

## Special Education Operating Guidelines Overview

Local Education Agencies (LEA) are required to develop and implement policies, procedures and practices related to the provision of special education services to eligible students. Operating guidelines are the written guidelines developed locally which outline the implementation of these practices.

Furthermore, according to the requirements of IDEA (34 CFR 300.646(b) (1)), the State Education Agency must provide for review and, if appropriate, revision of the policies, procedures and practices related to serving student with disabilities. This process is conducted through the Special Education Monitoring unit of the Division of Program Monitoring and Interventions at the Texas Education Agency.

To assist in meeting the above requirement, the following Operating Guidelines document was developed. This document provides a framework for LEAs to utilize as they outline local practices. Each section provides the legal requirements for the identified area. At the end of each section there is an opportunity for the district to insert specific information related to the implementation at the local level. The LEA Specific Information box allows for district teams to tailor each operating guideline to best meet the district needs.

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## Child Find

### Child Find Duty

*20 United States Code (USC) §1401(3)(A), 1401(29), 1412(a)(3)(A), 1412(a)(24)*

All children with disabilities residing in the state, regardless of the severity of their disabilities, and who are in need of special education and related services, must be identified, located, and evaluated:

- The term "special education" means specially-designed instruction, at no cost to parents, to meet the unique needs of a child with a disability, including instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and instruction in physical education; and
- The term "child with a disability" means a child with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (referred to as "emotional disturbance"), orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and who, by reason thereof, needs special education and related services.

The duty extends to children who are homeless children or are wards of the state.

The duty extends to children who are attending private schools.

The local education agency (LEA) must comply with the state's policies and procedures designed to prevent the inappropriate over identification or disproportionate representation by race and ethnicity of children as children with disabilities, including children with disabilities with a particular impairment.

### LEA Specific Information:

The District will promote public awareness concerning the District's Child Find obligation, by taking steps to notify the public concerning this obligation. These steps shall include:

- A notice that describes the District's Child Find obligation will be included in the yearly student handbook. This notice shall include the name and contact information for a school district official who is knowledgeable about the Child Find procedures. This notice will also state that a parent may make a referral for special education evaluation at anytime.
- A notice that describes the District's Child Find obligation will be placed in a city newspaper or other local publication at regular intervals, but at least every two months. This notice shall include the name and contact information for a school district official who is knowledgeable about the Child Find procedures. This notice will also state that a parent may make a referral for special education evaluation at anytime.

The District will conduct training at regular intervals for the District's instructional and evaluation personnel concerning the District's Child Find obligations and procedures, including training concerning identification and evaluation of students with disabilities.

School administrators who oversee student discipline must attend professional development training at least once every three school years.

The District will comply with the Private Schools section requirements related to annual consultation.

### **Early Intervening Services/Response to Intervention (RtI)**

*20 USC §1400(c)(5)(F), 1413(f)(2), 1413(f)(2)(A), 1413(f)(2)(B), 1413(f)(3), 19 Texas Administrative Code (TAC) §89.1011, TEC §29.081(a)*

The education of children with disabilities can be made more effective by providing incentives for whole-school approaches, scientifically-based early reading programs, positive behavioral interventions and supports, and early intervening services to reduce the need to label children as disabled in order to address the learning and behavioral needs of such children.

In implementing coordinated, early intervening services, an LEA may carry out activities that include:

- Professional development (which may be provided by entities other than LEAs) for teachers and other school staff to enable such personnel to deliver scientifically-based academic instruction and behavioral interventions, including scientifically-based literacy instruction, and, where appropriate, instruction on the use of adaptive and instructional software; and
- Providing educational and behavioral evaluations, services, and supports, including scientifically-based literacy instruction.

Prior to referral, the child should be considered for all support services available to all children, such as:

- Tutorial;
- Remedial services; and
- Compensatory services.

Each LEA must use the student performance data resulting from the basic skills assessment instruments and achievement test administered to design and implement appropriate compensatory, intensive, or accelerated instructional service for children in the LEA's schools that enable the children to be performing at grade level at the conclusion of the next regular school term.

The provision of early intervening services does not limit or create a right to a (Free Appropriate Public Education) FAPE under the Individuals with Disabilities Education Act (IDEA).

## LEA Specific Information:

The District will collect and monitor student performance to identify students who are experiencing difficulty in the general education classroom. All students are provided Tier I intervention which includes:

- high quality classroom instruction in core academic areas.
- performance monitoring based upon data obtained through basic skill assessment instruments, achievement tests, and universal screening instruments at the beginning of each school year and at periodic intervals thereafter.
  - Such instruments may include, but are not limited to, TPRI/Tejas Lee, Learning A to Z, ISTAR Pre-Assessment, and Curriculum Based Assessments.
  - Other data that will be monitored may include data concerning student behavior, attendance, language and health. This data will be monitored by each student's classroom teacher.
- Students experiencing difficulty in the general education classroom, whether the difficulty relates to academic performance, classroom behavior, attendance, language or health concerns, shall be recommended by the classroom teacher for Tier II intervention, based upon campus criteria.

Students recommended for Tier II intervention shall also receive:

- scientific, researched-based interventions in the core academic areas or in the areas of behavioral concerns,
- targeted interventions that may include small group instruction and practice, and
- bimonthly performance monitoring with monthly review by an RTI team selected by the campus.
- Students who continue to experience difficulty in the general education classroom after a period of six to eight weeks of Tier II intervention may be recommended for Tier III intervention based upon campus criteria.

Students recommended for Tier III intervention shall also receive:

- scientific, researched-based interventions in the core academic areas or in the areas of behavioral concerns,
- targeted interventions that may include intensified instruction through increased frequency or duration, and
- weekly performance monitoring with monthly review by an RTI team selected by the campus.
- Students who continue to experience difficulty in the general education classroom after a period of six to eight weeks of Tier III intervention may be referred for special education evaluation.

Students who are not making adequate progress do not have to have to complete the tiered cycle to be referred for special education evaluation.

### **Prohibition on Mandatory Medication**

*20 USC §1412(a)(25)(A), 1412(a)(25)(B), TEC §38.016*

LEA personnel are prohibited from requiring a child to obtain a prescription for a substance covered by the Controlled Substances Act as a condition of attending school, receiving an evaluation, or receiving services under Individuals with Disabilities Education Act (IDEA).

Teachers and other school personnel are not prohibited from consulting or sharing classroom-based observations with parents or guardians regarding a child's academic and functional performance, or behavior in the classroom or school, or regarding the need for evaluation for special education or related services.

### **LEA Specific Information:**

District prohibits requiring any student to obtain a prescription as a condition of attending school, receiving evaluation, or receiving services under IDEA.

District prohibits requiring any student to obtain a private psychological evaluation or treatment as a condition of attending school, receiving evaluation, or receiving services under IDEA.

School personnel may provide classroom based observations with parents/guardians including information regarding functional performance, or behavior in the classroom or school, or regarding the need for evaluation for special education and related services.

At the beginning of every school year, campus administrators will be responsible for addressing Prohibition of Mandatory Medication with staff.

### **Dyslexia Services**

*TEC §38.003(a), 38.003(b), 38.003(d)(1), 38.003(d)(2)*

Children enrolling in public schools must be tested for dyslexia and related disorders at appropriate times in accordance with a program approved by the State Board of Education (SBOE).

"Dyslexia" means a disorder of constitutional origin manifested by a difficulty in learning to read, write, or spell, despite conventional instruction, adequate intelligence, and sociocultural opportunity.

"Related disorders" include disorders similar to or related to dyslexia, such as developmental auditory imperception, dysphasia, specific developmental dyslexia, developmental dysgraphia, and developmental spelling disability.

In accordance with the program approved by the SBOE, the board of trustees of each LEA must provide for the treatment of any child determined to have dyslexia or a related disorder.

### **LEA Specific Information:**

The District recognizes that students with dyslexia may be, but are not necessarily, eligible for special education. Eligibility for special education may not be based on dyslexia alone, but may be based on the presence of a learning disability under the criteria established by federal and state law.

For students suspected of having dyslexia, the student will be referred for dyslexia evaluation pursuant to the requirements imposed by Section 504 for evaluation.

If a student is suspected to be child with a disability under who, by reason thereof, may need special education and related services, the dyslexia evaluation will become a part of an initial evaluation or reevaluation consistent with those sections.

The 504 Committee, or ARD committee, will determine if the student qualifies to receive services through the dyslexia program.

### **Referral for Possible Special Education Services**

*20 USC §1412(a)(10)(A)(ii)(I), 1412(a)(10)(A)(ii)(II), 1412(a)(10)(A)(ii)(III), 1412(a)(10)(A)(ii)(IV), 1412(a)(10)(A)(ii)(V), 1414(a)(1)(B), 1414(b)(5), 6368(3), 19 TAC §89.1011, TEC §26.0081(c)*

Referral of children for a full and individual evaluation for possible special education services must be a part of the LEA's overall, general education referral or screening system.

Refer the child for a full and individual evaluation if the child continued to experience difficulty in the general classroom after the provision of interventions.

A parent of a child, a state education agency (SEA), other state agency, or local education agency (LEA) may initiate a request for an initial evaluation to determine if the child is a child with a disability.

The TEA must produce and provide to LEAs a written explanation of the options and requirements for providing assistance to children who have learning difficulties or who need or may need special education:

- The explanation must state that a parent is entitled at any time to request an evaluation of the parent's child for special education services;
- Each school year, each LEA must provide the written explanation to a parent of each child in the LEA by including the explanation in the student handbook or by another means.

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

- Lack of appropriate instruction in reading, including in the essential components of reading instruction as defined in the Elementary and Secondary Education Act (ESEA);
- Lack of instruction in math; or
- Limited English proficiency.

The child find requirements apply with respect to children with disabilities in the state who are enrolled in private, including religious, elementary schools and secondary schools:

- The child find process must be designed to ensure the equitable participation of parentally placed private school children with disabilities and an accurate count of such children;
- The LEA, or where applicable, the SEA, must undertake activities similar to those activities undertaken for the agency's public school children;
- The cost of carrying out child find, including individual evaluations, may not be considered in determining whether an LEA has met its proportionate share obligations; and
- The child find process must be completed in a time period comparable to that for other children attending public schools in the LEA.

### LEA Specific Information:

A referral for special education may be made at any time. Any initial referral for special education shall be sent to the campus counselor within two school days, and shall be reviewed by the RtI Team, to consider all available data concerning the referral for evaluation. Data reviewed shall include any data collected as required by the **Early Intervening Services/Response to Intervention** section.

For students attending a private school, the same process will be followed; however the Special Education Office will assist with gathering available data concerning the referral for evaluation from the private school and will forward that data to the RtI team for consideration.

Upon receipt of an initial referral for special education, the campus counselor shall send to the parent a copy of the procedural safeguards available to the parents of a student with a disability and a copy of the "Guide to the Admission, Review and Dismissal Process."

If the parent makes a written request for an FIE to the Director of Special Education or any other administrative employee, then the District must respond to the request within 15 school days by seeking consent, or giving written notice of refusal along with procedural safeguards.

Within five school days of receipt of an initial referral for special education evaluation from a parent or District personnel, the RtI Team shall make a recommendation concerning whether the District should conduct a Full and Individual Evaluation ("FIE"). If the recommendation is that there is no reason to suspect that the student is a student with a disability, the campus counselor shall prepare a Prior Written Notice, explaining why a FIE is being refused.

If the recommendation is that the RtI Team suspects that the student is a student with a disability, the RtI Team and campus counselor shall assemble a referral package and the campus principal shall ensure that the referral package is satisfactorily completed. The referral package shall be immediately sent to an assessment coordinator designated by the Director of Special Education.

The assessment coordinator and campus principal shall cooperate in ensuring that all information required by the referral packet is available to initiate the FIE.

## Director of Special Education

Upon receipt of a referral packet from the RTI Team and campus counselor, the prior written notice of proposal to evaluate will be provided to the student's parent and the District will seek informed consent for evaluation from the student's parent.

Once the District has received a parent's written consent for evaluation, the evaluation report must be completed within 45 school days from the day the consent is received. If a student is absent for three or more days during the 45 school day period, the deadline is extended by the number of days the student was absent. The Special Education Office will have 30 calendar days after the initial FIE report is complete to hold an ARD committee meeting.

If consent is granted with less than 45 school days remaining but more than 35 school days before the last day of the school year, then the full report is due no later than June 30 of the same year and the student's ARD committee must meet no later than the 15<sup>th</sup> day of the following school year. However, if the student is absent for 3 or more school days from the date the parent provided consent, the deadline for the evaluation report to be complete would change to 45 school days with 30 calendar days after completion for the ARD committee to meet.

If consent is granted with less than 35 school days left in the school year, the District will have 45 school days to complete the evaluation and 30 calendar days after completion to hold an ARD committee meeting.

## Services Birth through Age 5

### Age Ranges for Eligibility

*20 United States Code (USC) §1412(a)(1)(A), 19 Texas Administrative Code (TAC) §89.1035(a)(b), Texas Education Code (TEC) §29.003(b)*

The Local Education Agency (LEA) must comply with the [Child Find](#) section.

A Free and Appropriate Public Education (FAPE) must be available to all eligible children with disabilities ages 3 through 21:

- Services must be made available to eligible children with disabilities on their third birthday.

A FAPE must be available from birth to children with visual or auditory impairments.

A child between the ages of 3 through 5 may be described as eligible for special education services based on Noncategorical Early Childhood guidelines if the criteria are met.

### LEA Specific Information:

For children birth through three years of age, the District will coordinate with Early Childhood Intervention (ECI) to provide any services determined to fall under the District's responsibility based on the Individualized Family Services Plan (IFSP).

The Director of Special Education will be the contact person for ECI and will ensure this process occurs.

### **Individualized Family Services Plan (IFSP)**

*20 USC §1401(15), 1414(d)(2)(B), 1436(d), 19 TAC §89.1050(b)*

For a child from 0 through 2 years of age with visual and/or auditory impairments, an IFSP meeting must be held in place of an ARD committee meeting.

In the case of a child with a disability aged 3 through 5, the ARD committee must:

- Comply with the [ARD Committee](#) sections; and
- If the child has an IFSP, consider the IFSP.

The IFSP may serve as the Individualized Education Program (IEP) of the child if using that plan as the IEP is agreed to by the LEA and the child's parent according to [Membership and Meeting](#).

The IFSP must contain:

- A statement of the infant's or toddler's present levels of physical development, cognitive development, communication development, social or emotional development, and adaptive development, based on objective criteria;
- A statement of the family's resources, priorities, and concerns relating to enhancing the development of the family's infant or toddler with a disability;
- A statement of the measurable results or outcomes expected to be achieved for the infant or toddler and the family, including pre-literacy and language skills, as developmentally appropriate for the child, and the criteria, procedures, and timelines used to determine the degree to which progress toward achieving the results or outcomes is being made and whether modifications or revisions of the results or outcomes or services are necessary;
- A statement of specific early intervention services based on peer-reviewed research, to the extent practicable, necessary to meet the unique needs of the infant or toddler and the family, including the frequency, intensity, and method of delivering services;
- A statement of the natural environments in which early intervention services will appropriately be provided, including a justification of the extent, if any, to which the services will not be provided in a natural environment;
- The projected dates for initiation of services and the anticipated length, duration, and frequency of the services;



- The identification of the service coordinator from the profession most immediately relevant to the infant's, toddler's or family's needs (or who is otherwise qualified to carry out all applicable responsibilities under Part C) who will be responsible for the implementation of the plan and coordination with other agencies and persons, including transition services; and
- The steps to be taken to support the transition of the toddler with a disability to preschool or other appropriate services.

### **LEA Specific Information:**

For children birth through three years of age, the District will coordinate with Early Childhood Intervention (ECI) to provide any services determined to fall under the District's responsibility based Individualized Family Services Plan (IFSP).

The Director of Special Education Director of Special Education will be the contact person for ECI and will ensure this process occurs.

### **Transition from Part C Early Childhood Intervention (ECI) to Part B Preschool Programs**

*20 USC §1412(a)(9), 1414(d)(1)(D), 1435(a)(10), 1437(a)(9)(A)(ii)*

For children participating in ECI programs assisted under Part C, and who will participate in preschool programs assisted under Part B, the ECI and the LEA are responsible for ensuring a smooth and effective transition to those preschool programs.

The ECI lead agency must:

- Notify the LEA for the area in which such a child resides that the child will shortly reach the age of eligibility for preschool services under Part B; and
- In the case of a child who may be eligible for such preschool services:
  - With the approval of the family of the child; and
  - Convene a conference among the lead agency, the family, and the LEA not less than 90 days (and at the discretion of all such parties, not more than 9 months) before the child is eligible for the preschool services, to discuss any such services that the child may receive.

Policies must be in place to ensure that by the third birthday of such a child, an IEP or IFSP has been developed and is being implemented by the LEA for the child.

The LEA will participate in transition planning conferences arranged by the designated lead agency.

In the case of a child who was previously served under Part C, an invitation to the initial ARD meeting must, at the request of the parent, be sent to the Part C service coordinator or other representatives of the Part C system to assist with the smooth transition of services according to [Membership and Meeting](#) section.

### LEA Specific Information:

The Director of Special Education will be the designated contact person for ECI and will ensure this process occurs. The Director of Special Education will coordinate with ECI to seek the approval of the family of the child to convene a conference among the ECI, the District, and the family not less than ninety days, and not more than nine months before the child's third birthday.

*The coordination between ECI and the District may be memorialized through a Memorandum of Understanding.*

The Special Education Office will ensure that an ARD committee meeting is convened to develop an IEP before the child's third birthday.

For students who turn three over the summer, the child's ARD committee must determine the date when services will begin.

*All consent and evaluation sections will be followed.*

### **Instructional Arrangements and Settings**

*19 TAC §89.63(c)(2)(B), 89.63(d)*

The LEA must comply with the ARD Committee including Least Restrictive Environment requirements.

Home instruction may also be used for services to infants and toddlers (0 through 2) and young children (ages 3 through 5) when determined appropriate by the child's IFSP committee or ARD committee.

The appropriate instructional arrangement for children from birth through the age of two with visual and/or auditory impairments must be determined in accordance with the IFSP, current attendance guidelines, and the agreement memorandum between the TEA and the Texas Interagency Council on Early Childhood Intervention.

### LEA Specific Information:

The ARD committee will determine placement for the student.

### **Dual Enrollment**

*19 TAC §89.1096(c)*

"Dual enrollment" is when a parent of a child with a disability enrolls the child in both the public and private school. Parents of an eligible student ages 3 or 4 shall have the right to dual enroll their student in both the public and private school beginning on the student's third birthday and continuing until the end of the school year in which the student turns five or until the student is eligible to attend a district's public school kindergarten program, whichever comes first.

To dually enroll, the child must meet the age requirements set forth in the [Private Schools](#) section of this document.

When a parent chooses to dually enroll his or her eligible child, the LEA must comply with the [Private Schools](#) section.

### **LEA Specific Information:**

If a child meets age requirements and the parent chooses to dually enroll, the District will comply with the [Private Schools](#) section.

A child is eligible for dual enrollment beginning on the child's third birthday and continuing until whichever comes first, the end of the school year in which the child turns five; or the child is eligible to attend the District's Kindergarten program.

The Special Education Office will comply with the evaluation and ARD sections to determine whether a child may be eligible for special education and related services. If eligible, the ARD committee will develop and IEP designed to provide the child with FAPE in the least restrictive environment appropriate for the child. From the IEP, District and the student's parent will determine which special education and/ or related services will be provided and the location where services will be provided.

## **Parent**

### **Identification of Parent**

*20 United States Code (USC) §1401(23), 1401(23)(A), 1401(23)(B), 1401(23)(C), 1401(23)(D), 34 Code of Federal Regulations (CFR) part 300.30(a), 300.30(a)(1), 300.30(a)(2), 300.30(a)(3), 300.30(a)(4), 300.30(a)(5)*

The term "parent" means:

- A biological or adoptive parent of a child;
- A foster parent of a child who meets the requirements set forth below;
- A guardian (but not the state if the child 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; or
- An individual assigned to be a surrogate parent, subject to the Appointment of a Surrogate Parent Section

### LEA Specific Information:

The District will permit persons other than parents, as defined above, to act in place of a parent or adult student, if such action is permitted under the terms of a valid Power of Attorney that is on-file with the District and verified by the Director of Special Education.

#### **Requirements for Foster Parent to Serve as Parent**

*19 Texas Administrative Code (TAC) §89.1047(a)(1), 89.1047(b)(1), 89.1047(b)(2), Texas Education Code (TEC) §29.015(b), 29.015(b)(1), 29.015(b)(2), 29.015(b)(3)(A), 29.015(b)(3)(B), 29.015(b)(4)*

A foster parent may serve as a parent of a child with a disability if the following criteria are met:

- The Department of Family and Protective Services (DFPS) is appointed as the temporary or permanent managing conservator of the child;
- The child has been placed with the foster parent for at least 60 days;
- The foster parent agrees to participate in making educational decisions on the child's behalf;
- The foster parent has no interest that conflicts with the child's interests; and
- The foster parent agrees to complete a training program for surrogate parents that comply with the training program requirements of the Parent section.

The Local Education Agency (LEA) should provide or arrange for the provision of the training program prior to assigning a foster parent to act as a parent but no later than 90 calendar days after assignment.

### LEA Specific Information:

The District requires proof of appointment of temporary or permanent managing conservatorship of a child with a disability under the terms of a valid court order that is on-file with the District and verified by the Director of Special Education

The Special Education Office director will arrange for the provision of the surrogate parent training consistent with the Surrogate Training Program section.

