provided by or required by federal or state law for either the parent or school district. Specifically, the GPISD resolution process may not deny or delay a special education complaint, mediation, or due process hearing in accordance with federal or state law.

Process:

The resolution process involves the participation of a GPISD Special Education Department facilitator who will assist the ARD committee with concerns related to evaluation, IEP development, and IEP implementation. Facilitators are not a member of the ARD committee and have no decision-making authority. Facilitators must remain objective and impartial in the development of the IEP, and in decisions concerning evaluation. The resolution process and a

[206] *School Comm. of Burlington v. Department of Educ. of Mass.,* 471 U.S. 359, 369 (1985); *see also,* 34 C.F.R. 300.148(c)*; Forest Grove Sch. Dist. v. T.A.,* 557 U.S. 230, 129 S. Ct. 2484, 2496 (2009)
[207] 19 TEX. ADMIN. CODE § 89.1050(g)
[208] 19 TEX. ADMIN. CODE § 89.1050(g)(1)

request for a Facilitator should be initiated when the ARD committee is unable to reach mutual agreement about the required components of the IEP or concerns regarding the FIE and has agreed to recess and reconvene at a mutually agreeable time.

- A Facilitator will be assigned based on the nature of the disagreement by the Executive Director of Special Education or designee.

Facilitator Role:

- Review FIE, IEP, and other relevant documents related to area of concern(s) as requested by ARDC
- Guide discussion on area of concern with focus on resolution, consensus, and mutual agreement
- Ensure meaningful participation of all ARDC members
- Ensure the IEP is developed in a way that is reasonably calculated, provides meaningful educational benefit, and considers the least restrictive environment

Requesting a Facilitator:

- The ARD committee designee or parent must complete the FIE & IEP Resolution Request Form within 3 school days of the ARD committee meeting ending in disagreement

PRACTICE GUIDE—The ARD committee can recess a meeting for reasons other than disagreement. There is no mandate on time to return when the parties table for reasons other than reaching agreement on FAPE.

During the recess, the student's ARD committee members[209] shall consider alternatives for any disputed educational programming, gather additional data, prepare further documentation, and/or obtain additional resource persons who may assist in enabling the ARD committee to reach mutual agreement, if possible.[210] The 10-day recess is not required when the student's presence on the campus presents a danger of physical harm to the student or others or when the student has committed an expellable offense or an offense that may lead to placement in a DAEP.[211]

[209] 19 TEX. ADMIN. CODE § 89.1050(g)(2)

[210] *Id.*

[211] 19 TEX. ADMIN. CODE § 89.1050(g)(1)

PRACTICE GUIDE—The ARD committee may consider obtaining additional evaluation, retaining a consultant in an area of disagreement; offer the parent an opportunity to visit classrooms at issue; consider whether the issue of dispute could better be resolved administratively, such as personnel-related issues; consider training options; consider ARD facilitation and/or mediation to reach consensus; and ensure effective collaboration by reviewing rules of decorum and expectations for participation.

When mutual agreement is not reached, the ARD Committee Member designee shall ensure that a written statement of the basis for the disagreement is thoroughly documented. Following Prior Written Notice, the district will implement the IEP that it has determined to be appropriate for the student.[212]

PRACTICE GUIDE—The ARD committee does not have to secure parent agreement to implement the IEP with which the parent disagrees. The designated staff member will provide Prior Written Notice 5 school days prior to implementation; consider whether mediation or ARD facilitation is appropriate; and provide the parent with a copy of TEA's *Notice of Procedural Safeguards* (consider also—TEA's *Parent's Guide to the Admission, Review and Dismissal Process*). The ARD committee shall also offer the parent, who disagrees with the IEP implemented by the District, the option of writing a statement of disagreement.

[213]

When and how is a student's IEP updated?

In making changes to a student's IEP after the annual ARD committee meeting for a school year, a parent or guardian and the district may agree not to convene an ARD committee meeting for the purpose of making those changes, and instead may develop a written document to amend or modify the student's current IEP without a meeting. If changes are made to the student's IEP by IEP Amendment without a meeting, the Campus Administrator or ARD Committee Member designee shall ensure that the student's ARD committee and the individuals responsible for the implementation of the student's IEP are informed of those changes. The ARD Committee Member designee will provide the parent or guardian with Prior Written Notice of the amendments to the IEP.[214] Upon request, a parent or guardian shall be provided with a revised copy of the IEP with the amendments incorporated.[215]

Grand Prairie ISD only utilizes the IEP Amendment process without a meeting for the following purposes:

- changes to accommodations for instruction and district/state assessments

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[212] 19 TEX. ADMIN. CODE § 89.1050(g)(3)
[213] 19 TEX. ADMIN. CODE § 89.1050(g)(4) ; **TEA's *Notice of Procedural Safeguards*; *Parent's Guide to the Admission, Review and Dismissal Process***
[214] OSERS, ***Questions and Answers on Individualized Education Programs (IEPs), Evaluations, and Reevaluations***. Revised September 2011.
[215] 34 C.F.R. § 300.324(a)(6)

- transportation
- accelerated learning plan(s)

PRACTICE GUIDE—The District may consider using the IEP Amendment process to address changes to goals and objectives, accommodations, and supplementary aids and service. Whenever the District proposes to amend an IEP without a meeting, the District should ensure that the parent understands that the parent can choose not to agree, and instead have an IEP Team meeting. Changes in placement and manifestation determination reviews cannot be addressed via an IEP Amendment.

[216]

The student's ARD committee shall review and revise the student's IEP as follows:

- to periodically, but not less than annually, to determine whether the annual goals for the student are being achieved;

- to address any lack of expected progress toward the annual goals in the IEP and in the general education curriculum, if appropriate;
- to review the results of any reevaluation of the student or any information about the student provided to, or by, the parents or guardians, relevant to the student's program of special education and related services;
- to consider the student's anticipated needs and other matters, as appropriate;[217] and
- If a BIP is included as part of a student's IEP the ARD committee will review the BIP at least annually and more frequently if appropriate to address the safety of the student or others, or changes in the student's circumstances that may impact the student's behavior.[218] Circumstances that may impact the student's behavior may include but are not limited to: a change of placement to a different educational setting; an increase or persistence in disciplinary actions for similar types of behavior; a pattern of unexcused absences; or unauthorized unsupervised departure from an educational setting.[219]

What additional ARD committee responsibilities arise when the district provides written notification of the use of restraint?

For students who have a BIP, when the district provides written notification of a restraint as required by **the Grand Prairie 's Timeout and Restraint Operating Procedure**, the written notification will specify whether the BIP may need to be revised due to the behavior that prompted

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[216] US Department of Education, 71 Fed. Reg. 46685 (August 14, 2006).
[217] 34 C.F.R. § 300.324
[218] Tex. Ed. Code § 29.005(h); 19 TAC § 89.1055(g)

[219] *Id.*

the restraint.[220] If revision to the BIP is recommended, ARD Committee Member designee is responsible for scheduling the ARDC meeting to discuss any potential revisions if appropriate.[221]

For students who do not have a BIP, when the district provides written notification of a restraint as required by **the district's Timeout and Restraint Operating Procedure**, ARD Committee Member designee will share information with the parent on how to request an ARD committee meeting to discuss the possibility of an FBA and developing a plan for the student.[222]

How does the district determine compensatory services for students whose FIIE was delayed or whose IEP was interrupted, reduced, delayed, suspended, or discontinued during the 2019-2020 or 2020-2021 school years?

Grand Prairie ISD will ensure that the IEP for each student who was enrolled in the districts special education program during the 2019-2020 or 2020-2021 school year, includes a written supplement that indicates whether that student's FIIE was completed during the 2019-2020 or 2020-2021 school year, and if so, whether the report was completed by the date required by Tex. Ed. Code § 29.0052.[223] [224] Grand Prairie ISD will also, if applicable, indicate whether the student's initial IEP was developed by the date required by **the district's Evaluation Procedure Operating Procedure.**[225]

Grand Prairie ISD will also indicate whether the provision of special education services to that student under an IEP during the 2019-2020 or 2020-2021 school year was interrupted, reduced, delayed, suspended, or discontinued.[226]

Based on these or any other factors, the ARD committee will determine and document whether compensatory educational services are appropriate for the student.[227] [228]

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[220] 19 TAC Section 89.1053(e) (5) (K)(i)

[221] Id.

[222] 19 TAC Section 89.1053(e) (5) (K)(ii)

[223] Tex. Ed. Code § 29.0052(a)(1)

[224] Tex. Ed. Code § 29.0052(b)

[225] Tex. Ed. Code § 29.0052(a)(2)

[226] Tex. Ed. Code § 29.0052(a)(3)

[227] Tex. Ed. Code § 29.0052(a)(4)

[228] "Other considerations [when addressing the adverse impact of caused by COVID-19] could include, but are not limited to, revising the IEP to address (1) lost skills or a lack of expected progress toward attaining the child's annual IEP goals and in the general curriculum at the end of the 2020–2021 school year; (2) updated data (e.g., information gathered from formal and informal assessments, parent input) that reflect the child's present levels of academic achievement and functional performance following the extended time without face-to-face, in-person special education and related services; (3) all areas of need, whether or not commonly related to the child's disability category, or if the child may require different or other services to address new areas of need (e.g., behavioral, social, emotional, and mental health needs, needs that arose during the pandemic); and (4) implementing COVID-19 prevention measures such as wearing a face covering/mask or practicing social distancing to provide a safe and healthy school environment and safe participation in the community." *Return to School Roadmap:*

What are the district's obligations to children transitioning from IDEA Part C Early Intervention Services (EIS) to IDEA Part B Early Childhood Special Education (ECSE)?

Grand Prairie ISD coordinates with **Texas Health and Human Services Commission (THHSC)**[229] or its local designees—the Early Intervention Agency—to notify parents or guardians of children in the district who are at least 3 years of age but younger than 6 years of age and who are potentially eligible for enrollment in Grand Prairie ISD's IDEA Part B Early Childhood Special Education (ECSE) program of the availability of the program.[230] Additionally, at least 90 days before the 3rd birthday of a child with a disability under Part C EIS, who may be eligible for preschool special education and related services under Part B, the Early Intervention Agency—must notify the district that the child will shortly reach the age of eligibility for Grand Prairie ISD's ECSE program.[231] The Early Childhood Assessment Team is an appropriate contact to receive such notice at ecat@gpisd.org or 972-522-3152.

If a child is potentially eligible for Grand Prairie ISD's ECSE program, with family approval, a transition conference will be convened by the Early Intervention Agency, with an invitation to the district, not fewer than 90 days and not more than 9 months before the child's 3rd birthday, to discuss any potential special education and related services the child could receive from the district.

If the Early Intervention Agency determines that the child is eligible for **Early Intervention Services (EIS)** more than 45 but less than 90 days before the child's 3rd birthday and if that child may be eligible for ECSE services under Part B, the Early Intervention Agency, as soon as possible after determining the child's eligibility, must notify Grand Prairie ISD that the child on his/her 3rd birthday will reach the age of eligibility for the district's ECSE program.[232] The Early Childhood Assessment Team is an appropriate contact to receive such notice at ecat@gpisd.org or 972-522-3152.

The ARD Committee Member designee shall ensure that an IEP is in effect for an IDEA B eligible child with a disability who had previously received IDEA Part C services by the child's 3rd birthday while complying with the procedures in **the district's Evaluation Procedure Operating Procedure.** If a child's 3rd birthday occurs during the summer, the student's ARD committee shall determine the date when services will begin.[233]

If Grand Prairie ISD knows that a child served in Part C via an *Individualized Family Service Plan* (IFSP) developed by the Early Intervention Agency and referred to IDEA Part B will turn 3 over the summer and that appropriate Grand Prairie ISD personnel won't be available to conduct evaluations and hold ARD committee meetings during the summer, the Coordinator of Assessment

Development and Implementation of Individualized Education Programs In the Least Restrictive Environment Under the Individuals with Disabilities Education Act, OSERS, October 2021.

[229] 34 C.F.R. § 303.22
[230] Tex. Ed. Code § 29.009
[231] 34 C.F.R. § 303.209(b)(1)(i); ***Early Childhood Transition FAQs*** (OSEP 2009).
[232] 34 C.F.R. § 303.209 (b)(1)(ii).
[233] 34 C.F.R. § 300.101

and Relates Services or designee shall ensure that required activities such as conducting the evaluations, and convening the ARD committee meeting occurs before the end of the school year.[234]

When the Early Intervention Agency provides notification to Grand Prairie ISD of a potentially eligible child fewer than 90 days before the student's 3rd birthday, the Early Intervention Agency must provide a written explanation to the district stating the reason for the delay. The Early Childhood Assessment Team is an appropriate contact to receive such notice at ecat@gpisd.org or 972-522-3152. If notification is given between 45-89 days before the student's 3rd birthday, he Early Childhood Assessment Team shall ensure that eligibility is determined as soon as possible. If a student with a disability was served under IDEA Part C via an *IFSP*, the student's IFSP may serve as the IEP of a child with a disability aged 3 through 5 (or, at the discretion of the state educational agency, a 2-year-old child with a disability who will turn age 3 during the school year), if the IFSP was developed in accordance with ARD committee procedures, is consistent with state policy, and agreed to by Grand Prairie ISD and the student's parents or guardians.[235]

If a student's IFSP was incorrectly developed by the Early Intervention Agency and Grand Prairie ISD and the parent or guardian agree to use the IFSP in lieu of an IEP, Grand Prairie ISD shall modify the IFSP so that it meets the requirements for an IEP.[236]

While IDEA Part B requires coordination to assure the continuity of services, it does not compel Grand Prairie ISD to provide all the same services in an IEP that were in a student's IFSP.

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

- Training materials
- ARD committee reports
- ARD committee meeting invitations and notices
- The results of the student's initial or most recent evaluation; and the present academic, developmental, and functional needs of the student.
- Assessment data presented for considered by the ARD committee, including both state and district-wide assessment results, as well as other relevant information from the campus.
- Privately obtained assessments provided by the student's parent or guardian
- Forms demonstrating the district's request for consent for disclosure between the campus and private service providers
- Formal and/or informal evaluations provided by the district or the student's parents or guardians in connection with consideration of Extended School Year eligibility.

[234] ***Early Childhood Transition FAQs*** (OSEP 2009)
[235] 34 C.F.R. § 300.323 (b)(1); 20 USC § 1414 (d)(2)
[236] 34 C.F.R. § 300.323 (b); U.S. Department of Education, 71 Fed. Reg. 46679 (2006)

GRAND PRAIRIE INDEPENDENT SCHOOL DISTRICT SPECIAL EDUCATION OPERATING PROCEDURES: PARENT PARTICIPATION

How does the district ensure parents or guardians are included in the IEP development process?

Each ARD committee shall endeavor to ensure that a student's parent or guardian is included in the process of developing a student's IEP.[237]

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

[238]

Grand Prairie ISD requires a draft of IEP goals and objectives be shared with a student's parent or guardian no later than 5 days prior to the scheduled ARD committee meetings.
Grand Prairie ISD, when considering initial placement after the completion of a Full and Individual Initial Evaluation (FIIE) requires that the Assessment and Related Services personnel conducting the evaluation review the evaluation with the parent or guardian no later than 5 days prior to the scheduled ARD committee meetings.

Each student's ARD Committee Member designee shall—

- **Provide parents or guardians notice of all ARD committee meetings no later than 5 school days prior to each meeting** (unless the parents or guardians agree to a shorter timeframe).[239] In addition to the date and time of the meeting, each meeting notice shall include a list of all meeting participants known at the time the notice is provided to the parent or guardian; a brief description of the purpose of the meeting; and the mode of participation (e.g., in-person or via tele- or video conferencing). A meeting for which parental notice is required does not include informal or unscheduled conversations involving district personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. A meeting also does not include preparatory activities that district personnel engage in to develop a proposal or response to a parent or guardian proposal that will be discussed at a later ARD committee meeting.[240]

  Grand Prairie ISD will provide written Notice of ARD no later than 10 school days prior to the scheduled ARD committee meeting.

[237] *Buser v. Corpus Christi Indep. Sch. Dist.*, 51 F.3d 490 (5th Cir. 1995); *White v. Ascension Parish*, 343 F.3d 373 (5th Cir. 2013) (IDEA requirements with respect to parental input are met "[a]bsent any evidence of bad faith exclusion of the parents or refusal to listen to or consider" parental input); 19 TEX. ADMIN. CODE § 89.1050(e); 34 C.F.R. § 300.503.
[238] *Rockwall ISD v. M.C.*, 816 F.3d 329 (5th Cir. 2016); *Cypress-Fairbanks Indep. Sch. Dist. v. Michael F.*, 118 F.3d 245 (5th Cir.1997).
[239] 19 TEX. ADMIN. CODE § 89.1050(d)
[240] 34 C.F.R. § 300.501(b)(3)

- **Schedule ARD committee meetings with parents or guardians at a mutually agreed time and place**.[241]

  Grand Prairie ISD will provide written Notice of ARD with three choices of dates and time of the ARD committee meeting, no later than 10 school days prior to the scheduled ARD committee meeting. The Notice of ARD includes the following options: (1) Agree with proposed date and time and will attend, (2) cannot attend at the suggested time, need to reschedule, or (3) will not attend, proceed without me and I want to be notified of the results

  If the parent or guardian selects options 1 or 3 the ARD committee meeting will proceed as scheduled on the first date indicated on the Notice of ARD.

  If the parent or guardian selects options 2, the ARD Committee Member designee will contact the parent to coordinate a mutually agreeable date and time.

  If there is no response to the Notice of ARD, the ARD Committee Member designee will provide a second notice, and/or a third notice as necessary to schedule the ARD committee meeting at a mutually agreeable time. However, if the district receives no response, the district will proceed with the ARD committee meeting as scheduled.

  Grand Prairie ISD will make every effort to convene an ARD committee meeting at a mutually agreeable time and place, however there is no requirement that the district convene an ARD committee meeting outside of regular district business hours.

- **Document all efforts to schedule an ARD committee meeting with parents or guardians.** If no parent or guardian can participate in an ARD committee meeting, the ARD Committee Member designee shall offer a parent or guardian the opportunity to participate in the meeting by tele- or video conferencing or other virtual means. The district may convene an ARD committee meeting without the involvement of a parent or guardian if the ARD Committee Member designee is unable to convince the parents or guardians that they should attend. *Document and keep a record of attempts to arrange a mutually agreed upon time and place for the ARD committee meeting*.[242] These attempts may include—

  - Detailed records of telephone calls made or attempted and the results of those calls.

  - Copies of correspondence or e-mails sent to the parents or guardians and any responses received.

  - Detailed records of visits made to the parent or guardian's home or place of employment and the results of those visits.[243]

[241] 34 C.F.R. § 300.322(a)(2)
[242] 34 C.F.R. § 300.501(c)
[243] 34 C.F.R. § 300.322(d)

- If requested. Grand Prairie ISD agrees to schedule another ARD committee meeting to review the ARD committee meeting decisions in which the parent or guardian was not in attendance.

- **Ensure and document receipt by the parent or guardian of a copy of the procedural safeguards notice** at least once a year, and also [244]

  - Upon initial referral or parental request for evaluation.[245]

  - Upon the first occurrence of the filing of a due process hearing complaint.[246]

  - Following any disciplinary action requiring a manifestation determination review.[247]

  - At any other time on reasonable request of the student's parent or guardian.[248]

- **Ensure that any education records, as defined by the district's FL(LOCAL) policy, requested by a parent or guardian of a student with a disability may be inspected and reviewed** by a parent or guardian or the parent or guardian's representative (with informed written consent of the parent or guardian)—

  - Before any ARD committee meeting.

  - Before any mediation session or resolution session that is part of a special education due process hearing request.

  - Without unnecessary delay but in no case more than 45 days.[249]

Copies of educational records may be provided in accordance with the district's **FL(LOCAL)** policy. Fees may be charged for those copies so long as the fee does not effectively prevent the parent or guardian from exercising their right to inspect and review the requested records.[250]

[244] 89 34 C.F.R. 300.504(a)
[245] 90 34 C.F.R. 300.504(a)(1)
[246] 91 34 C.F.R. 300.504(a)(2)
[247] 92 34 C.F.R. 300.504(a)(3)
[248] 93 34 C.F.R. 300.504(a)(4)
[249] 34 C.F.R. § 300.613
[250] 34 C.F.R. § 300.617 (The GRAND PRAIRIE may not charge a fee to search for or to retrieve the educational records.)

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

[251]

If a parent or guardian makes a written request for an ARD committee meeting, the district shall schedule the meeting as soon as appropriate under the circumstances, or within 5 school days provide a brief written explanation of why the district refuses to schedule the requested ARD committee meeting.[252] When a parent or guardian makes a written request for an ARD committee meeting, the Executive Director of Special Education or designee will provide the written explanation above or coordinate with the student's parents, guardians, teachers and related service providers to schedule the ARD committee meeting.

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

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

If the parent or guardian is one with emergent bilingual abilities and the parent or guardian's native language is Spanish, the district will provide notices to the parent or guardian in Spanish. If the parent or guardian's native language is other than English or Spanish, the district will make a good faith effort to provide notices to the parent or guardians in the parent or guardian's native language unless it is clearly not feasible to do so. The term "native language" means the language normally

[251] "IDEA does not address the use of audio or video recording devices at IEP meetings, and no other Federal statute either authorizes or prohibits the recording of an IEP meeting by either a parent or a school official. Therefore, [the Grand Prairie ISD has the option to require, prohibit, limit or otherwise regulate the use of recording devices at IEP meetings." **OSEP 2003**.

[252] 19 TEX. ADMIN. CODE § 89.1050(e); Tex. Ed. Code § 29.005(c)

used by the parent or guardian.[253] *Emergent Bilingual* is equivalent to *English Learner* (EL) in the special education context.[254]

If the parent or guardian is one with emergent bilingual abilities and the parent or guardian's native language is Spanish, the district will provide at any ARD committee meeting a person who is able to interpret for the parent or guardian. If a parent or guardian's native language is other than Spanish, the district will make a good faith effort to obtain an interpreter or translator to assist the parent or guardian.[255] The Campus Administrator shall coordinate with the student's ARD Committee Member designee to ensure that the parents or guardians of students with a disability whose native language is other than English are able to participate in the ARD committee meeting with the assistance of translators and interpreters, as appropriate. The ARD Committee Member designee shall document these efforts in ARD committee documents and preserve in the student's special education file all written correspondence or communications logs with parents or guardians and other individuals regarding the district's efforts.

If the student's parent or guardian is unable to speak English and the parent or guardian's native language is Spanish, the district shall provide a written copy or audio recording of the student's IEP translated into Spanish.[256] If the parent or guardian's native language is a language other than Spanish, the district shall make a good faith effort to provide the parent with a written copy or audio recording of the student's IEP translated into the parent or guardian's native language. When translating a student's IEP, all of the text in the student's IEP shall be accurately translated, resulting in a comparable rendition of the IEP in English and not a partial translation or summary.[257]

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

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

[253] 20 U.S.C. § 1401(20)
[254] 34 C.F.R. § 300.27
[255] 34 C.F.R. § 300.322(e)
[256] 19 TEX. ADMIN. CODE § 89.1050(i); Tex. Ed. Code § 29.005(d)
[257] 19 TEX. ADMIN. CODE § 89.1050(i)(1)

GRAND PRAIRIE INDEPENDENT SCHOOL DISTRICT SPECIAL EDUCATION OPERATING PROCEDURES: LEAST RESTRICTIVE ENVIRONMENT

How does a student's ARD committee make a placement decision? [258]

To the maximum extent appropriate, students with disabilities must be educated with students who are nondisabled, and special classes, separate schooling, or other removal of students with disabilities from the general educational environment occurs only if the nature or severity of the disability is such that education in general education classes, with the use of supplementary aids and services, cannot be achieved satisfactorily.[259] Once a student's IEP is fully developed, the Campus Administrator shall ensure that the student's ARD committee considers, and the student's IEP documents, a placement determination based upon the individual needs of the particular student and the appropriate and least restrictive educational environment in which the IEP can be implemented. When making a placement decision, the Campus Administrator shall ensure that the ARD committee considers a continuum of alternative placements.

PRACTICE GUIDE—Location of a particular classroom or program is an administrative decision not within the purview of an ARD committee. Location is different from the determination of an individual student's special education placement. The location of classrooms and programs is an administrative decision within the discretion of the District. School district administration may centralize the location of certain programs to efficiently use the District's resources in the service of students with disabilities. [260]

What does it mean to have a continuum of placement options for students? The district shall make available a continuum of alternative placements listed in the definition of special education under 34 C.F.R. § 300.38 (e.g., instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions), and make provision for supplementary services to be provided in conjunction with placement in the general education setting to facilitate such placement.[261] The IEP, evaluations and other relevant data guide the ARD committee in making placement decisions.

[258] *A.B. v. Clear Creek ISD*, 75 IDELR, 787 F.App'x 217 (5th Cir. 2019); *Daniel RR v. State Bd. of Ed.*, 874 F.2d 1036 (5th Cir. 1989); *J.H. v. Fort Bend Indep. Sch. Dist.*, 482 Fed. Appx. 915 (5th Cir. 2012)
[259] 34 C.F.R. § 300.114 (a)
[260] *White ex rel. White v. Ascension Parish School Board*, 343 F.3d 373 (5th Cir. 2003).
[261] 34 C.F.R. § 300.115(b); 34 C.F.R. § 300.115(b); 19 TEX. ADMIN CODE §89.1005

PRACTICE GUIDE—The ARD committee may determine that additional evaluations, updated assessment or other information are needed to make a placement decision. Consider having the student's evaluation team review the continuum of placements within the District for potential recommendations to the student's ARD committee, as appropriate. The student's ARD committee shall ensure that the student is not removed from education in age-appropriate general education classrooms solely because of needed modifications in the general curriculum.

Before moving a student to a more restrictive environment[262], the student's ARD committee shall consider—

- Has the district taken steps to accommodate the student with disabilities in general education?
- Were these efforts sufficient or token?
- Will the student receive an educational benefit from general education?
- What will the student's overall educational experience be in the general education environment, balancing the benefits of general and special education?
- What effect does the student's presence have on the general education classroom environment? [263]

PRACTICE GUIDE—The ARD committee will take steps to accommodate the student in general education and may document attempted services and accommodations. The District is not required to provide every conceivable aid or service to assist the student. General education instructors are not required to devote all or most of their time to one student or to modify the general education program beyond recognition. Data may be collected to determine the student's overall educational experience in the general education environment. Should the student's presence be so disruptive in the general education classroom that the education of other students is significantly impaired, then the needs of the student with a disability cannot be met in that environment.

Residential Treatment Centers (RTCs) or private residential programs are included in the continuum of placements.[264] The district is not required to place a student in a private residential program unless such placement is necessary to provide special education and related services. In order for a residential placement to be appropriate under the IDEA, the placement must be (1) essential in order for the student to receive a meaningful educational benefit, and (2) primarily oriented toward enabling the student to obtain an education. The district is not required to bear the

[262] 34 C.F.R. § 300.116(e)
[263] *Daniel RR v. State Bd. of Ed.*, 874 F.2d 1036 (5th Cir. 1989)
[264] 34 C.F.R. § 300.115

costs of private residential services that are primarily aimed at treating a student's medical difficulties or enabling the student to participate in non-educational activities. [265] [266]

PRACTICE GUIDE—The student's ARD committee will follow and ensure the criteria are met for any residential educational placement for a student with disabilities at the onset of any consideration for such a placement. Before a student's ARD committee places a student in a Residential Treatment Center, the District must initiate and conduct a meeting to develop an IEP placing the student at the private residential setting. A designee of the ARD committee will ensure that a representative of the private school or facility attends the meeting. If the representative cannot attend, the District will use other methods to ensure participation by the private school or facility, including individual or conference telephone calls. Initiating the RTC placement process with TEA is among the steps for ensuring the availability of RTC as option for an ARD committee's consideration. The Director of Special Education or designee may visit the proposed facility prior to any final decisions regarding placement and complete the RTC placement application process as an administrative action to verify whether placement in an RTC is a viable option considering the student's individual circumstances.

How does the district respond to a parent or guardian's request for private placement when there is a disagreement regarding FAPE?

If the parents or guardians of a student with a disability, who previously attended the district, enroll the student in a private preschool, elementary school, or secondary school without the consent of or referral by the district, a court or a hearing officer may require the district to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the district had not made FAPE available to the student in a timely manner prior to that enrollment, and that the private placement is appropriate. The cost of reimbursement may be reduced or denied:

- if, at the most recent ARD committee meeting that the parents or guardians attended prior to removal of the student from the district, the parents or guardian did not inform the ARD committee that they were rejecting the placement proposed by the district to provide FAPE to the student, including stating their concerns and their intent to enroll the student in a private school at public expense;

- if, at least 10 district business days (including any holidays that occur on a business day) prior to the removal of the student from the district, the parents or guardians did not give written notice to the district that they were withdrawing the student and seeking reimbursement from the district for the cost of the private school placement;

- if, prior to the parents or guardians' removal of the student from the district, the district informed the parents or guardians, through the notice requirements described in these

[265] *Richardson ISD v. Michael Z*, 580 F.3d 286 (5th Cir. 2009); 34 C.F.R. § 300.104
[266] Tex. Ed. Code § 29.008; Tex. Ed. Code § 29.012; 19 TEX. ADMIN. CODE § 89.1092; 34 C.F.R. § 300.325(a)

Operating Procedures, of its intent to evaluate the student (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the student available for the evaluation; or

- if a hearing officer or judge finds that the parents acted unreasonably. [267]

PRACTICE GUIDE—The student's campus special education staff may consider the need to conduct a District evaluation; schedule an ARD committee meeting to consider revisions to the student's IEP to address the parents' concerns and ensure the availability of FAPE to the student; request information from the student's private school, and request from the parents any privately obtained evaluations.

How does the district provide FAPE via virtual or remote instruction?

In accordance with **guidance from the TEA**, each student's campus is encouraged to offer to convene ARD committee meetings to develop emergency contingency plans as part of a student's IEP that provides for virtual or other remote services and instruction during periods of cessation of normal school operations in response to a natural disaster, pandemic and/or other public health and safety crisis in accordance with federal, state and local authorities. A student's Campus Administrator may also propose that a student's ARD committee and the parent(s) or guardian(s) agree to modify a student's IEP to include a separate schedule of related services and accommodations that will be followed during periods of remote or virtual instruction. Each Campus Administrator, together with input from the parent or guardian and the student's ARD committee, may choose to use the model ***Special Education Emergency Contingency Plan*** developed by the **TEA** or other plan as determined by the Grand Prairie.

According to nonbinding guidance from **OSEP on September 28, 2020**, ARD committees should consider—

- "how a student's IEP will be implemented with traditional in-person instruction

- how services also could be provided through remote/distance instruction if circumstances require a change to distance learning or a hybrid model."[268]

When ARD committees make these determinations, the ARD committee, together with the parent or guardian, may also consider:

- alternate available instructional methodologies or delivery;
- online instruction, teleconference, direct instruction via telephone or videoconferencing; and
- consultative services to the parent, if feasible and appropriate.[269]

[267] *School Comm. of Burlington v. Department of Educ. of Mass.,* 471 U.S. 359, 369 (1985); *see also,* 34 C.F.R. 300.148(c)*; Forest Grove Sch. Dist. v. T.A.,* 557 U.S. 230, 129 S. Ct. 2484, 2496 (2009)

[268] OSEP. ***Part B Implementation of IDEA Provision of Services in the Current COVID-19 Environment Q&A Document*.** September 28, 2020.

[269] *Id.*

The Coordinator of Assessment and Related Services will investigate all appropriate assessment instruments and tools to determine if some can be administered or completed remotely during the natural disaster, pandemic and/or other public health and safety crisis, provided that evaluation of the student is based on personal observation (whether in person or through tele- or video conferencing).

The Coordinator of Assessment and Related Services may coordinate with the developers of their current assessment instruments to determine if the instruments can be administered or completed remotely, without significantly impacting the validity and reliability of the results. Tests and other evaluation materials must be used for the purposes for which the assessments or measures are valid and reliable and must be administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the assessments.[270]

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

- Schedules of services
- Residential Treatment Center applications
- Lists/descriptions of Placements options
- Centralized program descriptions
- LRE supplements
- Evaluation reports
- Training materials

[270] 34 C.F.R. § 300.304(c)(l)(iii)-(v)

GRAND PRAIRIE ISD INDEPENDENT SCHOOL DISTRICT
SPECIAL EDUCATION OPERATING PROCEDURES:
TRANSITION & GRADUATION

How does the district ensure adult students are included in the IEP development process?

At least one year before a student with a disability turns 18, the ARD Committee Member designee shall ensure that the student's IEP contains a statement regarding the transfer of special education rights and responsibilities at the age of 18. The student's IEP shall also state that the student has been provided information and resources regarding guardianship, alternatives to guardianship, including a supported decision-making agreement and other supports and services that may enable the student to live independently. When the student turns 18, the ARD Committee Member designee shall notify the adult student and her or his parent or guardian of the transfer of parental rights and shall begin sending both the parent or guardian and student any notice required in these Operating Procedures.[271]

What happens when a student with an IEP graduates with a regular high school diploma?

Graduation from the district with a regular high school diploma terminates a student's eligibility to receive special education and related services.[272] A student who receives special education services may graduate and be awarded a regular high school diploma if the student has demonstrated mastery of the required state standards (or district standards, if greater) and completed credit requirements (for graduation under the Foundation High School Program) specified in the Foundation High School Program that are applicable to students in general education, as well as 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.[273]

The Campus Administrator shall ensure that whenever a student's eligibility for special education and related services is terminated through receipt of a regular high school diploma or because the student no longer meets age eligibility requirements for special education and related services, the ARD Committee Member designee shall provide the student a written summary of the student's then-present level of academic achievement and functional performance. This summary must consider, as appropriate, the views of the parent or guardian and student, and written recommendations from adult service agencies on how to assist the student in meeting postsecondary goals. An evaluation or REED shall be included as part of the summary.[274]

For students who receive a diploma based upon successful completion of the IEP and other relevant factors, the ARD committee shall determine needed educational services upon the request of the

[271] 19 TEX. ADMIN. CODE § 89.1049
[272] 19 TEX ADMIN. CODE § 89.1070(a)
[273] 19 TEX. ADMIN. CODE § 89.1070(b)(1)
[274] 19 TEX. ADMIN. CODE § 89.1070(g)

student or the student's parent or guardian to resume services, as long as the student meets the age eligibility requirements set out in **the district's Child Find Duty Operating Procedure**.[275]

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

- ARD committee reports
- Transfer of rights notification and related correspondence
- Outside agency invitations and forms demonstrating the district's requests for consent to exchange information with outside agencies
- Vocational or transitional Assessments
- Transition supplements
- Transcripts
- Summary of performance documents
- Invitations to outside agencies
- Supported Decision Making Agreements
- Guardianship records

[275] 19 TEX. ADMIN. CODE § 89.1070(j)

GRAND PRAIRIE INDEPENDENT SCHOOL DISTRICT SPECIAL EDUCATION OPERATING PROCEDURES:
Ages 0-5

What are the district's obligations to children transitioning from IDEA Part C Early Intervention Services (EIS) to IDEA Part B Early Childhood Special Education (ECSE)?

Grand Prairie ISD coordinates with **Texas Health and Human Services Commission (THHSC)**[276] or its local designees—the Early Intervention Agency—to notify parents or guardians of children in the district who are at least 3 years of age but younger than 6 years of age and who are potentially eligible for enrollment in Grand Prairie ISD's IDEA Part B Early Childhood Special Education (ECSE) program of the availability of the program.[277] Additionally, at least 90 days before the 3rd birthday of a child with a disability under Part C EIS, who may be eligible for preschool special education and related services under Part B, the Early Intervention Agency—must notify the district that the child will shortly reach the age of eligibility for Grand Prairie ISD's ECSE program.[278] The Early Childhood Assessment Team is an appropriate contact to receive such notice at ecat@gpisd.org or 972-522-3152.

If a child is potentially eligible for Grand Prairie ISD's ECSE program, with family approval, a transition conference will be convened by the Early Intervention Agency, with an invitation to the Grand Prairie, not fewer than 90 days and not more than 9 months before the child's 3rd birthday, to discuss any potential special education and related services the child could receive from the district.

If the Early Intervention Agency determines that the child is eligible for **Early Intervention Services (EIS)** more than 45 but less than 90 days before the child's 3rd birthday and if that child may be eligible for ECSE services under Part B, the Early Intervention Agency, as soon as possible after determining the child's eligibility, must notify Grand Prairie ISD that the child on his 3rd birthday will reach the age of eligibility for the Grand Prairie's ECSE program.[279] The Early Childhood Assessment Team is an appropriate contact to receive such notice at ecat@gpisd.org or 972-522-3152.

The ARD Committee Member designee shall ensure that an IEP is in effect for an IDEA B eligible child with a disability who had previously received IDEA Part C services by the child's 3rd birthday while complying with the procedures in **the Grand Prairie's Evaluation Procedure Operating Procedure**. If a child's 3rd birthday occurs during the summer, the student's ARD committee shall determine the date when services will begin.[280]

[276] 34 C.F.R. § 303.22
[277] Tex. Ed. Code § 29.009
[278] 34 C.F.R. § 303.209(b)(1)(i); ***Early Childhood Transition FAQs*** (OSEP 2009).
[279] 34 C.F.R. § 303.209 (b)(1)(ii).
[280] 34 C.F.R. § 300.101

If Grand Prairie ISD knows that a child served in Part C via an *Individualized Family Service Plan* (IFSP) developed by the Early Intervention Agency and referred to IDEA Part B will turn 3 over the summer and that appropriate Grand Prairie ISD personnel won't be available to conduct evaluations and hold ARD committee meetings during the summer, the Coordinator of Assessment and Relates Services or designee shall ensure that required activities such as conducting the evaluations, and convening the ARD committee meeting occurs before the end of the school year.[281]

When the Early Intervention Agency provides notification to Grand Prairie ISD of a potentially eligible child fewer than 90 days before the student's 3rd birthday, the Early Intervention Agency must provide a written explanation to the district stating the reason for the delay. The Early Childhood Assessment Team is an appropriate contact to receive such notice at ecat@gpisd.org or 972-522-3152. If notification is given between 45-89 days before the student's 3rd birthday, he Early Childhood Assessment Team shall ensure that eligibility is determined as soon as possible. If a student with a disability was served under IDEA Part C via an *IFSP*, the student's IFSP may serve as the IEP of a child with a disability aged 3 through 5 (or, at the discretion of the state educational agency, a 2-year-old child with a disability who will turn age 3 during the school year), if the IFSP was developed in accordance with ARD committee procedures, is consistent with state policy, and agreed to by Grand Prairie ISD and the student's parents or guardians.[282]

While IDEA Part B requires coordination to assure the continuity of services, it does not compel Grand Prairie ISD to provide all the same services in an IEP that were in a student's IFSP.

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

- Forms
- IFSP meetings reports
- ARD committee meeting reports
- Transition plans
- TEAL-related documents

[281] ***Early Childhood Transition FAQs*** (OSEP 2009)
[282] 34 C.F.R. § 300.323 (b); U.S. Department of Education, 71 Fed. Reg. 46679 (2006)

GRAND PRAIRIE INDEPENDENT SCHOOL DISTRICT SPECIAL EDUCATION OPERATING PROCEDURES: CHILD FIND DUTY

CHILD FIND

The Grand Prairie Independent School District (GPISD or "the District") has an obligation to identify, locate and evaluate each child, birth to age 21 inclusive, residing within the jurisdiction of the District who has a disability or is suspected of having a disability, regardless of the severity of the disability, and who is in need of special education and related services. This *Child Find* obligation—mandated by the Individuals with Disabilities Education Improvement Act (IDEIA or, more commonly, IDEA) and Texas special education law[283]—extends to all children with disabilities, including those who are homeless, highly mobile, migrants, in foster care, homeschooled, court-involved or attending private schools within the jurisdiction of the District.[284]

The District annually notifies and informs the Grand Prairie ISD community of a student's right to a free appropriate public education and the programs and services available to eligible students, as well as the right to request an evaluation for special education and related services. The District endeavors to distribute written information in both English and Spanish to every enrolled student's family regarding IDEA's *Child Find* and free appropriate public education (FAPE) requirements, to inform them of the options and requirements for identifying students who may be suspected of having a disability and have an educational need for special education and specially designed instruction. The District's community-wide efforts may include:

- publishing a *Child Find* notice in a local newspaper of general circulation;
- posting or linking the District's *Child Find* notice on the District's website; and
- placing a *Child Find* notice in locations where potentially eligible children and their parent(s) or legal guardian(s) are likely to see it, like disability-related community agencies, hospitals, or daycare centers.
- distributing *Child Find* brochures to district campuses, district and community events, and sending notice through mail to community agencies, hospitals, or daycare centers

The District's *Child Find* notice is available to the public and to parents in both English and Spanish on the District's website (Public Notice). Together with the District's annual *Child Find* notice, the District includes information indicating where members of the Grand Prairie ISD community can access the District's processes and procedures for initiating a referral for special education services eligibility evaluation.[285] The District also offers annual training for all

[283] 34 C.F.R.. § 300.111(a); Tex. Ed. Code § 29.001

[284] 34 C.F.R.. § 300.111(c). Homeless and highly mobile students are served via the District's homeless education liaison as part of the District's participation in TEA's ***Texas Education for Homeless Children and Youth (TEHCY)*** program.

[285] Tex. Ed. Code § 29.023(b)

educators regarding the District's responsibility to actively identify and appropriately refer for evaluation students suspected of being in need of special education and related services, consistent with these *Special Education Operating Procedures* ("Operating Procedures").

Who is eligible for the District's program of special education and related services?

The District provides special education and related services to eligible students ages 3 through 21 who reside within the District.[286] To be eligible for the District's program of special education and related services, a student must (a) have one or more of the thirteen qualifying disabilities listed below and (b) need special education and related services—*Specially Designed Instruction* (SDI)—because of the disability.[287] A free appropriate public education is also available to children with visual impairments or who are deaf or hard of hearing residing within the District from birth through age 21.[288]

Special education means "specially designed instruction, at no cost to the parents, to meet the unique needs of a student with a disability."[289] *Specially Designed Instruction* (SDI) means—

- "adapting, as appropriate to the needs of an eligible student under this part, the content, methodology, or delivery of instruction-
    - To address the unique needs of the student that result from the student's disability; and
    - To ensure access of the student to *the general curriculum*, so that the student can meet *the educational standards within the jurisdiction of the public agency that apply to all children*." [290]

  The general curriculum and educational standards that "apply to all children" in Grand Prairie ISD are the **Texas Essential Knowledge and Skills (TEKS),** as well as the District's Policy **EIE(Local)**.[291] The state-wide assessments that determine a student's progress toward meeting those educational standards are the **State of Texas Assessments of Academic Readiness (STAAR).**

Special Education or *Specially Designed Instruction* (SDI) also includes—

- speech-language pathology services;
- any other related service, if the service is considered special education rather than a related service under state standards;
- travel training; and

[286] 19 TEX. ADMIN. CODE § 89.0135(a)
[287] 20 U.S.C. § 1402(3); 34 C.F.R. § 300.8
[288] 19 TEX. ADMIN. CODE § 89.0135(b)
[289] 34 C.F.R. § 300.39(a)(1)
[290] 34 C.F.R. § 300.39(b)(3)(emphasis added)
[291] The educational standards applicable to all students in the state of Texas are also outlined in Tex. Ed. Code § 28.002 and in 19 TEX. ADMIN. CODE § 74.1.

- vocational education. [292]

PRACTICE GUIDE— Some examples of SDI include delivery of a specialized reading program in a small group setting 4 days a week for 30 minutes a day; individualized social skills programs; modified curriculum; adaptive physical education; or instruction in the use of Braille or specific technology to access curricular content or to provide responses to enable effective progress monitoring and functional performance data collection.

Subject to the age limitations specified above, students may be eligible for special education and related services under these categories of disability specified under state and federal law: autism, deaf-blindness, deaf or hard of hearing, emotional disability, intellectual disability, multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech impairment, traumatic brain injury, visual impairment, and "developmental delay." [293]

Children between the ages of 3-5 who are evaluated as having an intellectual disability, an emotional Disability, a specific learning disability or autism may be described as "developmental delay" for the purposes of special education eligibility.[294]

Consideration of eligibility for special education and related services begins with a referral for a special education evaluation—a full individual and initial evaluation.[295]

Prior to referral for a special education evaluation students experiencing difficulties progressing in the general curriculum should be considered for all supplementary aids and support services, and intervention programs available to all students in the district, including tutoring, RtI programs, and remedial or compensatory programs. The support services and intervention program options to address the students' difficulties should be made in collaboration with the parent or guardian, who should be notified of their right to request a special education referral at any time. If students continue to struggle with the general curriculum despite provision of interventions, the student should be referred for a special education evaluation within a reasonable timeframe, depending on the degree of response to interventions, the parents' input, and the degree of difficulty the student is experiencing in meeting mastery criteria on general curriculum.

Implementation of a RtI/MTSS system of support cannot serve to delay or deny referral, evaluation, and eligibility determinations under the IDEA when students are suspected of having a disability and demonstrate a need for special education and related services.

Grand Prairie ISD responds to verbal and written request in the same manner. The districts Special Education Department is notified of all parent or guardian referrals for a full and individual initial evaluation. All requests may be submitted using the following link: Full and Individual Initial Evaluation Request Form.

[292] 34 C.F.R. § 300.39(a)(2)
[293] 34 C.F.R. § 300.8(c) ; Tex. Ed. Code § 29.003(b); 19 TEX. ADMIN. CODE § 89.1040(c)
[294] 19 TEX. ADMIN. CODE § 89.1040(c)(13)
[295] 19 TEX. ADMIN. CODE § 89.1011

Districts must respond to a parent's written request for a special education evaluation for their child not later than the 15th school day after the date the district receives the request, or when the district initiates the referral, and provide the parent with prior written notice of its:

1. Proposal to conduct an evaluation; a copy of the Procedural Safeguards; a copy of the Overview of Special Education for Parents form; and an opportunity to give written consent for the evaluation; or
2. Refusal to conduct an evaluation; a copy of the Overview of Special Education for Parents form; and a copy of the Procedural Safeguards.

Grand Prairie ISD will begin RtI/MTSS services if not currently provided or continue to provide RtI/MTSS services, documenting progress.

PRACTICE GUIDE— While the ARD committee will consider records from private providers or private evaluators, including physicians, the ARD committee is not required to adopt specific eligibilities or other recommendations from those reports. Any decisions to reject recommended eligibilities or services may be described and explained in the Prior Written Notice with reference to the District's evaluation reports.

How does the District attempt to ensure that parents or guardians of Emergent Bilingual students are included in the District's Child Find efforts and understand the District's special education process?

If the parent(s), legal guardian(s) or adult student has limited English proficiency and the parent's or guardian's native language is Spanish, the District will provide Admission, Review and Dismissal (ARD) committee meeting notices and Prior Written Notices, as well as **TEA's *Notice of Procedural Safeguards*** and other special education related documents, to the parent or guardian in **Spanish** **(TEA's *Aviso Sobre Procedimientos de Protección*)**. If the parent or guardian is limited English proficient and the parent's or guardian's native language is Spanish, the District will also provide either all of the text (comparable rendition) of the written Individualized Education Program (IEP) translated into Spanish or an audio recording of the IEP translated into Spanish. The District may also audio record an ARD committee meeting at which the parent or guardian was assisted by an interpreter and offer the parent or guardian an audio recording of the meeting; however, such recording shall not substitute for a written or audio recorded translation of the IEP unless it includes an oral translation into Spanish of all of the content in the student's IEP.[296]

If the parent's, guardian's or adult student's native language is other than English or Spanish, the District will make a good faith effort to provide notices to the parent or guardian in the parent's or guardian's native language, to provide a written or audio recorded translation of the IEP in the parent's or guardian's native language, and to facilitate the parent's or guardian's participation in any ARD committee meeting, including arranging for an interpreter, unless it is clearly not feasible to do so. The term "native language"' when used with respect to an individual who is limited

[296] 19 TEX. ADMIN. CODE § 89.1050(i); Tex. Ed. Code § 29.005(d)

English proficient or an emergent bilingual student, means the language normally used by the individual." [297]

What happens when the parent or guardian of a student attending private school or being homeschooled in the District requests a referral for a special education evaluation?

The District is responsible for identifying, locating and evaluating those students who reside within the jurisdiction of the District but who are parentally placed in private schools or homeschooled. The parent, legal guardian, or teacher of a resident student who is parentally placed in private school or home instructed may refer a student suspected of having a disability and in need of special education and related services to the student's home campus for District zoning purposes.

To meet its *Child Find* obligation to students who are homeschooled or attend private schools, the District offers to meet at least annually with representatives from private schools within the District and with parents who have placed their students in a private school within the District or who home-school their students, about special education and how to refer a student for a special education evaluation, and the special education and related service options available in the event their student is eligible.

If the parent or legal guardian of a student who is home-instructed or who is placed in a private school is offered an initial evaluation by the District but does not provide consent for the evaluation, the District may not use the special education dispute resolution process to override the lack of consent.

What protections are available for students who have not been identified but may qualify for IDEA's disciplinary safeguards?

Students not yet eligible for special education and related services may be entitled to the disciplinary protections afforded eligible students, including the manifestation determination review process. The District may be obligated to provide a manifestation determination review and other disciplinary change of placement protections for a student even if the student is not yet determined to be eligible for special education and related services at the time of the violation of the District's conduct code. Disciplinary protections shall be afforded to a student if the District "had knowledge" that the student is a student with a disability prior to the behavioral incident at issue. The District is considered to have knowledge (1) if the parent or guardian expressed concern in writing to supervisory or administrative personnel, or a teacher of the student, that the student is in need of special education and related services; (2) the parent or guardian of the student requested an evaluation of the student pursuant to IDEA; or (3) the teacher of the student, or other District personnel, expressed specific concerns about a pattern of behavior demonstrated by the student directly to the director of special education or to other supervisory personnel of the District. The District does not have knowledge that the student is a student with a disability if the District sought and the parent refused to permit the student to be evaluated or declined special education and related services, or if the student was evaluated by the District and determined to be ineligible by a duly constituted Admission, Review and Dismissal (ARD) committee.[298]

[297] 20 U.S.C. § 1401(30); 19 TEX. ADMIN. CODE § 89.1050(f)
[298] 34 C.F.R. § 300.534

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

- Training material
- Posters and other media or website postings
- Multi-Tiered Systems of Support or Response to Intervention Data
- Student specific data collection and monitoring
- Databases

GRAND PRAIRIE INDEPENDENT SCHOOL DISTRICT SPECIAL EDUCATION OPERATING PROCEDURES: CHILDREN WHO TRANSFER

What about students who transfer?

If a student is in the process of being evaluated for special education eligibility by another public school district and enrolls in the District before the evaluation is completed, the District will coordinate with the student's previous school district to ensure prompt completion of the initial evaluation. If the student transfers from another public school district when an initial evaluation is pending, the timelines for conducting the evaluation do not apply to Grand Prairie ISD if:

- the District is making sufficient progress to ensure a prompt completion of the evaluation; and
- the parent and the District agree to a specific time when the evaluation will be completed.

Grand Prairie ISD will complete the evaluation in a timely manner when all relevant records are received to include pending evaluation data, not to exceed 30 school days.

Should the evaluation be completed, but special education services not initiated for the student, Grand Prairie ISD will conduct a review of existing evaluation data to determine whether additional evaluation data is needed to make a disability determination or if educational disability can be determined with the provided information and special education services initiated.

If a student transfers from another school district in Texas with an Individualized Education Plan (IEP), the District will provide a free appropriate public education to the transfer student by providing services comparable to the services described in the student's IEP from the student's previous school district until:

- the District adopts the student's IEP from the previous school district, or

- the District develops, adopts, and implements a new IEP in accordance with the procedures outlined in **the District's FAPE Composite Operating Procedure**.[299]

If a student transfers from another state with an IEP, the District will offer services comparable to the services described in the IEP from the sending school district until the District takes the following actions:

- conducts a new full and individual evaluation, as described in **the District's Evaluation Procedure Operating Procedure**, if the ARD Committee Member designee determines that a new evaluation is necessary; and

[299] 34 C.F.R. § 300.323(e)

- develops, adopts, and implements a new IEP, if appropriate, in accordance with the procedures outlined in **the District's FAPE Composite Operating Procedure**.[300]

Additionally, the District will take reasonable steps to promptly obtain a transfer student's special education and general education records from the sending school district.[301]

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

- Texas Record Exchange (TREX) requests
- Frontline records request
- Telephone logs of calls to prior school districts and demonstrating calls to students' parents seeking collaboration
- Records from prior schools
- Training materials
- Parent meeting documentation

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[300] 34 C.F.R. § 300.323(f)
[301] 34 C.F.R. § 300.323(g)

GRAND PRAIRIE INDEPENDENT SCHOOL DISTRICT SPECIAL EDUCATION OPERATING PROCEDURES: DYSLEXIA SERVICES

What steps does the District take prior to an initial evaluation to ensure students are identified and evaluated for special education appropriately and in a timely manner?

Prior to referral for a full individual and initial evaluation, students experiencing difficulty in the general classroom should be considered for response to evidence-based intervention and other academic or behavior support services. "If the student continues to experience difficulty in the general classroom after the provision of interventions, District personnel must refer the student for a full individual and initial evaluation."[302] Notwithstanding this provision, these general education or response to intervention strategies will not be used to delay or deny the provision of an evaluation.[303]

PRACTICE GUIDE—Teachers who provide instruction to students may be trained concerning the District's referral process and informed concerning the research-based interventions available in the District. Communication between general education teachers and campus staff who attend the MTSS meeting, concerning the interventions used and the results of those interventions should occur regularly.

If parental or guardian consent is obtained for an evaluation, the District will consider and document the provision of any steps taken concurrently with the special education referral or evaluation process to address the academic or behavioral needs of the student giving rise to the referral. These steps may include the following—

- In Grand Prairie ISD, all meetings in which a referral for a special education evaluation is being made, must include the appropriate Assessment and Related Service personnel with expertise in the area of suspected disability.
- Consent for Evaluation or Prior Written Notice of Refusal for evaluation will be obtained or provided by the Assessment and Related Services professional.
- If a campus receives an initial referral for a student who is not currently receiving **evidence-based general education interventions or Multi-Tiered Systems of Support (MTSS)** available to all students, a designated campus administrator should promptly convene a meeting with the parent or guardian, student (as appropriate), and at least one of the student's general education teachers (preferably from one or more of the areas of academic and/or behavioral concern). The meeting's purpose will be to develop a plan of evidence-

[302] 19 TEX. ADMIN. CODE § 89.1011(a).

[303] *Lisa M. v. Leander Indep. Sch. Dist.,* 924 F.3d 205, 209 n.4 (5th Cir. 2019); *Spring Branch Independent School District v. O.W. by Hannah W.*, 961 F.3d 781(5th Cir. June 12, 2020)

based general education interventions or MTSS. This meeting may not be used to delay or deny an evaluation.

- If the student has been receiving evidence-based general education intervention or MTSS, the designated campus administrator should promptly convene a meeting with the parent or guardian, student (as appropriate), and at least one of the student's general education teachers (preferably from one or more of the areas of academic and/or behavioral concern) to review and revise the student's current interventions and general education services plan, as appropriate. Such meetings should recur at regular, reasonable intervals throughout the pendency of the referral and/or evaluation process.

- IDEA does not prohibit a local campus within the District from **"screening"** a student to collect data that may be considered when determining whether the student is suspected of having a disability. Parental consent is not required before a campus-based committee reviews existing data as part of the special education referral process. Likewise, parental permission is not required before administering screenings or other assessments that are administered to all students generally without the requirement of parental consent. Written notice will be provided to parents of the scheduled screening or assessment; however, a campus will not use screening procedures to delay or deny the provision of a full individual and initial evaluation. [304]

- Students suspected of having a disability under Section 504 should be referred for an evaluation by a **Campus Section 504 Committee** and, if needed, the development by that Committee of an accommodation plan under Section 504. These referrals should be directed to the student's Campus Section 504 Coordinator. If a student's Section 504 Committee determines that the student has a disability that may require specialized instruction to make progress in the general curriculum, or if the student continues to experience difficulty in the general education classroom even with the supports specified in a 504-accommodation plan, the Section 504 Committee should consider referral for a full individual and initial evaluation and determine whether referral is appropriate under the circumstances.

- For students who transfer to the District from a residential facility or other private school, the ARD Committee Member designee should obtain written consent from the student's parent or guardian to communicate with and request records from the residential facility or other private school and convene a meeting to discuss whether a referral for special education and related services is appropriate.

PRACTICE GUIDE—Review enrollment records to determine whether the student previously accessed special education and related services while in attendance at a public school.

[304] *Letter to Mills* (OSEP 05/02/19).

- Students suspected to have **dyslexia and related disorders** should be referred for an initial evaluation for special education and related services in accordance with TEA's *The Dyslexia Handbook* (2024 Update).[305]

PRACTICE GUIDE—If the results of reading instruments administered by general education teachers (to students in kindergarten through 2nd Grade) indicate a risk for dyslexia or other reading difficulties, the results may be shared with the student's evaluation team for referral consideration.[8]

How does the District notify parents of services and options available to eligible students with dyslexia under IDEA and Section 504?