#### **Appointment of a Surrogate Parent**

*20 USC §1415(b)(2)(A), 1415(b)(2)(B), 42 USC §11434a(6), 34 Code of Federal Regulations (CFR) part 300.519(a), 300.519(a)(1), 300.519(a)(2), 300.519(a)(3), 300.519(a)(4), 300.519(c), 300.519(d)(2), 300.519(d)(2)(i), 300.519(d)(2)(ii), 300.519(d)(2)(iii), 300.519(h), 19 TAC §89.1047(a)(1), 89.1047(a)(3), 89.1047(a)(4), TEC §29.001(10), 29.001(10)(A), 29.001(10)(B), 29.001(10)(C), 29.001(10)(D), 29.001(10)(E), 29.001(10)(F)*

The LEA must make reasonable efforts to appoint a surrogate parent not more than 30 days after there is a determination that the child needs a surrogate parent unless, alternatively, the judge overseeing the child's care appoints the surrogate.

Unless appointed by the judge overseeing the child's care, the LEA must appoint a surrogate parent whenever:

- The parents of the child are not known;
- The LEA cannot, after reasonable efforts, locate the parents;
- The child is a ward of the state; or
- The child is an unaccompanied homeless youth.

The school district shall give preferential consideration to a foster parent of a child with a disability when assigning a surrogate parent for the child, consistent with the **Requirements for Foster Parent to Serve as Parent** section

The LEA must ensure that a person selected as a surrogate parent is not:

- An employee of the Texas Education Agency (TEA);
- An employee of the LEA;
- An employee of any other agency that is involved in the education or care of the child; or
- A person with a personal or professional interest that conflicts with the interest of the child the surrogate parent represents.

The LEA must require the surrogate parent to:

- Visit the child and the child's school;
- Consult with persons involved in the child's education, including teachers, caseworkers, court-appointed volunteers, guardians ad item, attorneys ad item, foster parents, and caretakers;
- Review the child's educational records;
- Attend meetings of the child's [ARD Committee](#);
- Exercise independent judgment in pursuing the child's interests; and
- Complete a training program within 90 days of assignment as a surrogate parent.

## LEA Specific Information:

### District

When the District appoints a surrogate parent the District Special Education Office will complete and/or maintain the following documentation:

- designation of Surrogate Parent,
- verification that the court-appointed surrogate is not an employee of the District, TEA, or any other agency involved in the education or care of the child,
- verification of absence of conflict of interest,
- surrogate Parent Letter of Agreement,
- surrogate Parent Visitation Log,
- verification of Surrogate Training; and
- surrogate Parent Tracking Form.

When a surrogate parent is court appointed (applicable only for a student who is a ward of the state), the Special Education Office will complete and/or maintain the following documentation:

- valid court order signed by the judge overseeing the child's case reflecting court-appointment of a surrogate,
- verification that the court-appointed surrogate is not an employee of the District, TEA, or any other agency involved in the education or care of the child,
- Surrogate Parent Visitation Log,
- Verification of Surrogate Training; and
- Surrogate Parent Tracking Form

The Special Education Office will arrange for the provision of the surrogate parent training consistent with the Surrogate Training Program section.

### **Surrogate Training Program**

*34 CFR part 300.519(d)(2)(iii), 19 TAC §89.1047(a)(1), 89.1047(a)(1)(A), 89.1047(a)(1)(B), 89.1047(a)(1)(C), 89.1047(a)(1)(D), 89.1047(a)(1)(E), 89.1047(a)(1)(F), 89.1047(a)(1)(G), 89.1047(a)(1)(H), 89.1047(a)(2), 89.1047(a)(3), 89.1047(a)(4), TEC §29.001(10)(A)*

The required training program must provide the individual with an explanation of the provisions of federal and state laws, rules, and regulations relating to:

- The identification of a child with a disability (see [Child Find](#));
- The collection of evaluation and reevaluation data relating to a child with a disability (see [Full and Individual Evaluation](#) sections);
- The [ARD Committee](#) process;

- The development of an individualized education program (IEP) and, for a child who is at least 14 years of age, [Transition Services](#);
- The determination of [Least Restrictive Environment](#);
- The implementation of an IEP (see [ARD Committee](#) sections);
- The [Procedural Safeguards](#); and
- The sources that the surrogate parent may contact to obtain assistance in understanding the provisions of federal and state laws, rules, and regulations relating to children with disabilities.

The surrogate parent training program must be provided in the native language or other mode of communication used by the individual who is to serve as a surrogate parent.

Once an individual has completed a training program, the individual must not be required by any LEA to complete additional training in order to continue serving as the child's surrogate parent or to serve as the surrogate parent for other children with disabilities.

LEAs may provide ongoing or additional training to surrogate parents and/or parents; however, the LEA cannot deny an individual who has not received the required training from serving as a surrogate parent on the grounds that the individual has not been trained.

### **LEA Specific Information:**

The Special Education Office will arrange for the provision of the initial Surrogate Training Program: "How to Serve as a Surrogate Parent for a Student with a Disability" or other authorized surrogate training program that satisfies federal and state requirements for surrogate training District, no later than 90 calendar days after the initial assignment of an individual as a surrogate. This training will be provided in the native language or other mode of communication used by the individual who is to serve as a surrogate parent.

Upon completion of the initial Surrogate Training Program the Director of Special Education will complete a Verification of Surrogate Training for maintenance with the student's file.

Alternative training programs are permitted if the surrogate training is conducted or provided by or through the Texas Department of Family and Protective Services (TDFPS), another school district, an education service center, or any entity that receives federal funds to provide Individuals with Disabilities Education Act (IDEA) training to parents. The Director of Special Education must obtain a Verification of Surrogate Training that an individual has completed an alternative training program outside of the District.

Once a Verification of Surrogate Training has been completed or obtained, the District shall not require an individual to complete additional training in order to continue serving as the student's surrogate parent or to serve as the surrogate parent for other students with disabilities.

The District may offer ongoing or additional training to surrogate parents and/or parents; however, the District cannot deny an individual from serving as a surrogate parent once a Verification of Surrogate Training has been completed or obtained.

## **Adult Student**

### **Transfer of Parental Rights at Age of Majority**

*20 USC §1415(m)(1), 1415(m)(1)(A), 1415(m)(1)(B), 1415(m)(1)(D); 34 CFR part 99.5(a), 99.31(a)(8); 34 CFR part 300.520(a), 300.520(a)(1)(i), 300.520(a)(1)(ii), 300.520(a)(2), 300.625(b); 300.625(c); 19 TAC §89.1049(b), 89.1049(e); TEC §29.017(b)*

Beginning not later than one year prior to the child reaching the age of 18, the local educational agency (LEA) must comply with the [Transition Services](#) section.

For an adult student who is incarcerated in an adult or juvenile, state or local correctional institution, all rights accorded to a parent under IDEA, Part B, including the right to receive any notice required by IDEA, Part B, will transfer to an 18-year-old student who is incarcerated in an adult or juvenile, state or local correctional institution, unless the student's parent or other individual has been granted guardianship of the student under the Probate Code, Chapter XIII, Guardianship.

When a student with a disability reaches 18 years old:

- Unless the student's parent or other individual has been granted guardianship of the student under the Texas Probate Code, Chapter XIII, Guardianship, all rights under the Individuals with Disabilities Act (IDEA) transfer from the parent to the adult student, except that the LEA must provide any notice required under the IDEA to both the adult student and the parents; and
- All rights under Family Educational Rights and Privacy Act (FERPA) transfer;
  - except that consent is not required to disclose information to the parent of an adult student if the student is a dependent student, or another [When Consent is not Required to Disclose Information](#) exception applies.

An adult student who holds rights under the IDEA is not prohibited from executing a valid power of attorney.

### **LEA Specific Information:**

Unless the student's parent or other individual has been granted guardianship of the student under the Texas Probate Code, Chapter XIII, Guardianship, following a student's 18<sup>th</sup> birthday the District will provide any notice required under IDEA to both the adult student and the parent..



The District will permit persons other than adult students to act in place of an adult student, if such action is permitted under the terms of a valid Power of Attorney that is on-file with the District and verified by the Director of Special Education.

### **Notification of the Transfer of Rights**

*20 USC §1415(m)(1); 34 CFR part 300.520(a)(3); 19 TAC §89.1049(c); TEC §29.017(c)*

The Local Education Agency (LEA) must notify the adult student and the parents of the transfer of rights, including a statement (which need not contain the elements of [Prior Written Notice](#)):

- That parental rights have transferred to the adult student; and
- Of contact information for the parties to use in obtaining additional information.

### **LEA Specific Information:**

During the ARD committee meeting that occurs one calendar year before a student's 18<sup>th</sup> birthday, the District will provide a student and parent with notice that upon the student's 18<sup>th</sup> birthday all rights granted to the parent under IDEA shall transfer to the student upon reaching age 18.

Once a student reaches age 18 notification of transfer of parental rights will be provided by the Special Education Office.

### **Right to Notice Following a Transfer of Rights**

*20 USC §1415(m)(1)(A); 300 CFR part 300.520(a)(1)(i); 19 TAC §89.1049(a), 89.1049(d); TEC §29.017(a)*

Following a transfer of rights, the LEA must provide any notice required by the Individuals with Disabilities with Disabilities Education Act (IDEA) to both the adult student and the parents; however:

- A [Prior Written Notice](#) of an [ARD Committee Meeting](#) does not constitute an invitation to, or create a right for, the parent to attend the meeting; and
- [Prior Written Notice](#) given to an adult student and parent does not create a right for the parent to [Consent](#) or participate in the proposal or refusal to which the notice relates.

### **LEA Specific Information:**

For all activities requiring parental consent the District will look to the adult student to provide consent once the student reaches age 18.

### **Parent Attendance at the ARD Meeting Following a Transfer of Rights**

*19 TAC §89.1049(d)*

Regarding [ARD Committee Membership](#), the adult student or LEA may invite individuals who have knowledge or special expertise regarding the adult student, including the parent, to be a member of the admission, review and dismissal (ARD) committee.

### **LEA Specific Information:**

An adult student may invite his or her parent(s) to be a member of the ARD committee.

## **Full and Individual Evaluation**

### **Review of Existing Evaluation Data (REED)**

#### **Federal and State Requirements**

*20 United States Code (USC) §1414(a)(1)(E), 1414(c)(1)(A), 1414(c)(1)(B), 1414(c)(2), 300 CFR part 300.302, 300.305(a), 300.305(a)(1), 300.305(a)(1)(i), 300.305(a)(1)(ii), 300.305(a)(1)(iii), 300.305(a)(2), 300.305(a)(2)(i)(A), 300.305(a)(2)(i)(B), 300.305(a)(2)(ii), 300.305(a)(2)(iii)(A), 300.305(a)(2)(iii)(B), 300.305(a)(2)(iv), 300.305(b), 300.305(c)*

The screening of a child by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation is not considered to be an evaluation for eligibility for special education and related services.

A Review of Existing Evaluation Data (REED) is required as part of an initial evaluation, if appropriate, and as part of any reevaluation.

The REED must be conducted by the admission, review, and dismissal (ARD) committee members (see [ARD Committee Membership](#) information) and other qualified professionals, as appropriate.

The ARD committee members may conduct its review without a meeting.

The ARD committee members must review existing evaluation data on the child, including:

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

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

- Whether the child is a child with a disability, and the educational needs of the child, or, in case of a reevaluation of a child, whether the child continues to have such a disability and the educational needs of the child;

- Whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services;
- The present levels of academic achievement and related developmental needs of the child; and
- Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the individualized education plan (IEP) of the child and to participate, as appropriate, in the general education curriculum.

The local educational agency (LEA) must administer such assessments and other evaluation measures as may be needed to produce the data identified by the REED according to the [Evaluation Procedures](#) section of this document:

- The LEA must comply with the [Prior Written Notice](#) section, as appropriate; and
- The LEA must comply with the [Consent](#) sections, as appropriate.

#### **Requirements if Additional Data are NOT Needed**

*20 USC §1414(c)(4), 300 Code of Federal Regulations (CFR) part 300.305(d)(1), 300.305(d)(1)(i), 300.305(d)(1)(ii), 300.305(d)(2)*

If no additional data are needed to determine whether the child continues to be a child with a disability and to determine the child's educational needs, the LEA must notify the child's parents of:

- That determination and the reasons for the determination; and
- The right of the parents to request an assessment to determine whether the child continues to be a child with a disability and to determine the child's educational needs.

The LEA is not required to conduct such an assessment unless requested to by the child's parents.

#### **LEA Specific Information:**

Every evaluation will begin with a Review of Existing Evaluation Data (REED), including an initial evaluation as appropriate.

A review of existing evaluation data that is not part of the initial evaluation will be conducted as part of an ARD committee meeting.

The ARD committee must review existing evaluation data including evaluations and information provided by the parent(s) of the child; current classroom-based, local, or state assessments, and classroom observations; and observations by teachers and related service providers. The ARD committee may also review, to the extent applicable, information concerning behavior, discipline, previous IEP progress, health or medical conditions, and attendance.

For the REED process each of the four areas will be considered when considering all areas of FIE:

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

The REED must be scheduled to occur early enough to permit the District to obtain any additional data necessary, on or before the student's three-year evaluation anniversary. For every eligible student, the District shall recommend that a student be evaluated with standardized assessment instruments twice before recommending that, based upon a REED, no additional data are needed.

Upon completion of the REED, if additional data is needed, the ARD committee will establish a timeline for completion of additional evaluation and related reports. While the ARD Committee determines this timeline for completion of additional evaluation, the District's proposed timeline should not exceed three calendar months and must provide for completion of any additional evaluation and related reports on or before the student's three-year evaluation anniversary. During this timeline, any additional assessments, including related services must be completed within this timeline. Prior written notice of the proposed evaluation(s) must be given to the parent and an informed written consent will be requested.

If the ARD committee determines no additional data is needed, the District will provide the parent with prior written notice that specifically states:

The ARD committee concluded that no additional data are needed to determine whether the child continues to be a child with a disability and to determine the child's educational needs;

The reasons for the determination that no additional data are needed;

The parents have the right to request an assessment to determine whether the child continues to be a child with a disability and to determine the child's educational needs; and

That the completed REED will become the new FIE and that the student's eligibility will continue.

## Evaluation Procedures

### Federal and State Requirements

*20 USC §1414, 34 CFR part 300, 19 Texas Administrative Code (TAC) §89*

The local education agency (LEA) must comply with the [Review of Existing Evaluation Data](#) section.

The LEA must comply with the [Prior Written Notice](#) section.

The LEA must comply with the [Consent](#) section.

### Initial Evaluations

*20 USC §1414(a)(1)(A), 1414(a)(1)(C)(i), 1414(a)(1)(C)(ii), 34 CFR part 300.8(a)(1), 300.301(a), 300.301(c)(1), 300.301(c)(2), 300.301(c)(2)(i), 300.301(c)(2)(ii), 300.301(d)(1), 300.301(d)(2), 300.301(e)*

The LEA must conduct an initial full and individual evaluation (FIE) in accordance with the legal framework, before the initial provision of special education and related services to a child with a disability.

Such initial evaluation must consist of procedures to determine:

- Whether a child is a child with a disability; and
- The educational needs of such child.

Timeline: The initial evaluation must be conducted and the evaluation report completed within 45 school days of receiving parental consent for the evaluation, unless:

- The parent of a child repeatedly fails or refuses to produce the child for the evaluation;
- The child transfers from one LEA to another when an evaluation is pending and the LEA complies with the [Transfer Students](#) section; or
- Consent is granted with less than 45 school days left in the year but more than 35 school days remaining in the school year.

### Reevaluations

*20 USC §1414(a)(2)(A), 1414(a)(2)(B), 1414(c)(5)(A), 1414(c)(5)(B)(i); 34 CFR part 300.303(a), 300.303(a)(1), 300.303(a)(2), 300.303(b), 300.303(b)(1), 300.303(b)(2), 300.305(e), 300.305(e)(2),*

The LEA must ensure that a reevaluation of each child with a disability is conducted:

- If the LEA determines the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or
- If a reevaluation is requested by the child's parents or teacher; and

- Before determining that the child is no longer a child with a disability;
  - The evaluation is not required (but a [Summary of Performance](#) is required) before the termination of a child's eligibility due to:
    - Graduation from secondary school with a regular diploma, or
    - Exceeding the age eligibility for a free appropriate public education (FAPE) under state law; and

A reevaluation must occur:

- Not more frequently than once a year, unless the parent and the LEA agree otherwise; and
- At least once every 3 years, unless the parent and the LEA agree that a reevaluation is unnecessary.

### **Group of Qualified Professionals**

*20 USC §1414(b)(4)(A); 34 CFR part 300.306(a)(1); 19 TAC §89.1040(b), 89.1040(b)(1), 89.1040(b)(2)*

The group that collects or reviews evaluation data must include, but is not limited to the following members:

- A licensed specialist in school psychology (LSSP);
- An educational diagnostician;
- Other appropriately certified or licensed practitioner with experience and training in the area of the disability; or
- A licensed or certified professional for a specific eligibility category as specified in the applicable specific eligibility category section(s) of [Full and Individual Evaluation](#).

### **LEA Specific Information:**

Minimum examiner qualifications include that speech evaluations must be conducted by a Speech Language Pathologist (SLP), evaluations for a learning disability must be conducted by an educational diagnostician or a Licensed Specialist in School Psychology (LSSP). To conduct an FBA, at minimum, the evaluator must be an educational diagnostician or a Licensed Specialist in School Psychology (LSSP).

### **Evaluation Procedures**

*20 USC §1414(b)(2), 1414(b)(2)(A), 1414(b)(2)(B), 1414(b)(2)(C), 1414(b)(3), 1414(b)(3)(A), 1414(b)(3)(A)(i), 1414(b)(3)(A)(ii), 1414(b)(3)(A)(iii), 1414(b)(3)(A)(iv), 1414(b)(3)(A)(v), 1414(b)(3)(B), 1414(b)(3)(C), 34 CFR part 300.29, 300.304(b)(1), 300.304(b)(1)(i), 300.304(b)(1)(ii), 300.304(b)(2),*

*300.304(b)(3), 300.304(c), 300.304(c)(1), 300.304(c)(1)(i), 300.304(c)(1)(ii), 300.304(c)(1)(iii), 300.304(c)(1)(iv), 300.304(c)(1)(v), 300.304(c)(2), 300.304(c)(3), 300.304(c)(4), 300.304(c)(6), 300.304(c)(7); TEC §29.004(b), 29.310(a), 29.310(b); TAC §89.1230*

The LEA must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information, including information provided by the parent that may assist in determining:

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

The LEA must not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability or determining an appropriate educational program for the child.

The LEA must use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

The LEA must ensure that assessments and other evaluation materials used to assess a child under this section must be:

- Selected and administered so as not to be discriminatory on a racial, cultural or sexual basis;
- Provided and administered:
  - In the child's native language or other mode of communication; and
  - In a form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is not feasible to so provide or administer;
- Used for purposes for which the assessments or measures are valid and reliable;
- Administered by trained and knowledgeable personnel; and
- Administered in accordance with any instructions provided by the producer of such assessments.

Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

Assessments and instruments are selected and administered so as to best ensure that the assessment results accurately reflect the child's aptitude or achievement level or whatever other factors the test

purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those are the skills the test purports to measure).

The child must be assessed in all areas of suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.

For a child with limited English proficiency, the LEA differentiates between language proficiency and disability.

The evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.

Assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child must be provided.

To determine a student's eligibility based on a visual impairment, the evaluation must be conducted by a certified specialist in a variety of lighting conditions and settings.

## Summary of Performance

### Federal and State Requirements

*20 USC §1414(c)(5)(B)(ii), 34 CFR part 300.305(e)(2), 300.305(e)(3), 19 TAC §89.1070(c), 89.1070(e)*

A summary of performance is required for:

- A child who meets the criteria for Graduation and is graduating; or
- A child whose eligibility for special education and related services terminates due to exceeding age eligibility.

A summary of performance must be provided and included as part of a Full and Individual Evaluation for children who graduate due to having successfully completed an IEP and met the criteria for Graduation under an individualized education program (IEP).

### Considerations

*19 TAC §89.1070(e)*

The summary of performance must consider, as appropriate:

- The views of the parent;



- The views of the child; and
- Written recommendations from adult service agencies on how to assist the child in meeting postsecondary goals.

### **Elements of Summary of Performance**

*20 USC §1414(c)(5)(B)(ii) , 34 CFR part 300.305(e)(3)*

The local educational agency (LEA) must provide the child with a summary of performance that contains:

- A summary of the child's academic achievement;
- A summary of the child's functional performance; and
- Recommendations on how to assist the child in meeting the child's postsecondary goals.

### **Independent Educational Evaluations (IEE)**

#### **Federal and State Requirements**

*20 U.S.C. § 1415(b)(1); 34 C.F.R. Parts 300.502(a)(1), 300.502(a)(3)(i), 300.502(a)(2)*

The parents of a child with a disability have the right to obtain an IEE of the child, subject to the provisions below:

- IEE means an evaluation conducted by a qualified examiner who is not employed by the local educational agency (LEA), which is responsible for the education of the child.

When the parent requests an IEE, the LEA must provide:

- Information about where an IEE may be obtained; and
- The [LEA Criteria](#) for an IEE.

#### **IEE at Public Expense**

*34 C.F.R. Parts 300.502(b)(1), 300.502(a)(3)(ii), 300.502(b)(5)*

A parent has the right to an IEE at public expense if the parent disagrees with an evaluation obtained by the LEA:

- Public expense means that the LEA either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent consistent with the provisions of the Individuals with Disabilities Education Act (IDEA) regarding the [Use of IDEA B Formula Amounts in General](#).