Grand Prairie ISD notifies parents of services and options available to eligible students with dyslexia including general education interventions under response to intervention and multi-tiered systems of support models.[306] The Special Education Department ensures that the Grand Prairie ISD Parent Student Handbook that is provided to every enrolled student's family includes written information regarding IDEA's Child Find and free appropriate public education (FAPE) requirements as well as the options and requirements for helping students who have learning difficulties or who need, or may need, special education services.

Grand Prairie ISD also provides a parent education program for parents/guardians of students with dyslexia and related disorders.[307] The Coordinator of Dyslexia Services ensures that the program includes:

- Information related to awareness and characteristics of dyslexia and related disorders;
- information on testing and diagnosis of dyslexia and related disorders;
- information on effective strategies for teaching students with dyslexia and related disorders;
- information on qualifications of those delivering services to students with dyslexia and related disorders;
- awareness of information on accommodations and modifications, especially those allowed for standardized testing;
- information on eligibility, evaluation requests, and services available under IDEA and the Rehabilitation Act, §504, and information on the response to intervention process; and
- contact information for the relevant regional and/or school specialists.

Additional notification is provided by the Campus Administrator or designee in English or the parent's native language, when practicable, when a student begins to receive the assistance for that school year. This written notification includes:

[305] TEA's ***The Dyslexia Handbook* (2024 Update)** is available at https://tea.texas.gov/academics/special-student-populations/special-education/texas-dyslexia-handbook.pdf.
[306] Tex. Ed. Code § 26.0081(d); 19 TEX. ADMIN. CODE. § 74.28(h)
[307] 19 TEX. ADMIN. CODE § 74.28(l)

- A description of the assistance that may be provided to the student, including any intervention strategies that may be used;
- the information collected regarding any intervention in the base tier of a multi-tiered system of supports that has previously been used with the student;
- an estimate of the duration for which the assistance, including through the use of intervention strategies, will be provided; and
- the estimated time frames within which a report on the student's progress with the assistance, including any intervention strategies used, will be provided to the parent.

Finally, information concerning services available under IDEA is provided to parents through the "Parent's Guide to the Admission, Review, and Dismissal Process" prior to a student's first ARD committee meeting by the ARD Committee Member designee and upon parent request.

Note: When dyslexia is a suspected disability, the MDT responsible for the comprehensive evaluation of the student must include as a member someone with specific knowledge of the reading process, dyslexia and related disorders, and dyslexia instruction.

This member must:

- Be a licensed dyslexia therapist (LDT);
- Be someone who has received training or certification from:
  - The Academic Language Therapy Association (ALTA);
  - International Dyslexia Association (IDA);
  - Orton Gillingham Academy;
  - Wilson Language Training; or
- Be someone who has received training through an International Multisensory Structured Language Education Council (IMSLEC) - accredited training center at the teaching or therapy level;
- Only if the individuals who possess the credentials above are not available may another individual serve in this role. To serve in this role when those above are not available, the individual, within one calendar year of being designated, must:
- Register and complete the Texas Dyslexia Academies (TDAs);
- Register and complete the TEA's Guidance for the Comprehensive Evaluation of an SLD; and
- Document that the individual has training in current research and evidence-based assessments that are used to identify the most common characteristics of dyslexia.

When considering initial or continued eligibility for special education for dyslexia, the ARD committee must include at least one member as described above (page 3). The limitations around availability also apply to this member.

If an ARD committee determines the student has dyslexia (which is a disability under IDEA as an SLD), the ARD committee will determine whether the student requires the provision of special education and related services. If the student is determined to require dyslexia instruction, the student meets eligibility for special education and related services because dyslexia instruction is considered specially designed instruction (SDI).

For students identified with dyslexia or a related disorder, the IEP must be developed and implemented in accordance with 19 TAC §74.28, including the Dyslexia Handbook.

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

- Training material
- Parent education program
- Multi-Tiered Systems of Support or Response to Intervention Data
- Student specific data collection and monitoring, including screening results
- Databases

GRAND PRAIRIE INDEPENDENT SCHOOL DISTRICT
SPECIAL EDUCATION OPERATING PROCEDURES:
REFERRAL FOR POSSIBLE SPECIAL EDUCATION SERVICES

Who is eligible for the District's program of special education and related services?

The District provides special education and related services to eligible students ages 3 through 21 who reside within the District.[308] To be eligible for the District's program of special education and related services, a student must (a) have one or more of the thirteen qualifying disabilities listed below and (b) need special education and related services—*Specially Designed Instruction* (SDI)—because of the disability.[309] A free appropriate public education is also available to children with visual impairments or who are deaf or hard of hearing residing within the District from birth through age 21.[310]

Special education means "specially designed instruction, at no cost to the parents, to meet the unique needs of a student with a disability."[311] *Specially Designed Instruction* (SDI) means—

- "adapting, as appropriate to the needs of an eligible student under this part, the content, methodology, or delivery of instruction-
    - To address the unique needs of the student that result from the student's disability; and
    - To ensure access of the student to *the general curriculum*, so that the student can meet *the educational standards within the jurisdiction of the public agency that apply to all children*." [312]

The general curriculum and educational standards that "apply to all children" in Grand Prairie ISD are the **Texas Essential Knowledge and Skills (TEKS),** as well as the District's Policy **EIE(Local)**.[313] The state-wide assessments that determine a student's progress toward meeting those educational standards are the **State of Texas Assessments of Academic Readiness (STAAR).**

Special Education or *Specially Designed Instruction* (SDI) also includes—

- speech-language pathology services;
- any other related service, if the service is considered special education rather than a related service under state standards;
- travel training; and
- vocational education. [314]

[308] 19 TEX. ADMIN. CODE § 89.0135(a)
[309] 20 U.S.C. § 1402(3); 34 C.F.R. § 300.8
[310] 19 TEX. ADMIN. CODE § 89.0135(b)
[311] 34 C.F.R. § 300.39(a)(1)
[312] 34 C.F.R. § 300.39(b)(3)(emphasis added)
[313] The educational standards applicable to all students in the state of Texas are also outlined in Tex. Ed. Code § 28.002 and in 19 TEX. ADMIN. CODE § 74.1.
[314] 34 C.F.R. § 300.39(a)(2)

PRACTICE GUIDE— Some examples of SDI include delivery of a specialized reading program in a small group setting 4 days a week for 30 minutes a day; individualized social skills programs; modified curriculum; adaptive physical education; or instruction in the use of Braille or specific technology to access curricular content or to provide responses to enable effective progress monitoring and functional performance data collection.

Subject to the age limitations specified above, students may be eligible for special education and related services under these categories of disability specified under state and federal law: autism, deaf-blindness, auditory impairment, emotional disability, intellectual disability, multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech impairment, traumatic brain injury, visual impairment, and "developmental delay." [315]

Children between the ages of 3-5 who are evaluated as having an intellectual disability, an emotional disability, a specific learning disability or autism may be described as "developmental delay" for the purposes of special education eligibility.[316]

Consideration of eligibility for special education and related services begins with a referral for a special education evaluation—a full individual and initial evaluation.[317]

PRACTICE GUIDE— While the ARD committee will consider records from private providers or private evaluators, including physicians, the ARD committee is not required to adopt specific eligibilities or other recommendations from those reports. Any decisions to reject recommended eligibilities or services may be described and explained in the Prior Written Notice with reference to the District's evaluation reports.

Who can initiate a referral for a Full Individual and Initial Evaluation for Special Education and Related Services?

A referral for a special education evaluation may be initiated by school personnel, a student's parent or legal guardian, or another person involved in the education or care of the student.[318]

Should an administrator, teacher, parent, or legal guardian believe that there is reason to suspect a student has a disability and is in need of special education, even if they are progressing from grade to grade, they may initiate the referral process.

The referral may be made verbally or in writing. A written request for a special education evaluation is <u>not</u> required by IDEA or Grand Prairie ISD. Written referrals should be directed to the District's Executive Director of Special Education or to the Campus Administrator. Any employee of the

[315] 34 C.F.R. § 300.8(c) ; Tex. Ed. Code § 29.003(b); 19 TEX. ADMIN. CODE § 89.1040(c)
[316] 19 TEX. ADMIN. CODE § 89.1040(c)(13)
[317] 19 TEX. ADMIN. CODE § 89.1011
[318] 19 TEX. ADMIN. CODE § 89.1011(a)

District receiving a verbal or written referral should communicate the referral to the Campus Administrator.

Grand Prairie ISD responds to verbal and written request in the same manner. The districts Special Education Department is notified of all parent or guardian referrals for a full and individual initial evaluation. All requests may be submitted using the following link: Full and Individual Initial Evaluation Request Form

If, however, the district does not suspect the child is a child with a disability, and refuses the request for evaluation the Assessment and Related Services designee must provide prior written notice of its :

3. Proposal to conduct an evaluation; a copy of the Procedural Safeguards; a copy of the Overview of Special Education for Parents form; and an opportunity to give written consent for the evaluation; or
4. Refusal to conduct an evaluation; a copy of the Overview of Special Education for Parents form; and a copy of the Procedural Safeguards.

Grand Prairie ISD will begin RtI/MTSS services if not currently provided or continue to provide RtI/MTSS services, documenting progress.

How should the District respond when it receives a referral for special education?

Referrals should be considered by the RtI/MTSS/504 Committee to include qualified professionals, as outlined below, to determine whether there is reason to suspect that the student has a disability and is in need of special education and related services. If a parent or legal guardian makes a referral to a general education teacher, a paraprofessional or campus office staff, the parent should be directed to the Campus Administrator and to submit the request using the following link: Full and Individual Initial Evaluation Request Form

If a parent, legal guardian or adult student verbally requests a special education evaluation, the District staff who received the verbal request should report the request to the Campus Administrator. The Campus Administrator or designated staff should contact the requestor either by telephone or via email to gather more information about the request and schedule a RtI/MTSS/504/ARD Committee meeting as appropriate to address the request within 15 school days for all requests.

When the District receives a request for an initial evaluation, the RtI/MTSS/504 Committee, designated campus staff, and/or administrator should promptly review the student's record and document any consideration that has been given to alternatives to special education, including but not limited to general education academic and behavioral interventions; *RtI* data; remedial instruction; tutoring; compensatory education pursuant to Tex. Ed. Code § 29.081 ("services designed to supplement the regular education program for students identified as at risk of dropping

out of school"); and/or **Multi-Tiered Systems of Support (MTSS)**[319].

PRACTICE GUIDE— When the District receives privately-completed evaluation reports or recommendations, the ARD committee should consider that information. In many instances, the student's ARD committee will need to seek consent from the parent(s) to complete the District's evaluation because it relies on school-based evaluation instruments and observations that incorporate special education standards.

If a student's parent(s), legal guardian(s), or District staff submits a written request for a full individual and initial evaluation for special education and related services to the District's Director of Special Education or to an administrative employee of the District, the personnel designated below will take the following steps:

- Submit request: Full and Individual Initial Evaluation Request Form
- **Within 15 school days of the Executive Director of Special Education or administrative employee's receipt of the written request for an initial special education evaluation,** a licensed specialist in school psychology (LSSP), an educational diagnostician, or other appropriately certified or licensed practitioner with experience or training in the area of the suspected disabilities designated by the Coordinator of Assessment and Related Services may, as appropriate—
    - Review the records and performance data of the student in order to determine if there is sufficient evidence to suspect a disability. Information reviewed shall include, but is not limited to, all individual and group standardized assessments, *including evaluations provided by the parent or guardian completed privately*; standards of learning test scores; school enrollment history; attendance records; student work samples; and teacher observational information.
    - Consult with the student's general education teachers and other campus staff familiar with the student to review the general education supports and services, curricular modifications, instructional methodologies or evidence-based classroom accommodations or interventions that have been used with the student prior to referral, including the use of any **Multi-Tiered Systems of Support (MTSS)**, **such as** *Response to Intervention* (RtI), *Leveled Literacy Interventions* (LLI), and other evidence-based general education interventions, tutorial, remedial, compensatory and other academic or behavior support services.[320]
    - Contact the parent, legal guardian, or adult student to provide an overview of the District's special education process and identify the date by which informed written

[319] TEA describes MTSS as a school-wide framework designed to provide varying levels of support to meet the academic, behavioral, and social/emotional needs of students and includes RtI for academics and/or behavior and other evidence-based early intervention strategies.
[320] 19 TEX. ADMIN. CODE § 89.1011(a)

consent for the evaluation may be obtained (i.e., no later than 15 school days after receiving the written request for an initial evaluation). [321]

- **No later than 15 school days after the Executive Director of Special Education or administrative employee's receipt of the written request for an initial special education evaluation,** the Assessment and Related Services professional shall—

  - Ensure the District provides the parent(s), legal guardian and/or adult student with a copy of TEA's most recent ***Notice of Procedural Safeguards***.[322]

    - A parent, legal guardian or adult student may choose to receive the ***Notice of Procedural Safeguards***, as well as the Prior Written Notice discussed below, by email, if the District makes that option available. If the parent or legal guardian does not affirmatively elect to receive the aforementioned notices by email, the District will mail or hand-deliver the notice(s) and document the method of delivery.[323]

  - Provide Prior Written Notice of the District's proposal to conduct a full individual and initial evaluation (*Notice of Proposed Evaluation*), a cop of the Overview of Special Education for Parents, and an opportunity for the parent, legal guardian or adult student to give informed written consent for the evaluation, *if there is evidence of a suspected disability and, as a result of the suspected disability, a suspicion that the student may require specially designed instruction based on the information obtained during the 15-school day period described above*.[324]

    - Prior Written Notice. The District's *Notice of Proposed Evaluation* shall describe any evaluation procedures that the District proposes to conduct.[325] Please see the District's Evaluation procedures set out in **the District's Evaluation Procedures Operating Procedure** for additional requirements regarding the District's *Notice of Proposed Evaluation.*

    - Informed Written Consent. The District shall document that the parent, legal guardian or adult student has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, and the mode of communication. The District shall also document that the parent, legal guardian or adult student acknowledged understanding and agreeing in writing to the carrying out of the activity for which his or her consent is sought (e.g., a full individual and initial evaluation). The consent will describe the activity and indicate which educational records, if any, will be released and to whom those records will be released.[326]

[321] Tex. Ed. Code § 29.004; 19 TEX. ADMIN. CODE § 89.1011(b); 19 TEX. ADMIN. CODE § 89.1040(b)
[322] 34 C.F.R. § 300.504
[323] 34 C.F.R. § 300.505
[324] 19 TEX. ADMIN. CODE § 89.1011(b)(1)
[325] 34 C.F.R. § 300.304(a)
[326] 34 C.F.R. § 300.9; Tex. Ed. Code § 29.004(a)(1)

- Notice and Consent by Email. The District may provide prior written notice via email if the District offers and the parent elects to receive the notice via email.[327] The District may also obtain a parent's or a guardian's informed written consent for an evaluation by using a record and signature in electronic form that identifies and authenticates the person or guardian as the source of the consent and indicates the parent's or guardian's approval of the information contained in the electronic signature.[328]

- If the parent, legal guardian or adult student does not provide consent for the initial special education evaluation, the District is relieved of its *Child Find* duty and its obligation to provide the student with a free appropriate public education pursuant to IDEA.[329] However, the District reserves the right in its sole discretion to file a request for a special education due process hearing to override a lack of parental consent for such evaluation. Designated staff should provide the parent, legal guardian or adult student with a ready, willing, and able letter regarding the District's intent to complete the evaluation with parental consent, together with prior written notice (*Notice of Proposed Evaluation)* documenting the District's offer to evaluate and the basis for the offer to evaluate and providing the parent or guardian with a copy of ***TEA's Procedural Safeguards Notice.*** Please see **the District's FAPE Composite Operating Procedure**. Consistent with TEA's *The Dyslexia Handbook* (2021 Update) the student may be referred to the District's Section 504 Coordinator or local campus designee for a potential Section 504 evaluation.

    - Provide the parent, legal guardian, or adult student with prior written notice of the District's decision not to conduct an evaluation if *there is no evidence of a suspected disability or a suspicion that the student may require special education and related services*.

        - If appropriate, the student may be referred to the District's Section 504 Coordinator or local campus designee for a potential Section 504 evaluation.
        - Prior Written Notice. The Assessment and Related Services professional will prepare the Prior Written Notice to include an explanation of why the District refuses to conduct an initial evaluation as well as a description of the information (assessments, records, reports or observations) that the District used as a basis for its refusal to evaluate.[330] The District will provide this prior written notice by means reasonably designed to ensure that it is received by the parent, legal guardian or adult student, and document the fact that the notice was sent. This notice will be provided in a language that is understandable to the

[327] 34 C.F.R. § 300.505
[328] ***Part B Procedural Safeguards in the COVID-19 Environment Q&A Document*** *(June 30, 2020)*. OSEP. June 30, 2020.
[329] 34 C.F.R. § 300.300(a)(3)
[330] 34 C.F.R. § 503(b)

general public and also in the native language of the parent, unless it is clearly not feasible to do so.[331] Please see **the District's Child Find Duty Operating Procedure**.

What happens when the parent or guardian of a student attending private school or being homeschooled in the District requests a referral for a special education evaluation?

The District is responsible for identifying, locating and evaluating those students who reside within the jurisdiction of the District but who are parentally placed in private schools or homeschooled. The parent, legal guardian, or teacher of a resident student who is parentally placed in private school or home instructed may refer a student suspected of having a disability and in need of special education and related services to the student's home campus for District zoning purposes.

To meet its *Child Find* obligation to students who are homeschooled or attend private schools, the District offers to meet at least annually with representatives from private schools within the District and with parents who have placed their students in a private school within the District or who home-school their students, about special education and how to refer a student for a special education evaluation, and the special education and related service options available in the event their student is eligible.

If the parent or legal guardian of a student who is home-instructed or who is placed in a private school is offered an initial evaluation by the District but does not provide consent for the evaluation, the District may not use the special education dispute resolution process to override the lack of consent.

What about students who transfer?

If a student is in the process of being evaluated for special education eligibility by another public school district and enrolls in the District before the evaluation is completed, the District will coordinate with the student's previous school district to ensure prompt completion of the initial evaluation. If the student transfers from another public school district when an initial evaluation is pending, the timelines for conducting the evaluation do not apply to Grand Prairie ISD if:

- the District is making sufficient progress to ensure a prompt completion of the evaluation; and
- the parent and the District agree to a specific time when the evaluation will be completed.

Grand Prairie ISD will complete the evaluation in a timely manner when all relevant records are received to include pending evaluation data, not to exceed 30 school days.

Should the evaluation be completed, but special education services not initiated for the student, Grand Prairie ISD will conduct a review of existing evaluation data to determine whether

[331] 34 C.F.R. § 300.503(c)

additional evaluation data is needed to make a disability determination or if educational disability can be determined with the provided information and special education services initiated.

If a student transfers from another school district in Texas with an Individualized Education Plan (IEP), the District will provide a free appropriate public education to the transfer student by providing services comparable to the services described in the student's IEP from the student's previous school district until:

- the District adopts the student's IEP from the previous school district, or
- the District develops, adopts, and implements a new IEP in accordance with the procedures outlined in **the District's FAPE Composite Operating Procedure**.[332]

If a student transfers from another state with an IEP, the District will offer services comparable to the services described in the IEP from the sending school district until the District takes the following actions:

- conducts a new full and individual evaluation, as described in **the District's Evaluation Procedure Operating Procedure**, if the RtI/MTSS/504 Committee determines that a new evaluation is necessary; and
- develops, adopts, and implements a new IEP, if appropriate, in accordance with the procedures outlined in **the District's FAPE Composite Operating Procedure**.[333]

Additionally, the District will take reasonable steps to promptly obtain a transfer student's special education and general education records from the sending school district.[334]

What protections are available for students who have not been identified but may qualify for IDEA's disciplinary safeguards?

Students not yet eligible for special education and related services may be entitled to the disciplinary protections afforded eligible students, including the manifestation determination review process. The District may be obligated to provide a manifestation determination review and other disciplinary change of placement protections for a student even if the student is not yet determined to be eligible for special education and related services at the time of the violation of the District's conduct code. Disciplinary protections shall be afforded to a student if the District "had knowledge" that the student is a student with a disability prior to the behavioral incident at issue. The District is considered to have knowledge (1) if the parent or guardian expressed concern in writing to supervisory or administrative personnel, or a teacher of the student, that the student is in need of special education and related services; (2) the parent or guardian of the student requested an evaluation of the student pursuant to IDEA; or (3) the teacher of the student, or other District personnel, expressed specific concerns about a pattern of behavior demonstrated by the student directly to the director of special education or to other supervisory personnel of the District.

[332] 34 C.F.R. § 300.323(e)
[333] 34 C.F.R. § 300.323(f)
[334] 34 C.F.R. § 300.323(g)

The District does not have knowledge that the student is a student with a disability if the District sought and the parent refused to permit the student to be evaluated or declined special education and related services, or if the student was evaluated by the District and determined to be ineligible by a duly constituted Admission, Review and Dismissal (ARD) committee.[335]

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

- Training material
- Posters and other media or website postings
- Multi-Tiered Systems of Support or Response to Intervention Data
- Student specific data collection and monitoring
- Databases
- Texas Record Exchange (TREX) requests
- Frontline records request
- Telephone logs of calls to prior school districts and demonstrating calls to students' parents seeking collaboration
- Records from prior schools
- Notices of evaluation
- Documents seeking consent for evaluation

[335] 34 C.F.R. § 300.534

GRAND PRAIRIE ISD INDEPENDENT SCHOOL DISTRICT
SPECIAL EDUCATION OPERATING PROCEDURES
FULL AND INDIVIDUAL INITIAL EVALUATION

What is the primary purpose of a full individual and initial evaluation?

The purpose of the full individual and initial evaluation is to:

- determine if a student meets the criteria for having one of the categories of disability referenced in **the District's Child Find Duty Operating Procedure**;
- determine if, by reason of the disability, the student needs special education and related services, and therefore qualifies for special education and related services; and[336]
- determine the educational needs of the student.[337]

Evaluations will provide information to determine present levels of academic achievement, social and emotional performance, and related educational needs. No single evaluation tool may be used as the sole criterion for determining eligibility. Rather, a variety of assessments (both formal and informal assessments), including information provided by parents, guardians, classroom teachers, and observations of the student classroom performance, work samples/portfolios, interviews, and review of the records used.

Who can provide informed written consent for a full individual and initial evaluation?

Informed written consent for an initial evaluation for special education and related services is provided by a student's parent, and that term is defined broadly.

Texas law defines ***"parent"*** as "a person standing in parental relation," but does not "include a person as to whom the parent-student relationship has been terminated or a person not entitled to possession of or access to a child under a court order."[338]

The IDEA defines the term "parent" as—

- A biological or adoptive parent of a child.
- A foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent.

[336] *William V. v. Copperas Cove*, 77 IDELR 92 (5th Cir., September 14, 2020) (the 5th Circuit applies this two part test—the combination of a qualifying disability and educational need)
[337] 34 C.F.R. § 300.301(c)(2)
[338] Tex. Ed. Code § 26.002

- A guardian generally authorized to act as the child's parent or authorized to make educational decisions for the child (but not the State if the student is a ward of the State).

- An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare.

- A surrogate parent. [339]

When the parents of a student with a disability are divorced, the parental rights under the IDEA apply to both parents, unless a court order specifies the respective educational rights and duties of the parents.[340]

PRACTICE GUIDE— The campus attended by the student should communicate with the student's parents to confirm that the District has the most current copy of any orders affecting the parent-student relationship or the parents' custody or rights, including the right to consent for evaluation or special education services. In the absence of such an order, each parent should be treated as individually having all parental rights afforded by the Texas Family Code and under IDEA.

A foster parent may act as the parent of a student with a disability if the Texas Department of Family and Protective Services is appointed as the student's temporary or permanent managing conservator and has not been limited in its rights and duties to make educational decisions by court order, **and** if the foster parent agrees to make educational decisions on behalf of the student and complete a special education advocacy training program.[341] The foster parent must complete the training program before the student's next ARD committee meeting or by no later than 90 days after the foster parent begins to act on the student's behalf.[342]

A student's special education rights, including the right to grant or withhold consent for an evaluation or reevaluation, transfer from the parent or guardian to the adult student when the student turns 18.[343]

If the District is unable to identify or locate a parent or guardian for a student with a disability, or the foster parent of the student is unwilling or unable to serve as a parent, the District will appoint someone to serve as the student's surrogate parent.[344] The individual appointed as surrogate parent

[339] 34 C.F.R. § 300.30(a)
[340] 71 Fed. Reg. 46,568(2006); 34 C.F.R. § 300.30 (b)(1)("If a judicial decree or order identifies a specific person or persons . . . to act as the 'parent' of a student or to make educational decisions on behalf of a student, then such person or persons shall be determined to be the 'parent' for purposes of this section").
[341] Tex. Ed. Code § 29.015(a); 19 TEX. ADMIN. CODE § 89.1047
[342] Tex. Ed. Code § 29.015(b)
[343] 19 TEX. ADMIN. CODE § 89.1049(a)
[344] Tex. Ed. Code § 29.0151(b)

may not be employed by the District or any other agency involved in the education or care of the student.[345]

Additionally, the surrogate parent must:

- Be willing to serve in that capacity.
- Exercise independent judgment in pursuing the student's interests.
- Ensure that the student's due process rights are not violated.
- Complete a training program.
- Visit the student and the school where the student is enrolled to review the student's educational records and consult with any person involved in the student's education.
- Attend meetings of the student's ARD committee.[346]

The District will also provide notice of the surrogate parent's appointment to the District's homeless student liaison.[347]

*What will be included in a prior written notice (***Notice of Full and Individual Evaluation***) for a full individual and initial evaluation?*

Before conducting an evaluation, the District will provide the student's parent or guardian a copy of the Overview of Special Education for Parents and Prior Written Notice (*Notice of Full and Individual Evaluation*) that—

- describes the areas of evaluation that have been proposed, and descriptions of any evaluation procedures that the District proposes to conduct;
- explains why the District wants to conduct the evaluation; the options considered and why rejected; a description of each evaluation procedure, assessment, record, or report the District used as a basis for proposing to evaluate; other options to an evaluation that were considered and why those options were rejected; other factors relevant to the decision to evaluate;
- informs the parent or guardian of her or his right to refuse consent for the evaluation, together with a copy of the **TEA's *Notice of Procedural Safeguards*;**

[345] Tex. Ed. Code § 29.0151(c)
[346] Tex. Ed. Code § 29.0151(d)
[347] Tex. Ed. Code § 25.007

- is written in a form that the general public can understand. It must also be provided in the parent or guardian's native language (or the language that they normally use, like Braille or large print type-face) unless it is clearly not feasible to do so. If the parent's or guardian's native language or other mode of communication is not a written language, the District will take steps to ensure—
    - that the notice is translated orally or via other means to the parent or guardian in her or his native language or other mode of communication;
    - that the parent or guardian understands the contents of the District's *Notice of Full and Individual Evaluation*, and
    - that there is written evidence of the District's efforts to ensure these two steps have been taken.[348]

Also, concerning the administration of psychological assessment or tests, on request of a student's parent or guardian, and before obtaining the parent or guardian's consent for the administration of any psychological examination or test to the student that is included as part of the evaluation of the student's need for special education and related services, the District will provide to the student's parent or guardian: (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 Individualized Education Program (IEP) for the student.[349]

The District's *Notice of Full and Individual Evaluation* should specify that the District plans to evaluate in each area of suspected disability. Requests by parents or guardians to limit the scope of the evaluation (such as when based on the parent or guardian's preferences for seeking or avoiding consideration of specific eligibility categories) may not be honored when the parent or guardian's limits on the scope of evaluation might prevent the District from completing an evaluation that complies with these Operating Procedures.

What is the timeline for the completion of a full individual and initial evaluation?

Within 45 school days of receiving written consent for the evaluation, the Assessment and Related Services evaluator will complete a written report of the student's full individual and initial evaluation.[350] Likewise, if a student is not enrolled in the District, including students who are under the age of 5 or attending private schools within the District or are homeschooled, the District will complete the student's evaluation report within 45 school days of the date the District receives written consent for the evaluation from the student's parent or guardian. [351]

[348] 34 C.F.R. § 300.503
[349] Tex. Ed. Code § 29.0041
[350] 19 TEX. ADMIN. CODE § 89.1011(c)

[351] *Id.*

If, during the course of the student's evaluation, the student has been absent from school 3 or more school days, the time to complete the evaluation may be extended by a number of school days equal to the number of school days the student was absent during the evaluation process.[352]

PRACTICE GUIDE— If a student is absent from school for 3 or more school days, the designated staff member may send the student's parent(s) a *Ready, Willing and Able* letter citing 34 C.F.R. § 300.301(d)(1) and reminding the parent(s) that the District has agreed to and is in the process of (if appropriate) conducting the student's evaluation. In the event a parent is refusing to make a student available for an in-person evaluation, although the student is in attendance virtually or via remote programming, the District may notify the parent that it is *Ready, Willing and Able* to complete the evaluation and requires in-person access to the student. Citing 34 C.F.R. § 300.301(d)(1), the District will inform the parent that it may not be required to complete the evaluation within the timeline.

The student is considered absent for the school day if the student is not in attendance at the school's official attendance taking time or, if applicable, at the alternate attendance taking time set for that student. The student is considered in attendance if the student is off campus participating in an extracurricular or other activity approved by the District and under the supervision of a District teacher or other professional staff member or an adjunct staff member who has a minimum of a bachelor's degree and is eligible for participation in the Teacher Retirement System of Texas.[353]

If the District receives the written consent described above at least 35, but less than 45 school days, before the last instructional day of the school year, the written evaluation of the student will be provided to the student's parent or guardian no later than June 30 of that year. The student's ARD committee will meet no later than 15 days after the start of the following school year to consider the evaluation and the student's eligibility for special education and related services. However, the time for completion of the evaluation may be extended as described above, if the student is absent from school 3 or more days between the date the District received written consent and the last instructional day of the school year.[354]

If an initial evaluation completed by June 30 in the manner above indicates that the student will need Extended School Year (ESY) services during the summer the evaluation is completed, the ARD committee will meet as promptly as possible to consider eligibility and ESY services. [355]

If a student was in the process of being evaluated for special education eligibility by another school district in Texas and enrolls in the District prior to the completion of the student's evaluation, the District will coordinate with the previous school district as necessary and as expeditiously as possible to ensure a prompt completion of the evaluation. [356]

[352] 19 TEX. ADMIN. CODE § 89.1011(c)(1)
[353] 19 TEX. ADMIN. CODE § 89.1011(h)
[354] 19 TEX. ADMIN. CODE § 89.1011(e)

[355] *Id.*
[356] 19 TEX. ADMIN. CODE § 89.1011(f)

The 45 school day timeline and its exceptions do not apply if the District is making sufficient progress to ensure a prompt completion of the evaluation, and the student's parent or guardian and the District agree to a specific time by which the evaluation will be completed. [357]

The District will ensure that an IEP is in effect for a student by the student's 3rd birthday. If a student's 3rd birthday occurs during the summer, the student's ARD committee shall determine the date when services will begin.[358] Please see **the District's FAPE Composite Operating Procedure**.

How does the District provide notice of evaluation and seek consent?

The District's multidisciplinary evaluation team, comprised of Assessment and Related Services personnel qualified to evaluate the student in the areas specified in the referral and/or notice, will prepare a *Notice of Proposed Evaluation* as described in **the District's Evaluation Procedure Operating Procedure.**

The Assessment and Related Services personnel will then provide the parent or guardian with a copy of the written *Notice of Full and Individual Evaluation* and the District's *Consent for Evaluation* Form. The parent or guardian will then indicate whether the parent or guardian provides consent by marking "yes" to all of the following:

- the parent or guardian has been fully informed of all information relevant to the initial evaluation in the parent or guardian's native language or other mode of communication;
- the parent or guardian understands and agrees in writing to the District carrying out the initial evaluation;
- the parent or guardian understands that the granting of consent is voluntary on the part of the parent or guardian and may be revoked at any time; and
- if the parent or guardian revokes consent, that revocation is not retroactive; therefore, it does not negate an action that has occurred after the consent was given and before the consent was revoked.

The date on which the District receives the form with each of these items marked "yes" will be day zero for calculating the timeline for completing the evaluation.

In the event the parent or guardian requested information about certain psychological examinations, before providing consent as discussed in **the District's Evaluation Procedure Operating Procedure**, and the District later determines that an additional examination or test is required for the evaluation of the student's need for special education, the Assessment and Related Services evaluator shall provide to the parent or guardian (1) the name of the examination or test and (2) an explanation of the additional examination or test that will be used to develop an appropriate IEP, and shall obtain additional consent for the examination or test. The time required for the District to provide information and seek consent concerning the additional examination or

[357] *Id.*
[358] 34 CFR § 300.101

test may not be counted toward the timeline for completion of an evaluation. If a parent or guardian does not give consent for the additional examination or test within 20 calendar days after the date the District provided to the parent the information required here, the parent or guardian's consent is considered denied.[359]

The District has the right to conduct an evaluation or reevaluation if the District has reason to suspect that a student has a disability and that by virtue of the suspected disability needs specially designed instruction.[360] If the parent or guardian refuses consent for the District-proposed evaluation or reevaluation, the District may seek to override parental or guardian refusal to consent by filing for a special education due process hearing. [361]

PRACTICE GUIDE— If a parent includes conditions or restrictions on which assessments are conducted or how assessments are conducted, the District may notify the parent that the parent's restrictions or conditions effectively withhold consent and that the parent has the option to either provide consent without such conditions or restrictions or to decline the evaluation. The District may seek to override a lack of parental consent by requesting a due process hearing.

How does the District conduct a full individual and initial evaluation?

When conducting a student's full individual and initial evaluation, the District will—

- use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student to assist in determining the student's eligibility and developing the content of the student's IEP (discussed in **the District's Evaluation Procedure Operating Procedure**);

- not use any single measure or assessment as the sole criterion for its eligibility determination;

- use technically sound instruments that may assess the relative contribution of cognitive, behavioral, physical, or developmental factors;[362]

- select and administer assessments, particularly to a student with impaired sensory, manual, or speaking skills, that will best ensure those assessments accurately reflect the student's aptitude or achievement level (or whatever other factors the test purports to measure), rather than reflecting the student's

[359] Tex. Ed. Code § 29.0041
[360] *Shelby S v Conroe ISD*, 454 F3d 450 (5th Cir. 2006); *Andress v. Cleveland ISD*, 64 F.3d 176 (5th Cir. 1995)
[361] 34 C.F.R. § 300.507
[362] 34 C.F.R. § 300.304(b)

impaired sensory, manual, or speaking skills (unless those skills are the targets of the test).[363]

The student will be evaluated in all areas related to the student's suspected disabilities in order to assess the student's eligibility for special education and related services, including, if appropriate health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.[364] Consequently, the assessments and evaluative instruments should be tailored to the student's suspected disabilities and conducted in all areas related to the student's suspected disabilities. However, the District will ensure that the evaluation is sufficiently comprehensive to identify all of the student's special education and related service's needs, whether or not the assessments used are commonly linked to the student's suspected disability categories. [365]

PRACTICE GUIDE— Although ultimate decisions concerning eligibility and services rests with the ARD committee, the Evaluation Report should include individualized recommendations concerning the student's program, instructional needs, eligibility, and placement to guide the committee in making these decisions; for example, recommendations that distinguish eligibility characteristics for particular conditions may be helpful for guiding the ARD committee. The student's ARD committee may review the evaluations to consider whether they document how the student's disability or functional performance impacts the student's rate of progress to guide the ARD committee in developing appropriately challenging goals.

Additionally, the District will ensure that the assessments and other evaluation materials used to conduct a full individual and initial evaluation—

- are selected and administered in a way that is not racially or culturally discriminatory;
- are provided and administered in the student's native language or other mode of communication and in the form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer;
- are used for the purposes for which the assessments or measures are valid and reliable;
- are administered by trained and knowledgeable personnel; and
- are administered in accordance with any instructions provided by the producer of the assessments.[366]

[363] 34 C.F.R. § 300.304(c)(3)
[364] 34 C.F.R. § 300.304(c)(4)
[365] 34 C.F.R. § 300.304(c)(6)
[366] 34 C.F.R. § 300.304(c)

PRACTICE GUIDE—When areas of assessment require the input of a licensed physician, physician assistant, or advanced practice registered nurse, such as when considering an Other Health Impairment (OHI), the District may either arrange to have the student examined at District expense by a professional selected by the District or choose to have a professional who has previously treated the student complete the OHI form. When the District elects to have a professional who has previously treated the student complete the OHI form or otherwise provide evaluative input, the District should seek the parent's or guardian's consent for disclosure and exchange of

What additional procedures are required for identifying students with specific learning disabilities?

Prior to conducting an initial evaluation of a student suspected of having a specific learning disability, in order to ensure that underachievement in a student suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or mathematics, the Educational Diagnostician or Licensed Specialist in School Psychology will consider the following:

- Data that demonstrates the student was provided appropriate instruction in reading and/or mathematics within general education settings delivered by qualified personnel.

- Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal evaluation of student progress during instruction, which must be provided to the student's parents.

    - Documentation of the repeated assessments may include RtI progress monitoring data, in-class tests on grade-level curriculum, or other regularly administered District or classroom assessments. Intervals are considered reasonable if consistent with the assessment requirements of a student's specific instructional program.[367]

In order to qualify as a student with a specific learning disability (SLD), the student—

- has been determined through a variety of assessment tools and strategies to meet the criteria for a specific learning disability; and

- does not achieve adequately for the student's age or meet state-approved grade-level standards in oral expression, listening comprehension, written expression, basic reading skill, reading fluency skills, reading comprehension, mathematics calculation, or mathematics problem solving when provided with learning experiences and instruction appropriate for the student's age or state-approved

[367] 19 TEX. ADMIN. CODE § 89.1040(c)(9)(C)

grade-level standards, as indicated by performance on multiple measures such as in-class tests; grade average over time (e.g. six weeks, semester); norm- or criterion-referenced tests; and statewide assessments.[368]

Also, the student must either—

- not make sufficient progress to meet age or state-approved grade-level standards in oral expression, listening comprehension, written expression, basic reading skill, reading fluency skills, reading comprehension, mathematics calculation, or mathematics problem solving when provided a process based on the student's response to evidence-based intervention; [369] or

- exhibit a pattern of strengths and weaknesses in performance, achievement, or both relative to age, state-approved grade-level standards, or intellectual development that is determined to be relevant to the identification of a specific learning disability, using appropriate assessments.[370]

If a student is found to qualify as a student with a SLD, it cannot be primarily the result of: a visual, hearing, or motor disability; an intellectual disability; emotional disability; cultural factors; environmental or economic disadvantage; or due to the student being an emergent bilingual student.[371]

When considering a student for eligibility as a student with a specific learning disability, the Educational Diagnostician or Licensed Specialist in School Psychology must:

- use information from an observation in routine classroom instruction and monitoring of the student's performance that was done before the student was referred for an evaluation; or

- have at least one member of the multidisciplinary evaluation team conduct an observation of the student's academic performance in the regular classroom after parental consent has been obtained.

Grand Prairie ISD requires observations of routine classroom instruction for the purpose of SLD evaluations be conducted by the Educational Diagnostician or Licensed Specialist in School Psychology.

If a student is less than school age or out of school, a member of the multidisciplinary evaluation team must observe the student in an environment appropriate for a student of that age. [372]

[368] 19 TEX. ADMIN. CODE § 89.1040(c)(9)(B); 34 C.F.R. § 300.309

[369] 19 TEX. ADMIN. CODE § 89.1040(c)(9)(B)

[370] *Id.*

[371] *Id.*

[372] 19 TEX. ADMIN. CODE § 89.1040(c)(9)(D); 34 CFR § 300.310(b)

The determination of whether a student suspected of having a SLD is a student with a disability must be made by a team consisting of:

- the student's parents;
- at least one person qualified to conduct individual diagnostic examinations of children, including:
  - a licensed specialist in school psychology;
  - an educational diagnostician;
  - a speech language pathologist; or
  - a remedial learning teacher; and
- the student's regular teacher.

If the student does not have a regular teacher, a regular classroom teacher qualified to teach a student of his or her age is required. If the student is younger than school age, an individual qualified by the TEA to teach a student of his or her age.[373]

How is eligibility determined following a full initial and individual evaluation?

To be eligible for special education and related services, a student will (1) have a qualifying disability and (2) by reason thereof need special education and related services.[374]

- Special education means "specially designed instruction, at no cost to the parents, to meet the unique needs of a [student] with a disability."[375] Specially designed instruction means—

  - "adapting, as appropriate to the needs of an eligible [student] under this part, the content, methodology, or delivery of instruction-

    - To address the unique needs of the student that result from the student's disability; and

    - To ensure access of the student to *the general curriculum*, so that the student can meet *the educational standards within the jurisdiction of the public agency that apply to all students*." [376]

  The general curriculum and educational standards that "apply to all [students]" in Grand Prairie are the **Texas Essential Knowledge and Skills (TEKS)** as

[373] 19 TEX. ADMIN. CODE § 89.1040(c)(9)(E)
[374] *D.L. v. Clear Creek Independent School District*, 695 F. App'x 733 (5th Cir. 2017) ("[W]e consider whether there was a **present** need for special education services . . . [a] fear that a student may experience problems in the future is not by itself a valid basis for IDEA eligibility"(emphasis added).
[375] 34 C.F.R. § 300.39(a)(1)
[376] 34 C.F.R. § 300.39(b)(3)(emphasis added)

well as the District's Policy **EIE(Local)**.[377] The state-wide assessments that determine a student's progress toward meeting those educational standards are the **State of Texas Assessments of Academic Readiness (STAAR).**

The student will not be determined to be eligible for special education and related services if the determinant factor for the determination is-

- lack of appropriate instruction in reading, including the essential components of reading instruction;
- lack of appropriate instruction in math;
- limited English proficiency, or
- if the student does not meet the criteria for one of the eligibility categories set out in **the District's Child Find Duty Operating Procedure**.[378]

Within 30 calendar days of the completion of the student's full initial and individual evaluation report, the student's ARD committee will meet to determine whether the student is eligible for special education and related services and, if the student is determined to be eligible, the ARD committee shall develop the student's individualized education program (IEP). However, if the 30th calendar day falls during the summer and school is not in session, the ARD committee may wait until the first day of the following school year to finalize any decision regarding the student's initial eligibility, IEP and/or educational placement, unless the student's initial evaluation indicates that he or she will need extended school year services during the intervening summer. [379]

The campus will provide a parent with a free copy of the evaluation report.

When and how are reevaluations conducted?

The District will ensure that a reevaluation of a student with a disability is conducted if—

- the District determines that the educational or related service needs, including improved academic achievement and functional performance, of the student, warrant a reevaluation, or
- the student's parent, guardian or teacher requests a reevaluation.[380]

[377] The educational standards applicable to all students in the state of Texas are also outlined in Tex. Ed. Code § 28.002 and in 19 TEX. ADMIN. CODE § 74.1.
[378] 34 C.F.R. § 300.306(b)
[379] 19 TEX. ADMIN. CODE § 89.1011(d); 34 C.F.R. § 300.306
[380] 34 C.F.R § 300.303(a)

A reevaluation will be conducted at least every three-years unless the parent or guardian and the District maintains it is not necessary. A reevaluation can only occur once a year unless the parent or guardian and the District agree otherwise.[381]

PRACTICE GUIDE— When a student exhibits new behaviors or academic deficits prior to the three-year anniversary, consideration may be given to conducting an earlier reevaluation. If the parent shares an outside evaluation with the District, the District may consider whether to conduct its own evaluation in addition to considering the results of the parent's evaluation. Upon discharge from a psychiatric facility or other treatment center, the District may consider whether a reevaluation should be conducted.

The District will obtain informed parental consent prior to conducting any reevaluation; however, the evaluation may be completed without the parent or guardian's consent if the District can demonstrate that it made reasonable efforts to obtain informed parental consent and the student's parent or guardian has failed to respond.[382]

The District's reevaluation of a student with a disability begins with a REED as outlined **the District's Evaluation Procedure Operating Procedure**. The District's reevaluation of a student with a disability should meet the requirements outlined in **the District's Evaluation Procedure Operating Procedure**, but the reevaluation is not required to be identical to the student's initial evaluation for special education and related services.

What is the timeline for a reevaluation?

Both state and federal law are silent as to how long the District has to complete a reevaluation other than "at least once every three years," so the reevaluation will be completed by the three-year anniversary date, unless the ARD committee has agreed to complete it sooner. The parent or guardian and the District may also agree to conduct a REED in lieu of a reevaluation.[383]

PRACTICE GUIDE— In most circumstances, once the District obtains consent to complete the reevaluation, the reevaluation should be completed without delay, rather than waiting until the three-year anniversary date.

A reevaluation must occur at least once every three years, unless the parent or guardian and the District agree that a reevaluation is unnecessary. 34 C.F.R. § 300.303(b)(2). The U.S. Department of Education "acknowledges that, during the pandemic, social distancing measures and each child's individual disability-related needs may make administering some in-person evaluations

[381] 34 C.F.R. § 300.303(b)
[382] 34 C.F.R. § 300.300(c)
[383] 34 C.F.R. § 300.303(b)(2)

impracticable and may place limitations on how evaluations and reevaluations are conducted" pursuant to IDEA and these Operating Procedures.[384]

What is the process for conducting an evaluation before a student may no longer be eligible for special education and related services?

Before determining that a student is no longer eligible for special education and related services, the District will complete a full and individual evaluation of the student.[385] However, no reevaluation is required if the student's special education rights have been terminated due to graduation from high school with a regular diploma or due to exceeding the age eligibility for FAPE under State law.[386] If a student's right to special education has been terminated due to age or graduation with a regular high school diploma, the District will provide the student with a summary of the student's academic achievement and functional performance, including recommendations about assisting the student in meeting postsecondary goals.[387]

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

- Multi-Tiered Systems of Support or Response to Intervention Data
- Student specific data collection and monitoring
- Observation data
- Evaluation reports
- Collection of information from parents and independent service providers
- ARD committee reports

[384] OSEP. ***Part B Implementation of IDEA Provision of Services in the Current COVID-19 Environment Q&A Document*.** September 28, 2020.
[385] 34 C.F.R. § 300.305(e)(1)
[386] 19 TEX. ADMIN. CODE § 89.1070(g); 34 C.F.R. § 300.305(e)(2)
[387] 19 TEX. ADMIN. CODE § 89.1070(g); 34 C.F.R. § 300.305(e)(3)

GRAND PRAIRIE INDEPENDENT SCHOOL DISTRICT SPECIAL EDUCATION OPERATING PROCEDURES: REVIEW OF EXISTING EVALUATION DATA

What are the procedures for conducting a review of existing evaluation data (REED) as part of an initial evaluation (if appropriate) and any reevaluation?

As part of an initial evaluation, if appropriate, and as part of any reevaluation, relevant members of the student's ARD committee, together with any additional relevant professional staff, if necessary, will review the student's existing evaluation data, including:

- evaluations and information provided by the student's parent or guardian;
- current classroom-based, District or State assessments, and classroom-based observations of the student; and
- observations by teachers and related services providers.

On the basis of that review, as well as input from the student's parent(s) or guardian(s), the student's ARD committee will identify what additional assessment or evaluations, if any, are needed to determine: (1) whether the student is or remains a student with a disability, including on the basis of having 1 or more additional as of yet unidentified suspected disabilities; (2) whether the student needs or continues to need special education and related services; (3) the educational needs of the student, including the student's present levels of academic achievement and related developmental needs; and (4) 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 IEP of the student and to participate, as appropriate, in the general education curriculum.[388]

The group conducting the REED may conduct the review without a formal meeting of the student's

PRACTICE GUIDE— The District should carefully consider whether existing evaluation data is sufficient to describe the student's current academic and functional needs even when the student's eligibility may not be in question. When determining whether or not a REED is sufficient instead of reevaluation for a particular student, the ARD committee and other qualified professionals as appropriate may consider whether any additions or modifications to the student's existing special education program may be needed for progress.

ARD committee.[389]

- Grand Prairie conducts a review of existing evaluation data (REED) within an ARD committee meeting to provide meaningful participation of all members of a students ARD committee.

[388] 34 C.F.R. § 300.305(a)
[389] 34 C.F.R. § 300.305(b)

If the student's ARD committee, including the parent or guardian, determine that no additional data (including in a new assessment area) are needed to determine whether the student is or continues to be a student with a disability, and to determine the student's educational needs, the District will notify the student's parents or guardians about:

- the determination and the basis for the ARD committee's determination, and
- their right to request an assessment to determine whether the student continues to be a student with a disability and to determine the student's educational needs.[390]

Informed parental consent is not required before conducting a REED as part of an initial evaluation or a reevaluation. Likewise, informed parental consent is not needed when the District is administering a test or other evaluation that is administered to all students unless consent is required for all students.[391]

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

- Prior evaluation reports
- Current classroom-based, District or State assessments, and classroom based observations of the student
- Observations by teachers and related services providers
- Training materials
- Telephone logs of calls made and attempted
- Records of written correspondence
- Records of visits to the parent's home or place of employment
- Notices to parents concerning the District's determination of whether additional evaluation is needed and concerning the parent's rights

[390] 34 C.F.R. § 300.305
[391] 34 C.F.R. § 300.300(d); 34 C.F.R. § 300.302

GRAND PRAIRIE INDEPENDENT SCHOOL DISTRICT SPECIAL EDUCATION OPERATING PROCEDURES: AUTISM

AUTISM

Students with autism typically have a developmental disability *significantly* impacting verbal and nonverbal communication and social interaction which adversely affects a student's educational performance. This delay generally manifests prior to age 3.[392]

A student may not be determined eligible as a student with autism if the student's educational performance is adversely affected primarily because the student has an emotional disability.[393] The written evaluation report by the group of qualified professionals must include specific recommendations for behavioral interventions and strategies.[394]

Additional characteristics associated with autism may include—

- engagement in repetitive activities and stereotyped movements;
- resistance to environmental change or change in daily routines; and/or
- unusual responses to sensory experiences.

A student who manifests the characteristics of autism after age 3 could be identified as having autism if the criteria in this section are identified.[395]

The definitions of conditions or categories that are used for purposes of establishing an individual's eligibility for mental health services, as found in the Diagnostic and Statistical Manual of Mental Disorders (DSM), are not synonymous with criteria used for determining whether a child is a "child with a disability" for purposes of establishing eligibility for services under the IDEA.[396] The group of qualified professionals conducting an evaluation of a student suspected of having autism will conduct assessments and observations, and collect data, as necessary for the ARD Committee to make an eligibility determination.

PRACTICE GUIDE—When evaluating a student suspected of having autism, the group of qualified professionals conducting the evaluation may consider components such as observations during structured and unstructured times, autism rating scales by more than one rater, speech and language assessment, functional behavioral assessment (FBA) and private evaluation reports diagnosing autism. Private evaluation reports diagnosing or identifying autism may be considered along with the District's autism evaluation of the student. If appropriate to understand the private evaluation report and its recommendations or conclusions, the District may seek the parent's or guardian's consent to release and exchange confidential information with the private provider. If appropriate, the group is encouraged to make recommendations concerning strategies for students with autism as necessary for the development of the IEP. See also SECTION 3.3: FAPE. Recommendations in the evaluation report should be based upon the student's unique needs rather than the area of eligibility.

[392] 34 C.F.R. § 300.8(c)(1)
[393] 34 C.F.R. § 300.8(c)(1)(ii)
[394] 19 TEX. ADMIN. CODE §89.1040(c)(1)
[395] 34 C.F.R. § 300.8(c)(1)(iii)
[396] *Letter to Coe* (OSEP 9/14/1999)

FOR MORE INFORMATION

In Texas, eligibility is determined by the student's Admission, Review and Dismissal (ARD) committee.[397] The phrase *multidisciplinary team* refers to the group of District staff tasked with using a variety of assessment tools and strategies to gather relevant functional, academic and developmental information about the student, including information provided by the parent, as part of the special education evaluation process.[398] For more information, please contact the Special Education Department at 972-237-4019.

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

- Multi-Tiered Systems of Support or Response to Intervention Data
- Student specific data collection and monitoring
- Observation data
- Evaluation Reports
- Collection of information from parents and independent service providers
- ARD committee reports

[397] 19 TEX. ADMIN. CODE § 89.1040(b); 19 TEX. ADMIN. CODE § 89.1050(a)(5)
[398] 34 C.F.R. § 300.306

GRAND PRAIRIE INDEPENDENT SCHOOL DISTRICT SPECIAL EDUCATION OPERATING PROCEDURES: DEAF OR HARD OF HEARING

DEAF OR HARD OF HEARING

A student may be eligible for special education and related services as a student who is deaf or hard of hearing[399] if the hearing impairment is so severe that it impairs the processing of linguistic information through hearing with or without amplification, and that adversely affects educational performance.[400]

The group of qualified professionals must ensure that the evaluation data includes—

- must include an audiological evaluation performed by a licensed audiologist and a communication assessment completed by the multidisciplinary team.
- a description of the implications of the hearing loss for the student's hearing in a variety of circumstances with or without recommended hearing assistive technology.[401]

The group of qualified professionals conducting an evaluation of a student suspected of being deaf or hard of hearing will conduct assessments and observations, and collect data, as necessary for the ARD Committee to make an eligibility determination. The group should consider the student's unique mode of communication when conducting the evaluation.[402]

PRACTICE GUIDE—When evaluating a student suspected of being deaf or hard of hearing, the group of qualified professionals selecting and using standardized tests to assess cognitive functioning and academic achievement may consider whether the tests have been normed for students who are deaf or hard of hearing. The group may request the student's most recent audiological evaluation report and recommendations concerning the student's need for amplification. If appropriate to understand private evaluation reports and their recommendations or conclusions, including recommendations for amplification and use of assistive technology, the District may seek the parent's or guardian's consent to release and exchange confidential information with the private provider. Recommendations in the evaluation report should be based upon the student's unique needs rather than the area of eligibility.

FOR MORE INFORMATION

In Texas, eligibility is determined by the student's Admission, Review and Dismissal (ARD) committee.[403] The phrase *multidisciplinary team* refers to the group of District staff tasked with using a variety of assessment tools and strategies to gather relevant functional, academic and developmental information about the student, including information provided by the parent, as part of the special education evaluation process.[404] For more information, please contact the Special Education Department at 972-237-4019.

[399] The terms *deaf or hard of hearing* are referenced in Texas law while federal law typically references the terms *deafness* and *hearing impairment.*
[400] 34 C.F.R. § 300.8(c)(3)
[401] 19 TEX. ADMIN. CODE §89.1040(c)(3)
[402] Tex. Ed. Code § 29.303
[403] 19 TEX. ADMIN. CODE § 89.1040(b); 19 TEX. ADMIN. CODE § 89.1050(a)(5)
[404] 34 C.F.R. § 300.306

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

- Multi-Tiered Systems of Support or Response to Intervention Data
- Student specific data collection and monitoring
- Observation data
- Evaluation Reports
- Collection of information from parents and independent service providers
- ARD committee reports

GRAND PRAIRIE INDEPENDENT SCHOOL DISTRICT SPECIAL EDUCATION OPERATING PROCEDURES: DEAF-BLINDNESS

DEAF-BLINDNESS

A student who may be eligible under the category of deaf-blindness must have concurrent or coexistent hearing and visual impairments. Additionally, the combination of these impairments must cause such severe communication and other developmental and educational needs that the eligible student cannot be accommodated in a special education program solely for children with deafness or children with blindness.[405]

A student with deaf-blindness is one who, based on an evaluation conducted in accordance with the procedures outlined in **SECTION 2.0: EVALUATIONS**, meets—

- the eligibility criteria for deaf or hard of hearing and visual impairment;
- the eligibility criteria for a student with a visual impairment and has a suspected hearing loss that cannot be demonstrated conclusively, but a speech/language therapist, a certified speech and language therapist, or a licensed speech language pathologist indicates there is no speech at an age when speech would normally be expected;

A student with deaf-blindness is also one who, based on an evaluation conducted in accordance with the procedures outlined in **SECTION 2.0: EVALUATIONS**, has—

- documented hearing and visual losses that, if considered individually, may not meet the requirements for deaf or hard of hearing or visual impairment, but the combination of such hearing and visual losses adversely affects the student's educational performance; or
- a documented medical diagnosis of a progressive medical condition that will result in concomitant hearing and visual losses that, without special education intervention, will adversely affect the student's educational performance.[406]

The group of qualified professionals conducting an evaluation of a student suspected of having deaf-blindness will conduct assessments and observations, and collect data, as necessary for the ARD Committee to make an eligibility determination.

FOR MORE INFORMATION

In Texas, eligibility is determined by the student's Admission, Review and Dismissal (ARD) committee.[407] The phrase *multidisciplinary team* refers to the group of District staff tasked with using a variety of assessment tools and strategies to gather relevant functional, academic, and developmental information about the student, including information provided by the parent, as part of the special education evaluation process.[408] For more information, please contact the Special Education Department at 972-237-4019.