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

### **Conditions**

*34 C.F.R. Parts 300.502(b)(2), 300.502(b)(2)(i), 300.502(b)(2)(ii), 300.502(b)(3), 300.502(b)(4), 300.502(d), 300.507, 300.511, 300.514*

If a parent requests an IEE at public expense, the LEA must, without unnecessary delay, either:

- File a due process complaint to request a hearing to show that its evaluation is appropriate; or
- Ensure that an IEE is provided at public expense, unless the LEA demonstrates in a due process hearing that the evaluation obtained by the parent does not meet [LEA Criteria](#).

The LEA may ask for the parent's reason why the parent objects to the public evaluation; however the LEA may not:

- Require the parent to provide an explanation; and
- Unreasonably delay either providing the IEE at public expense or filing a due process complaint to request a due process hearing to defend the public evaluation.

If the final decision from a due process hearing officer is that the LEA's evaluation is appropriate, the parent still has a right to an IEE, but not at public expense.

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

### **LEA Criteria**

*34 C.F.R. Parts 300.502(e)(1), 300.502(e)(2)*

If an IEE is at public expense, the criteria under which the evaluation is obtained must be:

The same as the criteria that the LEA uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an IEE, including:

- The location of the evaluation; and
- The qualifications of the examiner.

Except for the [LEA Criteria](#), the LEA may not impose conditions or timelines related to obtaining an IEE at public expense.

### **Results of IEE**

*34 C.F.R. Parts 300.502(c), 300.502(c)(1), 300.502(c)(2)*

If the parent obtains an IEE at public expense or shares with the LEA an evaluation obtained at private expense, the results of the evaluation:

Must be considered by the LEA, if it meets [LEA Criteria](#), in any decision made with respect to the provision of a free appropriate public education to a child; and May be presented by any party as evidence at a due process regarding the child.

### LEA Specific Information:

An IEE at District expense can be requested anytime a parent disagrees with an evaluation obtained by the District

Requests for an IEE may be received verbally or in writing. Verbal requests for an IEE should be reduced to a dated writing by the person receiving the request. Requests for an IEE that are presented to the District during an ARD committee meeting should be documented in the minutes of the meeting. Regardless of the method of request for an IEE, the parent shall be notified that the Director of Special Education will provide a response to the request within seven calendar days,

All documentation of requests for an IEE must be forwarded to the Director of Special Education with 24 hours of receipt by any District employee.

The Director of Special Education will respond to the parent or adult student in writing no later than 7 calendar days of the receipt of a request for an IEE by the District. The written response will include prior written notice of the decision of the Director of Special Education concerning the request for an IEE and will enclose a copy of the Procedural Safeguards document.

If the Director of Special Education concludes that it is appropriate to reject the requested IEE, the Director of Special Education will immediately notify the Superintendent of the District and take necessary steps to request a special education due process hearing with the Texas Education Agency within 15 calendar days of the receipt of a request for an IEE by the District

If the Director of Special Education grants the request for an IEE, the response will also include a statement of:

- the criteria under which the evaluation may be obtained, including the location and qualifications of the examiner;
- a list of evaluators that satisfy the criteria; and
- the steps necessary for the parent to obtain the IEE.

Upon the parent's notification to Director of Special Education concerning the parent's selection of examiner, the Director of Special Education will promptly contact the selected examiner to verify qualifications, location, and willingness of the examiner to enter into a contract with the District.

Examiner qualifications must meet or exceed the qualifications of the examiner that conducted the evaluation obtained by the District. Minimum examiner qualifications include that speech evaluations must be conducted by a Speech Language Pathologist (SLP), evaluations for a learning disability must be conducted by an educational diagnostician or a Licensed Specialist in School Psychology (LSSP).

To conduct an FBA, at minimum, the evaluator must be an educational diagnostician or a Licensed Specialist in School Psychology (LSSP).

The Director of Special Education District will establish standards for reasonable fees and costs for evaluations.

*The Director of Special Education will develop an IEE provider contract to establish protocols for the provision of services.*

Upon receipt of any IEE report, the District will schedule an ARD committee meeting. The IEE report will be reviewed by the assessment coordinator and any persons responsible for reviewing the report with the ARD committee. The evaluation will be considered by the ARD committee. If it the IEE report is not adopted, the

District will prepare and provide the parent with prior written notice that includes an explanation of why the ARD committee did not adopt the evaluation

## Admission, Review and Dismissal (ARD) Committee

### Rule of Construction

#### Federal and State Requirements

*20 United States Code (USC) §1414(b)(4), 1414(d)(1)(A)(i), 1414(d)(1)(A)(ii), 1414(d)(1)(B), 1414(e), 34 Code of Federal Regulations (CFR) part 300.116(a), 300.320(a), 300.320(d)(1), 300.320(d)(2), 300.321(a), 300.306(a)(1), 19 Texas Administrative Code (TAC) §89.1050(a)*

Each local educational agency (LEA) must establish an admission, review and dismissal (ARD) committee for each eligible child with a disability and for each child for whom an initial Full and Individual Evaluation is conducted.

The ARD committee is the:

- Eligibility team defined in federal law;
- Individualized education program (IEP) team defined in federal law; and
- Placement team defined in federal law.

The term IEP means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with the ARD Committee sections.

Additional information need not be included in a child's IEP beyond what is explicitly required in the ARD Committee sections of this document.

The ARD committee need not include information under one component of a child's IEP that is already contained under another component.

## ARD Committee Membership

### ARD Committee Team Composition

*20 USC §1414(d)(1)(B)(i), 1414(d)(1)(B)(ii), 1414(d)(1)(B)(iii), 1414(d)(1)(B)(iv), 1414(d)(1)(B)(iv)(I), 1414(d)(1)(B)(iv)(II), 1414(d)(1)(B)(v), 1414(d)(1)(B)(vi), 1414(d)(1)(B)(vii), 1414(d)(1)(C)(i), 1414(d)(1)(C)(ii), 1414(d)(1)(C)(ii)(I), 1414(d)(1)(C)(ii)(II), 1414(d)(1)(C)(iii), 1414(d)(3)(C), 1414(d)(4)(B), 2301, 34 CFR part 300, 18, 300.156, 300.320(a), 300.321(a)(1), 300.321(a)(2), 300.321(a)(3), 300.321(a)(4), 300.321(a)(4)(i), 300.321(a)(4)(ii), 300.321(a)(4)(iii), 300.321(a)(5), 300.321(a)(6), 300.321(a)(7), 300.321 (b), 300.321(b)(3), 300.321 (e)(1), 300.321(e)(2), 300.321(e)(2)(i), 300.321(e)(2)(ii), 300.321 (f), 300.324(a)(3), 19 TAC §§75.1023(d)(1), , 89.1050(a) 89.1050(c)(1)(A), 89.1050(c)(1)(B), 89.1050(c)(1)(C), 89.1050(c)(1)(D), 89.1050(c)(1)(D)(i), 89.1050(c)(1)(D)(ii), 89.1050(c)(1)(D)(iii), 89.1050(c)(1)(E), 89.1050(c)(1)(F), 89.1050(c)(1)(G), 89.1050(c)(2), 89.1050(c)(3), 89.1050(c)(4)(A), 89.1050(c)(4)(B), 89.1050(c)(4)(C), 89.1050(c)(5), 89.1131(b)(3), 89.1131(b)(4), 89.1225 (f)(4), 89.1225 (k), 101.1009*

The ARD committee as described in [Rule of Construction](#) means a group of individuals composed of:

- The parents of a child with a disability:
  - Who, if neither parent can attend the ARD meeting, may participate through individual or conference telephone calls or other means agreed upon by the parent and LEA;
- Not less than one regular education teacher of such child (if the child is, or may be, participating in the regular education environment);
  - Who is a regular education teach responsible for implementing a portion of the child's IEP; and
  - Who, as a member of the ARD committee, to the extent appropriate, participates in the development, review and revision of the IEP, including the determination of appropriate positive behavior interventions and supports and other strategies for the child and supplementary aids and services, program modifications and supports for school personnel;
- Not less than one special education teacher, or where appropriate, not less than one special education provider of such child;
  - Who is appropriately certified or licensed;
- A representative of the LEA:

- Who is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
  - Who is knowledgeable about the general education curriculum; and
  - Who is knowledgeable about the availability of resources of the LEA;
- An individual who can interpret the instructional implications of evaluation results;
  - Who may be one of the other members;
- Other individuals who have knowledge or special expertise regarding the child, at the discretion of the parent or the agency;
  - Including related services personnel as appropriate; and
  - Including, in the case of a child who was previously served under Early Childhood Intervention (ECI), at the request of the parent, by invitation to the initial ARD meeting, the ECI service coordinator or other representatives of the ECI system to assist with the smooth transition of services;
  - Including to the extent appropriate, with [Consent for Disclosure of Confidential Information](#), a representative of any participating agency that is likely to be responsible for providing or paying for transition services;
- The child with a disability, whenever appropriate and when the purpose of the meeting will be the consideration of [Transition Services](#) and in compliance with the [Adult Student](#) requirements;
- For a child with a suspected or documented auditory impairment including suspected or documented deaf-blindness, a teacher who is certified in the education of children with auditory impairments;
- For a child with a suspected or documented visual impairment including suspected or documented deaf-blindness, a teacher who is certified in the education of children with visual impairments;
- For a child with limited English proficiency, a member of the language proficiency assessment committee (LPAC) when determining participation in [State- and District-wide Assessments](#), to address the child's language needs; and
- When considering initial or continued placement of a student in career and technical education (CTE), a representative from CTE, preferably the teacher.

#### **ARD Committee Meeting Attendance and Excusal**

*20 USC §1414(d)(1), 34 CFR part 300.321(e)*

Excusal procedures do not have to be followed for the following ARD committee members:

- The parent;
- The child with a disability; and
- Other individuals who have knowledge and special expertise regarding the child who attend at the discretion of the parent or the LEA.

A member is not required to attend (in whole or in part) if the member's area of the curriculum or related services is not being modified or discussed in the meeting and the following conditions are satisfied:

- The parent and the LEA agree:
  - The member's attendance is not necessary; and
  - The member's area of the curriculum or related services is not being modified or discussed in the meeting; and
- The parent's agreement is in writing.

A member is excused from attending (in whole or in part) if the member's area of the curriculum or related services is being modified or discussed in the meeting, if the following conditions are met:

- The meeting involves a modification to or discussion of the member's area of the curriculum or related services;
- The parent and the LEA consent to the excusal;
- The parent's consent is in writing as required by the Consent Section; and
- The member submits in writing to the parent and the ARD committee input into the development of the IEP prior to the meeting.

### LEA Specific Information:

The representative of the District will be a campus administrator and not a counselor. In case a campus administrator is not available to represent the District the Director of Special Education or another campus administrator will be made available to represent the District.

Invitation to ARD's will list committee members by position or title; such as General Education Teacher, Special Education Teacher, Administrator, etc.

Unless the parent and District have satisfied the provisions above, all ARD committee members are required to participate in an ARD committee meeting. Documentation required above must be submitted to the Director of Special Education prior to the ARD. Only the Director of Special Education may provide the District's written agreement that a member is not required or the District's consent to excuse a member from the meeting. Consent to excuse a required member of the ARD committee will comply with the *Consent to Excuse Member from Attending ARD Committee Meeting* Section.

## Parent Participation

### Federal and State Requirements

*20 USC §1414(d)(1)(B)(i), 34 CFR part 300.322(a), 300.322(a)(1), 300.322(a)(2), 300.501(b)(1), 300.501(b)(2), 300.501(b)(3), 19 TAC §89.1015, 89.1045(b)*

The local education agency (LEA) must comply with [Prior Written Notice](#).

The LEA must take steps to ensure that the [Parent](#) of a child with a disability is present at each [ARD Committee Meeting](#) or is afforded the opportunity to participate.

The LEA must provide at least 5 school days prior written notice:

- Notifying the parent of the meeting early enough to ensure that they will have opportunity to attend; and
- Scheduling the meeting at a mutually agreed on time and place.

A meeting does not include informal or unscheduled conversations involving LEA personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision.

A meeting does not include preparatory activities that LEA personnel engage in to develop a proposal or preparatory activities to develop a response to a parent proposal that will be discussed at a later meeting.

### Other Methods to Ensure Parent Participation

*34 CFR parts 300.322(c), 300.328, 300.501(c)(3)*

If neither parent can attend the admission, review and dismissal (ARD) committee meeting, the LEA must use other methods to ensure parent participation:

- Such as individual telephone calls;
- Such as conference calls; or
- Such as video conferences as an alternative means of participation, if the LEA and parent agree.



### **Conducting an ARD Committee Meeting Without a Parent in Attendance**

*34 CFR part 300.322(d), 300.322(d)(1), 300.322(d)(2), 300.322(d)(3), 300.501(c)(4), 19 TAC §89.1075(a)*

The LEA may conduct an ARD committee meeting without a parent in attendance if unable to convince the Parent to attend.

The LEA must keep a record of its attempts to arrange a mutually agreed on time and place:

- Such as detailed records of telephone calls made or attempted and results of those calls;
- Such as copies of correspondence sent to the parents and any responses received; and
- Such as detailed records of visits made to the parent's home or place of employment and the results of those visits.

The LEA must keep documentation of notices consistent with the Special Education Eligibility Folder.

### **Use of Interpreters**

*34 CFR part 300.322(e)*

The LEA must take action to ensure that the Parent understands the proceedings of the ARD Committee Meeting:

- Including arranging for an interpreter for parents with deafness; or
- Including whose native language is other than English.

### **Parent Copy of the Child's IEP**

*34 CFR part 300.322(f), Texas Education Code (TEC) §29.005(d), 29.005(d)(1), 29.005(d)(2)*

The LEA must give the Parent a copy of the child's individualized education program (IEP) at no cost.

If the child's parent is unable to speak English:

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

### LEA Specific Information:

When scheduling ARD committee meetings, the Diagnostician will contact the parent in an effort to arrange a mutually agreeable time and location for the meeting. Attempts to schedule an ARD committee meeting should include, as necessary, phone calls, written correspondence, and visits to the parent's home or place of employment. The Diagnostician shall document these attempts and the results or responses received related to each attempt. Diagnosticians will consider on a case by case basis, whether additional time is necessary to schedule an ARD committee meeting or whether other methods of contact are necessary.

The District will provide Notice of the Admission, Review, and Dismissal Committee Meeting, a minimum of five school days prior to the meeting.

If a parent is unable to attend a scheduled meeting, the campus will offer to re-schedule the meeting to another time or location in an effort to secure the parent's participation in the meeting (i.e. parents home, before or after school hours). If efforts to reschedule the meeting are not successful, a conference call during the ARD meeting will be offered.

The Diagnostician is responsible for verifying that the required documentation is available prior to conducting an ARD committee meeting without the parent in attendance. The Director of Special Education must be notified every time an ARD committee meeting is conducted without parents in attendance

The District will ensure that interpreters are provided as needed, and will provide parents with written or taped copies of the meeting.

During the ARD committee meeting, an agenda will be utilized, to ensure all needed items are discussed, and to encourage parent participation. As each item is addressed, ARD committee consensus will be discussed and documented.

Parent will be provided a copy of the IEP at the conclusion of the ARD committee meeting

### ***ARD Committee Meeting:***

#### **Initial Meeting**

*20 USC §1414(d)(2)(A), 1414(d)(3)(E), 1414(d)(4)(A)(i), 34 CFR Parts 300.116(b)(1), 300.323(c)(1), 300.323(c)(2)*

The admission, review and dismissal (ARD) committee must meet to develop an IEP within 30 days of a Determination of Eligibility.

As soon as possible following development of the individualized education program (IEP), the local education agency (LEA) must ensure that special education and related services are made available to the child in accordance with the child's IEP.

### **Annual Meeting**

*20 USC §1414(d)(2)(A), 1414(d)(3)(E), 1414(d)(4)(A)(i), 34 CFR part 200.1(f)(2)(v), 300.116(b)(1), 300.320, 300.323(a), 300.324(a)(5), 300.324(b)(1)(i)*

The admission, review and dismissal (ARD) committee must review the child's individualized education program (IEP) periodically, but not less frequently than annually, to determine whether the annual goals are being achieved.

The ARD committee must determine the child's placement at least annually.

The IEP, as defined in the [ARD Committee](#) sections, must be in effect at the beginning of each school year for each child with a disability.

To the extent possible, the local education agency (LEA) must encourage the consolidation of reevaluation meetings for the child and other ARD committee meetings for the child.

In the case of a child with a disability who transfers, LEAs must comply with the information in the [Transfer Students](#) section of this document.

### **Developing the IEP**

*20 USC §1414(d)(3)(A), 34 CFR part 300.324(a)(1), 300.324(a)(1)(i), 300.324(a)(1)(ii), 300.324(a)(1)(iii), 300.324(a)(1)(iv)*

In developing each child's IEP, the ARD committee must consider:

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

### **Revising the IEP**

*20 USC §1414(c)(1)(B), 1414(d)(1)(A)(i)(VIII)(cc), 1414(d)(4)(A)(ii), 1414(d)(4)(A)(ii)(I), 1414(d)(4)(A)(ii)(II), 1414(d)(4)(A)(ii)(III), 1414(d)(4)(A)(ii)(IV), 1414(d)(4)(A)(ii)(V), 1414(d)(6), 34 CFR part 300.305(a)(2), 300.324(b)(1)(ii), 300.324(b)(1)(ii)(A), 300.324(b)(1)(ii)(B), 300.324(b)(1)(ii)(C), 300.324(b)(1)(ii)(D), 300.324(b)(1)(ii)(E), 300.324(c)(1), 19 TAC §89.1070(h)*

Except when accomplished through an [Amendment Without a Meeting](#), the ARD committee must revise the IEP as appropriate.

Circumstances that trigger revising the IEP include the need to address:

- Any lack of expected progress toward the annual goals and in the general education curriculum, where appropriate;
- The results of any reevaluation;
- Information about the child provided to, or by, the parents, in the [Review of Existing Evaluation Data](#);
- The child's anticipated needs;
- Other matters;
- The failure of a participating agency to provide the [Transition Services](#) described in the IEP to comply with the [Transition Services](#) section; and
- For a child who graduated and received a diploma pursuant to an IEP according to the [Graduation](#) information, upon the request of the child or parent to resume services, as long as the child meets age eligibility requirements.

### **Meeting at Parent Request**

*19 TAC §89.1045(b)*

A parent may request an ARD committee meeting at any mutually agreeable time to address specific concerns about his or her child's special education services.

The LEA must respond to the parent's request either by:

- Holding the requested meeting; or
- By requesting assistance through the Texas Education Agency's mediation process.

The LEA should inform parents of the functions of the ARD committee and the circumstances or types of problems for which requesting an ARD committee meeting would be appropriate.

### **LEA Specific Information:**

ARD Committee Meetings:

The initial ARD meeting will be held within 30 days of the completion of the FIE report.

Annual meetings must occur at least annually and they should be scheduled far enough in advance to allow for the five school days advance prior notice of the implementation of the IEP.

The notice of Procedural Safeguards will be given to parents at the annual ARD committee meeting and minutes will reflect that notice was provided.

### Requesting an ARD Committee Meeting:

Teachers and/or campus administrators may contact the educational diagnosticians to request an ARD committee meeting at any time. Teachers and/or campus administrators are expected to request an ARD committee meeting when a student is not making expected progress, or if there is new information concerning the student's health, behavior, attendance, academic achievement, or functional performance (including behavior or discipline) that indicates the need to review and or revise the student's identification, evaluation, placement, or any other element of a student's IEP.

Parents may request an ARD committee meeting from their child's teacher or an administrator on their child's campus, who in turn will notify the educational diagnostician to schedule the meeting as required by the *Parent Participation Section*. A parent may request an ARD committee meeting at any mutually agreeable time to address specific concerns about his or her child's special education services.

If parent request or concern falls outside of the traditional function of the ARD committee, the parent will be notified of the appropriate personnel who are qualified to address the parent's request or concern.

District personnel may engage in activities to prepare for the ARD committee meeting including, but not limited to, the following responsibilities:

- The campus administrator will ensure that attendance and discipline records are available for review at each ARD committee meeting.
- The Special Education teacher will ensure that the most current IEP progress reports are available for review at each ARD committee meeting.
- The general education teacher will ensure that collaboration reports are available for review at each ARD committee meeting.
- Educational diagnosticians will ensure that any/all updated evaluations and relevant documentation are available for review at each ARD committee meeting.
- The campus administrator will ensure that academic achievement and functional performance information is available from each of the student's teachers for review at each ARD committee meeting as necessary to satisfy the *Present Levels* Section.
- Parent input should be obtained at the ARD or prior to the ARD if they have indicated they will not attend. Diagnosticians will be responsible for obtaining this information from the parent.
- Educational diagnosticians will be responsible for facilitating the ARD committee.

- Campus administrators will document the decisions of the ARD committee through the preparation of minutes or deliberations.

#### Re-Evaluation ARDS:

- An ARD to review existing evaluation data prior to requesting a re-evaluation will be held far enough in advance to complete the evaluation prior to the three year anniversary date and will satisfy the *Review of Existing Evaluation Data* Section.
- After completion of any re-evaluation, the ARD committee will convene within ten school days or at the parents' availability, to review the evaluation data.