[405] 34 C.F.R. § 300.8(c)(2)
[406] 19 TEX. ADMIN. CODE §89.1040(c)(2)
[407] 19 TEX. ADMIN. CODE § 89.1040(b); 19 TEX. ADMIN. CODE § 89.1050(a)(5)
[408] 34 C.F.R. § 300.306

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

- Multi-Tiered Systems of Support or Response to Intervention Data
- Student specific data collection and monitoring
- Observation data
- Evaluation Reports
- Collection of information from parents and independent service providers
- ARD committee reports

GRAND PRAIRIE INDEPENDENT SCHOOL DISTRICT SPECIAL EDUCATION OPERATING PROCEDURES: EMOTIONAL DISABILITY

EMOTIONAL DISABILITY

A student may be eligible for special education and related services as a student with an emotional disability if the student exhibits one or more of the following characteristics over a long period of time and to a marked degree that adversely affects educational performance:

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

The term "emotional disability" also includes students with schizophrenia. The term does not include a student who is socially maladjusted unless the ARD Committee determines based on evaluation by a group of qualified professionals that the student has an emotional disability consistent with the criteria outlined above.[409] The term "social maladjustment" is a persistent pattern of violating social norms with truancy, substance abuse, perpetual struggle with authority or manipulation.[410]

With respect to the criterion that the student manifest one or more characteristics of emotional disability to a "marked degree," this generally refers to the frequency, duration, or intensity of a student's emotionally disturbed behavior in comparison to the behavior of peers and can be indicative of either degree or acuity or pervasiveness.[411]

The definitions of conditions or categories that are used for purposes of establishing an individual's eligibility for mental health services, as found in the Diagnostic and Statistical Manual of Mental Disorders (DSM), are not synonymous with criteria used for determining whether a child is a "child with a disability" for purposes of establishing eligibility for services under the IDEA.[412] IDEA neither requires nor precludes the application of the DSM criteria in making eligibility determinations. The DSM classification system may assist the group of qualified professionals in evaluating and diagnosing disability conditions in students, including the disability condition of emotional disability.[413]

[409] 34 C.F.R. § 300.8(c)(4)
[410] *Hansen v. Republic R-III School District*, 632 F.3d 1024 (8th Cir. 2011); *Springer v. Fairfax County School Board*, 134 F.3d 659 (4th Cir. 1998).
[411] *Letter to Anonymous* (OSEP 8/11/1989)
[412] *Letter to Coe* (OSEP 9/14/1999)
[413] *Letter to Woodson* (OSEP 4/5/1989)

The group of qualified professionals conducting an evaluation of a student suspected of having an emotional Disability will conduct assessments and observations, and collect data, as necessary for the ARD Committee to make an eligibility determination.

The group of qualified professionals must ensure that the written evaluation report includes specific recommendations for behavioral supports and interventions.[414]

PRACTICE GUIDE—When evaluating a student suspected of having an emotional disturbance, the group of qualified professionals conducting the evaluation may consider components such as observation during structured and unstructured times and/or a behavior rating scale including ratings by more than one rater. The group may consider additional components such as a functional behavioral assessment (FBA), disciplinary history, and the student's history of in-patient or other hospitalizations or therapeutic placements. The group completing the evaluation may consider specifying examples of how the student manifests the characteristics that may be the basis of the student's serious emotional disturbance eligibility. If appropriate to understand private evaluation reports, their recommendations or conclusions, or the student's placement history, the District may seek the parent's or guardian's consent to release and exchange confidential information with the private provider. Recommendations in the evaluation report should be based upon the student's unique needs rather than the area of eligibility.

FOR MORE INFORMATION

In Texas, eligibility is determined by the student's Admission, Review and Dismissal (ARD) committee.[415] The phrase *multidisciplinary team* refers to the group of District staff tasked with using a variety of assessment tools and strategies to gather relevant functional, academic and developmental information about the student, including information provided by the parent, as part of the special education evaluation process.[416] For more information, please contact Special Education Department at 972-237-4019.

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

- Multi-Tiered Systems of Support or Response to Intervention Data
- Student specific data collection and monitoring
- Observation data
- Evaluation Reports
- Collection of information from parents and independent service providers
- ARD committee reports

[414] 19 TEX. ADMIN. CODE §89.1040(c)(4)
[415] 19 TEX. ADMIN. CODE § 89.1040(b); 19 TEX. ADMIN. CODE § 89.1050(a)(5)
[416] 34 C.F.R. § 300.306

GRAND PRAIRIE INDEPENDENT SCHOOL DISTRICT SPECIAL EDUCATION OPERATING PROCEDURES: INTELLECTUAL DISABILITY

INTELLECTUAL DISABILITY

A student with an intellectual disability displays *significantly* subaverage general intellectual functioning, coexisting with deficits in adaptive behavior, that adversely affects the student's educational performance.[417] The student's subaverage general intellectual functioning and coexistent deficits in adaptive behavior typically manifest during the student's developmental period.

A student with an intellectual disability is one who:

- has been determined to have significantly subaverage intellectual functioning as measured by a standardized, individually administered test of cognitive ability in which the overall test score is at least two standard deviations below the mean, when taking into consideration the standard error of measurement of the test; and
- concurrently exhibits deficits in at least two of the following areas of adaptive behavior: communication, self-care, home living, social/interpersonal skills, use of community resources, self-direction, functional academic skills, work, leisure, health, or safety.[418]

The group of qualified professionals conducting an evaluation of a student suspected of having an intellectual disability will conduct assessments and observations, and collect data, as necessary for the ARD Committee to make an eligibility determination.

It is permissible to have evaluation criteria that use intelligence tests to determine whether a child has a disability, provided that the intelligence test has been validated for the specific purpose for which it is being used, that neither the test itself nor its administration is racially or culturally discriminatory and does not constitute the sole criterion for determining an appropriate educational program for a child.[419]

PRACTICE GUIDE—When evaluating a student suspected of having an intellectual disability, the group of qualified professionals conducting the evaluation may indicate the degree of cognitive disability to enable the ARD committee to develop goals that are appropriately ambitious, but not ambitious beyond what may be reasonably expected given the student's unique circumstances.[21] The group may consider adaptive behavior assessments to guide the ARD committee in developing an IEP that addresses the student's unique functional needs. Recommendations in the evaluation report should be based upon the student's unique needs rather than the area of eligibility.

[417] 34 C.F.R. § 300.8(c)(6)
[418] 19 TEX. ADMIN. CODE §89.1040(c)(5)
[419] *Letter to Warrington* (OSEP 9/2/1993)

FOR MORE INFORMATION

In Texas, eligibility is determined by the student's Admission, Review and Dismissal (ARD) committee.[420] The phrase *multidisciplinary team* refers to the group of District staff tasked with using a variety of assessment tools and strategies to gather relevant functional, academic, and developmental information about the student, including information provided by the parent, as part of the special education evaluation process.[421] For more information, please contact Special Education Department at 972-237-4019.

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

- Multi-Tiered Systems of Support or Response to Intervention Data
- Student specific data collection and monitoring
- Observation data
- Evaluation Reports
- Collection of information from parents and independent service providers
- ARD committee reports

[420] 19 TEX. ADMIN. CODE § 89.1040(b); 19 TEX. ADMIN. CODE § 89.1050(a)(5)
[421] 34 C.F.R. § 300.306

GRAND PRAIRIE INDEPENDENT SCHOOL DISTRICT SPECIAL EDUCATION OPERATING PROCEDURES: MULTIPLE DISABILITIES

MULTIPLE DISABILITIES

A student who may be eligible for special education and related services as a student with multiple disabilities has more than one disability or concurrent impairments (such as intellectual disability and a visual impairment or an emotional disability and orthopedic impairment). The combination of these disabilities results in such severe educational need that the student cannot be accommodated in special education programs designed solely for students with one of the impairments. "Multiple disabilities" does not include deaf-blindness.[423]

To qualify as a student with multiple disabilities, the student must have a combination of disabilities and meet all of the following conditions—

- The student's disability is expected to continue indefinitely, and
- the disabilities severely impair performance in two or more of the following areas:
    - psychomotor skills
    - self-care skills
    - communication
    - social and emotional development; or
    - cognition.

Students who have more than one of the disabilities but who do not meet the criteria cited above must not be classified or reported as having multiple disabilities. [424]

The group of qualified professionals conducting an evaluation of a student suspected of having multiple disabilities will conduct assessments and observations, and collect data, as necessary for the ARD Committee to make an eligibility determination.

FOR MORE INFORMATION

In Texas, eligibility is determined by the student's Admission, Review and Dismissal (ARD) committee.[425] The phrase *multidisciplinary team* refers to the group of District staff tasked with using a variety of assessment tools and strategies to gather relevant functional, academic and developmental information about the student, including information provided by the parent, as part

[422] *E.R. v. Spring Branch Independent School District*, 909 F.3d 754 (5th Cir. 2018)
[423] 34 C.F.R. § 300.8(c)(7)
[424] 19 TEX. ADMIN. CODE §89.1040(c)(6)
[425] 19 TEX. ADMIN. CODE § 89.1040(b); 19 TEX. ADMIN. CODE § 89.1050(a)(5)

of the special education evaluation process.[426] For more information, please contact the Special Education Department at 972-237-4019.

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

- Multi-Tiered Systems of Support or Response to Intervention Data
- Student specific data collection and monitoring
- Observation data
- Evaluation reports
- Collection of information from parents and independent service providers
- ARD committee reports

[426] 34 C.F.R. § 300.306

GRAND PRAIRIE INDEPENDENT SCHOOL DISTRICT SPECIAL EDUCATION OPERATING PROCEDURES: DEVELOPMENTAL DELAY

DEVELOPMENTAL DELAY

Children between the ages of 3-9 who are evaluated by a multidisciplinary team for at least one disability category and whose evaluation data indicates a need for special education and related services and shows evidence of, but does not clearly confirm, the presence of the suspected disability or disabilities due to the child's young age may be determined to have a developmental delay. In these cases, an ARD committee may determine that data supports identification of developmental delay in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development.[427]

The group of qualified professionals that collects or reviews evaluation data in connection with the determination of the child's eligibility based on developmental delay must include the applicable members for intellectual disability, emotional Disability, specific learning disability, or autism. The group of qualified professionals conducting an evaluation of a student suspected of meeting eligibility criteria for a developmental delay disability will conduct assessments and observations, and collect data, as necessary for the ARD Committee to make an eligibility determination.

To use this eligibility category, multiple sources of data must converge to indicate the student has a developmental delay as described by one of the following:

(A) performance on appropriate norm-referenced measures, including developmental measures, indicate that the student is at least 2 standard deviations below the mean or at the 2nd percentile of performance, when taking into account the standard error of measurement (SEM), in one area of development as listed in this paragraph, along with additional convergent evidence such as interviews and observation data that supports the delay in that area;

(B) performance on appropriate norm-referenced measures, including developmental measures, indicate that the student is at least 1.5 standard deviations below the mean or at the 7th percentile of performance, when taking into account the SEM, in at least two areas of development as listed in this paragraph, along with additional convergent evidence such as interviews and observation data that supports the delays in those areas; or

(C) a body of evidence from multiple direct and indirect sources, such as play-based assessments, information from the student's parent, interviews, observations, work samples, checklists, and other informal and formal measures of development, that clearly document a history and pattern of atypical development that is significantly impeding the student's performance and progress across settings when compared to age-appropriate expectations and developmental milestones in one or more areas of development as listed in this paragraph.

(14) Noncategorical. A student between the ages of 3-5 who is evaluated as having an intellectual disability, an emotional disability, a specific learning disability, or autism may be described as noncategorical early childhood.(d) Developmental delay eligibility guidelines.

Developmental delay, as described in subsection (c)(13) of this section, and noncategorical, as described in subsection (c)(14) of this section, may be used within the following guidelines.(1) No school district will be required to use the eligibility category of developmental delay; however, if a district chooses to use this eligibility category, it must use the definition and criteria described in subsection (c)(13) of this section.(2)

If a school district chooses to use the eligibility category described in subsection (c)(13) of this section, it may do so beginning with the 2024-2025 school year.(3) The eligibility category of noncategorical, as described in subsection (c)(14) of this section, must no longer be used by any school district beginning with the 2025-2026 school year. Any eligible student who begins the 2025-2026 school year already identified under subsection (c)(14) of this section may maintain this eligibility category, if determined appropriate by the student's ARD committee, until the required re-evaluation before the age of six.

FOR MORE INFORMATION

In Texas, eligibility is determined by the student's Admission, Review and Dismissal (ARD) committee.[428] The phrase *multidisciplinary team* refers to the group of District staff tasked with using a variety of assessment tools and strategies to gather relevant functional, academic and developmental information about the student, including information provided by the parent, as part of the special education evaluation process.[429] For more information, please contact the Special Education Department at 972-237-4019.

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

- Multi-Tiered Systems of Support or Response to Intervention Data
- Student specific data collection and monitoring
- Observation data
- Evaluation reports
- Collection of information from parents and independent service providers
- ARD committee reports

[427] 19 TEX. ADMIN. CODE § 89.1040(c)(13)
[428] 19 TEX. ADMIN. CODE § 89.1040(b); 19 TEX. ADMIN. CODE § 89.1050(a)(5)
[429] 34 C.F.R. § 300.306

GRAND PRAIRIE INDEPENDENT SCHOOL DISTRICT SPECIAL EDUCATION OPERATING PROCEDURES: ORTHOPEDIC IMPAIRMENT

ORTHOPEDIC IMPAIRMENT

A student with a severe orthopedic impairment adversely affecting her or his educational performance may be eligible for special education and related services. The phrase *orthopedic impairment* includes impairments caused by disease, like poliomyelitis or bone tuberculosis, as well as impairments from other causes, such as cerebral palsy, amputations, and fractures or burns that cause contractures.[430]

The group of qualified professionals that collects or reviews evaluation data in connection with the determination of a student's eligibility based on an orthopedic impairment must include a medical diagnosis of this disability provided by a licensed physician. [431] "Medical services" under IDEA are defined as services provided by a licensed physician to determine whether a child has a medically related disabling condition, which results in the child's need for special education and related services.[432] The District will ensure that such services are at no cost to the parent.[433]

The group of qualified professionals conducting an evaluation of a student suspected of having an orthopedic impairment will conduct assessments and observations, and collect data, as necessary for the ARD Committee to make an eligibility determination.

PRACTICE GUIDE— When evaluating a student suspected of having an orthopedic impairment, the group of qualified professionals conducting the evaluation may consider components such as a motor skills assessment. The group may want to consider additional components such as an assistive technology assessment and reports prepared by private providers. If appropriate to understand private evaluation reports, their recommendations or conclusions, the District may seek the parent's or guardian's consent to release and exchange confidential information with the private provider. The District may consider seeking consent for medical evaluation at District expense by professionals selected by the District, if necessary, to understand a student's eligibility for special education and unique disability-related needs. Recommendations in the evaluation report should be based upon the student's unique needs rather than the area of eligibility.

FOR MORE INFORMATION

In Texas, eligibility is determined by the student's Admission, Review and Dismissal (ARD) committee.[434] The phrase *multidisciplinary team* refers to the group of District staff tasked with using a variety of assessment tools and strategies to gather relevant functional, academic, and developmental information about the student, including information provided by the parent, as part

[430] 34 C.F.R. § 300.8(c)(8)
[431] 19 TEX. ADMIN. CODE §89.1040(c)(7)
[432] 34 C.F.R. § 300.34(c)(5)
[433] *Letter to Anonymous* (OSEP 6/3/2020)
[434] 19 TEX. ADMIN. CODE § 89.1040(b); 19 TEX. ADMIN. CODE § 89.1050(a)(5)

of the special education evaluation process.[435] For more information, please contact the Special Education Department 972-237-4019.

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

- Multi-Tiered Systems of Support or Response to Intervention Data
- Student specific data collection and monitoring
- Observation data
- Evaluation reports
- Collection of information from parents and independent service providers
- ARD committee reports

[435] 34 C.F.R. § 300.306

GRAND PRAIRIE INDEPENDENT SCHOOL DISTRICT SPECIAL EDUCATION OPERATING PROCEDURES: OTHER HEALTH IMPAIRMENT

OTHER HEALTH IMPAIRMENT

A student may be eligible for special education and related services as a student with Other Health Impairment (OHI) if the student exhibits limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, resulting in limited alertness in the educational environment, which is due to chronic or acute health problems, and by reason thereof demonstrates an educational need for specially designed instruction. [436]

This disability category includes such health conditions as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome.[437] The list of acute or chronic health conditions in the definition of OHI is not exhaustive, but rather provides examples of problems that children have that could make them eligible for special education and related services under the category of other health impairment. [438] [439]

The group of qualified professionals that collects or reviews evaluation data in connection with the determination of a student's eligibility based on other health impairment must include identification or confirmation of the student's chronic or acute health condition of this disability provided by a licensed physician licensed physician, a physician assistant or an advanced practice registered nurse, with authority delegated under the Texas Occupation Code.[440] "Medical services" under IDEA are defined as services provided by a licensed physician to determine whether a child has a medically related disabling condition, which results in the child's need for special education and related services.[441]

PRACTICE GUIDE—When areas of assessment require the input of a licensed physician, physician assistant, or advanced practice registered nurse, such as when considering an Other Health Impairment (OHI), the District may either arrange to have the student examined at District expense by a professional selected by the District or choose to have a professional who has previously treated the student complete the OHI form. When the District elects to have a professional who has previously treated the student complete the OHI form or otherwise provide evaluative input, the District should seek the parent's or guardian's consent for disclosure and exchange of

The District will ensure that such services are at no cost to the parent.[442]

[436] 34 C.F.R. § 300.8(c)(9)
[437] *Id.*
[438] 71 Fed. Reg. 46550 (August 14, 2006)
[439] *Letter to Sterner* (OSEP 8/19/1998)
[440] 19 TEX. ADMIN. CODE §89.1040(c)(8)
[441] 34 C.F.R. § 300.34(c)(5)
[442] *Letter to Anonymous* (OSEP 6/3/2020)

The group of qualified professionals conducting an evaluation of a student suspected of having an OHI will conduct assessments and observations, and collect data, as necessary for the ARD Committee to make an eligibility determination.[443]

FOR MORE INFORMATION

In Texas, eligibility is determined by the student's Admission, Review and Dismissal (ARD) committee.[444] The phrase *multidisciplinary team* refers to the group of District staff tasked with using a variety of assessment tools and strategies to gather relevant functional, academic and developmental information about the student, including information provided by the parent, as part of the special education evaluation process.[445] For more information, please contact the Special Education Department at 972-237-4019.

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

- Multi-Tiered Systems of Support or Response to Intervention Data
- Student specific data collection and monitoring
- Observation data
- Evaluation reports
- Collection of information from parents and independent service providers
- ARD committee reports
- Written request for consent to exchange confidential information with licensed physician, physician assistant, or advanced practice registered nurse

[443] *Alvin Independent School District v. A.D.*, 503 F.3d 378 (5th Cir. 2007)(Student was not eligible under IDEA because he had passing grades and success on state skills test evidencing academic progress; his teachers testified that, despite his behavioral issues, he did not need special education and was achieving social success in school; many of his behavioral problems resulted from non-ADHD related issues like alcohol abuse and a death in the family).
[444] 19 TEX. ADMIN. CODE § 89.1040(b); 19 TEX. ADMIN. CODE § 89.1050(a)(5)
[445] 34 C.F.R. § 300.306

GRAND PRAIRIE INDEPENDENT SCHOOL DISTRICT SPECIAL EDUCATION OPERATING PROCEDURES: SPECIFIC LEARNING DISABILITY

SPECIFIC LEARNING DISABILITY

Prior to conducting an initial evaluation of a student suspected of having a specific learning disability, in order to ensure that underachievement in a student suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or mathematics, the group of qualified professionals will consider the following:

- Data that demonstrates the student was provided appropriate instruction in reading and/or mathematics within general education settings delivered by qualified personnel.
- Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal evaluation of student progress during instruction, which must be provided to the student's parents.
    - Documentation of the repeated assessments may include RtI progress monitoring data, in-class tests on grade-level curriculum, or other regularly administered District or classroom assessments. Intervals are considered reasonable if consistent with the assessment requirements of a student's specific instructional program.[446]

In order to qualify as a student with a specific learning disability (SLD), the student—

- has been determined through a variety of assessment tools and strategies to meet the criteria for a specific learning disability;
- does not achieve adequately for the student's age or meet state-approved grade-level standards in oral expression, listening comprehension, written expression, basic reading skill, reading fluency skills, reading comprehension, mathematics calculation, or mathematics problem solving when provided learning experiences and instruction appropriate for the student's age or state-approved grade-level standards, as indicated by performance on multiple measures such as in-class tests; grade average over time (e.g. six weeks, semester); norm- or criterion-referenced tests; and statewide assessments;
- does not make sufficient progress to meet age or state-approved grade-level standards in oral expression, listening comprehension, written expression, basic reading skill, reading fluency skills, reading comprehension, mathematics calculation, or mathematics problem solving when using a process based on the student's response to scientific, research-based intervention; or
- exhibits a pattern of strengths and weaknesses in performance, achievement, or both relative to age, state-approved grade-level standards, or intellectual development that is

[446] 19 TEX. ADMIN. CODE § 89.1040(c)(9)

determined to be relevant to the identification of a specific learning disability, using appropriate assessments.[447]

- Except that the student is not one with a specific learning disability if the findings specified above are primarily the result of: a visual, hearing, or motor disability; an intellectual disability; emotional disability; cultural factors; environmental or economic disadvantage; or emergent bilingual skills.

When considering a student for eligibility as a student with a specific learning disability, the student must be observed in the student's learning environment, including the regular classroom setting, to document the student's academic performance and behavior in the areas of difficulty.

The ARD Committee must decide to either:

- use information from an observation in routine classroom instruction and monitoring of the student's performance that was done before the student was referred for an evaluation; or
- have at least one member of the group of qualified professionals conduct an observation of the student's academic performance in the regular classroom after the student has been referred for an evaluation and the school has obtained parental consent.[448]

The group of qualified professionals conducting an evaluation of a student suspected of having a specific learning disability will conduct assessments and observations, and collect data, as necessary for the ARD Committee to make an eligibility determination.

FOR MORE INFORMATION

In Texas, eligibility is determined by the student's Admission, Review and Dismissal (ARD) committee.[449] The phrase *multidisciplinary team* refers to the group of District staff tasked with using a variety of assessment tools and strategies to gather relevant functional, academic and developmental information about the student, including information provided by the parent, as part of the special education evaluation process.[450] For more information, please contact the Special Education Department at 972-237-4019.

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

- Multi-Tiered Systems of Support or Response to Intervention Data
- Student specific data collection and monitoring
- Observation data
- Evaluation reports
- Collection of information from parents and independent service providers
- ARD committee reports

[447] *Id.*; 34 C.F.R. § 300.309
[448] 34 C.F.R. § 300.310(b)
[449] 19 TEX. ADMIN. CODE § 89.1040(b); 19 TEX. ADMIN. CODE § 89.1050(a)(5)
[450] 34 C.F.R. § 300.306

GRAND PRAIRIE INDEPENDENT SCHOOL DISTRICT SPECIAL EDUCATION OPERATING PROCEDURES: SPEECH OR LANGUAGE IMPAIRMENT

SPEECH OR LANGUAGE IMPAIRMENT

A speech or language impairment includes communication disorders, such as stuttering, impaired articulation, expressive or receptive language impairment, or voice impairment that adversely affects a student's educational performance.[451]

The group of qualified professionals that collects or reviews evaluation data in connection with the determination of a student's eligibility based on a speech or language impairment must include a certified speech and hearing therapist, a certified speech and language therapist, or a licensed speech/language pathologist.[452]

The group of qualified professionals conducting an evaluation of a student suspected of having a speech or language impairment will conduct assessments and observations, and collect data, as necessary for the ARD Committee to make an eligibility determination.

FOR MORE INFORMATION

In Texas, eligibility is determined by the student's Admission, Review and Dismissal (ARD) committee.[453] The phrase *multidisciplinary team* refers to the group of District staff tasked with using a variety of assessment tools and strategies to gather relevant functional, academic and developmental information about the student, including information provided by the parent, as part of the special education evaluation process.[454] For more information, please contact the Special Education Department at 972-237-4019.

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

- Multi-Tiered Systems of Support or Response to Intervention Data
- Student specific data collection and monitoring
- Observation data
- Evaluation reports
- Collection of information from parents and independent service providers
- ARD committee reports

[500] Tex. Ed. Code § 37.004(b-1)(2)
[501] U.S. Dept. of Education, 71 Fed. Reg. 46586.
[502] U.S. Dept. of Education, 71 Fed. Reg. 46580.
[503] *OSERS Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A D-3 (Revised July 2022).
[504] U.S. Dept. of Education, 71 Federal Register 46722
[505] *OSERS Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A D-5 (Revised July 2022).
[506] 71 Fed. Reg. 46719 (August 14, 2006)

[451] 34 C.F.R. § 300.310(c)(11)
[452] 19 TEX. ADMIN. CODE § 89.1040(c)(10)
[453] 19 TEX. ADMIN. CODE § 89.1040(b); 19 TEX. ADMIN. CODE § 89.1050(a)(5)
[454] 34 C.F.R. § 300.306

[500] Tex. Ed. Code § 37.004(b-1)(2)
[501] U.S. Dept. of Education, 71 Fed. Reg. 46586.
[502] U.S. Dept. of Education, 71 Fed. Reg. 46580.
[503] *OSERS Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A D-3 (Revised July 2022).
[504] U.S. Dept. of Education, 71 Federal Register 46722
[505] *OSERS Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A D-5 (Revised July 2022).
[506] 71 Fed. Reg. 46719 (August 14, 2006)

GRAND PRAIRIE INDEPENDENT SCHOOL DISTRICT SPECIAL EDUCATION OPERATING PROCEDURES: TRAUMATIC BRAIN INJURY

TRAUMATIC BRAIN INJURY

Students with traumatic brain injury have acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not apply to injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.[455]

The group of qualified professionals that collects or reviews evaluation data in connection with the determination of a student's eligibility based on a traumatic brain injury must include a must include a medical diagnosis of this disability provided by a licensed physician, in addition to—

- a licensed specialist in school psychology (LSSP)[456]
- an educational diagnostician, or
- other appropriately certified or licensed practitioner with experience and training in the area of the disability.[457]

"Medical services" under IDEA are defined as services provided by a licensed physician to determine whether a child has a medically related disabling condition, which results in the child's need for special education and related services.[458] The District will ensure that such services are at no cost to the parent.[459]

The group of qualified professionals conducting an evaluation of a student suspected of having a traumatic brain injury will conduct assessments and observations, and collect data, as necessary for the ARD Committee to make an eligibility determination.

[500] Tex. Ed. Code § 37.004(b-1)(2)
[501] U.S. Dept. of Education, 71 Fed. Reg. 46586.
[502] U.S. Dept. of Education, 71 Fed. Reg. 46580.
[503] *OSERS Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A D-3 (Revised July 2022).
[504] U.S. Dept. of Education, 71 Federal Register 46722
[505] *OSERS Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A D-5 (Revised July 2022).
[506] 71 Fed. Reg. 46719 (August 14, 2006)

[455] 34 C.F.R. § 300.8(c)(12)
[456] 22 TEX. ADMIN. CODE § 465.38(b)(1)
[457] 19 TEX. ADMIN. CODE § 89.1040(c)(11)
[458] 34 C.F.R. § 300.34(c)(5)
[459] *Letter to Anonymous* (OSEP 6/3/2020)

[500] Tex. Ed. Code § 37.004(b-1)(2)
[501] U.S. Dept. of Education, 71 Fed. Reg. 46586.
[502] U.S. Dept. of Education, 71 Fed. Reg. 46580.
[503] *OSERS Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A D-3 (Revised July 2022).
[504] U.S. Dept. of Education, 71 Federal Register 46722
[505] *OSERS Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A D-5 (Revised July 2022).
[506] 71 Fed. Reg. 46719 (August 14, 2006)

PRACTICE GUIDE—When evaluating a student suspected of having a traumatic brain injury, the group of qualified professionals conducting the evaluation may consider additional components such as an assistive technology assessment and reports prepared by private providers. If appropriate to understand private evaluation reports, their recommendations or conclusions, the District may seek the parent's or guardian's consent to release and exchange confidential information with the private provider. The District may consider seeking consent for medical evaluation at District expense by professionals selected by the District, if necessary, to understand a student's eligibility for special education and unique disability-related needs. Recommendations in the evaluation report should be based upon the student's unique needs rather than the area of eligibility.

FOR MORE INFORMATION

In Texas, eligibility is determined by the student's Admission, Review and Dismissal (ARD) committee.[460] The phrase *multidisciplinary team* refers to the group of District staff tasked with using a variety of assessment tools and strategies to gather relevant functional, academic and developmental information about the student, including information provided by the parent, as part of the special education evaluation process.[461] For more information, please contact the Special Education Department at 972-237-4019.

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

- Multi-Tiered Systems of Support or Response to Intervention Data
- Student specific data collection and monitoring
- Observation data
- Evaluation reports
- Collection of information from parents and independent service providers
- ARD committee reports

[500] Tex. Ed. Code § 37.004(b-1)(2)
[501] U.S. Dept. of Education, 71 Fed. Reg. 46586.
[502] U.S. Dept. of Education, 71 Fed. Reg. 46580.
[503] *OSERS Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A D-3 (Revised July 2022).
[504] U.S. Dept. of Education, 71 Federal Register 46722
[505] *OSERS Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A D-5 (Revised July 2022).
[506] 71 Fed. Reg. 46719 (August 14, 2006)

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[460] 19 TEX. ADMIN. CODE § 89.1040(b); 19 TEX. ADMIN. CODE § 89.1050(a)(5)
[461] 34 C.F.R. § 300.306

[500] Tex. Ed. Code § 37.004(b-1)(2)
[501] U.S. Dept. of Education, 71 Fed. Reg. 46586.
[502] U.S. Dept. of Education, 71 Fed. Reg. 46580.
[503] *OSERS Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A D-3 (Revised July 2022).
[504] U.S. Dept. of Education, 71 Federal Register 46722
[505] *OSERS Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A D-5 (Revised July 2022).
[506] 71 Fed. Reg. 46719 (August 14, 2006)

GRAND PRAIRIE INDEPENDENT SCHOOL DISTRICT SPECIAL EDUCATION OPERATING PROCEDURES: VISUAL IMPAIRMENT

VISUAL IMPAIRMENT

A student with a visual impairment may qualify for special education and related services if the student has an impairment in vision, even with correction (such as glasses or contact lenses), that adversely affects educational performance. The phrase *visual impairment* includes both partial sight and blindness.[462] Information from a variety of sources must be considered by the group of qualified professionals that collects or reviews evaluation data in connection with the determination of the student's eligibility based on visual impairment in order to determine the need for specially designed instruction.

A student with a visual impairment is one who—

- has been determined by a licensed ophthalmologist or optometrist to
    - have no vision or to have a serious visual loss after correction or
    - have a progressive medical condition that will result in no vision or a serious visual loss after correction.[463]

The group of qualified professionals that collects or reviews evaluation data in connection with the determination of a student's eligibility based on a visual impairment includes a person who is appropriately certified as an orientation and mobility specialist.[464] The District must ensure that an appropriately certified orientation and mobility specialist is included in any reevaluation of a student who has been determined to be eligible for the district's special education program on the basis of a visual impairment.[465]

The written report from the group of qualified professionals includes:

- a medical report by a licensed ophthalmologist or optometrist that indicates the student's visual loss stated in exact measures of visual field and corrected visual acuity, at a distance and at near range, in each eye. If exact measures cannot be obtained, the eye specialist must so state and provide best estimates. The report by the licensed ophthalmologist or optometrist should also include prognosis whenever possible and whether the student has no vision or visual loss after correction; or a progressive medical condition that will result in no vision or a visual loss after correction; [466]

- a functional vision evaluation by a certified teacher of students with visual impairments or a certified orientation and mobility specialist that includes the performance of tasks in a

[500] Tex. Ed. Code § 37.004(b-1)(2)
[501] U.S. Dept. of Education, 71 Fed. Reg. 46586.
[502] U.S. Dept. of Education, 71 Fed. Reg. 46580.
[503] *OSERS Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A D-3 (Revised July 2022).
[504] U.S. Dept. of Education, 71 Federal Register 46722
[505] *OSERS Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A D-5 (Revised July 2022).
[506] 71 Fed. Reg. 46719 (August 14, 2006)

[462] 34 C.F.R. § 300.8(c)(13)
[463] 19 TEX. ADMIN. CODE § 89.1040(c)(12)(A)
[464] 19 TEX. ADMIN. CODE § 89.1040(c)(12)(C)
[465] 19 TEX. ADMIN. CODE § 89.1040(c)(12)(B)
[466] 19 TEX. ADMIN. CODE § 89.1040(c)(12)(A)(i)

[500] Tex. Ed. Code § 37.004(b-1)(2)
[501] U.S. Dept. of Education, 71 Fed. Reg. 46586.
[502] U.S. Dept. of Education, 71 Fed. Reg. 46580.
[503] *OSERS Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A D-3 (Revised July 2022).
[504] U.S. Dept. of Education, 71 Federal Register 46722
[505] *OSERS Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A D-5 (Revised July 2022).
[506] 71 Fed. Reg. 46719 (August 14, 2006)

variety of environments requiring the use of both near and distance vision and recommendations concerning the need for a clinical low vision evaluation;[467]

- a learning media assessment by a certified teacher of students with visual impairments including recommendations concerning which specific visual, tactual, and/or auditory learning media are appropriate for the student and whether or not there is a need for ongoing evaluation in this area;[468] and
- an orientation and mobility evaluation conducted by a person who is appropriately certified as an orientation and mobility specialist and must be conducted in a variety of lighting conditions and in a variety of settings, including in the student's home, school, and community and in settings unfamiliar to the student.[469]

The group of qualified professionals conducting an evaluation of a student suspected of having a visual impairment will conduct assessments and observations, and collect data, as necessary for the ARD Committee to make an eligibility determination.

FOR MORE INFORMATION

In Texas, eligibility is determined by the student's Admission, Review and Dismissal (ARD) committee.[470] The phrase *multidisciplinary team* refers to the group of District staff tasked with using a variety of assessment tools and strategies to gather relevant functional, academic, and developmental information about the student, including information provided by the parent, as part of the special education evaluation process.[471] For more information, please contact the Special Education Department at 972-237-4019.

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

- Multi-Tiered Systems of Support or Response to Intervention Data
- Student specific data collection and monitoring
- Observation data
- Evaluation reports
- Collection of information from parents and independent service providers
- ARD committee report

[467] 19 TEX. ADMIN. CODE § 89.1040(c)(12)(A)(ii)
[468] 19 TEX. ADMIN. CODE § 89.1040(c)(12)(A)(iii)
[469] 19 TEX. ADMIN. CODE § 89.1040(c)(12)(A)(iv)
[470] 19 TEX. ADMIN. CODE § 89.1040(b); 19 TEX. ADMIN. CODE § 89.1050(a)(5)

[500] Tex. Ed. Code § 37.004(b-1)(2)
[501] U.S. Dept. of Education, 71 Fed. Reg. 46586.
[502] U.S. Dept. of Education, 71 Fed. Reg. 46580.
[503] *OSERS Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A D-3 (Revised July 2022).
[504] U.S. Dept. of Education, 71 Federal Register 46722
[505] *OSERS Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A D-5 (Revised July 2022).
[506] 71 Fed. Reg. 46719 (August 14, 2006)

[471] 34 C.F.R. § 300.306

[500] Tex. Ed. Code § 37.004(b-1)(2)
[501] U.S. Dept. of Education, 71 Fed. Reg. 46586.
[502] U.S. Dept. of Education, 71 Fed. Reg. 46580.
[503] *OSERS Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A D-3 (Revised July 2022).
[504] U.S. Dept. of Education, 71 Federal Register 46722
[505] *OSERS Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A D-5 (Revised July 2022).
[506] 71 Fed. Reg. 46719 (August 14, 2006)

GRAND PRAIRIE INDEPENDENT SCHOOL DISTRICT SPECIAL EDUCATION OPERATING PROCEDURES: INDEPENDENT EDUCATIONAL EVALUATION

How does the District respond when it receives a request for an independent educational evaluation (IEE)?

If a parent or guardian disagrees with the results of a District-conducted evaluation or reevaluation, she or he has a right to request an independent educational evaluation.[472] Any requests for an IEE will be communicated to the Executive Director of Special Education or designee. The Executive Director of Special Education or designee is responsible for granting or denying the request for an IEE in writing as an administrative decision, providing the parent or guardian with the District's IEE criteria, information about how to obtain an IEE, and a copy of **TEA's Notice of Procedural Safeguards**. An IEE will be conducted by a qualified examiner who is not employed by the District and who meets the District's criteria for an independent evaluator.

If a parent or guardian requests a publicly funded IEE, the District will, without necessary delay, take the following actions:

- file a due process complaint to obtain a hearing to prove that the District's evaluation is appropriate or that the parent's request does not meet District criteria, or
- grant the request for an IEE that meets District criteria and provide the parent or guardian with the District's IEE criteria.[473]

If the parent or guardian requests an IEE, the District may ask for the parent or guardian's reason why she or he objects to the District's evaluation; however, the District may not require the parent or guardian to provide an explanation and may not unreasonably delay either providing the IEE at public expense or filing a due process complaint to request a due process hearing. [474]

The District uses a direct-pay model to fund the parent or guardian's request for an IEE if the District in its discretion grants the IEE request. The Executive Director of Special Education or designee will ensure that the District's IEE criteria include an explanation of the District's IEE funding model and provides a procedure for a parent or guardian to request an exception to that model.

[472] 34 C.F.R. § 300.502
[473] 34 C.F.R. § 300.502(a)(3)(i) – (b)(2)

[500] Tex. Ed. Code § 37.004(b-1)(2)
[501] U.S. Dept. of Education, 71 Fed. Reg. 46586.
[502] U.S. Dept. of Education, 71 Fed. Reg. 46580.
[503] *OSERS Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A D-3 (Revised July 2022).
[504] U.S. Dept. of Education, 71 Federal Register 46722
[505] *OSERS Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A D-5 (Revised July 2022).
[506] 71 Fed. Reg. 46719 (August 14, 2006)

[474] 34 C.F.R. § 300.502(b)(4)

[500] Tex. Ed. Code § 37.004(b-1)(2)
[501] U.S. Dept. of Education, 71 Fed. Reg. 46586.
[502] U.S. Dept. of Education, 71 Fed. Reg. 46580.
[503] *OSERS Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A D-3 (Revised July 2022).
[504] U.S. Dept. of Education, 71 Federal Register 46722
[505] *OSERS Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A D-5 (Revised July 2022).
[506] 71 Fed. Reg. 46719 (August 14, 2006)

If a parent or guardian obtains a private evaluation and shares the results with the District, those results, if the private evaluation meets the District's criteria, will be considered by the student's ARD committee in any decision made with respect to the provision of a free appropriate public education to the student. [475]

PRACTICE GUIDE— Review of IEE criteria and the list of IEE providers should occur periodically to ensure compliance and availability. Ascertain whether the parent's selected evaluator is willing to conduct school-based observations and notify the parent of any potential impact when the ARD committee considers the IEE report.

Such consideration does not make the district liable for reimbursement of payment for the IEE or the evaluation obtained at private expense.

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

- Training materials
- Independent Education Evaluator Criteria
- Sample letters notifying parents of the District's criteria and qualified evaluators

[500] Tex. Ed. Code § 37.004(b-1)(2)
[501] U.S. Dept. of Education, 71 Fed. Reg. 46586.
[502] U.S. Dept. of Education, 71 Fed. Reg. 46580.
[503] *OSERS Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A D-3 (Revised July 2022).
[504] U.S. Dept. of Education, 71 Federal Register 46722
[505] *OSERS Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A D-5 (Revised July 2022).
[506] 71 Fed. Reg. 46719 (August 14, 2006)

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[475] 34 C.F.R. § 300.502(c)

[500] Tex. Ed. Code § 37.004(b-1)(2)

[501] U.S. Dept. of Education, 71 Fed. Reg. 46586.

[502] U.S. Dept. of Education, 71 Fed. Reg. 46580.

[503] *OSERS Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A D-3 (Revised July 2022).

[504] U.S. Dept. of Education, 71 Federal Register 46722

[505] *OSERS Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A D-5 (Revised July 2022).

[506] 71 Fed. Reg. 46719 (August 14, 2006)

GRAND PRAIRIE INDEPENDENT SCHOOL DISTRICT SPECIAL EDUCATION OPERATING PROCEDURES DISCIPLINARY CHANGE OF PLACEMENT

DISCIPLINARY CHANGE OF PLACEMENT

Before taking disciplinary action, the Principal or Campus Behavior Coordinator, as appropriate shall determine whether such action will result in a change of placement[476] as provided in The Legal Framework for the Child-Centered Process and these Operating Procedures. Whether a proposed disciplinary action will constitute a change of placement shall be made on a case-by-case basis.[477]

When considering whether to propose a disciplinary change of placement, the Principal or Campus Behavior Coordinator may consider any unique circumstances on a case-by-case basis when determining whether a change in placement is appropriate for a student with a disability who violates the Student Code of Conduct.[478] To the extent that a district has "a zero tolerance" policy, such policies are not applicable to what constitutes a change in placement for disciplinary removals under the IDEA.[479]

Grand Prairie ISD has a comprehensive framework for considering a disciplinary change of placement to include coordination with the Special Education Department.

All disciplinary change of placements considerations are reviewed by the Special Education Department to provide guidance and recommendations to include intervention and alternative disciplinary practices for students with disabilities. Please refer to the Disciplinary Change of Placement Process: GPISD Special Education and Section 504 flowchart DCOP .

What is a disciplinary change of placement?

A removal or series of removals shall be considered by the Principal or Campus Behavior Coordinator to constitute a disciplinary change of placement if:

- The removal is for more than 10 consecutive school days; or
- The student has been subjected to a series of removals that constitute a pattern—
    - Because the series of removals total more than 10 school days in a school year;
    - Because the student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals; and

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[500] Tex. Ed. Code § 37.004(b-1)(2)
[501] U.S. Dept. of Education, 71 Fed. Reg. 46586.
[502] U.S. Dept. of Education, 71 Fed. Reg. 46580.
[503] *OSERS Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A D-3 (Revised July 2022).
[504] U.S. Dept. of Education, 71 Federal Register 46722
[505] *OSERS Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A D-5 (Revised July 2022).
[506] 71 Fed. Reg. 46719 (August 14, 2006)

- Because of such additional factors as the length of each removal, the total amount of time the student has been removed, and the proximity of the removals to one another.[480]

"Substantially similar behaviors" do not need to be recognized by the ARD committee or included in the student's IEP, and instead will be determined by the Principal or Campus Behavior Coordinator. In making the determination as to "substantially similar behavior," the Principal or Campus Behavior Coordinator shall consider any relevant information regarding the student's behaviors, including, where appropriate, any information in the student's IEP. Although "substantially similar behavior" is a subjective determination, the Principal or Campus Behavior Coordinator will objectively examine the student's behaviors cumulatively, in the context of all the criteria for determining whether the series of removals constitutes a change in placement, to make a reasonable determination as to whether a change in placement will occur.[481]

PRACTICE GUIDE—When documenting student misconduct, administrators are encouraged to describe the student's behavior objectively and with specificity rather than in generalities, like "disrespect" or "verbal aggression." Consider that "disrespect" could mean anything from not saying thank you, to making derogatory comments and "verbal aggression" could mean anything from use of profanity to threats of physical harm. Use specific descriptions of the student's behavior in any documentation, data and discipline reports, so as to distinguish among dissimilar behaviors. Also, don't rely on checkboxes and prepopulated software to describe the behavior at issue. Review any disciplinary documents prepared by the administrator related to considerations given to intent or lack of intent, self defense, or a disability that substantially impairs a student's capacity to appreciate the wrongfulness of the behavior.

PRACTICE GUIDE— Be sure to train staff and administrators about how to properly count the 10-days referenced above. For example as discussed below, In-School Suspension (ISS) that does not provide special education services, may count as a day out of placement. Similarly, if the school initiates calling a parent to pick up a student for disciplinary reasons, prior to the end of the instructional day, this may also count towards the 10-days. Partial days out of placement will also count. Avoid written or verbal communications with the parent that could be construed as the District requesting/suggesting the student be picked up from school, as such could later be viewed as constituting a disciplinary removal.

When should in-school suspension be counted?

Grand Prairie ISD follows U.S. Department of Education policy regarding in-school suspensions. The Principal or Campus Behavior Coordinator will count days of in-school

[480] 34 C.F.R. § 300.536(a). *OSERS Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A C-1 & C-6 (Revised July 2022).
[481] U.S. Dept. of Education, 71 Fed. Reg. 46729 (August 14, 2006).
[482] *OSERS Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A C-1 (Revised July 2022).

suspension that are exclusionary, consistent with U.S. Department of Education policy, as days of disciplinary removal. The Principal or Campus Behavior Coordinator will not count an in-school suspension as a removal that could constitute a change of placement as long as the student is afforded the opportunity to:

- continue to appropriately participate in the general curriculum;
- continue to receive the services specified on the student's IEP; and
- continue to participate with non-disabled students to the extent they would have in their current placement. [483]

For students placed in ISS who meet all three criteria above, those days need not be counted as days of removal for change of placement purposes. For example, arrangements such as having a student's special education teacher come to the ISS and provide the 1 hour of special education services, called for in the IEP schedule of services, can help avoid a change of placement.

When should days of bus suspension be counted?

Whether the Principal or Campus Behavior Coordinator counts a bus suspension as a removal that could constitute a change of placement depends on whether the bus transportation is part of the student's IEP. If bus transportation is part of the student's IEP (e.g., the student receives special transportation as a related service), the Principal or Campus Behavior Coordinator will count the bus suspension as a removal that could constitute a change of placement, unless the District provides the transportation in some other way at no cost to the parent.[484] In these instances, even if the student's parent voluntarily chooses to provide transportation to his or her child during a period of bus suspension, that does not relieve Grand Prairie ISD of its duties to provide transportation at no cost or consider it as a removal that could constitute a change of placement.[485] The Principal or Campus Behavior Coordinator will consider other ways to provide the transportation called for in the student's IEP at no cost before suspending the student from the bus and counting it as a removal.

In contrast, if bus transportation is not part of the student's IEP, the Principal or Campus Behavior Coordinator will not count a bus suspension as a removal that could constitute a change of placement. "In those cases, the child and the child's parent have the same obligations to get the child to and from school as a non-disabled child who has been suspended from the bus."[486] Even when the bus suspension does not count as a removal, the Principal or Campus Behavior Coordinator shall "consider whether the behavior on the bus is similar to behavior in a classroom

[483] U.S. Dept. of Education, 71 Fed. Reg. 46715 (August 14, 2006); *OSERS Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A I-8 (Revised July 2022).

[484] U.S. Dept. of Education, 71 Fed. Reg. 46715 (August 14, 2006); see also, *OSERS Questions and Answers on Serving Children with Disabilities Eligible for Transportation*, 53 IDELR 268 (November 1, 2009); *OSERS Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A C-9 (Revised July 2022).

[485] *Letter to Sarzynski*, 59 IDELR 141 (OSEP 2012).

[486] U.S. Dept. of Education, 71 Fed. Reg. 46715 (August 14, 2006); see also, *OSERS Questions and Answers on Serving Children with Disabilities Eligible for Transportation*, 53 IDELR 268 (November 1, 2009); *OSERS Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A C-9 (Revised July 2022).

that is addressed in an IEP and whether the child's behavior on the bus should be addressed in the IEP or a behavioral intervention plan for the child."[487]

PRACTICE GUIDE—If the IEP includes transportation as a related service and the student experiences behavioral difficulties during transport which needs to be addressed going forward, consider contracting with the parent for mileage reimbursement to transport the student while the District works to address the underlying problem, instead of suspending the student from transportation. This or similar practices may allow the District to avoid accruing days of removal due to bus suspensions while maintaining safety.

Do we count removals for portions of a school day?

The Principal or Campus Behavior Coordinator will consider portions of a school day in which a student has been suspended as a day of removal that could constitute a change of placement.[488]

Do we count time-out, after school detention or lunch detention?

Normal procedures such as detentions are not considered removals that could constitute a change of placement.[489] The same is true of time-outs that are part of the student's IEP. School personnel may utilize behavior management techniques, such as time-out, consistent with Grand Prairie ISD's Special Education Operating Procedures.

What must be provided if the disciplinary removal will not result in a change of placement but will exceed 10 school days in a school year?

If the Principal or Campus Behavior Coordinator determines that the proposed disciplinary removal will not result in a disciplinary change of placement, but will result in more than 10 days of disciplinary removals in a school year, the Principal or Campus Behavior Coordinator, in consultation with at least one of the child's teachers, determine the **SERVICES DURING PERIODS OF REMOVAL** to be provided during any days of removal beyond the first ten cumulative school days of removal in a school year and ensure the provision of such services.

[487] U.S. Dept. of Education, 71 Fed. Reg. 46715 (August 14, 2006); see also, *OSERS Questions and Answers on Serving Children with Disabilities Eligible for Transportation*, 53 IDELR 268 (November 1, 2009); *OSERS Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A C-9 (Revised July 2022).
[488] U.S. Dept. of Education, 71 Fed. Reg. 46715 (August 14, 2006).
[489] *Honig v. Doe*, 559 IDELR 231 (1988).

PRACTICE GUIDE— Keep in mind that short-term removals that exceed 10 school days may be utilized as long as there is no DISCIPLINARY CHANGE OF PLACEMENT and special education services are provided. Consultation with the student's special education teacher, who is aware of the services the student needs, may be necessary to ensure the student continues to progress toward meeting the goals set out in the student's IEP.

What steps must be followed if the disciplinary removal will result in a change of placement?

The Principal or Campus Behavior Coordinator will determine whether a proposed disciplinary action would constitute a removal resulting in a disciplinary change of placement as described above.

The Principal or Campus Behavior Coordinator shall notify the parents of the proposed disciplinary action to be taken.[490]

The Principal or Campus Behavior Coordinator shall take the following additional actions:

- schedule and provide the parents notice of the MDR/ARD committee meeting to be held within 10 school days after any decision to change the placement of a student with a disability because of a violation of the student code of conduct;
- seek consent from the student's parent to conduct a functional behavioral assessment of the student, if a functional behavioral assessment has never been conducted on the student or the student's most recent functional behavioral assessment is more than one year old;[491] and
- determine the **SERVICES DURING PERIODS OF REMOVAL** to be provided for any days of removal beyond the first ten cumulative school days of removal in a school year pending the MDR/ARD committee meeting and ensure the provision of such services.

Also, within 10 school days after any decision to change the placement of a student with a disability because of a violation of the student code of conduct, the Student's ARD Committee shall:

- convene and conduct a **MANIFESTATION DETERMINATION**;
- review any previously conducted functional behavioral assessment of the student and any behavior improvement plan or behavioral intervention plan developed for the student based on that assessment;
- as necessary, develop a behavior improvement plan or behavioral intervention plan for the student if the student does not have a plan; or if the student has a behavior improvement plan or behavioral intervention plan, revise the student's plan; and
- provide Prior Written Notice in accordance with Grand Prairie ISD's Special Education Operating Procedures

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[490] Tex. Ed. Code §37.0012(d)
[491] Tex. Ed. Code §37.004(b-1);

The District shall provide due process in the same manner as would be applied to all students including students without disabilities.[492]

When do we give the Procedural Safeguards?

On the date on which the decision is made to make a removal that constitutes a change of placement of a student with a disability because of a violation of a code of student conduct, the Principal or Campus Behavior Coordinator shall notify the parents of that decision, and provide the parents Notice of Procedural Safeguards.[493]

[492] 34 C.F.R. § 300.530(c).
[493] 34 C.F.R. § 300.530(h).

GRAND PRAIRIE INDEPENDENT SCHOOL DISTRICT SPECIAL EDUCATION OPERATING PROCEDURES MANIFESTATION DETERMINATION

WHEN BEHAVIOR IS NOT A MANIFESTATION OF THE DISABILITY

When behavior is not a manifestation of the student's disability, the student may be disciplined in a manner that constitutes a **DISCIPLINARY CHANGE OF PLACEMENT** consistent with The Legal Framework for the Child-Centered Process, Board Policy, the Student Code of Conduct and these Operating Procedures.

What discipline can be assigned if the behavior is not a manifestation of the student's disability?

Students with disabilities may be disciplined "in the same manner and for the same duration" as students without disabilities, except that services must be provided as described in **SERVICES DURING PERIODS OF REMOVAL**.[494]

What is the role of the ARD Committee when behavior is not a manifestation of the disability?

The Principal or Campus Behavior Coordinator shall ensure that the ARD committee perform the following specific functions when the student's behavior is not a manifestation of the disability:

- Ensure that the student receives "as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur."[495]

- Determine services as outlined in **SERVICES DURING PERIODS OF REMOVAL**.[496]

- Determine the "interim alternative educational setting" for the provision of the services.497 The setting may be the DAEP if the ARD committee determines that the services can be provided in that setting.[498]

- Review any previously conducted functional behavioral assessment of the student and any behavior improvement plan or behavioral intervention plan developed for the student based on that assessment.[499]

[494] 34 C.F.R. § 300.530(c).
[495] 34 C.F.R. § 300.530(d)(1)(ii).
[496] 34 C.F.R. § 300.530(d)(5).
[497] 34 C.F.R. § 300.531.
[498] *OSERS Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A D-3 (Revised July 2022).
[499] Tex. Ed. Code § 37.004(b-1)(1)(B)

- As necessary, develop a behavior improvement plan or behavioral intervention plan for the student if the student does not have a plan; or if the student has a behavior improvement plan or behavioral intervention plan, revise the student's plan;[500] and

- Provide Prior Written Notice in accordance with Grand Prairie ISD's Special Education Operating Procedures

When determining the setting, to what extent must we consider the student's Least Restrictive Environment ("LRE")?

The law does not require that students with disabilities "who have been suspended or expelled for disciplinary reasons continue to be educated with children who are not disabled during the period of their removal."[501] Grand Prairie ISD does not "necessarily have to provide exactly the same service, in the same settings."[502]

Can the home setting be the interim alternative educational setting?

Grand Prairie ISD does not limit the ARD committee to only one option when determining the appropriate interim alternative educational setting (IAES) for a **DISCIPLINARY CHANGE OF PLACEMENT** that is not a manifestation of the student's disability.[503] The Principal or Campus Behavior Coordinator shall facilitate the ARD committee's discussion of an appropriate IAES including when the disciplinary assignment is to a DAEP.

Whether a student's home would be an appropriate IAES "would depend on the particular circumstances of an individual case such as the length of the removal, the extent to which the student previously has been removed from his or her regular placement, and the student's individual needs and educational goals."[504] For short-term removals that are a change of placement, the ARD committee may decide that home instruction is the appropriate IAES to provide the **SERVICES DURING PERIODS OF REMOVAL**. [505]

Where the removal is for a longer period such as to a DAEP, " special care should be taken to ensure that the services required" under **SERVICES DURING PERIODS OF REMOVAL** can be properly provided in the IAES/DAEP. The ARD committee determines the criteria of the IAES/DAEP based on the needs of the student as specified in the IEP. The District may have available more than one IAES/DAEP that meets the criteria chosen by the ARD committee. [506]

PRACTICE GUIDE— In those instances where there are more than one IAES/DAEP that meets the criteria chosen by the ARD committee, school personnel may assign the student to either of the locations. The ARD committee would not specify which IAES/DAEP will be assigned, except when specificity is needed to ensure the student's IEP may be implemented.

GRAND PRAIRIE INDEPENDENT SCHOOL DISTRICT SPECIAL EDUCATION OPERATING PROCEDURES AUTHORITY OF DISTRICT PERSONNEL

AUTHORITY OF DISTRICT PERSONNEL TO ASSIGN DISCIPLINARY CONSEQUENCES FOR VIOLATIONS OF THE STUDENT CODE OF CONDUCT

Students with disabilities shall be afforded all of the protections provided to students without disabilities, in addition to the protections and procedural safeguards afforded students with disabilities. For example, a student with disabilities who is homeless shall receive the same protections available for all homeless students, when contemplating an out-of-school suspension.[507] Also, for example, the Campus Behavior Coordinator shall promptly notify the parent when taking certain disciplinary actions as provided in State law.[508]

When determining what disciplinary action(s) may be appropriate for a student with a disability who violates the Student Code of Conduct, three questions should be considered:

(1) Has the misconduct been identified by an administrator as bullying, harassment, or making a "hit list," which require an ARD committee convene *prior to* disciplining a student with a disability; or
(2) does the disciplinary authority of school personnel, which does not require an ARD meeting, apply; and
(3) Does the proposed disciplinary action constitute a disciplinary change of placement, which requires an ARD meeting and relevant procedures?

The Principal or Campus Behavior Coordinator, as appropriate may consider any unique circumstances on a case-by-case basis when determining whether a disciplinary change in placement is appropriate for a student with a disability who violates a code of student conduct.[509] When making a case-by-case determination regarding how to proceed, the Principal or Campus Behavior Coordinator may consider factors such as the student's disciplinary history, ability to understand consequences, expression of remorse, and supports provided to a student with a disability prior to the violation of the Student Code of Conduct.[510] For a student who is homeless, the Campus Behavior Coordinator may coordinate with the school district's homeless education liaison to identify appropriate alternatives to out-of-school suspension.[511]

To the extent that the district could be construed as having "a zero tolerance" policy(ies), such policies are not relevant and do not apply when making a **DISCIPLINARY CHANGE OF**

[507] TEC § 37.005(d).
[508] TEC § 37.0012(d).
[509] 34 C.F.R. § 300.530(a); U.S. Dept. of Education, 71 Fed. Reg. 46714 (August 14, 2006) ("This does not independently authorize school personnel, on a case-by-case basis, to institute a change in placement that would be inconsistent with § 300.530(b) through (i), including the requirement in paragraph (e) of this section regarding manifestation determinations. We are revising § 300.530(a) to clarify that any consideration regarding a change in placement under paragraph (a) of this section must be consistent with all other requirements in § 300.530.")
[510] U.S. Dept. of Education, 71 Fed. Reg. 46714 (August 14, 2006).
[511] TEC § 37.005(d).