#### Spring ARDS:

- *For eighth grade students, a new annual ARD will be held prior to the end of the current school year to review and revise the IEP for their ninth grade year.*

#### Determination of Eligibility

*20 USC §1401(3)(A), 1414(b)(4)(A), 1414(b)(4)(B), 1414(b)(5), 6368(3), 300 CFR part 300. 8(a)(1), 300.8(a)(2), 300.306(a)(1), 300.306(a)(2), 300.306(b), 300.306(b)(1)(i), 300.306(b)(1)(ii), 300.306(b)(1)(iii), 19 TAC §89.1050(a)*

Upon completion of the Full and Individual Evaluation the admission, review and dismissal (ARD) committee must determine:

- Whether the child has a disability; and
- Who, by reason thereof, needs special education and related services.

If it is determined, through an appropriate Full and Individual Evaluation, that a child has one of the disabilities but only needs a related service and not special education, the child is not a child with a disability under the Individuals with Disabilities Education Act (IDEA).

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

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

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

When determining the presence of a specific learning disability:

- The local educational agency (LEA) is not required to take into consideration whether a child has a severe discrepancy between achievement and intellectual ability in oral expression, listening comprehension, written expression, basic reading skill, reading fluency skills, reading comprehension, mathematics calculation, or mathematics problem solving; and instead
- The LEA may use a process that determines if the child responds to scientific, research-based intervention as a part of the [Evaluation Procedures](#).

The LEA must provide a copy of the evaluation report and the documentation of determination of eligibility to the parent.

### **LEA Specific Information:**

The ARD Committee will review evaluation reports to determine if a child has a disability, and based on the available data, the ARD committee will make the eligibility determination.

Parent(s) or the adult student will receive a copy of the evaluation report with the written notice of the upcoming ARD.

Parent(s) or the adult student will receive the Determination of Eligibility along with the copy of the ARD.

### **Present Levels**

#### **Federal and State Requirements**

*20 USC §1414(d)(1)(A)(i)(I), 34 CFR part 300.320(a)(1), 300.320(a)(1)(ii),*

The admission, review and dismissal (ARD) committee must provide a statement of the child's present levels of academic achievement.

The ARD committee must provide a statement of the child's present levels of functional performance.

The ARD committee's present levels statement must include:

- How the child's disability affects the child's involvement and progress in the general education curriculum; or
- How the disability affects the preschool child's participation in appropriate activities.

### LEA Specific Information:

The present levels should describe the student's current level of academic achievement and functional performance. IEP Progress reports may be used to as one indicator of the student's academic achievement, but other data related to the student's strengths and weaknesses in grade level curriculum and performance on curriculum based measurements should be included as well. Present level data should include specific information regarding how the student's disability affects their involvement in the general curriculum so that appropriate goals may be developed.

### **State- and District-wide Assessments**

#### **Federal and State Requirements**

*20 USC §1412(a)(16)(A), 6311(b)(3)(C)(i), 19 TAC §101.1009(b), [Texas Student Assessment Program 2009-2010 Accommodations Manual, pgs. 7-12](#)*

In general, all children with disabilities are included in all general state-and district-wide assessment programs, including assessments described under the Elementary and Secondary Education Act (ESEA), with appropriate accommodations and alternate assessments where necessary and as indicated in their respective individualized education programs (IEPs).

#### **District-wide Assessments**

*20 USC §1412(a)(16)(B), 1414(d)(1)(A)(i)(VI)(aa), 1414(d)(1)(A)(i)(VI)(bb), 34 CFR part 300.320(a)(6)(i), 300.320(a)(6)(ii), 300.320(a)(6)(ii)(A), 19 TAC §89.1055(b), 89.1055(b)(1), 89.1055(b)(2), [Texas Student Assessment Program 2009-2010 Accommodations Manual](#)*

If the district administers any optional district-wide assessments of achievement, the admission, review, and dismissal (ARD) committee must provide a statement of any individualized appropriate and allowable accommodations that are necessary to measure the academic achievement and functional performance of the child on such assessment:

- The statement must be consistent with accommodation guidelines that the state or the local educational agency (LEA) has developed for the provision of appropriate accommodations.

If the ARD committee determines that the child must take an alternate assessment on a particular district-wide assessment of achievement, provide a statement of:

- Why the child cannot participate in the regular assessment; and
- Why the particular alternate assessment selected is appropriate for the child.

### **Early Reading Assessments as Part of the Texas Reading Initiative**



*20 USC §1412(a)(16)(B), 1414(d)(1)(A)(i)(VI)(bb), 34 CFR part 300.320(a)(6)(i), 300.320(a)(6)(ii), 300.320(a)(6)(ii)(A), 300.320(a)(6)(ii)(B), 19 TAC §89.1055(b), 89.1055(b)(1), 89.1055(b)(2), [Texas Student Assessment Program 2009-2010 Accommodations Manual](#)*

If the district administers an early reading assessment as part of the Texas Reading Initiative, the ARD committee must provide a statement of any individualized appropriate and allowable accommodations that are necessary to measure the academic achievement and functional performance of the child on such assessment:

- The statement must be consistent with accommodation guidelines that the state has developed for the provision of appropriate accommodations.

If the ARD committee determines that the child must take an alternate assessment on a particular state- or district-wide assessment of achievement, provide a statement of:

- Why the child cannot participate in the regular assessment; and
- Why the particular alternate assessment selected is appropriate for the child.

#### **End-of-Course State-Wide Assessments**

*20 USC §1412(a)(16)(A), 1414(d)(1)(A)(i)(VI)(bb), 34 CFR part 300.320(a)(6)(i), 300.320(a)(6)(ii), 300.320(a)(6)(ii)(A), 300.320(a)(6)(ii)(B), 19 TAC §89.1055(b), 89.1055(b)(1), 89.1055(b)(2), [Texas Student Assessment Program 2009-2010 Accommodations Manual](#)*

The ARD committee must provide a statement of any individualized appropriate and allowable accommodations that are necessary to measure the academic achievement and functional performance of the child on any state-wide assessment:

- The statement must be consistent with accommodation guidelines that the state or LEA has developed for the provision of appropriate accommodations.

If the ARD committee determines that the child must take an alternate assessment on a particular state- or district-wide assessment of achievement, provide a statement of:

- Why the child cannot participate in the regular assessment; and
- Why the particular alternate assessment selected is appropriate for the child.

#### **Assessments to Identify Children as Limited English Proficient**

*20 USC §1412(a)(16)(B), 1414(d)(1)(A)(i)(VI)(aa), 1414(d)(1)(A)(i)(VI)(bb), 34 CFR part 300.320(a)(6)(i), 300.320(a)(6)(ii)(A), 19 TAC §89.1055(b), 89.1055(b)(1), 89.1225(d), 89.1225(f)(4), [Texas Student Assessment Program 2009-2010 Accommodations Manual](#)*

The ARD committee must provide a statement of any individualized appropriate and allowable accommodations that are necessary to measure the academic achievement and functional performance of the child on any state-wide assessment:

- The statement must be consistent with accommodation guidelines that the state has developed for the provision of appropriate accommodations.

For entry of a child into a bilingual education or English as a second language (ESL) program, if the tests approved by the Commissioner of Education would be inappropriate as part of the child's IEP, the child with a disability must be identified as limited English proficient using the following criteria:

- The ARD committee in conjunction with the language proficiency assessment committee (LPAC) must:
  - Provide a statement of why the child cannot participate in the regular assessment;
  - Determine an appropriate assessment instrument for indicating limited English proficiency;
  - Provide a statement of why the particular alternate assessment selected is appropriate for the child; and
  - Designate the grade level and scores for indicating limited English proficiency.
- The ARD committee must comply with the [Special Factors](#) information to determine entry into a bilingual education or ESL program.

#### **Assessment for Exit of a Child from Bilingual or ESL Program**

*20 USC §1412(a)(16)(B), 1414(d)(1)(A)(i)(VI)(bb), 34 CFR part 300.320(a)(6)(i), 300.320(a)(6)(ii)(A), 300.320(a)(6)(ii)(B), 19 TAC §89.1055(b), 89.1055(b)(1), 89.1055(b)(2), 89.1225(h), 89.1225(k), [Texas Student Assessment Program 2009-2010 Accommodations Manual](#)*

The ARD committee must provide a statement of any individualized appropriate and allowable accommodations that are necessary to measure the academic achievement and functional performance of the child on any state-wide assessment:

- The statement must be consistent with accommodation guidelines that the state has developed for the provision of appropriate accommodations.

For exit from a bilingual education to ESL program of a child with disabilities for whom the tests would be inappropriate as part of the IEP:

- The ARD committee in conjunction with the LPAC must:
  - Provide a statement of why the child cannot participate in the regular assessment;

- Determine an appropriate assessment instrument for exit from a bilingual education or ESL program;
  - Provide a statement of why the particular assessment selected is appropriate for the child; and
  - Determine the performance standard on the assessment instrument required for exit.
- The ARD committee must comply with the [Special Factors](#) information to determine exit from a bilingual education or ESL program.

### **Texas Assessment of Knowledge and Skills (TAKS)**

*20 USC §1412(a)(16)(A), 1412(a)(16)(B), 1414(d)(1)(A)(i)(VI)(aa), 34 CFR part 200.1(c), 200.1(b)(3), 200.1(b)(2), 200.6(a)(1), 200.6(a)(1)(i)(A), 200.6(a)(1)(ii)(A), 200.6(a)(1)(ii)(B), 300.320(a)(6)(i), 19 TAC §89.1055(b), [Texas Student Assessment Program 2009-2010 Accommodations Manual](#)*

The state must:

- Provide for each child with a disability appropriate accommodations that the child's ARD committee determines are necessary to measure the academic achievement of the child relative to the state's academic content and academic achievement standards for the grade in which the child is enrolled;
- Develop, disseminate information on, and promote the use of appropriate accommodations to increase the number of children with disabilities who are tested against academic achievement standards for the grade in which the child is enrolled; and
- Ensure that regular and special education teachers and other appropriate staff know how to administer assessments, including making appropriate use of accommodations, for children with disabilities.

The ARD committee must provide a statement of any individualized appropriate and allowable accommodations that are necessary to measure the academic achievement and functional performance of the child on the assessment.

A [Personal Graduation Plan](#) must be developed for any middle school, junior high, or high school child who does not perform satisfactorily on a state-wide assessment.

### **Texas Assessment of Knowledge and Skills with Accommodations (TAKS Accommodated)**

*20 USC §1412(a)(16)(C)(ii)(I), 1412(a)(16)(C)(ii)(I), 1414(d)(1)(A)(i)(VI)(bb), 34 CFR part 200.6(a)(2)(i), 200.6(a)(2)(ii), 200.6(a)(2)(ii)(A), 300.320(a)(6)(ii), 300.320(a)(6)(ii)(A), 300.320(a)(6)(ii)(B), 19 TAC §89.1055(b), 89.1055(b)(1), 89.1055(b)(2), [A Guide to the Admission, Review and Dismissal Process](#)*

For children with disabilities who cannot participate in the Texas Assessment of Knowledge and Skills (TAKS) with accommodations as indicated in their respective IEPs, the state has the TAKS (Accommodated) that is aligned with the state's challenging academic content standards and challenging academic achievement standards.

The TAKS (Accommodated) yields results for the grade in which the child is enrolled. If the ARD committee determines that the child must take the TAKS (Accommodated), provide a statement of:

- Why the child cannot participate in the regular TAKS with or without allowable accommodations; and
- Why the TAKS (Accommodated) is appropriate for the child.

A Personal Graduation Plan must be developed for any middle school, junior high, or high school child who does not perform satisfactorily on a state-wide assessment.

### **Texas Assessment of Knowledge and Skills Based on Modified Academic Achievement Standards (TAKS-M)**

*20 USC §1412(a)(16)(A), 1412(a)(16)(C), 1414(d)(1)(A)(i)(VI)(bb), 34 CFR part 200.1(e)(1), 200.1(e)(2), 200.1(f)(1)(i)(B), 200.1(f)(1)(ii), 200.1(f)(1)(iv), 200.6(a)(2)(i), 200.6(a)(3)(i), 200.6(a)(3)(ii)(A), 200.6(a)(3)(ii)(B), 200.6(a)(3)(ii)(C), 200.6(a)(3)(ii)(D), 300.320(a)(6)(ii), 300.320(a)(6)(ii)(A), 300.320(a)(6)(ii)(B), 19 TAC §89.1055(b), [Texas Student Assessment Program 2009-2010 Accommodations Manual](#)*

The state's academic assessment system must provide for one or more alternate assessments for a child with a disability whom the child's ARD committee determines cannot participate in all or part of the TAKS, even with appropriate accommodations.

The state has developed the TAKS-M to assess children with disabilities based on modified academic achievement standards, which:

- Is aligned with the state's grade-level academic content standards;
- Yields results that measure the achievement of those children separately in reading/language arts and mathematics relative to the modified academic achievement standards;
- Meets the requirements for state-wide assessments including the requirements relating to validity, reliability, and high technical quality; and
- Fits coherently in the state's overall assessment system.

The state must establish and monitor implementation of clear and appropriate guidelines for ARD committees to apply in determining children with disabilities who meet the criteria to take an alternate

assessment based on modified academic achievement standards, and children who meet these criteria may be assessed using the TAKS-M.

Children eligible to be assessed on the TAKS-M may be from any of the disability categories listed in the Individuals with Disabilities Education Act (IDEA).

The LEA must inform parents of children selected to be assessed with the TAKS-M under the state's guidelines that their child's achievement will be measured based on modified academic achievement standards.

Children receiving special education services who have a disability that significantly affects academic progress in the grade-level curriculum and precludes the achievement of grade-level proficiency within a school year will be assessed with TAKS-M if the child meets all of the participation criteria established by the state.

If the ARD committee determines that the child must take the TAKS-M, the committee must provide a statement of:

- Why the child cannot participate in the regular TAKS with or without allowable accommodations; and
- Why the TAKS-M is appropriate for the child, including that the following criteria have been met:
  - The child needs extensive modifications and/or accommodations to classroom instruction, assignments, and assessments to access and demonstrate progress in the grade-level Texas Essential Knowledge and Skills (TEKS);
  - The child demonstrates academic progress in such a way that even if significant growth occurs during the school year, the ARD committee is reasonably certain that the child will not achieve grade-level proficiency as demonstrated by multiple valid measures of evidence;
  - The child meets some but not all of the participation criteria of TAKS-Alt; and
  - The child requires an alternate form of TAKS which is more closely aligned with instructional modifications in order to demonstrate knowledge of the grade-level TEKS.

A [Personal Graduation Plan](#) must be developed for any middle school, junior high, or high school child who does not perform satisfactorily on a state-wide assessment.

**Texas Assessment of Knowledge and Skills Based on Alternate Academic Achievement Standards (TAKS-Alternate)**

*20 USC §1412(a)(16)(A), 1412(a)(16)(C), 1412(a)(16)(C)(ii)(II), 1414(d)(1)(A)(i)(VI)(bb), 34 CFR part 200.1(d), 200.1(d)(1), 200.1(d)(2), 200.1(d)(3), 200.1(f)(1)(i)(A), 200.1(f)(1)(ii), 200.1(f)(1)(iv), 200.6(a)(2)(i), 300.320(a)(6)(ii), 300.320(a)(6)(ii)(A), 300.320(a)(6)(ii)(B), 19 TAC §89.1055(b), [A Guide to the Admission, Review and Dismissal Process](#)*

The state's academic assessment system must provide for one or more alternate assessments for a child with a disability whom the child's ARD committee determines cannot participate in all or part of the TAKS, even with appropriate accommodations.

For children with the most significant cognitive disabilities, the state has, through a documented and validated standards-setting process, defined alternate academic achievement standards that meet the following criteria:

- Are aligned with the state's academic content standards;
- Promote access to the general curriculum; and
- Reflect professional judgment of the highest achievement standards possible.

The state has developed the TAKS-Alt to assess children with the most significant cognitive disabilities based on alternate achievement standards.

The state must establish and monitor implementation of clear and appropriate guidelines for ARD committees to apply in determining children with the most significant cognitive disabilities who will be assessed on alternate academic achievement standards using the TAKS-Alt.

Children eligible to be assessed on the TAKS-Alt may be from any of the disability categories listed in the IDEA.

The LEA must inform parents of children selected to be assessed with TAKS-Alt under the state's guidelines that their child's achievement will be measured based on alternate achievement standards.

Children receiving special education services who have the most significant cognitive disabilities and are unable to participate in the other state-wide assessments even with substantial accommodations and/or modifications will be assessed with TAKS-Alt if the state's participation criteria are met.

If the ARD committee determines that the child must take the TAKS-Alt, provide a statement of:

- Why the child cannot participate in the regular TAKS with or without allowable accommodations; and
- Why the TAKS-Alt is appropriate for the child, including that the following criteria have been met:

- The child requires supports to access the general curriculum that may include assistance involving communication, response style, physical access, or daily living skills;
- The child requires direct, intensive, individualized instruction in a variety of settings to accomplish the acquisition, maintenance and generalization of skills;
- The child accesses and participates in the grade-level TEKS through activities that focus on prerequisite skills;
- The child demonstrates knowledge and skills routinely in class by methods other than paper-and-pencil tasks; and
- The child demonstrates performance objectives that may include real-life applications of the grade-level TEKS as appropriate to the child's abilities and needs.

A [Personal Graduation Plan](#) must be developed for any middle school, junior high, or high school child who does not perform satisfactorily on a state-wide assessment.

### **Student Success Initiative**

*TAC §89.1050, 101.2003, TEC §28.0211*

Under the SSI grade advancement requirements, a student who takes TAKS, TAKS (Accommodated), or TAKS-M in grade 3 reading and grades 5 and 8 mathematics is allowed three testing opportunities to meet the passing standard. If the student does not meet the passing standard, a Grade Placement Committee (GPC) is formed to develop an Accelerated Instruction Plan (AIP) and make promotion decisions for the student. This system of support is structured to ensure that all students gain sufficient understanding of the knowledge and skills in the Texas Essential Knowledge and Skills (TEKS) curriculum. For students receiving special education services, the ARD committee functions as the GPC.

The role of the ARD committee in making decisions about students subject to SSI requirements is defined in the following Texas Administrative Code:

TAC §101.2003 Grade Advancement Testing Requirements (d) A student receiving special education services under the TEC, Chapter 29, Subchapter A, enrolled in Grades 3, 5, or 8 and who is receiving instruction in the essential knowledge and skills in a subject specified under subsection (a) of this section is eligible under this section. In accordance with §101.5(b) of this title (relating to Student Testing Requirements) and TEC §28.0211(i), the students admission, review, and dismissal (ARD) committee shall determine appropriate assessment and acceleration options for each eligible student. Assessment decisions must be made on an individual basis and in accordance with administrative procedure established by the Texas Education Agency (TEA). These decisions shall be documented in the student's individualized education program (IEP).

In view of the above state code, districts are encouraged to carefully weigh the individual needs of students with disabilities as they consider decisions pertaining to the procedures outlined in this manual. For the students described above, a duly constituted ARD committee must make decisions regarding appropriate 1) assessment, 2) accelerated instruction, and 3) grade placement based on a student's specific disability-related needs. The ARD committee decision regarding grade placement does not have to be unanimous

but must follow the general rules governing ARD committee decision-making as set forth in 19 TAC §89.1050. For more information about the SSI grade advancement requirements for all students, including those receiving special education services, consult the Grade Placement Committee Manual for Grade Advancement Requirements of the Student Success Initiative (GPC manual) located on the TEA Student Assessment Division website at: <http://www.tea.state.tx.us/student.assessment/resources/ssi/>.

### **Accelerated Instruction**

*42 USC §11434a, TEC §28.0211(c), 28.0211(f), 29.081(b), 29.081(d), 29.081(d)(1), 29.081(d)(2), 29.081(d)(3), 29.081(d)(4), 29.081(d)(5), 29.081(d)(6), 29.081(d)(7), 29.081(d)(8), 29.081(d)(9), 29.052, 29.081(d)(10), 29.081(d)(11), 29.081(d)(12), 29.081(d)(13), 37.006, 37.007*

Each time a child fails to perform satisfactorily on a state-wide assessment instrument, the LEA must provide to the child accelerated instruction in the applicable subject area:

- Including reading instruction for a child who fails to perform satisfactorily on a reading assessment instrument; and
- An accelerated instruction group administered by an LEA may not have a ratio of more than 10 children for each teacher.

### **Grade Placement Committee (ARD Committee)**

After a child fails to perform satisfactorily on a state-wide assessment instrument a second time, a grade placement committee must be established to prescribe the accelerated instruction the LEA will provide to the child before the child is administered the assessment instrument the third time:

- The grade placement committee must be composed of the principal or the principal's designee, the child's parent or guardian, and the teacher of the subject of an assessment instrument on which the child failed to perform satisfactorily; and
- The LEA must notify the parent or guardian of the time and place for convening the grade placement committee and the purpose of the committee.

After a child fails to perform satisfactorily on a state-wide assessment instrument a third time, the LEA must provide:



- Accelerated instruction during the next school year as prescribed by an educational plan developed for the child by the child's grade placement committee;
  - Regardless of whether the child has been promoted or retained;
- An educational plan designed to enable the child to perform at the appropriate grade level by the conclusion of the school year; and
- Monitoring of the child during the school year to ensure that the child is progressing in accordance with the plan.