PLACEMENT under the IDEA.[512] Moreover, although the Texas Education Code describes some misconduct as requiring a "mandatory" expulsion or placement in a disciplinary alternative education program (DAEP), federal law requires that a **MANIFESTATION DETERMINATION** be completed for any conduct that results in a **DISCIPLINARY CHANGE OF PLACEMENT**, and accordingly conduct that is found to be a manifestation of a student's disability may not be the basis of a **DISCIPLINARY CHANGE OF PLACEMENT**, except where **SPECIAL CIRCUMSTANCES** exist, as described in these Operating Procedures. Federal law requirements prevail over any State law "mandatory" disciplinary requirements.

As part of this case-by-case determination regarding how to proceed, the Principal or Campus Behavior Coordinator may look at whether incidents of student misconduct, classroom disruptions and violations of the Student Code of Conduct, indicate that the student's IEP needs to include behavioral supports. "This is especially true when a pattern of misbehavior is apparent or can be reasonably anticipated based on the [student]'s present levels of performance and needs."[513] Where such need is indicated, the Principal or Campus Behavior Coordinator may call an ARD committee meeting or consult with the appropriate special education team member. If the student's IEP already addresses the student's behavior through positive behavioral interventions and supports and other strategies as described in Grand Prairie ISD's Special Education Operating Procedures, upon repeated incidents of student misconduct or classroom disruption, the Principal or Campus Behavior Coordinator may call an ARD committee meeting to review and consider revising the student's behavioral supports.[514]

[512] U.S. Dept. of Education, 71 Fed. Reg. 46728 (August 14, 2006).
[513] DCL Letter, OSERS (August 2014).
[514] DCL Letter, OSERS (August 2014); *OSERS, Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions,* Q/A A-3 (Revised July 2022).

PRACTICE GUIDE—There are many requirements in State law applicable to all students that go hand in hand with requirements specific to students with disabilities.

For example, under State law, TEC § 37.005(e), a school district shall provide to a student during the period of the student's suspension, regardless of whether the student is placed in in-school or out-of-school suspension, an alternative means of receiving all course work provided in the classes in the foundation curriculum under Section 28.002(a)(1) that the student misses as a result of the suspension. The district must provide at least one option for receiving the course work that does not require the use of the Internet.[1]

Additionally, under State law, TEC § 37.0013 (Positive Behavior Program), each district may develop and implement a program, in consultation with campus behavior coordinators, that provides a disciplinary alternative for a student enrolled in a grade level below grade three who engages in conduct described by Section 37.005(a) and is not subject to Section 37.005(c). If a district chooses to develop such a program, the program must:

- **Be age-appropriate and research-based;**
- **Provide models for positive behavior;**
- **Promote a positive school environment;**
- **Provide alternative disciplinary courses of action that do not rely on the use of in-school suspension, out-of-school suspension, or placement in a disciplinary alternative education program to manage student behavior; and**
- **Provide behavior management strategies, including (A) positive behavioral intervention and support; (B) trauma-informed practices; (C) social and emotional learning; (D) a referral for services, as necessary; and (E) restorative practices.**

Moreover, under State law, each district may annually conduct staff training on the adopted program. When adopting, implementing, and training on such programs, integrating requirements for students with disabilities may be useful. Additionally, training the Campus Behavior Coordinator in the requirements specific to students with disabilities may enhance effectiveness.

AUTHORITY OF SCHOOL PERSONNEL TO REMOVE STUDENTS WITH DISABILITIES OR IMPOSE DISCIPLINE THAT DOES NOT REQUIRE AN ARD COMMITTEE

School authority shall be exercised consistent with The Legal Framework for the Child-Centered Process, State law, Board Policy, the Student Code of Conduct and these Operating Procedures. As required by State law, a person at each campus shall be designated to serve as the Campus

Behavior Coordinator.[515] The person designated may be the principal of the campus or any other campus administrator selected by the principal.[516] The duties of the Campus Behavior Coordinator shall be as prescribed in State law and local policy.

What authority does school personnel have to discipline a student with a disability independent of an ARD Committee?

Unless limited by the student's IEP, the Principal or Campus Behavior Coordinator may remove a student with a disability who violates the Student Code of Conduct from his or her current IEP placement to any other setting authorized by State law, Board Policy and the Student Code of Conduct (to the extent those alternatives are applied to students without disabilities) on a short-term basis (less than 10 consecutive school days) as long as the short-term removal does not constitute a **DISCIPLINARY CHANGE OF PLACEMENT**.[517] The Campus Behavior Coordinator shall promptly notify the student's parent of any proposed ISS, out of school suspension, DAEP, expulsion and when taken into the custody by a law enforcement officer, as required by State law.[518]

The authority of the Principal or Campus Behavior Coordinator to remove a student with a disability on a short-term basis extends to additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a **DISCIPLINARY CHANGE OF PLACEMENT**).[519] The U.S. Department of Education recognizes the importance of giving school personnel such authority.[520] Grand Prairie ISD understands the term "consecutive" to permit the Principal or Campus Behavior Coordinator, as appropriate" to remove students with disabilities who violate the Student Code of Conduct from their current educational placement for not more than 10 consecutive school days at a time, and that additional removals of 10 consecutive school days or less in the same school year is possible, as long as any removal does not constitute a **DISCIPLINARY CHANGE IN PLACEMENT**.[521] The Principal or Campus Behavior Coordinator, may not, however, use repeated disciplinary removals of 10 school days or less as a means of avoiding the protections in connection with a change in placement.[522]

The District need only provide **SERVICES DURING PERIODS OF REMOVAL** to a student with a disability who has been removed from his or her current placement for 10 school days or less in that school year, if it provides services to a student without disabilities under similar circumstances.[523] For any short-term removals that do not constitute a disciplinary change of placement beyond the ten cumulative school days in the same school year, services must be provided as set out in **SERVICES DURING PERIODS OF REMOVAL**.[524]

[515] TEC § 37.0012(a).
[516] TEC § 37.0012(a).
[517] 34 C.F.R. § 300.530(b)(1).
[518] TEC §§ 37.0012(d)-(f).
[519] 34 C.F.R. § 300.530(b)(1).
[520] U.S. Dept. of Education, 71 Fed. Reg. 46715 (August 14, 2006).
[521] U.S. Dept. of Education, 71 Fed. Reg. 46714 (August 14, 2006).
[522] U.S. Dept. of Education, 71 Fed. Reg. 46715 (August 14, 2006).
[523] 34 C.F.R. § 300.530(d)(3); see also, U.S. Dept. of Education, 71 Fed. Reg. 46718 (August 14, 2006).
[524] 34 C.F.R. § 300.530(b)(2).

School personnel have the authority to take nondisciplinary action such as confinement and restraint in response to an emergency. School personnel may also utilize behavior management techniques such as time-out.

PRACTICE GUIDE— School personnel have discretion to impose disciplinary sanctions to maintain safety and order in the school environment. When exercising this discretion, teachers and administrators may take immediate action consistent with the Student Code of Conduct and State law; however, they should be prepared to articulate the rationale for any action taken. It is important to have a campus administrator, which may include a Campus Behavior Coordinator, to document any disciplinary removals. It is also important that should the student have a Behavior Intervention Plan (BIP), school authorities are cognizant of any restrictions on discipline that may be imposed, and that any disciplinary action be consistent with the BIP. Be reminded that BIPs or positive behavioral strategies are not required to limit consequences for students with disabilities unless the ARD committee determines, based on evaluation or other data, that such is necessary for FAPE. If appropriate, it may be good practice to attempt other interventions as an alternative to removal from class. Moreover, teacher removals should comply with TEC § 37.002 including involvement by the Campus Behavior Coordinator.

What if the district believes the student is dangerous?

As discussed below, an employee of Grand Prairie ISD may report a crime witnessed at the school to any peace office with authority to investigate the crime.[525] Nothing in the Individuals with Disabilities Education Act or Grand Prairie ISD's operating procedures prohibit an employee from reporting a crime committed by a student with a disability to appropriate authorities or prevents State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a student with a disability.[526]

If Grand Prairie ISD believes that maintaining the current placement of the student is "substantially likely to result in injury" to the student or others, it may request a special education due process hearing, from the Texas Education Agency (TEA), to appeal the results of a manifestation determination based on dangerousness.[527] That decision shall be made by the Principal or Campus Behavior Coordinator and the Executive Director of Special Education in consultation with the Superintendent, and only after a manifestation determination has been completed.

[525] TEC § 37.148(a)
[526] 34 C.F.R. §300.535(a)
[527] 34 C.F.R. § 300.532(a).

Once requested from TEA, the hearing that is held is an expedited hearing.[528] Stay-put is the interim alternative educational setting.[529]

The hearing officer assigned by TEA may… "[o]rder a change of placement of the student with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement is substantially likely to result in injury to the child or to others."[530]

PRACTICE GUIDE—

- **Confidentiality continues to apply to students who have committed or may commit violent acts in school. However, the District may disclose personally identified information (PII) to appropriate parties in connection with a health or safety emergency.**
- **This exception is limited to the period of the emergency and generally does not allow for a blanket release of PII from a student's education records. The District may disclose PII to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or others. In making that determination, the district may take into account the totality of the circumstances pertaining to the threat to the health and safety of the student or others. If the district determines that there is an articulable and significant threat to the health or safety of student or others, it may disclose PII to any person whose knowledge of the information is necessary.**

[528] 34 C.F.R. § 300.532(c).
[529] 34 C.F.R. § 300.533.
[530] 34 C.F.R. § 300.532(b)(2)(ii).

- **Consistent with the District's Board Policy FFB (Legal), the District may conduct a threat assessment by the Superintendent's designated Threat Assessment Team, for the purpose of assessing and reporting individuals who make threats of violence or exhibit harmful, threatening, or violent behavior in accordance with district policies and procedures. This Threat Assessment Team may be allowed access to PII consistent with Board Policies FFB and FL. The District should ensure that school personnel involved in screening for and conducting, threat or risk assessments of students with disabilities are aware that the child has a disability and are and are sufficiently knowledgeable about the LEA's obligation to ensure FAPE to the child, including IDEA's discipline provisions. Where appropriate, the LEA can ensure that the school personnel conducting the threat or risk assessment have access to, and are coordinating with, the child's IEP Team.**
- **Additionally, if during a psychological evaluation, a student provides names of students that he or she wants to injure or to inflict fatal injury upon and the requirements of the health or safety emergency exception set out above have been satisfied, this information may be shared with law enforcement.**
- **If a student is receiving counseling services and during a counseling session a student reveals intent to commit violent acts, the counselor may inform law enforcement officials if the health or safety emergency exception set out above is satisfied.**
- **Since the rise of school violence in recent years, IDEA has not been amended to afford schools greater flexibility to remove students with mental health challenges than already provided. Schools are required to simultaneously maintain an orderly school environment while appropriately serving students in the least restrictive environment. It is important to note that nothing in the federal law prohibits a school from reporting a crime committed by a student with a disability to a law enforcement agency.**

REFERRAL TO LAW ENFORCEMENT

Is the District prohibited from making referrals to law enforcement?

An employee of Grand Prairie ISD may report a crime witnessed at the school to any peace officer with authority to investigate the crime.[531] Nothing in the Individuals with Disabilities Education Act prohibits an agency from reporting a crime committed by a student with a disability to appropriate authorities or prevents State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a student with a disability.[532]

Grand Prairie ISD may not adopt a policy requiring a school employee to: (1) refrain from reporting a crime witnessed at the school; or (2) report a crime witnessed at the school only to certain persons or peace officers.[533]

The IDEA does not prohibit a District from reporting a crime committed by a child with a disability to appropriate law enforcement agencies, (local police departments, sheriff departments). IDEA does not prevent law enforcement from exercising their responsibilities under state or Federal Law to crimes committed by a child with a disability. 34 CFR § 300.535.

PRACTICE GUIDE— Police intervention may be necessary to deal with a violent and escalating situation such as a student assaulting a teacher. When a student's behavior poses a substantial risk of serious injury to himself or others, police intervention may be necessary.

Must a student's Behavior Intervention Plan (BIP) specify that law enforcement may be contacted?

No. Police intervention is not required to be part of a BIP or delineated as a listed behavior. At times, police intervention may be requested for aggressive behavior.[534]

If the district reports a crime committed by a student with a disability, are there additional steps that the district takes?

When reporting a crime committed by a student with a disability, Principal or Campus Behavior Coordinator must ensure that copies of the student's special education and disciplinary records are transmitted for consideration by the appropriate authorities to whom the District reports the crime only to the extent permitted under the Family Educational Rights and Privacy Act.[535] In order to satisfy this obligation, Principal or Campus Behavior Coordinator must first seek a parent's written consent for disclosure of these confidential education records. Then, if the parent provides written consent for the disclosure of these records to law enforcement, Principal or Campus Behavior Coordinator must take steps to transmit the records to the appropriate authorities

[531] TEC § 37.148(a)
[532] 34 C.F.R. §300.535(a)
[533] TEC § 37.148(b)
[534] *Spring Branch v. O.W., by Hannah W.*, 961 F.3d 781 (2020)
[535] 34 C.F.R. §300.535(b)

LIMITATION ON GENERAL AUTHORITY – BULLYING, HARASSMENT, AND MAKING HIT LISTS

Can a student served through special education be disciplined for bullying harassment and/or making a hit list in accordance with Texas Education Code §37.001

A special education student cannot be disciplined for conduct related to "bullying, harassment and making hit lists" until an ARD Committee meeting has been held to review the conduct.[536] "Bullying" means a single significant act or a pattern of acts by one or more students directed at another student that exploits an imbalance of power and involves engaging in written or verbal expression, through electronic means, or physical conduct that occurs on school property, at a school-sponsored or school-related activity on or off school property, or in a vehicle being used for transportation of students to or from school or a school-sponsored or school-related activity that:

(i) has the effect or will have the effect of physically harming a student, damaging a student's property, or placing a student in reasonable fear of harm to the student's person or of damage to the student's property;
(ii) is sufficiently severe, persistent, or pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student;
(iii) materially and substantially disrupts the educational process or the orderly operation of a classroom or school; or
(iv) infringes on the rights of the victim at school.[537]

"Bullying" also includes Cyberbullying, which is bullying done through the use of any electronic communication device, including through the use of a cellular or other type of telephone, a computer, a camera, electronic mail, instant messaging, text messaging, a social media application, or any other Internet-based communication tool.[538]

"Harassment" means threatening to cause harm or bodily injury to another student, engaging in sexually intimidating conduct, causing physical damage to the property of another student, subjecting another student to physical confinement or restraint, or maliciously taking any action that substantially harms another student's physical or emotional health or safety.[539]

"Hit list" means a list of people targeted to be harmed using (a) a firearm, as defined by Section 46.01(3) of the Texas Penal Code; (b) a knife, as defined by Section 46.01(7) of the Texas Penal Code; or (c) any other object to be used with intent to cause bodily harm.[540]

[536] TEC §37.001(b-1)
[537] TEC §37.001(b)(1); TEC §37.0832(a)(1)
[538] TEC §37.0832(a)(2)
[539] TEC §37.001(b)(2)
[540] TEC §37.001(b)(3)

GRAND PRAIRIE INDEPENDENT SCHOOL DISTRICT SPECIAL EDUCATION OPERATING PROCEDURES SERVICES DURING PERIODS OF REMOVAL

SERVICES DURING PERIODS OF REMOVAL

What services does the District provide to a student with a disability during periods of removal that are less than 10 school days, consecutively or cumulatively?

The District only provides services during periods of removal to a child with a disability who has been removed from their current placement for 10 school days or less in that school year, if it provides services to children without disabilities who are similarly removed.[541]

After the student has been removed for ten school days in a school year, what services must be provided to the student during periods of removal?

Once school personnel have removed a student with a disability on a short-term basis for 10 consecutive school days in the same school year (whether consecutively or cumulatively), the Principal or Campus Behavior Coordinator shall ensure that services are provided to the student with disabilities during any periods of removal thereafter consistent with The Legal Framework for the Child-Centered Process and these Operating Procedures.

Beginning on the eleventh day of removal in a school year, Grand Prairie ISD shall continue to provide educational services to the student during periods of removal to enable the student:

- to continue to participate in the general education curriculum, although in another setting; and
- to progress toward meeting the goals set out in the student's IEP.[542]

How does the District determine whether a removal beyond ten days is a disciplinary change of placement?

Not every removal for more than 10 days cumulatively is a **DISCIPLINARY CHANGE OF PLACEMENT**; the Principal or Campus Behavior Coordinator, as appropriate must comply the District's **DISCIPLINARY CHANGE OF PLACEMENT** operating procedure when making this determination.

Who decides what the services will look like for removals that are not a change of placement?

If the removal is not a change of placement, the Principal or Campus Behavior Coordinator in consultation with at least one of the student's teachers, shall determine the extent to which services are needed for a FAPE.[543]

[541] 34 C.F.R. § 300.530(d)(3)
[542] 34 C.F.R. § 300.530(d)(1)(i).
[543] 34 C.F.R. § 300.530(d)(4); *Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A H-1 (Revised July 2022).

The Principal or Campus Behavior Coordinator shall determine which of the student's teachers to consult based on the facts and circumstances of each case, the needs of the student and the expertise of the student's teachers. Grand Prairie ISD recognizes that in many cases, the special education teacher may be the most appropriate teacher with whom the Principal or Campus Behavior Coordinator should consult. This, however, is not always the case. The Principal or Campus Behavior Coordinator is in the best position to determine the appropriate teacher with whom to consult under the circumstances and shall be afforded broad flexibility in making such decisions.[544]

What should the services look like when a removal is not a change of placement?

The extent to which services need to be provided and the amount of services necessary may be different when a student is being removed from his or her IEP placement for a short period of time, the removal is not a change of placement, and a student is performing at grade level.[545] When consulting regarding services for short-term removals *that are not a disciplinary change of placement*, the Principal or Campus Behavior Coordinator and at least one of the student's teachers shall take into account these and other relevant factors, unique to the student and the circumstances.

The opportunity to "continue to participate" does not mean that Grand Prairie ISD must replicate every aspect of the services that a student would receive in his or her normal classroom, such as in those classes with a hands-on component or using specialized equipment or facilities.[546]

PRACTICE GUIDE—

The District is not obligated to consult with the parents nor convene an ARD committee meeting regarding the services to be provided during periods of removal that do not constitute a change of placement.

To demonstrate compliance with its consultation obligations, the District may wish to document its consultation among school personnel including the resulting decisions concerning services to be provided.

School personnel should be mindful that a consultation may be needed during the days pending an MDR/ARD committee meeting if during this brief interim period, the cumulative days of removal during the school year will exceed ten.

Who decides what the services will look like for removals that are a disciplinary change of placement?

[544] U.S. Dept. of Education, 71 Fed. Reg. 46718 (August 14, 2006).
[545] U.S. Dept. of Education, 71 Fed. Reg. 46716 (August 14, 2006).
[546] U.S. Dept. of Education, 71 Fed. Reg. 46716 (August 14, 2006).

When the removal will constitute a **DISCIPLINARY CHANGE OF PLACEMENT**, as described by the District's operating procedures, the ARD committee decides the services *after* conducting a **MANIFESTATION DETERMINATION REVIEW,** consistent with District's **MANIFESTATION DETERMINATION** operating procedure.[547]

What steps must be followed, prior to a Manifestation Determination, if the disciplinary removal will result in a disciplinary change of placement?

If Principal or Campus Behavior Coordinator, as appropriate determines that a proposed disciplinary action would constitute a removal resulting in a **DISCIPLINARY CHANGE OF PLACEMENT** as described by the District's operating procedures, the following shall occur:

- The Principal or Campus Behavior Coordinator shall notify the parents of the proposed disciplinary action to be taken.[548]
- The Principal or Campus Behavior Coordinator shall take the following additional actions:
- schedule and provide the parents notice of the MDR/ARD committee meeting to be held within 10 school days after any decision to change the placement of a student with a disability because of a violation of the student code of conduct;
- seek consent from the student's parent to conduct a functional behavioral assessment of the student, if a functional behavioral assessment has never been conducted on the student or the student's most recent functional behavioral assessment is more than one year old;[549]
- determine the **SERVICES DURING PERIODS OF REMOVAL** to be provided for any days of removal beyond the first ten cumulative school days of removal in a school year pending the MDR/ARD committee meeting and ensure the provision of such services; and
- comply with the District's **MANIFESTATION DETERMINATION** operating procedure.

[547] *Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A H-2 (Revised July 2022).
[548] Tex. Ed. Code §37.0012(d)
[549] Tex. Ed. Code §37.004(b-1);

GRAND PRAIRIE INDEPENDENT SCHOOL DISTRICT SPECIAL EDUCATION OPERATING PROCEDURES MANIFESTATION DETERMINATION REVIEW

MANIFESTATION DETERMINATION REVIEW

Manifestation Determination Reviews shall be conducted prior to any **DISCIPLINARY CHANGE OF PLACEMENT** consistent with The Legal Framework for the Child-Centered Process and these Operating Procedures.

Who must participate in the Manifestation Determination Review?

Grand Prairie ISD shall conduct the Manifestation Determination Review (MDR) in the context of an ARD committee meeting that has been established in accordance with Grand Prairie ISD's Special Education Operating Procedures. The Principal or designee shall ensure that the members include a Grand Prairie ISD representative, the parent, and relevant members of the ARD committee.[550]

Manifestation Determination Reviews for students with the primary educational disability of Autism, Emotional Disability, or Other Health Impairment due to ADHD will require a Licensed Specialist is School Psychology.

Manifestation Determination Reviews for students with the primary educational disability of Speech Impairment will require a Speech Language Pathologist.

Manifestation Determination Reviews for students all other educational disability categories require an Educational Diagnostician and other assessment and related services personnel as appropriate.

What are the timelines for conducting the MDR?

The Principal of designee shall ensure that the MDR takes place within 10 school days of any decision to make a **DISCIPLINARY CHANGE OF PLACEMENT**.[551]

When scheduling the ARD committee meeting, the Assessment and Related Services designee shall ensure that the parent is given notice of the meeting. The Assessment and Related Services designee shall include in the notice "[t]he purpose, time, and location of the meeting and who will be in attendance."[552]

[550] 34 C.F.R. § 300.530(e)(1).
[551] 34 C.F.R. § 300.530(e)(1).
[552] 34 C.F.R. § 300.322(a)(1)(A)(i).

PRACTICE GUIDE—

- **In order to ensure that the parent feels prepared for the MDR/ARD committee meeting, in addition to checking a box on the ARD notice indicating the ARD committee will conduct a MDR, the District may inform the parent of the potential outcomes. This could be accomplished by sending the Notice of Procedural Safeguards with the notice of (invitation to) the ARD meeting.**
- **In most cases, it makes sense to hold the Chapter 37 Discipline Hearing before the MDR. This avoids the MDR/ARD committee going through the procedure of conducting a manifestation determination review (as well as other requirements), before it is found that the student did or did not engage in the conduct that was alleged, or that the behavior does not warrant a change of placement. Holding the Chapter 37 Discipline Hearing first also allows the parents to make their arguments regarding the underlying conduct (e.g., "she didn't do it") in the proper forum — outside of the MDR/ARD committee process. Information from the Chapter 37 Discipline Hearing can then be used by the MDR/ARD committee when conducting the MDR. The MDR/ARD committee will want as much information as possible about the conduct and how/when/where the conduct occurred. This enables the ARD committee to consider the context in which the behavior occurred, which is important to the MDR analysis.**
- **It may be helpful for school personnel to clarify for parents upfront the distinctions between the Chapter 37 Disciplinary Hearing and the MDR/ARD Committee meeting.**
- **In the event the parent or guardian refuses to respond to the district's effort to ensure their participation, or refuses to participate, the District may consider proceeding to MDR/ARD without the parent in order to be compliant with timelines, if the district has complied with its Special Education Operating Procedures.**

What must the ARD Committee consider when conducting an MDR?

The Principal and Assessment and Related Services designee shall ensure that the ARD committee reviews all relevant information in the student's file, including the IEP, any teacher observations, and any relevant information provided by the parents before making the manifestation determination.[553] Additionally, if the ARD committee is considering a change of placement based upon a series of removals that constitute a pattern, each of the behaviors underlying the removals that constitute a pattern should be considered.

PRACTICE GUIDE— The law does not require each ARD committee member to read before the meeting every piece of information in the student's file. However, before reaching a manifestation determination the team is expected to review the information relevant to the decision. For students with emotional disturbance, it may be helpful to consider the characteristics of the eligibility for emotional disturbance. Relevant data may also include counseling, progress reports, and evaluations. It may be prudent to review and consider disciplinary referral history. Evaluation personnel can facilitate this process by summarizing pertinent information in the file, and inviting input by the parents, those who work with the student on a daily basis and those familiar with the misconduct under review. The evaluator's analysis may guide the committee but should not substitute for the committee's active consideration, views and conclusions.

What are the manifestation determination questions the ARD Committee must answer?

The Principal or Assessment and Related Services designee shall ensure that the ARD committee answers the following two manifestation determination questions:

- Was the conduct in question the direct result of Grand Prairie ISD's failure to implement the student's IEP?[554]

- Was the conduct in question caused by, or did it have a direct and substantial relationship to, the student's disability?[555]

When determining whether the conduct in question was caused by or had a direct and substantial relationship to the student's disability, the Assessment and Related Services designee shall facilitate the ARD committee's analysis of the student's behavior as demonstrated across settings and across time.[556] The Assessment and Related Services designee shall also assist the ARD committee, as needed, in understanding that this requires more than an attenuated association, such as low self- esteem, to the student's disability. Instead, the disciplinary

[553] 34 C.F.R. § 300.530(e)(1).
[554] 34 C.F.R. § 300.530(e)(1)(ii).
[555] 34 C.F.R. § 300.530(e)(1)(i).
[556] U.S. Dept. of Education, 71 Fed. Reg. 46720 (August 14, 2006).

infraction must be caused by or be the direct result of the student's disability, and not a mere correlation or attenuation.[557]

If the ARD committee answers yes to either question, the conduct shall be determined to be a manifestation of the student's disability.[558]

PRACTICE GUIDE—

- **When making a manifestation determination, the ARD committee may consider the student's prior behavior as reflected in other records and evaluations to understand whether the behavior(s) under review has/have occurred on other occasions or across a variety of circumstances. Behaviors occurring across settings and across time may indicate a relationship to disability. The diagnostic profile can aid in understanding whether that relationship is direct and substantial. If behaviors appear to be isolated, then this may be an indication that there is no direct relationship to the disability.**
- **The diagnostic profile may reveal examples of how the student previously demonstrated the disability. For example, discussions in evaluation reports and examples from the Diagnostic and Statistical Manual (DSM) or other authoritative resources that describe specific behaviors and distinguishing characteristics may provide insight that informs the discussion.**
- **The context of the behavior in question is critical to the ARD committee's analysis and decision- making. Such context can be derived from the investigation notes of the administrator who investigated the incident, or any other documentation that may give greater insight into the context in which the behavior arose.**

What occurs if the parent disagrees with the decision concerning the manifestation determination?

The ARD committee is not required to offer the parent a ten-day recess "when the student's presence on the campus presents a danger of physical harm to the student or others, or when the student has committed an expellable offense or an offense that may lead to a placement in a disciplinary alternative education program."[559]

[557] Note 237–245 of the Conf. Rpt., p. 225; see also, U.S. Dept. of Education, 71 Fed. Reg. 46720 (August 14, 2006).
[558] 34 C.F.R. § 300.530(e)(2).
[559] 19 T.A.C. § 89.1050(g)(1)

When consensus cannot be reached, the district, through its Administrative member of the ARD committee, must make the determination and provide the parent with prior written notice consistent with Grand Prairie ISD's Special Education Operating Procedures. The parent of the student with a disability has the right to request mediation and/or a due process hearing to resolve the disagreement. The due process hearing will be expedited. The parent can also file a State complaint.[560] If the parent exercises any of these options, the student will remain in the disciplinary placement during the pendency of these procedures.[561]

[560] *OSERS, Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A F-6 (Revised July 2022).
[561] 34 C.F.R. § 300.533 for due process hearings requested under 34 C.F.R. § 300.532.

WHEN BEHAVIOR IS A MANIFESTATION OF THE DISABILITY

When behavior is a manifestation of the student's disability and no **SPECIAL CIRCUMSTANCES** exist, the student shall be afforded protections consistent with The Legal Framework for the Child-Centered Process, Board Policy, the Student Code of Conduct and these Operating Procedures.

What must the ARD Committee do if the behavior is a manifestation of the student's disability, and no special circumstances exist?

If the ARD Committee determines that the conduct was a manifestation of the student's disability, the ARD committee must return the student to the placement from which the student was removed, unless the parent and Grand Prairie ISD agree to a change of placement as part of the modification of the student's behavioral intervention plan.[562]

PRACTICE GUIDE—

- **If the behavior is a manifestation of the disability, the ARD committee may want to examine the continuum of alternative placements and consider a change of placement rather than a disciplinary change of placement. For example, this could include a move to a more restrictive placement such as specially designed self-contained behavior program, or other therapeutic setting, designed to address the unique social emotional needs of the student identified by the ARD committee when conducting the manifestation determination. Such a change would be non-disciplinary in nature.**
- **If the parents are advocating for an IAES/DAEP change of placement and the District also believes that it would be an appropriate intervention from a free appropriate public education standpoint, the parent and District may agree to such a change of placement as part of the modification of the student's behavioral intervention plan (BIP). The rationale supporting such an agreement should be evident within the modified BIP. Punitive action that could be considered discriminatory should be avoided.**

[562] 34 C.F.R. § 300.530(f)(2).

What if the ARD Committee determines that the student's conduct was the direct result of that district's failure to implement the student's IEP?

Grand Prairie ISD shall "take immediate steps to remedy those deficiencies."[563]

What if, even though the student's conduct has been determined to be a manifestation of disability, the district believes the student is dangerous?

If Grand Prairie ISD believes that maintaining the current placement of the student is "substantially likely to result in injury" to the student or others, it may request a special education due process hearing to appeal the results of the manifestation determination based on dangerousness.[564] That decision shall be made by the Executive Director of Special Education. The hearing that is held is an expedited hearing.[565] Stay-put is the interim alternative educational setting.[566]

The hearing officer may… "[o]rder a change of placement of the student with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement is substantially likely to result in injury to the child or to others."[567]

When must the District consider a student's functional behavior assessment and behavior intervention plan?

In addition to completing a **MANIFESTATION DETERMINATION** consistent with the District's operating procedures, within 10 school days after any decision to make a **DISCIPLINARY CHANGE OF PLACEMENT** of a student with a disability because of a violation of the student code of conduct, the Student's ARD Committee shall:

- review any previously conducted functional behavioral assessment of the student and any behavior improvement plan or behavioral intervention plan developed for the student based on that assessment;
- as necessary, develop a behavior improvement plan or behavioral intervention plan for the student if the student does not have a plan; or if the student has a behavior improvement plan or behavioral intervention plan, revise the student's plan; and
- provide Prior Written Notice in accordance with Grand Prairie ISD's Special Education Operating Procedures

[563] 34 C.F.R. § 300.530(e)(3).
[564] 34 C.F.R. § 300.532(a).
[565] 34 C.F.R. § 300.532(c).
[566] 34 C.F.R. § 300.533.
[567] 34 C.F.R. § 300.532(b)(2)(ii).

Can a student who has not been determined to be eligible for special education and related services under the IDEA claim these disciplinary protections?

Yes, a student "who has not been determined to be eligible for special education and related services under this part and who has engaged in behavior that violated a code of student conduct, may assert any of the protections provided for in this part…"[568]

What circumstances must be present for the student to be entitled to these disciplinary protections?

Grand Prairie ISD shall apply the protections to the student if the district had knowledge that the student was a child with a disability before the behavior that precipitated the disciplinary action occurred.[569]

What circumstances trigger "knowledge"?

The Principal or designee shall determine whether one of the following bases of knowledge existed before the behavior that precipitated the disciplinary incident occurred:

- The parent of the student expressed concern in writing to the administrative personnel or a teacher of the student, that the student needs special education and related services;
- The parent of the student requested a special education evaluation of the student; or
- The teacher of the student, or other personnel of Grand Prairie ISD, expressed specific concerns about a pattern of behavior demonstrated by the student directly to a member of the campus administrative team, special education office, or to other supervisory personnel of Grand Prairie ISD.[570]

If the Principal or designee determines there is a basis of knowledge, Grand Prairie ISD shall be deemed to have knowledge that the student is a child with a disability unless the Principal or designee determines that one of the exceptions apply.

Generally, a student's participation in an RtI process, or a multi-tiered system of supports, in and of itself, is not sufficient to trigger the bases of knowledge requirement that allows a student and parent to assert IDEA discipline protections.[571]

[568] 34 C.F.R. § 300.534(a).; *Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A I-1 (Revised July 2022).
[569] 34 C.F.R. § 300.534.
[570] 34 C.F.R. § 300.534(b); *OSERS*, *Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A I-2 (Revised July 2022).
[571] *OSERS*, *Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A I-5 (Revised July 2022).

PRACTICE GUIDE—

In the event a parent of a student raises concerns about a possible disability and asserts or attempts to assert the protections of the law for students with disabilities, the staff member charged with deciding whether there is a basis of knowledge may consider the following as supporting a basis of knowledge:

- **Specific concerns communicated by teachers, counselors, nurses in records maintained by these personnel;**
- **Specific concerns reflected in written communications internally or with the parent;**
- **The student having been identified as a student with a disability under Section 504 Plan and on a Section 504 plan.**

What are the exceptions?

Even if there is a basis for knowledge, Grand Prairie ISD shall **not** be considered to have knowledge if one of the following exceptions applies:

- Although the District provided the parent the opportunity consent for an evaluation, as described in the District's Operating Procedures, the parent of the student has not consented to an evaluation of the student;
- The parent of the student has refused to consent to the student's receipt of special education services; or
- The student has been evaluated in accordance with Grand Prairie ISD's Special Education Operating Procedures and determined to not be a child with a disability.[572]

This determination shall be made on a case-by-case basis by the Executive Director of Special Education or designee.

What if the student was receiving special education services, but the parent later revokes consent for services?

When a parent revokes consent for special education and related services under Grand Prairie ISD's Special Education Operating Procedures, the parent has refused services; therefore, Grand Prairie ISD is not deemed to have knowledge that the student is a child with a disability and the student will be subject to the same disciplinary procedures and timelines applicable to general education students and not entitled to discipline protections under these procedures.[573]

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[572] 34 C.F.R. § 300.534(c).

[573] *OSERS, Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A I-3 (Revised July 2022).

If a student is referred for a special education evaluation after a disciplinary incident, and there is no basis of knowledge, are there any protections for the student?

Even if there is no basis of knowledge, if a request is made for an evaluation of the student during the time period in which the student is subjected to disciplinary measures, the Principal and Assessment and Related Services designee shall ensure the student is evaluated consistent with Grand Prairie ISD's Special Education Operating Procedures, and further ensure that such evaluation is conducted in an expedited manner.[574] Although the evaluation must be completed consistent with the District's Special Education Operating Procedures, if there is no basis of knowledge, the child may be subjected to the same disciplinary measures that are applied to children without disabilities who engage in comparable behaviors.[575]

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[574] 34 C.F.R. § 300.534(d)(2)(i); see also, *OSEP Letter to Combs* (August 15, 2008), http://www2.ed.gov/policy/speced/guid/idea/letters/2008-3/combs081508rtieval3q2008.pdf.

[575] *OSERS, Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A I-6 (Revised July 2022).

GRAND PRAIRIE INDEPENDENT SCHOOL DISTRICT SPECIAL EDUCATION OPERATING PROCEDURES BEHAVIOR/DISCIPLINE MANAGEMENT

It is the policy of Grand Prairie ISD to treat with dignity and respect all students, including students with disabilities who receive special education and related services. Any behavior management technique and/or discipline management practice will be implemented in such a way as to protect the health and safety of a student and others. No discipline management practice may be calculated to inflict injury, cause harm, demean, or deprive a student of basic human necessities. The Legal Framework for the Child-Centered Process, Board Policy, the Student Code of Conduct and these Operating Procedures.

These procedures apply to all Grand Prairie ISD employees, volunteers, and independent contractors; the procedures apply to peace officers only if the peace officer is employed or commissioned by Grand Prairie ISD, or if the peace officer provides, as a school resource officer, a regular police presence on a school district campus under a memorandum of understanding between the district and a local law enforcement agency.[576]

PRACTICE GUIDE—Data concerning the frequency and effectiveness of any behavior management technique or intervention, as well as data concerning the frequency and circumstances involving the use of restraint, may be reviewed by an eligible student's ARD committee at regular intervals to determine whether such techniques are effective, or whether the frequency suggests a need for further evaluation, or changes to the student's

Which techniques or interventions are prohibited by the District?

Grand Prairie ISD prohibits the use of "aversive techniques or interventions" by district employees, volunteers, and independent contractors. A Grand Prairie ISD employee or volunteer or an independent contractor of Grand Prairie ISD may not apply an aversive technique, or by authorization, order, or consent, cause an aversive technique to be applied to a student.[577]

Aversive techniques or interventions are those that are intended to reduce the likelihood of a behavior reoccurring by intentionally inflicting on a student significant physical or emotional discomfort or pain.[578] Prohibited aversive techniques include a technique or intervention that:

- Is designed to or likely to cause physical pain, other than an intervention or technique permitted under the use of corporal punishment;[579]
- Is designed to or likely to cause physical pain through the use of electric shock or any procedure that involves the use of pressure points or joint locks;[580]

[576] TEC 37.0021(h); 19 TAC 89.1053(l)

[577] TEC 37.0023(b)
[578] TEC 37.0023(a)
[579] TEC 37.0023(a)(1); TEC 37.0011
[580] TEC 37.0023(a)(2); TEC 37.0011

- Involves the directed release of a noxious, toxic, or otherwise unpleasant spray, mist, or substance near the student's face;[581]
- Denies adequate sleep, air, food, water, shelter, bedding, physical comfort, supervision, or access to a restroom facility;[582]
- Ridicules or demeans the student in a manner that adversely affects or endangers the learning or mental health of the student or constitutes verbal abuse;[583]
- Employs a device, material, or object that simultaneously immobilizes all four extremities, including any procedure that results in such immobilization known as prone or supine floor restraint;[584]
- Impairs the student's breathing, including any procedure that involves:
    - applying pressure to the student's torso or neck; or
    - obstructing the student's airway, including placing an object in, on, or over the student's mouth or nose or placing a bag, cover, or mask over the student's face;[585]
- Restricts the student's circulation;[586]
- Secures the student to a stationary object while the student is in a sitting or standing position;[587]
- Inhibits, reduces, or hinders the student's ability to communicate;[588]
- Involves the use of a chemical restraint;[589]
- Constitutes a use of time-out that precludes the student from being able to be involved in and progress appropriately in the required curriculum and, if applicable, toward the annual goals included in the student's individualized education program (IEP), including isolating the student by the use of physical barriers;[590]or
- Deprives the student of the use of one or more of the student's senses, except that this aversive technique may be used if the technique is executed in a manner that:
    - Does not cause the student discomfort or pain; or
    - Complies with the student's IEP or behavior intervention plan.[591]

Nothing in this section may be construed to prohibit a teacher from removing a student from class under Texas Education Code §37.002.[592]

[581] TEC 37.0023(a)(3)
[582] TEC 37.0023(a)(4)
[583] TEC 37.0023(a)(5)
[584] TEC 37.0023(a)(6)
[585] TEC 37.0023(a)(7)
[586] TEC 37.0023(a)(8)
[587] TEC 37.0023(a)(9)
[588] TEC 37.0023(a)(10)
[589] TEC 37.0023(a)(11)
[590] TEC 37.0023(a)(12)
[591] TEC 37.0023(a)(13); TEC 37.0023(c)
[592] TEC 37.0023(d)

CONFINEMENT

What is confinement and when is it permitted?

As indicated above, isolating the student by the use of physical barriers is considered an aversive technique and is prohibited. A student with a disability, who receives special education services, must not be confined in a locked box, locked closet, or other specially-designed locked space as either a discipline management practice or a behavior management technique.[593] This does not prohibit a student's locked, unattended confinement in an emergency situation while awaiting the arrival of law enforcement personnel if the student possesses a weapon, as described under TEC §37.007(a)(1), and confinement is necessary to prevent the student from causing bodily harm to the student or another person.[594]

SECLUSION

What constitutes "seclusion"?

"Seclusion" means a behavior management technique in which a student is confined in a locked box, locked closet, or locked room that:

(A) is designed solely to seclude a person; and

(B) contains less than 50 square feet of space.[595]

A school district employee or volunteer or an independent contractor of Grand Prairie ISDmay not place a student in seclusion.[596]

RESTRAINT

What constitutes "restraint"?

"Restraint" is the use of physical force or a mechanical device to significantly restrict the free movement of all or a portion of a student's body.[597] Restraint does not include: physical contact or appropriately prescribed adaptive equipment to promote normative body positioning and/or physical functioning;[598] limited physical contact with a student to promote safety (e.g., holding a student's hand), prevent a potentially harmful action (e.g., running into the street), teach a skill, redirect attention, provide guidance to a location, or provide comfort;[599] limited physical contact or appropriately prescribed adaptive equipment to prevent a student from engaging in ongoing,

[593] TEC 37.0021(a)
[594] TEC 37.0021(f)
[595] TEC 37.0021(b)(2)
[596] TEC 37.0021(c)
[597] 19 TEC 37.0021(b)(1); 19 TAC 89.1053(b)(2)
[598] 19 TAC 89.1053(f)(1)
[599] 19 TAC 89.1053(f)(2)

repetitive self-injurious behaviors;[600] or seat belts and other safety equipment used to secure students during transportation.[601]

When may the District use restraint?

A Grand Prairie ISD employee, volunteer, or independent contractor may use restraint only in an emergency situation, as described in these Procedures[602] and the use of restraint must be limited to the use of such reasonable force as is necessary to address the emergency;[603] restraint must be implemented in such a way as to protect the health and safety of the student and others;[604] restraint must not deprive the student of basic human necessities;[605] and restraint must be discontinued at the point at which the emergency no longer exists.[606]

Behavior that results in the rare use of restraint -- that poses a threat of imminent serious physical harm to the student or others or property -- is not limited to students with disabilities, students with a particular disability, or specific groups of students (e.g., gender, race, national origin, limited English proficiency, etc.) without disabilities. Thus, Grand Prairie ISD's policies or procedures that address the use of restraint or seclusion, including assessment and prevention strategies, apply to all students including students with disabilities.[607] Restraint need not be included in a student's individualized education program (IEP) or as part of a behavior intervention plan (BIP) for school employees, volunteers, or independent contractors to use restraint.[608]

Practice Guide— Restraint should never be used as a punishment or disciplinary consequence but should instead only be used as a means of keeping the student or valuable property safe during an emergency situation. Restraint need not be included in a student's IEP or as part of the BIP for restraint to be utilized.

[609]

What is an "emergency" situation that would permit District personnel to use restraint?

An emergency situation is one in which a student's behavior poses a threat of imminent, serious physical harm to the student or others, or a situation in which a student's behavior poses a threat of imminent, serious property destruction.[610]

[600] 19 TAC 89.1053(f)(3)
[601] 19 TAC 89.1053(f)(4)
[602] 19 TAC 89.1053(b)(1) & (c)
[603] 19 TAC 89.1053(c)(1)
[604] 19 TAC 89.1053(c)(3)
[605] 19 TAC 89.1053(c)(4)
[606] 19 TAC 89.1053(c)(2)
[607] https://www2.ed.gov/policy/seclusion/restraints-and-seclusion-resources.pdf
[608] *Spring Branch ISD v. O.W.*, 961 F.3d 781, (5th Cir.—2020)
[609] *Spring Branch ISD v. O.W.*, 961 F.3d 781, (5th Cir.—2020)
[610] 19 TAC 89.1053(b)(1)

Who must be notified regarding the use of restraint?

On the day restraint is utilized, the campus administrator must be notified verbally or in writing regarding the use of restraint. Also, a good faith effort must be made to verbally notify the parent regarding the use of restraint on that day.[611]

What documentation must be created concerning the use of restraint?

Written notification of the use of restraint must be placed in the mail or otherwise provided to the parent within one school day of the use of restraint, by the campus administrator.[612] Written documentation regarding the use of restraint must also be placed in the student's special education eligibility folder in a timely manner by the school staff member conducting the restraint, so the information is available to the admission, review, and dismissal (ARD) committee when it considers the impact of the student's behavior on the student's learning and/or the creation or revision of a BIP.[613]

This written notification to the parent and documentation to the student's special education eligibility folder will be prepared by the school staff member conducting the restraint and must include: (1) the name of the student; (2) name of the staff member or staff members administering the restraint; (3) date of the restraint and the time the restraint began and ended; (4) location of the restraint; (5) nature of the restraint; (6) a description of the activity in which the student was engaged immediately preceding the use of restraint; (7) the behavior that prompted the restraint; (8) the efforts made to de-escalate the situation and alternatives to restraint that were attempted; (9) observation of the student at the end of the restraint; (10) information documenting parent contact and notification; and (11) if the student:

- has a behavior improvement plan or behavioral intervention plan, whether the behavior improvement plan or behavioral intervention plan may need to be revised as a result of the behavior that led to the restraint and, if so, identification of the staff member responsible for scheduling an ARD committee meeting to discuss any potential revisions; or

- does not have a behavior improvement plan or a behavioral intervention plan, information on the procedure for the student's parent or person standing in parental relation to the student to request an ARD committee meeting to discuss the possibility of conducting a functional behavioral assessment of the student and developing a plan for the student.[614]

These data reporting requirements apply to the use of restraint by **any** peace officer performing law enforcement duties on school property or during a school-sponsored or school-related activity.[615]

[611] 19 TAC 89.1053(e)
[612] 19 TAC 89.1053(e)(3)
[613] 19 TAC 89.1053(e)(4)
[614] 19 TAC 89.1053(e)(5)
[615] 19 TAC 89.1053(l)

Additionally, for students who are homeless or in substitute care, the campus administrator must also provide notice to a student's educational decision-maker and caseworker regarding reports of restraint and/or seclusion.[616]

PRACTICE GUIDE— When preparing the required written notification, the document should clearly identify the behavior of the emergency situation, rather than include a narrative that obscures facts that are necessary to understand the need for restraint.

PRACTICE GUIDE— When conducting an IEP meeting to consider the impact of the student's behavior on the student's learning and/or the creation or revision of a BIP, be sure to review any documentation of restraints in the special education folder for review by the ARD committee.

Cumulative data regarding the use of restraint by Grand Prairie ISD employees, volunteers, independent contractors, and by peace officers must be electronically reported by the district through the Public Education Information Management System.[617]

PRACTICE GUIDE— Multiple uses within the same classroom, or multiple uses by the same individual, may indicate the need for a functional behavior assessment, other review or, if appropriate, development of interventions to address the emergency situations.

How does the District provide training concerning the use of restraint?

A core team of personnel on each campus must be trained in the use of restraint, and the team must include a campus administrator or designee and any general or special education personnel likely to use restraint.[618] Training on use of restraint must include prevention and de-escalation techniques and provide alternatives to the use of restraint.[619] All trained personnel must receive instruction in current professionally accepted practices and standards regarding behavior management and the use of restraint.[620] Further, Personnel called upon to use restraint in an emergency and who have not received prior training must receive training within 30 school days following the use of restraint.[621]

[616] TEC 25.007(b)(10)(F)
[617] TEC 37.0021(i); 19 TAC 89.1053(f) & (k)
[618] 19 TAC 89.1053(d)(1)
[619] 19 TAC 89.1053(d)(3)
[620] 19 TAC 89.1053(d)(4)
[621] 19 TAC 89.1053(d)(2)

Grand Prairies ISD utilizes training provided by the Crisis Prevention Institute, from the programs Nonviolent Crisis Intervention (NCI) and Nonviolent Crisis Intervention with Advanced Physical Skills designed to directly intervene in crisis situations, teaching de-escalation techniques as well as restrictive and nonrestrictive interventions.

TIME-OUT

What constitutes "time-out"?

"Time-out" means a behavior management technique in which, to provide a student with an opportunity to regain self-control, the student is separated from other students for a limited period in a setting that is not locked and from which the exit is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object.[622] "Time-out" includes behavior management techniques that result in the student's separation from other students while remaining in the same classroom without regard to a student's choice of activities during the period of separation.[623]

What limitations does the District require concerning the use of "time-out"?

A Grand Prairie ISD employee, volunteer, or independent contractor may use time-out with the following limitations:

- Physical force or threat of physical force must not be used to place a student in time-out;[624]
- Time-out must only be used in conjunction with an array of positive behavior intervention strategies and techniques and must be included in the student's IEP and/or BIP if it is utilized on a recurrent basis to increase or decrease a targeted behavior;[625] and
- Use of time-out must not be implemented in a fashion that precludes the ability of a student to be involved in and progress in the general curriculum and advance appropriately toward attaining the annual goals specified in the student's IEP.[626]

How does the District provide training concerning the use of time-out?

General or special education personnel who implement time-out based on requirements established in a student's IEP and/or BIP must be trained in the use of time-out.[627] Newly identified personnel called upon to implement time-out based on requirements established in a student's IEP and/or BIP must receive training in the use of time-out within 30 school days of being assigned the responsibility for implementing time-out.[628] Training on the use of time-out must be provided as part of a program which addresses a full continuum of positive behavioral intervention strategies, and must address the impact of time-out on the ability of a student to be involved in and progress

[622] TEC 37.0021(b)(3); 19 TAC 89.1053(b)(3)
[623] *Spring Branch ISD v. O.W.*, 961 F.3d 781 (5th Cir.—2020)
[624] 19 TAC 89.1053(b)(3); 89.1053(g)(1)
[625] 19 TAC 89.1053(b)(3); 89.1053(g)(2); *Spring Branch ISD v. O.W.*, 961 F.3d 781 (5th Cir.—2020)
[626] 19 TAC 89.1053(b)(3); 89.1053(g)(3)
[627] 19 TAC 89.1053(h)(1)
[628] 19 TAC 89.1053(h)(2)

in the general curriculum and advance appropriately toward attaining the annual goals specified in the student's IEP.[629] All trained personnel must receive instruction in current professionally accepted practices and standards regarding behavior management and the use of time-out.[630]

What documentation does the District require concerning the use of time-out?
Necessary documentation or data collection regarding the use of time-out, if any, must be addressed in a student's Individualized Education Program or Behavior Intervention Plan.[631] If a student has a behavior improvement plan or behavioral intervention plan, the school district must document each use of time-out prompted by a behavior of the student specified in the student's behavior improvement plan or behavioral intervention plan, including a description of the behavior that prompted the time-out. The ARD committee must use any collected data to judge the effectiveness of the intervention and provide a basis for making determinations regarding its continued use.[632]

PRACTICE GUIDE— Because time-out may only be used on a recurrent basis when it is included as part of student's Behavior Intervention Plan (BIP), properly used and documented time-out would not be considered a removal from the student's educational placement or counted toward the days of removal that constitute a DISCIPLINARY CHANGE OF PLACEMENT.

[629] 19 TAC 89.1053(h)(3)
[630] 19 TAC 89.1053(h)(4)
[631] 19 TAC 89.1053(h)(i)
[632] 19 TAC 89.1053(h)(i)

GRAND PRAIRIE INDEPENDENT SCHOOL DISTRICT SPECIAL EDUCATION OPERATING PROCEDURES SPECIAL CIRCUMSTANCES

SPECIAL CIRCUMSTANCES

When the ARD committee determines that special circumstances exist, "[s]chool personnel may remove a student to an interim alternative educational setting for **not more than 45 school days**" without regard to whether the behavior is determined to be a manifestation of the student's disability, consistent with The Legal Framework for the Child-Centered Process, Board Policy, the Student Code of Conduct and these Operating Procedures.[633] However, the ARD committee must determine, and the District must provide, services in accordance with the District's **SERVICES DURING PERIODS OF REMOVAL** operating procedure.

What are the "special circumstances"?

The Principal or Campus Behavior Coordinator shall determine special circumstances exist if:

- The student carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function;
- The student knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function; or

PRACTICE GUIDE— Regardless of how weapons, drugs, or bodily injury are described in a school district's Student Code of Conduct, when determining whether special circumstances exist, the federal definitions must be strictly applied. Referral to and action by law enforcement pursuant to 34 C.F.R. § 300.535 may also be appropriate.

How is weapon defined?

When specifying that the possession of weapon as one of the Special Circumstances for disciplining students with disabilities, Congress chose to adopt the definition of dangerous weapon in Title 18 of the United[1] States Code (Federal Law) for Federal Crimes and Criminal Procedure which Grand Prairie ISD shall apply.

- "Weapon has the meaning given the term 'dangerous weapon' under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code."[635]
- "The term 'dangerous weapon' means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing

[633] 34 C.F.R. § 300.530(g).

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[634] 34 C.F.R. § 300.530(g).
[635] 34 C.F.R. § 300.530(i)(4).

death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2 1/2 inches in length."[636]

What constitutes an illegal drug or controlled substance?

When specifying that the possession of an illegal drug or controlled substance as one of the Special Circumstances for disciplining students with disabilities, Congress chose to adopt the definition of controlled substance in Title 21 of the United States Code (Federal Law) governing Food and Drugs which Grand Prairie ISD shall apply.

- "Illegal drug means a controlled substance; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law."[637]

- "Controlled substance means a drug or other substance identified under schedules I, II, III, IV, or V … of the Controlled Substances Act (21 U.S.C. § 812(c))."[638]

PRACTICE GUIDE—

- **Students under the influence of an illegal drug or controlled substance must also be found to be in possession of that drug or controlled substance for special circumstance to exist. Being under the influence of an illegal drug, alone, does not satisfy this requirement.**
- **Referral to and action by law enforcement pursuant to 34 C.F.R. § 300.535 may also be appropriate.**
- **Alcohol is not considered an illegal drug or controlled substance. Therefore, when a student with disabilities violates the Student Code of Conduct due to use or possession of alcohol, it is not a special circumstance.**

How is serious bodily injury defined?

When specifying conduct causing serious bodily injury as one of the Special Circumstances for disciplining students with disabilities, Congress chose to adopt the definition of serious bodily injury in Title 18 of the United States Code (Federal Law) for Federal Crimes and Criminal Procedure which Grand Prairie ISD shall apply.

[636] 18 U.S.C. § 930(g)(2).
[637] 34 C.F.R. § 300.530(i)(2).
[638] 34 C.F.R. § 300.530(i)(1). See 21 U.S.C. § 812(c) for schedules of controlled substances, available at: http://www.justice.gov/dea/pubs/csa/812.htm.

- "Serious bodily injury has the meaning given the term 'serious bodily injury' under paragraph (3) of subsection (h) of section 1365 of title 18, United States Code."[639]

- "The term 'serious bodily injury' means bodily injury which involves—
  (A) a substantial risk of death;
  (B) extreme physical pain;
  (C) protracted and obvious disfigurement; or
  (D) protracted loss or impairment of the function of a bodily member, organ, or mental faculty."[640]

PRACTICE GUIDE—

- **When determining whether special circumstances exist as a result of a student having inflicted serious bodily injury upon another person, school personnel may wish to compare and contrast the definition of "serious bodily injury" to the lesser Title 18 standard of "bodily injury" which is not a Special Circumstance and which means a cut, abrasion, bruise, burn, or disfigurement; physical pain; illness; impairment of the function of a bodily member, organ, or mental faculty; or any other injury to the body, no matter how temporary. Examining the student's behavior against both definitions, will help ensure a more reliable conclusion. Moreover, referral to and action by law enforcement pursuant to 34 C.F.R. § 300.535 may also be appropriate.**

Do the 45 school days for special circumstances carry over from one school year to the next?

Yes.[641]

What is the role of the ARD Committee when Special Circumstances exist?

The role of the ARD is the same as when the behavior is not a manifestation of the student's disability. The Principal or designee shall ensure that the ARD committee perform the following specific functions when special circumstances exist, and the behavior is not a manifestation of the student's disability:

- Ensure that the student receives "as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur."[642]

[639] 34 C.F.R. § 300.530(i)(3).
[640] 18 U.S.C. § 1365(h)(3).
[641] See, U.S. Department of Education discussion of 34 C.F.R. § 300.530(g), 71 Fed. Reg. 46722 (August 14, 2006).
[642] 34 C.F.R. § 300.530(d)(1)(ii).

- Determine services as outlined in **SERVICES DURING PERIODS OF REMOVAL**.[643]

- Determine the "interim alternative educational setting" for the provision of the services.[644] The setting may be the DAEP if the ARD committee determines that the services can be provided in that setting.[645]

- Review any previously conducted functional behavioral assessment of the student and any behavior improvement plan or behavioral intervention plan developed for the student based on that assessment.[646]

- As necessary, develop a behavior improvement plan or behavioral intervention plan for the student if the student does not have a plan; or if the student has a behavior improvement plan or behavioral intervention plan, revise the student's plan; and

- Provide Prior Written Notice in accordance with [DISTRICT ISD]'s Special Education Operating Procedures

How does a disciplinary change of placement for these special circumstances differ when the behavior is not a manifestation?

When behavior is not a manifestation of the disability, Grand Prairie ISD is not limited to a 45-school day removal.

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[643] 34 C.F.R. § 300.530(d)(5).
[644] 34 C.F.R. § 300.531.
[645] *OSERS Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A D-3 (Revised July 2022).
[646] Tex. Ed. Code § 37.004(b-1)(1)(B)