Each LEA must provide accelerated instruction to a child enrolled in the LEA who has taken the secondary exit-level assessment instrument and has not performed satisfactorily on each section or who is at risk of dropping out of school:

- Each LEA must evaluate and document the effectiveness of the accelerated instruction in reducing any disparity in performance on state-wide assessment instruments, or disparity in the rates of high school completion between children at risk of dropping out of school and all other LEA children;
- "Student at risk of dropping out of school" includes each child who is under 21 years of age and who:
  - Was not advanced from one grade level to the next for one or more school years;
  - If the child is in grade 7, 8, 9, 10, 11, or 12, and did not maintain an average equivalent to 70 on a scale of 100 in two or more subjects in the foundation curriculum during a semester in the preceding or current school year or is not maintaining such an average in two or more subjects in the foundation curriculum in the current semester;
  - Did not perform satisfactorily on a state-wide assessment instrument, and who has not in the previous or current school year subsequently performed on that instrument or another appropriate instrument at a level equal to at least 110 percent of the level of satisfactory performance on that instrument;
  - If the child is in prekindergarten, kindergarten, or grade 1, 2, or 3, and did not perform satisfactorily on a readiness test or assessment instrument administered during the current school year;
  - Is pregnant or is a parent;
  - Has been placed in a disciplinary alternative education program during the preceding or current school year;
  - Has been expelled during the preceding or current school year;

- Is currently on parole, probation, deferred prosecution, or other conditional release;
- Was previously reported through the Public Education Information Management System (PEIMS) to have dropped out of school;
- Is a child of limited English proficiency;
- Is in the custody or care of the Department of Protective and Regulatory Services or has, during the current school year, been referred to the department by a school official, officer of the juvenile court, or law enforcement official;
- Is homeless; or
- Resided in the preceding school year or resides in the current school year in a residential placement facility in the LEA, including a detention facility, substance abuse treatment facility, emergency shelter, psychiatric hospital, halfway house, or foster group home.

### LEA Specific Information:

Children who receive special education and related services will take the appropriate state assessments which are based on grade-level content as required by federal law.

If the ARD committee determines that accommodations are necessary for a child to participate in assessments, the IEP must contain a statement of appropriate accommodations. The decision to use an accommodation during a statewide assessment should be made on an individual-student basis and take into consideration the needs of the student and whether the student routinely receives the accommodation during classroom instruction and testing. Accommodations must be used routinely, independently, and effectively during classroom instruction and testing.

For those children who take alternate assessments based on alternate achievement standards, the IEP must contain a description of benchmarks or short-term objectives as part of the child's annual goals. If the child does not meet the expectations set by the ARD committee on the statewide assessment, the IEP must include a statement regarding how the child will participate in an accelerated instruction program or intensive program of instruction.

For a child taking an alternate assessment based on modified academic achievement standards, the ARD committee may elect to include annual goals, benchmarks, or short-term objectives in the IEP to assist in monitoring the child's progress. If the ARD committee determines that the child must take an alternate assessment instead of a particular state or district wide assessment, a statement must be provided regarding why the child cannot participate in the regular assessment. In addition, the ARD committee must provide a statement indicating why the particular alternate assessment selected is appropriate for the child. For alternate assessments, the ARD committee must review the appropriate participation requirements. The student must meet all the participation requirements for the appropriate alternate assessment. For the STAAR Alternate assessment, the ARD committee must determine the complexity level.

*The Director of Special Education will notify the educational diagnosticians of students who failed the state assessments. The educational diagnosticians will in turn call an ARD to analyze reporting categories in need of improvement and build intensive program of instruction to target specific student expectations.*

## Transition Services

### Federal and State Requirements

*20 USC §1401(34), 1414(d)(1)(A)(i)(VIII), 1414(d)(6), 34 CFR 300.320(b), 300.320(c), 300.322(b)(2), 300.324(c)(1), 300.43(a), 300.43(b), 19 TAC §89.1050(a), 89.1050(h)(6), 89.1053(g)(2), 89.1055(g), TEC §29.017*

Beginning not later than the first individualized education program (IEP) to be in effect when the child turns 14, or younger if determined appropriate by the Admission, Review & Dismissal (ARD) committee, and updated annually thereafter, the ARD committee must address transition services as part of the IEP:

- This information applies to children for whom transition services is included as part of the IEP.

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

- Is designed to be within a results-oriented process that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including:
  - Post-secondary education;
  - Vocational education;
  - Integrated employment (including supported employment);
  - Continuing and adult education;
  - Adult services;
  - Independent living; or
  - Community participation; and
- Is based on the individual child's needs, taking into account the child's strengths, preferences, and interests; and includes:
  - Instruction;
  - Related services;
  - Community experiences;
  - The development of employment and other post-school adult living objectives; and

- If appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.

If the child does not attend the [ARD Committee Meeting](#) where transition services are discussed (as set forth in the [ARD Committee Membership](#) section), the local education agency (LEA) must take other steps to ensure the child's preferences and interests are considered.

The District must designate one employee as the "designee on transition and employment services" for special education students. The designee must work with district staff, students, parents and service providers.

### Development of Postsecondary Goals

The ARD committee must develop appropriate measurable postsecondary goals, based upon age-appropriate transition assessments, related to:

- Training;
- Education;
- Employment; and
- Where appropriate, independent living skills.

### Development of a Coordinated Set of Activities

*20 USC §1414(d)(1)(A)(i)(VIII)(bb), 1414(d)(1)(A)(i)(VIII)(cc), 1414(d)(6), 34 CFR part 300.43(b), 300.320(b)(2), 300.320(c), 300.324(c)(1), 19 TAC §89.1055(g), 89.1050(h)(6), TEC §29.017*

Transition services may be special education, if provided as specially designed instruction, or a related service, if required to assist the child with a disability to benefit from special education as described in [Special Education, Related Services, Supplementary Aids and Services](#).

The ARD committee must determine transition services (including courses of study) needed to assist the child in reaching those postsecondary goals.

The following issues must be considered in the development of the IEP, and, if appropriate, integrated into the IEP:

- Appropriate child involvement in the child's transition to life outside the public school system;
- If the child is younger than 18 years of age, appropriate parental involvement in the child's transition;
- If the child is at least 18 years of age, appropriate parental involvement in the child's transition, if the parent is invited to participate by the adult student or the LEA;
- A functional vocational evaluation;

- Any postsecondary education options;
- Employment goals and objectives;
- Independent living goals and objectives;
- If the child is at least 18 years of age, the availability of age-appropriate instructional environments; and
- Appropriate circumstances for referring a child or the child's parents to a governmental agency for services.
- If a participating agency fails to provide the transition services described in the IEP.
- Identify alternative strategies to meet the transition objectives set out in the IEP.

### LEA Specific Information:

Beginning no later than the first IEP to be in effect when the child turns 14, or younger if determined appropriate by the ARD committee, and updated annually thereafter, the ARD must address transition services as part of the IEP.

The child, the child's parent, and a school counselor or school administrator agree in writing signed by each party that the child should be permitted to take courses under the minimum high school program and the child:

- Is at least 16 years of age,
- Completed two credits required for graduation in each subject of the foundation curriculum; or
- Failed to be promoted to the tenth grade one or more times as determined by the school district

The District will provide written notice, developed by the TEA and printed in English and Spanish, to the parent explaining the benefits of the recommended high school program before the child's parent agrees that the child may be permitted to take courses under the minimum high school program.

The child's parent signs a confirmation of receipt of the written notice and returns the confirmation to the child's campus and the child agreeing to take courses under the minimum high school program may, upon request, resume taking courses under the recommended high school program.

### **Annual Goals**

*20 USC §1412(a)(16), 1414(d)(1)(A)(i)(I), 1414(d)(1)(A)(i)(II), 1414(d)(1)(A)(i)(III),  
34 CFR part 200.1(f)(2)(ii), 200.1(e)(2)(ii)(A), 200.1(f)(2)(ii)(B), 200.1(f)(2)(iii), 300.320(a)(2)(i),  
300.320(a)(2)(i)(A), 300.320(a)(2)(i)(B), 300.320(a)(2)(i)(B), 300.320(a)(2)(ii), 300.320(a)(3),  
300.320(a)(3)(i), 300.320(a)(3)(ii)*

The admission, review, and dismissal (ARD) committee must provide a statement of measurable annual academic goals:

- Designed to meet the child's needs that result from the child's disability to enable the child to be involved in and to make progress in the general education curriculum;
- Designed to meet each of the child's other educational needs that result from the child's disability; and
- For a child who takes a Texas Assessment of Knowledge and Skills-Modified (TAKS-M), based on the academic content standards for the grade in which the child is enrolled.

The ARD committee must provide a statement of measurable annual functional goals:

- Designed to meet the child's needs that result from the child's disability to enable the child to be involved in and to make progress in the general education curriculum; and
- Designed to meet each of the child's other educational needs that result from the child's disability.

For a child who takes an alternate assessment aligned to alternate achievement standards, the ARD committee must provide a description of benchmarks or short-term objectives:

- Including for a child who takes the Texas Assessment of Knowledge and Skills--Alternate (TAKS-Alt);
- Including for a child who takes a an alternate assessment judged against modified achievement standards instead of a state-wide assessment for which the state has not developed a state-wide alternate assessment (such as an alternate assessment to one of the state approved language proficiency tests); and
- Including for a child who takes a locally developed alternate assessment judged against modified achievement standards instead of a district-wide assessment.

The ARD committee must provide a description of:

- How the child's progress toward meeting the annual goals will be measured; and
- When periodic reports on the progress the child is making toward meeting the annual goals will be provided:
  - Such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards.

### LEA Specific Information:

Annual goals are designed to meet a child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum and meet the child's other educational needs that result from the child's disability.

Measurable goals are defined as statements that contain four critical components: timeframe, conditions, behavior, and criterion. A measurable goal includes the behavior or skill that can be measured at periodic intervals against a criterion of success.

The four critical components of a measurable goal are:

- Timeframe—identifies the amount of time in the goals period and is usually specified in the number of weeks or a certain date for completion.
- Conditions—specify the manner in which progress toward the goal occurs. Conditions describe the specific resources that must be present for a student to reach the goal. The condition of the goals should relate to the behavior being measure.
- Behavior—clearly identifies the performance that is being monitored. It represents an action that can be directly observed and measured.
- Criterion—identifies how much, how often, or to what standard the behavior must occur in order to demonstrate that the goal has been achieved. The goal criterion specifies the amount of growth that is expected.

For a child who takes an alternate assessment aligned to alternate achievement standards, the ARD committee must provide a description of benchmarks or short-term objectives:

- Including for a child who takes the STAAR—Alternate;
- Including for a child who takes a an alternate assessment judged against modified achievement standards instead of a state-wide assessment for which the state has not developed a state-wide alternate assessment (such as an alternate assessment to one of the state approved language proficiency tests); and
- Including for a child who takes a locally developed alternate assessment judged against modified achievement standards instead of a district-wide assessment.

The ARD committee will develop academic goals for those students who do not demonstrate achievement at grade level.

All *instructional* staff will be trained on standards-based IEP's annually. The Director of Special Education will ensure that this occurs in a timely manner.

Beginning no later that the first IEP in effect when a student turns 14, the ARD committee must address transition services as part of the IEP, as required by the Transition Services section.

## Special Factors

### Behavior

*20 USC §1414(d)(3)(B)(i), 34 CFR part 300.324(a)(2)(i)*

In the case of a child whose behavior impedes the child's learning or that of others, the admission, review and dismissal (ARD) committee must consider:

- The use of positive behavioral interventions and supports; and
- Other strategies to address that behavior.

When considering the use of time-out, see [Restraint and Time-Out](#).

### Communication

*20 USC §1414(d)(3)(B)(iv), 34 CFR part 300.324(a)(2)(iv)*

The ARD committee must consider the communication needs of the child.

### Limited English Proficiency (LEP)

*20 USC §1414(d)(3)(B)(ii), 34 CFR part 300.324(a)(2)(ii), 19 TAC §89.1210, 89.1220(g), 89.1225*

For identification of a child with a disability as LEP and before entry into a bilingual education or English as a second language (ESL) program, the ARD committee in conjunction with the language proficiency assessment committee (LPAC) must:

- Review all pertinent information including the results of the appropriate assessment instrument identified in accordance with [State-and District-wide Assessments](#) for indicating LEP;
- Designate the language proficiency level of the child and determine whether the child has met the score criteria determined in accordance with [State-and District-wide Assessments](#) for identification of the child as LEP;
- Designate the level of academic achievement of the child and determine whether the child has met the grade level determined in accordance with [State-and District-wide Assessments](#) for identification of the child as LEP;
- Designate, subject to parental approval, the initial instructional placement of the LEP child who is a child with a disability in a bilingual or ESL program; and
- Facilitate the participation of the LEP child who is a child with a disability in other special programs for which the child is eligible provided by the LEA with either state or federal funds.



In the case of a child identified as LEP, the ARD committee must:

- Consider the language needs of the child as such needs relate to the child's individualized education program (IEP).

The child may be exited from a bilingual education or ESL program at the end of the school year in which the child received special language services from a bilingual education or ESL program.

To exit a child with a disability from a bilingual education or ESL program, the ARD committee in conjunction with the LPAC committee must:

- Review the results of the appropriate assessment instrument identified in accordance with [State- and District-wide Assessments](#) for exit of a child from a bilingual or ESL program;
- Determine that the child has met the performance standard established in accordance with [State- and District-wide Assessments](#) for exit of the child from a bilingual or ESL program; and
- Determine that the child will be able to participate equally in an all-English, instructional program that does not provide special language services from the bilingual education or ESL program.

### **Deaf or Hard of Hearing**

*20 USC §1414(d)(3)(B)(iv), 34 CFR part 300.324(a)(2)(iv), TEC §29.303, 30.004*

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

- Language and communication needs;
- Opportunities for direct communications with peers and professional personnel in the child's language and communication mode;
- Academic level; and
- Full range of needs, including opportunities for direct instruction in the child's language and communication mode.

The ARD committee must provide each parent with the state-adopted form that contains written information about programs offered by state institutions.

*Additional Reference—*[Texas School for the Deaf Frequently Asked Questions](#)

### **Blind or Visually Impaired**

*20 USC §1414(d)(3)(B)(iii), 34 CFR part 300.324(a)(2)(iii), 19 TAC §89.1055(d), TEC §30.002, 30.004*

In the case of a child who is blind or visually impaired, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), the ARD committee must:

- Either:
  - Provide for reading and writing instruction in Braille and the use of Braille that is sufficient to enable the child to communicate with the same level of proficiency as other children of comparable ability who are at the same grade; or
  - Determine that instruction in Braille or the use of Braille is not appropriate;
- Provide a detailed description of the arrangements made to provide the child with orientation and mobility training, instruction in Braille or use of large print, other training to compensate for serious visual loss, access to special media and special tools, appliances, aids, or devices commonly used by individuals with serious visual impairments;
- Set forth the plans and arrangements made for contacts with and continuing services to the child beyond regular school hours to ensure the child learns the skills and receives the training specified above;
- For a child who is functionally blind, specify the appropriate learning medium based on the assessment;
- Indicate that the child has been provided a detailed explanation of the various service resources available in the community and throughout the state; and
- Provide each parent with the state-adopted form that contains written information about programs offered by state institutions.

Each person assisting in the development of the IEP for a child who is functionally blind must receive information describing the benefits of Braille instruction.

Before placing a child with a visual impairment in a classroom setting, or within a reasonable period of time after placement (as required for the child to succeed in classroom settings and derive lasting, practical benefits from the education in the local educational agency [LEA]), the ARD committee must:

- Provide for training in compensatory skills;
- Provide for training in communicative skills;
- Provide for training in orientation and mobility;
- Provide for training in social adjustment; and

- Provide for vocational or career counseling.

#### *Additional Reference*

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

#### **Assistive Technology**

*20 USC §1401(1), 1401(1)(B), 1401(2), 1414(d)(3)(B)(v), 34 CFR part 300.5, 300.6, 300.324(a)(2)(v)*

The ARD committee must consider whether the child needs assistive technology devices.

- The term "assistive technology device" means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability.
- The term does not include a medical device that is surgically implanted, or the replacement of such device.

The ARD committee must consider whether the child needs assistive technology services.

- The term "assistive technology service" means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device.
- Such term includes:
  - The evaluation of the needs of such child, including a functional evaluation of the child in the child's customary environment;
  - Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by such child;
  - Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
  - Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
  - Training or technical assistance for such child, or, where appropriate, the family of such child; and
  - Training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of such child.

## Autism

*20 USC §1414(d)(1)(A)(i)(IV), 34 CFR part 300.320(a)(4), 19 TAC §89.1055*

In the case of a child with autism, the strategies below must be considered by the ARD committee, based on peer-reviewed research-based educational programming practices to the extent practicable.

When needed, the ARD committee must address the strategies below in the IEP.

If the ARD committee determines that services are not needed in one or more of the strategy areas specified below, the ARD/IEP must include a statement to that effect and the basis upon which the determination was made.

The strategies to be addressed are as follows:

- Social skills supports and strategies based on social skills assessment/curriculum and provided across settings:
  - For example, trained peer facilitators (e.g., circle of friends), video modeling, social stories, and role playing;
- Positive behavior support strategies based on relevant information:
  - For example, antecedent manipulation, replacement behaviors, reinforcement strategies, and data-based decisions; and a behavior intervention plan (BIP) developed from a functional behavioral assessment (FBA) that uses current data related to target behaviors and addresses behavioral programming across home, school, and community-based settings;
- In-home and community-based training or viable alternatives that assist the child with acquisition of social/behavioral skills:
  - For example, strategies that facilitate maintenance and generalization of such skills from home to school, school to home, home to community, and school to community;
- Suitable staff-to-child ratio appropriate to identified activities and as needed to achieve social/behavioral progress based on the child's developmental and learning level (acquisition, fluency, maintenance, generalization) that encourages work towards individual independence:
  - As determined by, for example, adaptive behavior evaluation results; behavioral accommodation needs across settings; and transitions within the school day;
- Daily schedules reflecting minimal unstructured time and active engagement in learning activities:

- For example, lunch, snack, and recess periods that provide flexibility within routines; adapt to individual skill levels; and assist with schedule changes, such as changes involving substitute teachers and pep rallies;
- Communication interventions, including language forms and functions that enhance effective communication across settings:
  - For example, augmentative, incidental, and naturalistic teaching;
- Extended educational programming:
  - For example, extended day and/or extended school year services that consider the duration of programs/settings based on assessment of behavior, social skills, communication, academics, and self-help skills;
- Teaching strategies based on peer-reviewed research-based practices for children with Autism Spectrum Disorder:
  - For example, those associated with discrete-trial training; visual supports, applied behavior analysis, structured learning, augmentative communication, or social skills training;
- Beginning at any age, consistent with [Transition Services](#), futures planning for integrated living, work, community, and educational environments that considers skills necessary to function in current and post-secondary environments;
- Parent/family training and support, provided by qualified personnel with experience in autism spectrum disorders:
  - That for example, provides a family with skills necessary for a child to succeed in the home/community setting;
  - That for example, includes information regarding resources:
    - For example, parent support groups, workshops, videos, conferences, and materials designed to increase parent knowledge of specific teaching/management techniques related to the child's curriculum;
  - That for example, facilitates parental carryover of in-home training:
    - For example, strategies for behavior management and developing structured home environments and/or communication training so that parents are active participants in promoting the continuity of interventions across all settings; and
- Professional educator/staff support:

- For example, training provided to personnel who work with the child to assure the correct implementation of techniques and strategies described in the IEP.

### **LEA Specific Information:**

#### **Behavior**

When determining if behavior impedes the learning and that of others, consider the following:

- Does the student's behavior cause him to be removed from the classroom to the extent that the removal impacts the instruction received and consequently, progress in the general curriculum or progress towards IEP goals?
- Does the behavior significantly interrupt the teacher's ability to teach and the other students' ability to learn?
- Is the off task behavior impacting the instruction received and consequently, in the general curriculum or progress towards IEP goals?

For students whose behavior impacts the learning of others, the ARD committee will address the child's unique needs and determine the appropriate supports and interventions as necessary.

The District will follow and adhere to Positive Behavior Intervention Support (PBIS).

When behaviors accommodations are not sufficient or when a child demonstrates pervasive and/persistent behavioral concerns, an FBA will be requested by the ARD committee to determine appropriate interventions and support.

#### **Communication**

For students with communication needs, their needs will be addressed by the ARD committee.

#### **Limited English Proficiency (LEP)**

For students who are identified as eligible for special education and LEP, the ARD committee in conjunction with the LPAC will determine the child's services based on the child's identified needs (both from the disability and from the child's linguistic needs). The ARD committee and the LPAC must work in conjunction to determine the child's placement as identified by these needs and should be documented in the IEP. If the ARD committee in conjunction with LPAC determines that the child needs to participate in a BESL program, then the teacher should be certified in BE or ESL and may require SPED support as determine by the ARD committee (either by the SPED teacher or aides that is supervised by the SPED teacher). The BE or ESL teacher should have a copy of the child's IEP and be aware of the child's linguistic needs. If the ARD committee with the LPAC determines that the child needs a SPED class in a core content area, then the teacher should be certified in SPED and may require support from the BE or ESL teacher(s) as determined by the ARD committee. The SPED teacher serving a LEP student should have knowledge of how to provide support in regards to second language acquisition as well as linguistic

accommodations. Ultimately, the program and the individuals providing services would be determined by the ARD committee in conjunction with the LPAC based on the student's identified needs reflected in the IEP.

The ARD committee and LPAC will meet to discuss exit. The ARD committee and LPAC will consider the effects of the disability on second language acquisition. It must be IEP based and must include documented evidence, such as historical, formal and informal assessment data and direct teacher input. The input of a diagnostician will be requested to determine if special exit criteria is warranted.

If warranted and participants determine the student no longer benefits from second language acquisition interventions and support, then the ARD committee and LPAC will review the assessment information in the IEP and make exit criteria recommendations.

### **Define Roles**

The LPAC members will assist the ARD committee provide information regarding second language acquisition and linguistic needs and works as a member of the ARD committee to determine the child's services.

The LPAC members must have knowledge of the student's needs.

The ARD committee determines the program of instruction.

### **Deaf or Hard of Hearing**

Educational diagnosticians will be responsible for providing each parent with the state-adopted form that contains written information about programs offered by state institutions.

### **Blind or Visually Impaired**

Educational diagnosticians will be responsible for providing each parent with the state-adopted form that contains written information about programs offered by state institutions.

### **Assistive Technology**

Based on evaluation data and student need, the ARD committee will determine the need for assistive technology.

### **Autism**

In the case of a child with autism, the strategies below must be considered by the ARD committee.

- Social Skills Supports and Strategies

- Positive Behavior Support Strategies
- In-Home and Community Based Training
- Staff to Student Ratio
- Minimum Unstructured Time
- Communication Interventions
- Extended Educational Programming
- Teaching Strategies
- Futures Planning
- Parent/Family Training
- Professional Educator and Staff Support

The strategies above must be considered by ARD committee based on peer-reviewed<sup>2</sup>, research-based educational programming to the extent practicable.

## Least Restrictive Environment (LRE)

### Federal and State Requirements

*20 USC §1412(a)(5)(A), 34 CFR part 300.114(a)(2)(i), 300.117*

The local education agency (LEA) must ensure that to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled.

The LEA must ensure that special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

In providing or arranging for the provision of nonacademic and extracurricular services and activities, the LEA must ensure that each child with a disability participates with nondisabled children in the extracurricular services and activities to the maximum extent appropriate to the needs of the child.

### Preschool-aged Children

*34 CFR part 300.101(a), 300.101(b), 300.102(a)(1), 300.116, [Office of Special Education Programs Letter to Nevelidine](#), Office of Special Education Programs Policy Memo 89-23*

The LEA must provide a free appropriate public education (FAPE) in the LRE to preschool-aged children even if the LEA does not provide free preschool programs to all preschool-aged children:

- LEAs that do not operate preschool programs for nondisabled preschool children may use some alternative methods for meeting the LRE requirements including:



- Providing opportunities for the participation (even part-time) of preschool children with disabilities in other preschool programs operated by public agencies (such as Head Start);
- Placing children with disabilities in private school programs for nondisabled preschool children or private school preschool programs that integrate children with disabilities and non-disabled children; and
- Locating classes for preschool children with disabilities in regular elementary schools;
- LEAs are not required to initiate preschool programs solely to satisfy the requirements regarding placement in the LRE;
- LEAs are not required to establish extensive contract programs with private schools which serve both children with disabilities and children without disabling conditions solely to implement LRE requirements; and
- The use of facilities which are separate or otherwise solely devoted to children with disabilities is generally permissible only when necessary to meet an individual child's specific needs and should not be the only option available.

### **Factors for Consideration**

*34 CFR part 300.116, Daniel R.R. v. SBOE (5th Cir. 1989)*

The admission, review and dismissal (ARD) committee must determine whether education in the regular classroom, with the use of supplementary aids and services, can be achieved satisfactorily by considering the following factors:

- Whether the LEA provided supplementary aids and services;
- Whether the LEA modified the regular education program:
  - A child with a disability may not be removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum;
- Whether the efforts to modify and supplement regular education were sufficient:
  - The LEA need not provide every conceivable supplementary aid or service to assist the child;
  - The Individuals with Disabilities Education Act (IDEA) does not require regular education instructors to devote all or most of their time to one disabled child or to modify the regular education program beyond recognition;

- Whether the child will receive an educational benefit from regular education (including nonacademic benefit);
- The child's overall educational experience in the mainstreamed environment, balancing the benefits of regular and special education for the individual child:
  - For example, a child may be able to absorb only a minimal amount of the regular education program, but may benefit enormously from the language models that his or her nondisabled peers provide (in such a case, the benefit that the child receives from mainstreaming may tip the balance in favor of mainstreaming); and
- The effect the disabled child's presence has on the regular classroom, and thus, on the education that the other children are receiving.

If the ARD committee determines that education in the regular classroom cannot be achieved satisfactorily, then the ARD committee must determine whether the child has been mainstreamed to the maximum extent appropriate:

- The IDEA and its regulations do not contemplate an all-or-nothing educational system in which disabled children attend either regular or special education;
- The IDEA and its regulations require LEAs to offer a continuum of services; and
- The LEA must take intermediate steps where appropriate, such as placing the child in regular education for some academic classes only, or providing interaction with nondisabled children during lunch and recess.

In selecting the LRE, the ARD committee must consider any potential harmful effect:

- On the child; or
- On the quality of services that the child needs.

### **Placement Determination**

*20 USC §1414(d)(1)(A)(i), 34 CFR part 300.116(b), 300.320, 300.321(a)(4)(ii), 19 TAC §89.63, 89.1075, 89.1080*

The ARD committee must determine the child's placement.

The ARD committee's placement decision must be based on the child's individualized education program (IEP) in compliance with the [Supplementary Aids and Services, Special Education and Related Services](#) section of this document.

The ARD committee must provide an explanation of the extent, if any, to which the child will participate with nondisabled children:

- In the regular class;
- In the general curriculum; and
- In extracurricular and other nonacademic activities.

The ARD committee must determine the appropriate length of school day:

- Children with disabilities must have available an instructional day commensurate with that of children without disabilities.

### **Instructional Arrangements**

*34 CFR part 300.115, 19 TAC §89.63(c), 89.1075(d)*

The LEA must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.

The ARD committee must specify the appropriate instructional arrangement/setting:

- Mainstream;
- Homebound;
- Hospital class;
- Speech therapy;
- Resource room/services;
- Self-contained (mild, moderate, or severe);
- Off home campus;
- Nonpublic day school;
- Vocational adjustment class/program;
- State school for persons with mental retardation; or
- Residential care and treatment facility (not LEA resident).

Any student who has a hearing impairment which adversely affects educational performance shall be eligible for consideration for the Regional Day School Program for the Deaf, subject to the ARD committee recommendations.

### **Children Residing in a Residential Facility**

*19 TAC §89.1115(d)(3)(B), 89.1115(d)(4)*

The ARD committee's educational placement determination must be individualized, based on need, and not made on a categorical basis, such as the disability or residence in the residential facility.

The ARD committee must not determine educational placement on the basis of what is most convenient to the LEA or residential facility.

The ARD committee must determine the appropriate educational placement for the child, considering:

- All available information regarding the educational needs of the student;
- Non-educational needs that may restrict the ability of the LEA to serve the child on a public school campus or other instructional setting:
  - Which could include the child's health and safety (e.g. substance abuse); and/or
  - The child's placement in a restrictive residential facility program (e.g., juvenile incarceration or restrictive court-ordered placements).

When educational services will be provided at the residential facility, the ARD committee must determine appropriate educational space as follows:

- Whether space available at the residential facility is appropriate for the provision of a FAPE based on the individual child's needs and the residential facilities available space; or
- If the ARD committee or residential facility determines that the residential facility has no appropriate available space, identify alternative locations for providing educational services.

### **Residential Placement at Public Expense**

*19 TAC §89.61(a)(4)(A), 89.61(a)(4)(B), 89.61(a)(4)(C), 89.61(a)(4)(F)*

When making a residential educational placement, the ARD committee must:

- List the services which the LEA is unable to provide and which the facility will provide;
- Establish criteria and estimated timelines for the child's return to the LEA;
- Verify residential placement is needed;

- Verify the placement is the LRE for the child;
- Comply with Supplementary Aids and Services, Special Education, Related Services when selecting the facility; and
- Comply with the Use of Funds for Contract Services Including Residential Placements.
- 

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

*19 TAC §89.1085, 89.1090, TEC §30.057(a)(2)*

When placing the student at the TSBVI or TSD, the ARD committee must:

- List those services in the child's individualized education program (IEP) which the LEA cannot appropriately provide in a local program and which the TSBVI or the TSD can appropriately provide;
- Include in the child's IEP the criteria and estimated time lines for returning the child to the resident LEA; and
- Determine whether it is necessary for the safety of the child:
  - For an adult to accompany the child when transporting the child at the beginning and end of the term for regularly scheduled school holidays when children are expected to leave the residential campus; and
  - If the child must be accompanied, designate the adult to accompany the child.

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

For children placed by their parents or legal guardians at the TSD, the TSD shall be responsible for assuring that a FAPE is provided to the child at the TSD.

**LEA Specific Information:**

Pre-school children with disabilities will be provided services as determined by ARD committee.

The District provides a continuum of services including inclusion, self-contained, resource, and homebound services. The provision of services is provided according to student need and as determined by the ARD committee.

For students receiving all instruction in the general education classroom, the Special Education provider works with General Education teacher to provide services as noted in IEP's. Paraprofessionals providing inclusion support will be supervised by Special Education teachers.

Special Education providers will document the provision of services. The effectiveness of this support will be determined by the ARD committee based upon student progress monitoring.

The ARD committee will determine the need for supplementary aids and services to be provided in general education classes, other education related settings, and in extra-curricular and nonacademic settings to enable a student with a disability to be educated with nondisabled children to the maximum extent as appropriate.

For students placed in TSBVI, the Director of Special Education will ensure the on-site visit occurs at least once a year.

## **Special Education, Related Services, Supplementary Aids and Services**

### **Federal and State Requirements**

*20 USC §1401(26), 1401(29), 1401(33), 1414(d)(1)(A)(i)(IV), 1414(d)(4)(A)(ii)(V), 1414(d)(1)(A)(i)(VII), 34 CFR part 300.34(a), 300.34(b), 300.39(a), 300.42, 300.107, 300.107(b), 300.116(b)(3), 300.116(c), 300.117, 300.320(a)(4), 300.320(a)(4)(i), 300.320(a)(4)(ii), 300.320(a)(4)(iii), 300.320(a)(7), 19 TAC §89.61(a)(4), 89.61(a)(4)(D), 89.61(a)(4)(E), 89.61(a)(4)(F), 89.63(c), 89.1050 (a)(1), 89.1050(a)(7), 89.1050(a)(8), 89.1050(a)(10), TEC §25.0343, 25.0343(a), 25.0343 (a)(1), 25.0343(a)(2), 25.0343(b), 25.0343 (c) 25.0343(d), 28.006(a)(1), 28.006(c), 28.006(g), 28.0211, 28.0211 (a)(1), 28.0211(a)(2), 28.0211(c), 28.0211(i)(1), 28.021 (i)(2), 28.0213(a), 28.0213(e) 28.0213(e)(1), 28.0213(e)(2), White v. Ascension Parish School Board (5th Cir. 2003)*

Special education and related services and supplementary aids and services must be based on peer-reviewed research to the extent practicable.

The ARD committee must determine needed special education services:

- The term "special education" means specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability.

The ARD committee must determine needed related services:

- The term "related services" means transportation, and such developmental, corrective, and other supportive services as may be required to assist a child with a disability to benefit from special education.

The ARD committee must determine needed supplementary aids and services to be provided to the child, or on behalf of the child:

- The term "supplementary aids and services" means aids, services, and other supports that are provided in regular education classes or other education-related settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate.

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

- Advance appropriately toward attaining the annual goals;
- Be involved in and make progress in the general education curriculum, and be afforded an equal opportunity to participate in extracurricular and other nonacademic activities, including to the maximum extent appropriate, in nonacademic settings and services such as:
  - meals;
  - recess periods;
  - counseling services;
  - athletics;
  - transportation;
  - health services;
  - recreational activities;
  - special interest groups or clubs sponsored by the LEA;
  - referrals to other agencies;
  - employment of students, including both employment by the LEA and assistance in making outside employment available; and
- Be educated and participate with other children with disabilities and nondisabled children.

For a child who did not perform satisfactorily on the Texas Assessment of Knowledge and Skills (TAKS), the TAKS (Accommodated), TAKS-Modified (TAKS-M), and the TAKS-Alternate (TAKS-Alt):

- The ARD committee must design the intensive program of instruction:
  - To enable the child to attain a standard of annual growth on the basis of the child's IEP; and

- If applicable, to carry out the purposes of the [Student Success Initiative](#).

For a child who did not perform satisfactorily on an end-of-course assessment instrument for secondary-level courses in Algebra I, Algebra II, geometry, biology, chemistry, physics, English I, English II, English III, world geography, world history, or United States history:

- The ARD committee must design the intensive program of instruction:
  - To enable the child to attain a standard of annual growth on the basis of the child's IEP; and
  - If applicable, to carry out the purposes of the [Student Success Initiative](#).

For children in kindergarten, first, and second grade who do not perform satisfactorily on an early reading assessment administered as part of the Texas Reading Initiative:

- The ARD committee must determine the manner in which the child will participate in an accelerated reading instruction program.

### **Student Success Initiative**

For a child in the fifth grade, each time the child fails to perform satisfactorily on the reading or mathematics assessment of the TAKS, TAKS (Accommodated), TAKS-M, or TAKS-Alt:

- The ARD committee must determine the manner in which the child will participate in accelerated instruction in the applicable subject area, including reading instruction for a child who fails to perform satisfactorily on a reading assessment instrument; and
- After the third attempt, the ARD committee must determine whether the child will be promoted or retained.

For a child in the eighth grade, each time the child fails to perform satisfactorily on the reading or mathematics assessment of the TAKS, TAKS (Accommodated), TAKS-M, or TAKS-Alt:

- The ARD committee must determine the manner in which the child will participate in accelerated instruction in the applicable subject area, including reading instruction for a child who fails to perform satisfactorily on a reading assessment instrument; and
- After the third attempt, the ARD committee must determine whether the child will be promoted or retained.

The ARD committee must provide:

- The projected date for the beginning of the services and modifications;



- The anticipated frequency of those services and modifications;
- The anticipated duration of those services and modifications;
- The anticipated location of those services and modifications:
  - Except that these provisions do not explicitly require parental participation in selection of campus location;
  - The requirement that parents must be involved in determining "educational placement" according to the Least Restrictive Environment does not necessarily mean they must be involved in selection of campus location;
  - The campus location must be as close as possible to the child's home;
  - Unless the IEP requires some other arrangement, the child is educated at the campus location that he or she would attend if nondisabled;
  - The provision that requires the IEP to specify the location is primarily administrative.

If, for the purpose of receiving special education services, the LEA assigns a child to a campus location other than the campus location the child would attend based on the child's residence:

- The LEA must permit the child's parent, guardian, or other person standing in parental relation to the child to obtain a transfer to the assigned campus for any other child residing in the household of the child receiving special education services, provided that:
  - The other child is entitled to attend school in the LEA;
  - The appropriate grade level for the other student is offered at the campus;
  - The child receiving special education services does not reside in a residential facility; and
  - The LEA is not required to provide transportation to the other child who transfers to another campus location under (however, this does not affect any transportation services provided by the LEA in accordance with other laws for the child receiving special education services).

If the ARD committee has determined that a residential facility is the Least Restrictive Environment:

- The ARD committee must document the appropriateness of the particular residential facility selected by the LEA including:
  - The appropriateness of the facility for the child;

- That the facility meets minimum standards for health and safety;
- That the educational program provided at the residential facility is appropriate; and
- The LEA must make an initial and an annual on-site visits to verify that the residential facility can, and will, provide the services listed in the child's IEP which the facility has agreed to provide to the child.

### LEA Specific Information:

In regards to related services, the ARD committee will document the frequency, duration, and location of services.

#### Requirements for Documenting the Provision of Related Services

- Frequency—*how often* the child receives the service(s) (number of times per day or week). If the service is less than daily then condition for the provision of the services must be clearly specified within the ARD documents using a weekly reference (ex. 1 hour per week, 30 minutes every two days).
- Duration—*how long* each "session" will last (number of minutes) and when services will begin and end (starting and ending dates).
- Location—*where* services will be provided (in the GENED classroom or another setting such as SPED resource room).

#### Student Success Initiative

The Director of Special Education will notify the educational diagnosticians of students who failed the state assessments. The educational diagnosticians will in turn call an ARD to analyze reporting categories in need of improvement and build intensive program of instruction to target specific student expectations.

The GENED teacher will be responsible for providing Texas Primary Reading Inventory (K-2) and EMAT student information for students receiving SPED support. The GENED teacher will notify the ARD committee if the student did not perform satisfactorily in either assessment.

For a child in 5<sup>th</sup> or 8<sup>th</sup> grade, each time the child fails to perform satisfactorily on the reading or mathematics assessment of the STAAR, STAAR-M, or STAAR Alt:

- The ARD committee must determine the manner in which the child will participate in accelerated instruction in the applicable subject areas, including reading instruction for a child who fails to perform satisfactorily on a reading assessment instrument; and
- After the third attempt, the ARD committee must determine whether the child will be promoted or retained.

The District will provide additional training, as appropriate, for staff implementing IEP's.

The Director of Special Education will conduct a needs assessment periodically to ensure that SPED providers are receiving support as appropriate.

The Director of Special Education will ensure that District makes an initial and an annual on-site visit to verify that the residential facility can, and will, provides the services listed in the child's IEP which the facility has agreed to provide to the child.

## Graduation

### Graduation due to Satisfactory Completion of Regular Curriculum and Credit Requirements

*34 CFR part 300.102(a)(3), 19 TAC §89.1070(a), 89.1070(b), 89.1070(b)(1), 89.1070(b)(2)*

For a child graduating and being awarded a high school diploma under this part, graduation terminates the child's eligibility for special education services and entitlement to the benefits of the [Foundation School Program](#).

A child receiving special education services may graduate and be awarded a regular high school diploma if:

- The child has satisfactorily completed the state's or local educational agency's (whichever is greater) minimum curriculum and credit requirements for graduation (under the recommended or distinguished achievement high school program curriculum requirements) applicable to children in general education; and
- The child has had satisfactory performance on the exit-level assessment instrument.

A child receiving special education services may also graduate and be awarded a regular high school diploma if:

- The child has satisfactorily completed the state's or LEA's (whichever is greater) minimum curriculum and credit requirements for graduation (under the minimum high school program curriculum requirements) applicable to children in general education;
- Participated in required state assessments; and
- The ARD committee has determined as part of participation in [State-and District-wide Assessments](#) whether satisfactory performance on a required state assessment will be required for graduation, and the child has met those expectations.

### Graduation due to Successful Completion of the IEP

*34 CFR part 300.102(a)(3)(iii), 300.305(e)(1), 19 TAC §89.1070(e), 89.1070(c)(1), 89.1070(c)(2), 89.1070(c)(2)(A), 89.1070(c)(2)(B), 89.1070(c)(2)(C), 89.1070(c)(3), 89.1070(c)(4), 89.1070(g), 89.1070(h), 1414(c)(5)(A)*

For a child receiving special education services to graduate and receive a regular high school diploma pursuant to an individualized education program (IEP):

- The LEA must provide a Summary of Performance that is included as part of a Full and Individual Evaluation of the child; and
- The admission, review and dismissal (ARD) committee must determine the child has successfully completed the child's IEP;
- The ARD committee must determine that the child has successfully completed the state's or LEA's (whichever is greater) minimum credit requirements for children without disabilities;
- The ARD committee must determine that the child has successfully completed the state's or LEA's minimum curriculum requirements to the extent possible with modifications/substitutions only when it is determined necessary by the ARD committee for the child to receive an appropriate education; and
- The ARD committee must determine the child has successfully completed one of the following conditions consistent with the child's IEP:
  - Full-time employment, based on the child's abilities and local employment opportunities, in addition to sufficient self-help skills to maintain the employment without direct and ongoing educational support of the LEA;
  - Access to services which are not within the legal responsibility of public education, or employment or educational options for which the child has been prepared by the academic program; or
  - Demonstrated mastery of specific employability skills and self-help skills which do not require direct ongoing educational support of the LEA.

Employability and self-help skills are those skills directly related to the preparation of children for employment, including general skills necessary to obtain or retain employment.

For children who receive a diploma under this part, upon the request of the child or parent to resume services, the ARD Committee must determine needed educational services as long as the child meets the age eligibility requirements.

### **Graduation due to Successful Completion of the IEP and No Longer Meeting Age Eligibility Requirements**

*19 TAC §89.1035, 89.1070(d)*

For the child receiving special education services to graduate and receive a regular high school diploma under this part, the ARD committee must determine:

- The child no longer meets age eligibility requirements; and
- The child has completed the requirements specified in the IEP.

### **Children Who Have Completed Four Years of High School but Have Not Met Graduation Requirements**

*20 USC §1412(a)(1)(A), 34 CFR part 300.101(a), 19 TAC §89.1070(f), TEC §28.025(f)*

The LEA must issue a certificate of attendance to a child who receives special education services and who has completed four years of high school but has not completed the child's IEP.

Children who participate in graduation ceremonies but who are not receiving a high school diploma and who will remain in school to complete their education do not have to be evaluated prior to participating in the ceremonies.

The LEA must allow the child who receives a certificate of attendance to participate in a graduation ceremony with children receiving high school diplomas.

The child may participate in only one graduation ceremony to receive a certificate of attendance.

The child who receives a certificate of attendance is not prevented from meeting graduation requirements and receiving a diploma as long as the child continues to be age eligible for special education services.

#### **LEA Specific Information:**

For a child who receives a diploma under successful completion of an IEP but requests to continue services and continues to meet eligibility requirements, the ARD committee will determine needed education services by:

- Reviewing the last ARD including the last annual ARD, and
- Reviewing the last FIE and determining if it is current and continues to be appropriate.

If the ARD is unable to determine needed services the ARD committee will conduct a REED to determine whether additional evaluation is needed as required by the *Review of Existing Evaluation Data* Section.

The District through the CCHS counselor, will notify the parent(s) or adult student of completion of four years of high school, but lack of completion of child's IEP, and will provide the parent or adult student notice regarding the opportunity to participate and receive a certificate of attendance.

### **Extended School Year (ESY) Services**

#### **Definition and Provision**

*34 CFR part 300.106(b), 300.106(b)(1), 300.106(b)(1)(i), 300.106(b)(1)(ii), 300.106(b)(1)(iii), 300.106(b)(2), 19 TAC §89.1065(8)*

"Extended school year services" (ESY) means special education and related services that:

- Are provided to a child with a disability:
  - Beyond the normal school year of the public agency;
  - In accordance with the child's individualized education program (IEP); and
  - At no cost to the parents of the child; and
- Meet the standards of the Texas Education Agency (TEA).

The provision of ESY services is limited to the educational needs of the child and must not supplant or limit the responsibility of other public agencies to continue to provide care and treatment services pursuant to policy or practice, even when those services are similar to, or the same as, the services addressed in the child's IEP.

No child will be denied ESY services because the child receives care and treatment services under the auspices of other agencies.

### **Limitations**

*34 CFR part 300.106(a)(3), 300.106(a)(3)(i), 300.106(a)(3)(ii), 19 TAC §89.1065(1), 89.1065(1)(A), 89.1065(1)(B)*

In determining the need for and in providing ESY services, the local education agency (LEA) may not:

- Limit ESY services to particular categories of disability; or
- Unilaterally limit the type, amount, or duration of ESY services.

### **Determination of Need**

*34 CFR part 300.106(a)(1), 300.106(a)(2), 19 TAC §89.1065(1), 89.1065(5)*

The need for ESY services must be determined on an individual basis by the admission, review and dismissal (ARD) committee:

- Each LEA must ensure that ESY services are available as necessary to provide free appropriate public education (FAPE); and
- ESY services must be provided only if a child's ARD committee determines, on an individual basis, that the services are necessary for the provision of FAPE.

If the LEA does not propose ESY services for discussion at the annual review of a child's IEP, the parent may request that the ARD committee discuss ESY services.

### **Data to Make the Decision**

*19 TAC §89.1065(2), 89.1065(7)*

The ARD committee must determine the need for ESY from formal and/or informal evaluations provided by the district or the parents:

- For a child enrolling in the LEA during the school year, information obtained from the prior LEA as well as information collected during the current year may be used to determine the need for ESY services.

### **Regression in Critical Areas**

*19 TAC §89.1065(2), 89.1065(4), 89.1065(4)(A), 89.1065(4)(B), 89.1065(4)(C), 89.1065(4)(D), 89.1065(4)(E)*

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

- A skill is critical when the loss of that skill results, or is reasonably expected to result, in any of the following occurrences during the first eight weeks of the next regular school year:
  - Placement in a more restrictive instructional arrangement;
  - Significant loss of acquired skills necessary for the child to appropriately progress in the general curriculum;
  - Significant loss of self-sufficiency in self-help skill areas as evidenced by an increase in the number of direct service staff and/or amount of time required to provide special education or related services;
  - Loss of access to community-based independent living skills instruction or an independent living environment provided by noneducational sources as a result of regression in skills; or
  - Loss of access to on-the-job training or productive employment as a result of regression in skills; and
- “Severe or substantial regression” means that the child has been, or will be, unable to maintain one or more acquired critical skills in the absence of ESY services.

### **Recoupment of Acquired Skills**

*19 TAC §89.1065(3)*

The ARD committee must determine the reasonable period of time for recoupment of acquired skills on the basis of needs identified in the child’s IEP:

- If the loss of acquired critical skills would be particularly severe or substantial, or if such loss results, or reasonably may be expected to result, in immediate physical harm to the child or to

others, ESY services may be justified without consideration of the period of time for recoupment of such skills. In any case, the period of time for recoupment shall not exceed eight weeks.

## Goals and Objectives

*19 TAC §89.1055(C), 89.1065(b)*

If the ARD committee determines that the child is in need of ESY services, then the IEP must also include goals and objectives for ESY services from the child's current IEP.

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

## Funding for ESY

The LEA must comply with the Distribution of State Special Education Funds to LEAs.

## LEA Specific Information:

Persons responsible for the implementation of a student's goals, including related service providers will collect data for consideration by the ARD committee when considering ESY. This data will be gathered throughout the school year, with an emphasis on data gathered after the summer break, and other breaks/holidays to document performance of critical skills identified in the IEP, as well as to document the time period necessary for recoupment.

## Reaching Closure and Consensus

### Reaching Closure

*19 TAC §89.1050(e), TEC §29.005(d)*

The admission, review and dismissal (ARD) committee documentation must include:

- The date of the meeting;
- The names, positions, and signatures of the members participating in each meeting; and
- Each member's agreement or disagreement with the committee's decisions.

If the student's parent is unable to speak English, either:

- Provide the parent with a written or audio taped copy of the student's individualized education program (IEP) as record of the ARD meeting translated into Spanish if Spanish is the parent's native language; or



- If the parent's native language is a language other than Spanish, make a good faith effort to provide the parent with a written or audio taped copy of the student's IEP as record of the ARD meeting translated into the parent's native language.

### Reaching Consensus

*19 TAC §89.1050(h), 89.1050(h)(1), 89.1050(h)(2), 89.1050(h)(3), 89.1050(h)(5)*

A decision of the committee concerning required elements of the IEP must be made by mutual agreement of the required members if possible.

When mutual agreement about all required elements of the IEP is not achieved, the ARD committee must:

- Offer the parents or adult student who disagrees a single opportunity to have the committee recess for a period of time not to exceed ten school days:
  - Except 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 which may lead to a placement in an alternative education program (AEP);
- Provide a written statement of the basis for the disagreement;
- Offer the members who disagree the opportunity to write their own statements; and
- When the parent accepts the offer to reconvene, determine by mutual agreement prior to the recess, the date, time, and place for continuing the ARD committee meeting.

During a recess, the ARD committee members must:

- Consider alternatives;
- Gather additional data;
- Prepare further documentation; and/or
- Obtain additional resource persons which may assist in enabling the ARD committee to reach mutual agreement.

If a ten-day recess is implemented and the ARD committee still cannot reach mutual agreement, the local educational agency (LEA) must:

- Provide the parent with Prior Written Notice; and
- Implement the IEP which it has determined to be appropriate for the child.

### LEA Specific Information:

If a parent disagrees with the decisions of an ARD committee, the District will offer the parent a single opportunity to have the committee recess for a period of time, not to exceed ten school days. This opportunity for a recess is not required when the student's presence on the campus presents a danger to the student or others, or when a student has committed an offense that may lead to the student's expulsion or placement in the DAEP. The campus administrator will request, but not require, the parent to identify the basis of the disagreement. Any member of the ARD committee who disagrees with the decisions of the ARD committee will be offered an opportunity to attach a written statement of disagreement.

This opportunity to have the committee recess should be offered after the District has otherwise completed its recommendations for the student's IEP, to ensure that if the parent rejects the opportunity for a recess, the District has proposed a complete IEP for the student.

The date, time and place for continuing the meeting shall be determined by mutual agreement prior to the recess.

If the parent accepts the opportunity for a recess, the District will not prepare prior written notice until after the ARD committee has continued the meeting. If the parent rejects the opportunity for a recess, the District will prepare prior written notice of the committee's decisions and provide the parent with a copy of the procedural safeguards.

### **Amendment Without A Meeting**

#### **Federal and State Requirements**

*20 USC §1414(b)(4)(A), 1414(d)(3)(F), 1414(e), 1415(k)(1)(E)(i), 34 CFR part 300.306, 300.116, 300.324(a)(4), 300.324(a)(6), 300.530(e)*

After the annual admission, review and dismissal (ARD) meeting, changes to the individualized education program (IEP) may be made either:

- By the entire ARD committee; or
- By amending the IEP rather than by redrafting the entire IEP.

Eligibility determinations, changes of placement, and manifestation determination reviews may not be conducted through the amendment without a meeting process.

#### **Amendment Process**

*20 USC §1414(d)(3)(D), 34 CFR part 300.324(a)(4)(i)*

To amend the IEP without an ARD Committee Meeting:

- The parent of a child with a disability and the local educational agency (LEA) must agree not to convene an ARD committee meeting for the purpose of making changes to the IEP; and
- The LEA must develop a written document to amend or modify the child's current IEP.

### Revised IEP

*20 USC §1414(d)(3)(F), 34 CFR part 300.324(a)(4)(ii), 300.324(a)(6)*

If the IEP is amended without an [ARD Committee Meeting](#), the [ARD Committee Membership](#) must be informed of those changes.

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

### LEA Specific Information:

The campus administrator, in coordination with the Special Education office, may propose an IEP amendment or otherwise sign such an amendment. If the campus administrator or Special Education office personnel believe that the proposed amendment is inappropriate, an ARD committee meeting shall be proposed.

### Prior Written Notice

#### Conditions when Required

*20 United States Code (USC) §1415(a), 1415(b)(3), 34 Code of Federal Regulations (CFR) part 300.503(a), 300.504, 300.300, 19 Texas Administrative Code (TAC) §89.1045(a), 89.1050(h)(6)*

The LEA must provide prior written notice to the parent whenever it:

- Proposes or refuses to initiate or change the identification of the child;
- Proposes or refuses to initiate or change the evaluation of the child;
- Proposes or refuses to initiate or change the educational placement of the child;
- Proposes or refuses to initiate or change the provision of a free appropriate public education (FAPE) to the child;
- Proposes to convene an [ARD Committee Meeting](#) as part of the invitation to the admission, review and dismissal (ARD) meeting;
- Implements an individualized education program (IEP) with which the parent or adult student disagrees, pursuant to the information found within [Reaching Consensus](#); or

- Propose to initiate the withdrawal of a child with a disability from continued special education and related services due to written revocation by the parent.

### LEA Specific Information:

The Special Education office shall provide training and on-going support concerning the preparation of prior written notice.

### **Timeline and Manner**

*20 USC §1415(b)(4), 1415(n), 34 CFR part 300.322(a)(1), 300.503(c)(1)(ii), 300.505, 19 TAC §89.1015*

The LEA must provide at least five school days prior written notice:

- In the native language of the parents, unless it clearly is not feasible to do so;
- By an electronic mail (e-mail) communication, if the LEA makes such option available and the Parent elects to receive notices required by IDEA Part B through e-mail; and
- Of an ARD Committee Meeting early enough to ensure that the Parent will have an opportunity to attend in compliance with Parent Participation.

### LEA Specific Information:

Prior written notice must be provided to parents promptly upon any decision or refusal concerning a student's identification, evaluation, placement or any other element of the provision of a free appropriate public education to the student. The District may not implement any decision until five school days following the parent's receipt of the prior written notice documentation.

### **Required Contents**

*20 USC §1415(c)(1), 1415(c)(1)(A), 1415(c)(1)(B), 1415(c)(1)(C), 1415(c)(1)(D), 1415(c)(1)(E), 1415(c)(1)(F), 34 CFR part 300.503(b), 300.503(b)(1), 300.503(b)(2), 300.503(b)(3), 300.503(b)(4), 300.503(b)(5), 300.503(b)(6), 300.503(b)(7)*

The prior written notice must include:

- A description of the action proposed or refused by the LEA;
- An explanation of why the agency proposes or refuses to take the action;
- A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action;

- A description of other options considered by the ARD committee and the reason why those options were rejected;
- A description of the factors that are relevant to the agency's proposal or refusal;
- Sources for parents to contact to obtain assistance in understanding the provisions of Individuals with Disabilities Education Act (IDEA) Part B;
- A statement that the parents of a child with a disability have protection under the [Procedural Safeguards](#) of this part; and
- The means by which a copy of a description of the [Procedural Safeguards](#) can be obtained if not an initial referral for evaluation.

**LEA Specific Information:**

The District will provide prior written notice with the above mentioned areas. Descriptions and explanations will be comprehensive enough to provide information of why actions were either proposed or refused.

**Additional Content Requirements for a Proposal to Evaluation**

*34 CFR part 300.304(a), 20 USC §1414(b)(1)*

If the LEA is proposing to conduct a [Full and Individual Evaluation](#), the prior written notice must also include:

- A description of any evaluation procedures the LEA proposes to conduct.

**LEA Specific Information:**

The prior written notice will include an explanation as to why the ARD committee proposes to conduct an FIE.

**Additional Content Requirements for a Proposal to Convene an ARD Committee Meeting**

*34 CFR part 300.322(b)(1), 300.322(b)(1)(i), 300.322(b)(1)(ii), 300.322(b)(2), 300.322(b)(2)(i)(A), 300.322(b)(2)(i)(B), 300.322(b)(2)(ii), 19 TAC §89.1055(g)*

If the LEA is proposing to convene an ARD committee meeting, the prior written notice must also include:

- Purpose, time, and location of the meeting;
- Who will be in attendance;
- Information relating to [ARD Committee Membership](#) of other individuals who have knowledge or special expertise about the child;

- Information relating to the participation of the Part C service coordinator or other representatives of the Part C system at the initial ARD committee meeting for a child previously served under Part C of the Act; and
- Beginning not later than the first IEP to be in effect when the child turns 14, or younger if determined appropriate by the IEP Team:
  - That a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the child, in accordance with [Transition Services](#);
  - That the LEA will invite the student; and
  - Any other agency that will be invited to send a representative in accordance with the [Consent](#) section of this document.

### LEA Specific Information:

The Notice of an ARD Committee Meeting will include the role or position of the ARD committee members who will be in attendance.

## Consent

### Consent for Initial Evaluation

#### Actions that Do Not Constitute Evaluation

*20 USC §1414(a)(1)(D)(i)(I), 1414(a)(1)(E), 1414(c)(1), 34 CFR part 300.300(a)(1)(ii), 300.300(d)(1), 300.300(d)(1)(i), 300.300(d)(1)(ii), 300.302*

The following actions do not constitute evaluation:

- Screening to determine strategies for curriculum implementation;
- Conducting a [Review of Existing Evaluation Data](#) (REED) as part of an initial evaluation or a reevaluation; and
- Administering a test or other evaluation that is administered to all children.

#### Elements of Consent

*20 USC §1414(a)(1)(D), 1414(a)(1)(D)(i)(I), 34 CFR part 300.300(a)(1)(ii), 300.300(a)(1)(iii), 300.300(d)(5), 300.322(d), 300.9(a), 300.9(b), 300.9(c)(1), 300.9(c)(2)*

The LEA must make reasonable efforts to obtain informed consent.

The LEA must obtain informed consent from the [Parent](#) before conducting an initial evaluation, which means:

- The parent has been fully informed of all information relevant to the initial evaluation in his or her native language or other mode of communication;
- The consent describes the initial evaluation;
- The consent lists the records (if any) that will be released and to whom;
- The parent understands and agrees in writing to the LEA carrying out the initial evaluation;
- The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at anytime; and
- The parent understands that if the parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).

#### **When Consent is not Obtained, Despite Reasonable Efforts**

*20 USC §1414(a)(1)(D)(ii)(I), 1414(a)(1)(D)(iii)(II), 1414(a)(1)(D)(ii)(III), 34 CFR part 300.300(a)(2), 300.300(a)(2)(i), 300.300(a)(2)(ii), 300.300(a)(2)(iii), 300.300(a)(3)(i), 300.300(a)(3)(ii), 300.300(d)(5), 300.322(d)*

If the child is a ward of the state and is not residing with child's [Parent](#), the LEA is not required to obtain informed consent from the parent if:

- Despite reasonable efforts to do so, the LEA cannot discover the whereabouts of the parent of the child;
- The rights of the parents of the child have been terminated in accordance with state law; or
- The rights of the parent to make educational decisions have been substituted by a judge in accordance with state law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child.

If the parent fails to respond or does not provide consent for an initial evaluation:

- The LEA may, but it is not required to, pursue the initial evaluation of the child by utilizing the [Procedural Safeguards](#) (including the mediation or the due process procedures) in order to obtain agreement or a ruling that the evaluation may be conducted;
- The LEA does not violate its [Child Find](#) and [Full and Individual Evaluation](#) obligations if it declines to pursue the evaluation.

If the parent of a child who is homeschooled or placed in a private school at parent expense does not provide consent for the initial evaluation, the LEA must comply with the [Private Schools](#) section of this document.

### **LEA Specific Information:**

District personnel seeking consent for an activity must ensure that the parent is properly informed concerning the activity for which consent is sought .

The Director of Special Education or evaluation personnel will make multiple attempts to obtain parental consent and will document the outcomes of those attempts. This information will part of the referral packet.

Consent for initial evaluation is not consent for provision of initial services.

### **Consent for Services**

#### **Elements of Consent**

*20 USC §1414(a)(1)(D), 1414(a)(1)(D)(i)(II), 34 CFR part 300.300(b)(1), 300.300(b)(2), 300.300(d)(5), 300.322(d), 300.9(a), 300.9(b), 300.9(c)(1), 300.9(c)(2)*

The LEA must make reasonable efforts to obtain informed consent.

The LEA must obtain informed consent from the [Parent](#) before initially providing special education and related services to the child, which means:

- The parent has been fully informed of all information relevant to the initial provision of special education and related services in his or her native language or other mode of communication;
- The consent describes the initial provision of special education and related services;
- The consent lists the records (if any) that will be released and to whom;
- The parent understands and agrees in writing to the LEA carrying out the initial provision of special education and related services;
- The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at anytime; and
- The parent understands that if the parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).

### **When Consent is not Obtained, Despite Reasonable Efforts**



*20 USC §1414(a)(1)(D)(ii)(II), 1414(a)(1)(D)(ii)(III), 34 CFR part 300.300(b)(3), 300.300(b)(4), 300.300(b)(4)(i), 300.300(b)(4)(ii)*

If the parent refuses to respond to a request to provide consent or refuses to consent to the receipt of special education and related services, the LEA:

- May not use the [Procedural Safeguards](#) (including the mediation or the due process procedures) in order to obtain agreement or a ruling that services may be provided to the child;
- Will not be considered to be in violation of the requirement to make available a free appropriate public education (FAPE) to the child for the failure to provide the child with the special education and related services for which the LEA requests consent; and
- Is not required to convene an admission, review, and dismissal (ARD) committee or develop an individualized education program (IEP) for the child for the special education and related services for which the LEA requests such consent.

### **When Consent for Services is Revoked**

*34 CFR Part 300.300*

The Department of Education has issued final regulations that will give parents of students with disabilities the right to pull their children out of special education programs unilaterally. The school will be obligated to grant the parent's request, as long as the request is put in writing.

The regulations do not call for the student to be abruptly dropped from your special education program upon parent request. The school must first prepare and provide to the parents a "prior written notice," outlining the services that will no longer be provided. Then, after a reasonable period of time, special education services are to be discontinued.

At this point, the student is considered to be a general education student. The student will not be entitled to FAPE, an IEP or any special education services. The student will not be entitled to any of the special disciplinary procedures available under IDEA. The district will not be considered to be in violations of the providing FAPE to the child because of the failure to provide the child with further special education and related services after written revocation by the parent.

### **LEA Specific Information:**

Consent for initial provision of special education services will be requested during the initial ARD committee meeting at which the ARD committee determines that a child is eligible for special education and related services.

If consent for initial provision of services is not provided by the parent, the District will provide prior written notice to the parent outlining the elements of the IEP for which their child qualifies, as well as the proposed

placement, and any other factors relevant to the District's offer of a free appropriate public education to the child, including confirming the District's willingness to provide those services upon the parent's consent.

The District will require any parent seeking to revoke consent for special education and related services to put the revocation into writing.

Within five school days of receipt of the parent's written statement revoking consent for special education services, the Special Education Office will prepare and submit to the parent prior written notice outlining the special education services that will be discontinued based upon the parent's revocation of consent for special education services. The notice will state that these services will be discontinued five school days following the parent's receipt of the prior written notice.

## Consent for Reevaluation

### Actions that do not Constitute Evaluation

*20 USC §1414(a)(1)(E), 1414(c)(1), 34 CFR part 300.302, 300.300(d)(1), 300.300(d)(1)(i), 300.300(d)(1)(ii)*

The following actions do not constitute evaluation:

- Screening to determine strategies for curriculum implementation;
- Conducting a [Review of Existing Evaluation Data](#) as a part of an initial evaluation or a reevaluation; and
- Administering a test or other evaluation that is administered to all children.

### Elements of Consent

*20 USC §1414(c)(3), 34 CFR part 300.9(a), 300.9(b), 300.9(c)(1), 300.9(c)(2), 300.300(a)(1)(iii), 300.300(c)(1)(i), 300.300(d)(5), 300.322(d)*

The LEA must make reasonable efforts to obtain informed consent.

The LEA must obtain informed consent from the [Parent](#) prior to conducting any reevaluation of a child with a disability, which means:

- The parent has been fully informed of all information relevant to the reevaluation in his or her native language or other mode of communication;
- The consent describes the reevaluation;
- The consent lists the records (if any) that will be released and to whom;
- The parent understands and agrees in writing to the LEA carrying out the reevaluation;

- The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at anytime; and
- The parent understands that if the parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).

### **When Consent is not Obtained, Despite Reasonable Efforts**

*20 USC §1414(a)(1)(D)(ii)(III), 1414(c)(3), 34 CFR part 300.300(a)(3), 300.300(c)(1)(ii), 300.300(c)(1)(iii), 300.300(c)(2), 300.300(c)(2)(i), 300.300(c)(2)(ii), 300.300(d)(5), 300.322(d)*

Parental consent need not be obtained if the LEA can demonstrate:

- The LEA has taken reasonable measures to obtain such consent; and
- The parent failed to respond.

If the parent refuses to consent to the reevaluation:

- The LEA may, but is not required to, pursue the reevaluation by using the Procedural Safeguards (including the mediation or due process procedures) in order to obtain agreement or a ruling that the evaluation may be conducted; and
- The LEA does not violate its obligation under Child Find and Full and Individual Evaluation if it declines to pursue the reevaluation.

### **LEA Specific Information:**

Parental consent for reevaluation will be requested the District's evaluation personnel.

The District's attempts to obtain consent will be documented including the results of the attempts.

The evaluation person responsible for the evaluation will maintain a record of attempts.

If a parent fails to respond after multiple attempts, an ARD committee meeting will be conducted to review to consider whether the ARD committee believes alternatives to the proposed action are necessary in order to offer the student a free appropriate public education.

*LSSP's and psychologists must have consent before they evaluate.*

The ARD committee will determine whether other qualified evaluation personnel may conduct the evaluation without parental consent.

### **Parent Refusal**

If the parent refuses to provide consent, the ARD committee will convene to determine continued eligibility based on existing data. If this cannot be determined and parent continues to refuse consent, then the ARD committee may consider student's dismissal from special education.

### **Consent to Excuse Member from Attending ARD Committee Meeting**

*34 CFR part 300.9, 300.9(a), 300.9(b), 300.9(c)(1), 300.9(c)(2), 300.321(e)(2)(i), 19 Texas Administrative Code (TAC) §89.1050(c)(5)*

The local educational agency (LEA) must comply with [Prior Written Notice](#).

The LEA must comply with the [Parent](#) and [Adult Student](#) sections of this document, as appropriate.

When [ARD Committee Membership](#) specifies that consent must be obtained from the [Parent](#) before excusing a member from attending an admission, review, and dismissal (ARD) meeting (in whole or in part), consent means:

- The parent has been fully informed of all information relevant to the excusal of the member from attending the ARD meeting in his or her native language or other mode of communication;
- The parent understands and agrees in writing to the LEA excusing the ARD member from attending the ARD meeting (in whole or in part);
- The consent describes the excusal of the member from attending the ARD meeting;
- The consent lists the records (if any) that will be released, and to whom;
- The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at anytime; and
- The parent understands that if the parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).

### **Consent to Access Public Benefits**

#### **Federal and State Requirements**

*20 USC §1412(a)(12)(B)(i), 1412(e), 34 CFR part 300.154(d)*

The local educational agency (LEA) must comply with the [Parent](#) and [Adult Student](#) sections of this document, as appropriate.

The LEA may use the Medicaid or other public benefits or insurance programs in which a child participates to provide or pay for services required under the Individuals with Disabilities Education Act (IDEA), as permitted under the public benefits or insurance program, except as provided below.

### Elements of Consent

*20 USC §1412(a)12(B)(i), 1412(e), 34 CFR part 300.154(d)(2)(i), 300.154(d)(2)(ii), 300.154(d)(2)(iii)(A), 300.154(d)(2)(iii)(B), 300.154(d)(2)(iii)(C), 300.154(d)(2)(iii)(D), 300.154(d)(2)(iv)(A), 300.154(d)(2)(iv)(B), 300.9(a), 300.9(b), 300.9(c)(1), 300.9(c)(2), [Office of Special Education Programs Letter to State Directors of Special Education \(May 3, 2007\)](#)*

The LEA must obtain informed consent from the Parent each time that access to public benefits or an insurance program is sought.

The “informed consent” that the LEA must obtain to access public benefits means:

- The parent has been fully informed of all information relevant to the LEA's use of public benefits or insurance in his or her native language or other mode of communication, including that:
  - The LEA may not require parents to sign up for or enroll in public benefits or insurance programs in order for their child to receive a free appropriate public education (FAPE);
  - The LEA may not require parents to incur an out-of-pocket expense such as the payment of a deductible or co-pay amount incurred in filing a claim;
  - The LEA may not use a child's benefits under a public benefits or insurance program if that use would decrease available lifetime coverage or any other insured benefit;
  - The LEA may not use a child's benefits under a public benefits or insurance program if that use would result in the family paying for services that would otherwise be covered by the public benefits or insurance program and that are required for the child outside of the time the child is in school;
  - The LEA may not use a child's benefits under a public benefits or insurance program if that use would increase premiums or lead to the discontinuation of benefits or insurance; and
  - The LEA may not use a child's benefits under a public benefits or insurance program if that use would risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures;
- The parent is informed that the parents' refusal to allow access to public benefits or an insurance program in which the child participates does not relieve the LEA of its responsibility to ensure that all required services are provided at no cost to the parents;

- The consent describes the activity of the LEA accessing public benefits or an insurance program;
- The consent lists the records (if any) that will be released and to whom;
- The parent understands and agrees in writing to the LEA accessing the public benefits or insurance program in which the child participates;
- The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time; and
- The parent understands that if the parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).

The LEA must comply with the Use of Idea Part B Formula Amounts in General.

### LEA Specific Information:

The SHAR's billing agent will obtain informed consent from parents.

### **Consent to Access Private Insurance**

#### **Elements of Consent**

*34 CFR part 300.9(a), 300.9(b), 300.9(c)(1), 300.9(c)(2), 300.154(e)(1), 300.154(e)(2)(i), 300.154(e)(2)(ii)*

The LEA must obtain informed consent from the Parent each time the LEA proposes to access the parents' private insurance proceeds.

The "informed consent" that the LEA must obtain to access private insurance means:

- The parent has been fully informed of all information relevant to the LEA accessing the parent's private insurance in his or her native language or other mode of communication;
- The parent is informed that the parent's refusal to permit the LEA to access their private insurance does not relieve the LEA of its responsibility to ensure that all required services are provided at no cost to the parents;
- The consent describes the activity of the LEA accessing the parent's private insurance;
- The consent lists the records (if any) that will be released and to whom;
- The parent understands and agrees in writing to the LEA carrying out accessing the parent's private insurance;

- The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time; and
- The parent understands that if the parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).

The LEA must comply with the Use of Idea Part B Formula Amounts in General.

### LEA Specific Information:

The District will obtain informed consent from the parent one time before it accesses public benefits for the first time.

This consent must specify (a) the personally identifiable information that may be disclosed (e.g. records or information about the services that may be provided to a particular child); (b) the purpose of the disclosure (e.g. billing for services); and (c) the agency to which the disclosure may be made (e.g. Medicaid). The consent also must specify that the parent understands and agrees that the public agency may access the child's or parent's public benefits or insurance to pay for services.

The District will provide **written notification** to the child's parents *before* accessing the child's or the parent's public benefits or insurance for the first time and prior to obtaining the one-time parental consent and annually thereafter. The written notification must explain all of the protections available to parents under Part B, as described in 34 CFR §300.154(d)(2)(v) to ensure that parents are fully informed of their rights before a public agency can access their or their child's public benefits or insurance to pay for services under the IDEA. The notice must be written in language understandable to the general public and in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

## Consent to Transfer Assistive Technology Devices

### Federal and State Requirements

*34 CFR part 300.9(a), 300.9(b), 300.9(c)(1), 300.9(c)(2), 19 TAC §89.1056(b), Texas Education Code (TEC) §30.0015(a)(3), 30.0015(b), 30.0015(b)(1), 30.0015(b)(2), 30.0015(b)(3), 30.0015(c)(3)*

The local educational agency (LEA) must comply with the Parent and Adult Student sections of this document, as appropriate.

"Transfer" means the process by which the LEA that has purchased an assistive technology device may sell, lease, or loan the device for the continuing use of a student with a disability who is changing the school of attendance in the LEA or leaving the LEA.

The assistive technology device may be transferred to:

- The school or LEA in which the student enrolls;
- A state agency, including the Texas Rehabilitation Commission and the Texas Department of Mental Health and Mental Retardation, that provides services to the student following the student's graduation from high school; or
- The student's parents, or the student if the student has the legal capacity to enter into a contract.

Before transferring an assistive technology device, the LEA must, through a [Uniform Transfer Agreement](#) that incorporates the standards of the state, obtain informed consent from the [Parent](#) which means:

- The parent has been fully informed of all information relevant to the transfer of the assistive technology device in his or her native language or other mode of communication;
- The parent understands and agrees in writing to the LEA carrying out the transfer of the assistive technology device;
- The consent describes the transfer of the assistive technology device;
- The consent lists the records (if any) that will be released and to whom;
- The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at anytime; and
- The parent understands that if the parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).

#### **When Consent is not Obtained, Despite Reasonable Efforts**

*34 CFR part 300.300(c)(2), 300.300(d)(5), 300.322(d), 19 TAC §89.1056(b)(2)*

Parental consent need not be obtained if the LEA can demonstrate:

- The LEA has taken reasonable measures to obtain that consent; and
- The parent failed to respond.

#### **Consent for Disclosure of Confidential Information**

##### **When Prior Consent is Required to Disclose Information**

*20 USC §1417(c), 34 CFR part 99.3, 300.321(b)(3), 300.622(a), 300.622(b)(2), 300.622(b)(3)*



"Disclosure" means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records to any party, by any means, including oral, written, or electronic means.

The LEA must obtain informed consent from the Parent before personally identifiable information is disclosed to parties except When Consent is Not Required to Disclose Information, including:

- To officials of agencies providing or paying for transition services; and
- If a child is enrolled, or is going to enroll in a private school that is not located in the LEA of the parent's residence, between LEA officials where the private school is located and LEA officials of the parent's residence.

### Elements of Consent

*34 CFR part 99.30(a), 99.30(b)(1), 99.30(b)(2), 99.30(b)(3), 99.30(d), 300.9, 300.9(a), 300.9(b), 300.9(c)(1), 300.9(c)(2)*

Parental consent means:

- The parent has been fully informed of all information relevant to the disclosure of confidential information in his or her native language or other mode of communication, including by:
  - Specifying the records that may be disclosed;
  - Stating the purpose of the disclosure; and
  - Identifying the party or class of parties to whom the disclosure may be made;
- The parent understands and agrees in writing to the LEA disclosing the confidential information;
- The consent is signed and dated;
- The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at anytime; and
- The parent understands that if the parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).

### Transfer Students

#### Transmittal of Records (TREx)

*20 United States Code (USC) §1414(d)(2)(C)(ii), 1414(d)(2)(C)(ii)(I), 34 Code of Federal Regulations (CFR) part 99.31(a)(2), 99.34, 300.323(g), 300.323(g)(1), 300.323(g)(2), Texas Education Code (TEC) §25.002*

To facilitate the transition for a child with a disability:

- The new LEA in which the child enrolls must take reasonable steps to promptly obtain the child's record from the previous LEA in which the child was enrolled, including:
  - The individualized education program (IEP) and supporting documents; and
  - Any other records relating to the provision of special education or related services to the child;
- The previous LEA in which the child was enrolled must take reasonable steps to promptly respond to such request from the new LEA.

The Texas Record Exchange System (TREx) was created for the transmittal of records. Within 10 school days of the receipt of a record request, the sending district must send the most recent ARD documentation via TREx and all additional special education documentation may be sent via postal service. However, all special education records must be sent within the 10-day timeframe.

Enrollment in a new school district constitutes consent to send records with NO separate signature required under FERPA.

#### **When an Evaluation is Pending**

*20 USC §1414(a)(1)(C)(ii), 1414(b)(3)(D), 34 CFR part 300.301(d), 300.301(e), 300.301(d)(2), 300.304(c)(5)*

Assessments of children with disabilities who transfer from one LEA to another LEA in the same academic year must be coordinated, as necessary and as expeditiously as possible, to ensure prompt completion of full evaluations.

The 45 school day [Evaluation Procedures](#) timeframe for initial evaluations does not apply if:

- A child enrolls in a school served by the LEA after the timeframe has begun and prior to a determination by the child's previous LEA as to whether the child is a child with a disability;
- The parent and LEA agree to a specific time when the evaluation will be completed; and
- The LEA is making sufficient progress to ensure a prompt completion of the evaluation.

#### **LEA Specific Information:**

When an initial evaluation is pending for a student who is transferring into District, the diagnostician will contact the previous LEA to obtain any information that has been obtained by the previous LEA for the purpose of this evaluation.

The assessment coordinator will provide notice of assessment and seek consent for evaluation from the parent, consistent with the Consent and Evaluation Sections.

The parent and the District may agree to a specific time when the evaluation will be completed so long as:

- The parent and the District agree to a specific time when the evaluation will be completed that does not exceed the 45th school day following the date on which the District received the parent's consent for evaluation; and
- The District is making sufficient progress toward the evaluation to ensure that a prompt completion of the evaluation

### **IEP for a Child with a Disability who Transfers Within the State**

*20 USC §1414(d)(2)(C)(i)(I), 34 CFR part 300.323(e)*

The LEA must verify that the child with a disability:

- Transferred LEAs within the same academic year; and
- Had an IEP in effect.

The LEA must provide such child with a free appropriate public education (FAPE):

- Including services comparable to those described in the previously held IEP;
- In consultation with the parents; and
- Until such time as the LEA:
  - Adopts the previously held IEP; or
  - Develops, adopts, and implements a new IEP that is consistent with the [ARD Committee](#) portions of this document.

### **LEA Specific Information:**

When students transfer to the District, the campus of enrollment will immediately notify the Special Education Office of any students reported by their parents to be eligible for special education in their previous school district.

The Special Education Office will then promptly attempt to verify whether the student was eligible for special education in the previous public school by telephone and, if necessary, in writing. Such attempts should occur as promptly as possible, but within *ten* school days of the student's enrollment.

The Special Education Office will then request the child's records, including the IEP and supporting documents and any records related to the provision of special education and related services.

Upon verification of the special education and related services provided by the previous school district, the Director of Special Education will then consult with the student's parent and the campus principal to provide services comparable to those described in the child's IEP from the previous public school district.

District will continue to provide services comparable to those described in the provided to the student under the IEP from in the previous public school.

The District will convene a meeting of the student's ARD committee within 30 school days from the District's verification that the student is eligible for special education services. The purpose of the ARD committee meeting will be to adopt the IEP from the previous public school or otherwise develop, adopt and implement a new IEP for the student.

### **IEP for a Child with a Disability who Transfers from Outside the State**

*20 USC §1414(d)(2)(C)(i)(II), 34 CFR part 300.323(f), 300.323(f)(1), 300.323(f)(2)*

The LEA must verify that the child with a disability:

- Transferred LEAs within the same academic year; and
- Had an IEP that was in effect in another state.

The LEA must provide such child with a free appropriate public education (FAPE):

- Including services comparable to those described in the previously held IEP;
- In consultation with the parents;
- Until such time as the LEA:
  - Conducts an evaluation pursuant to [Evaluation Procedures](#), if determined to be necessary by the LEA; and
  - Develops a new IEP, if appropriate, that is consistent with [ARD Committee](#) requirements

### **LEA Specific Information:**

When students transfer to the District, the campus of enrollment will immediately notify the Special Education Office of any students reported by their parents to be eligible for special education in their previous school district.

The Special Education Office will then promptly attempt to verify whether the student was eligible for special education in the previous public school by telephone and, if necessary, in writing. Such attempts should occur as promptly as possible, but within *ten* school days of the student's enrollment.

The Special Education Office will then request the child's records, including the IEP and supporting documents and any records related to the provision of special education and related services.

Upon verification of the special education and related services provided by the previous school district, the Director of Special Education will then consult with the student's parent and the campus principal to provide services comparable to those described in the child's IEP from the previous public school district.

District will continue to provide services comparable to those described in the provided to the student under the IEP from the previous public school.

The educational diagnostician will review all available information concerning the student to consider whether there is sufficient information to determine the student is eligible for special education in Texas.

If there is not sufficient information to determine eligibility for special education, or if there are concerns related to the sufficiency of the information, the District will propose to an evaluation of the student consistent with the initial evaluation section, except that the timeline for completion of the evaluation and any required reports shall permit completion of the evaluation in time for review by the ARD committee 30 school days from the District's verification that the student is eligible for special education services.

The purpose of the ARD committee meeting will be to consider the student's eligibility for special education and related services according to Texas criteria and, if appropriate, develop, adopt and implement a new IEP for the student.

## **Incarcerated Students**

### **Limitations to FAPE**

*20 United States Code (USC) §1412(a)(1)(A), 1412(a)(1)(B)(ii), 1412(a)(1)(B)(ii)(I), 1412(a)(1)(B)(ii)(II), 34 CFR part 300.8, 300.101(a), 300.102(a)(2)(i), 300.102(a)(2)(i)(A), 300.102(a)(2)(i)(B), 300.102(a)(2)(ii)(A), 300.102(a)(2)(ii)(B)*

The obligation to make a free appropriate public education (FAPE) available to all children with disabilities does not apply to children aged 18 through 21 whom, in the last educational placement prior to incarceration in an adult correctional facility:

- Were not actually identified as being a child with a disability; and
- Did not have an individualized education program (IEP) as defined in the [Rule of Construction](#).

The obligation to make a FAPE available to children with disabilities aged 18 through 21 does apply to children who:

- Had been identified as a child with a disability and had received services in accordance with an IEP, but who left school prior to their incarceration; or
- Did not have an IEP in their last educational setting, but who had actually been identified as a child with a disability.

### **Children in Adult Prisons**

*20 USC §1412(a)(5)(A), 1414(d)(1)(A), 1414(d)(7)(A)(i), 1414(d)(7)(A)(ii), 1414(d)(7)(B), 34 Code of Federal Regulations (CFR) part 300.324(d)(1), 300.324(d)(1)(i), 300.324(d)(1)(ii), 300.324(d)(2)*

For children with disabilities who are convicted as adults and incarcerated in adult prisons:

- The requirements of [State and District-wide Assessments](#) do not apply;
- The requirements of [Transition Services](#) do not apply if the student will be released from prison after he or she is no longer age eligible under the Individuals with Disabilities Education Act (IDEA) based on consideration of:
  - The sentence; and
  - Eligibility for early release; and
- If the state has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated, the student's admission, review and dismissal (ARD) committee may modify the child's IEP or placement notwithstanding the least restrictive environment (LRE) and IEP content requirements of the IDEA.

### **Transfer of Parental Rights**

*20 USC §1415(m)(1), 1415(m)(1)(D), 34 CFR part 300.520(a)(2)*

All rights accorded to parents under the Individuals with Disabilities Education Act (IDEA), including the right to receive notice, transfer to students who are incarcerated and have reached the age of majority under State law. This applies to all children (except for a child with a disability who has been determined to be incompetent under State law) in an adult or juvenile Federal, state, or local correctional institution.

Notice of the transfer of parental rights to the incarcerated student must be given to the parent and the incarcerated student (which need not contain the elements of [Prior Written Notice](#)).

### **Private Schools**

## **Child Find in Private Schools**

*20 United States Code (USC) §1412(a)(10)(A)(i)(II), 1412(a)(10)(A)(i)(V), 1412(a)(10)(A)(ii)(IV)*

To determine the number of parentally placed children with disabilities attending private schools located in the LEA, the LEA must:

- Timely and meaningfully consult with representatives of private schools; and
- Conduct a thorough and complete [Child Find](#) process.

Each LEA must maintain in its records and provide to the Texas Education Agency (TEA):

- The number of children evaluated; and
- The number of children determined to be children with disabilities.

The cost of carrying out [Child Find](#), including evaluation, may not come out of the proportionate amount of funds required to be spent on services to children with disabilities who are placed by their parents in private schools.

### **LEA Specific Information:**

The Director of Special Education will maintain a written list of private schools in the District's boundaries as well as students who are eligible for special education, but who attend a home school program within the District's boundaries. This list will be updated by the Director of Special Education at least annually. Before the beginning of a school year, the Director of Special Education will meet with the Private School Representatives, and parents of students served through a home school program to consult with them concerning the child find process, proportionate share of funds, consultation processes, and the provision of special education and related services. The Director of Special Education will obtain written affirmation signed by the Private School Representatives and parents concerning the consultation

The Child Find process will be completed for any student suspected of having a disability by the District. The Director of Special Education will be responsible for maintaining the records of the number of students evaluated and those determined to be students with disabilities.

### **Applicability**

*20 USC §1412(a)(10)(A)(i), 1401(6), 1401(27)*

This section concerns children with disabilities who are enrolled by their parents in private elementary schools and secondary schools:

- The term "elementary school" means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under state law; and
- The term "secondary school" means a nonprofit institutional day or residential school, including a public secondary charter school that provides secondary education, as determined under state law, except that it does not include any education beyond grade 12.

Except for dual enrollment, the LEA where the private elementary or secondary school is located is responsible for carrying out the activities described in this document.

### **Amounts to be Expended for Services (Proportionate Amount of IDEA Part B Funds)**

*20 USC §1412(a)(10)(A)(i)(I), 1412(a)(10)(A)(i)(IV), 1412(a)(10)(A)(vii)*

Amounts to be expended for the provision of services must be equal to a proportionate amount of IDEA Part B federal funds.

The LEA must control and administer for the purposes provided in this document:

- The funds used to provide special education and related services; and
- The title to materials, equipment, and property purchased with those funds.

State and local funds may supplement but not supplant the proportionate amount of funds.

### **LEA Specific Information:**

If a private school student is identified as eligible for SPED during the current school year and if no other private school student has been identified in the previous school year, the private school student will be considered for proportionate share services for the upcoming year.

The District will determine if is appropriate.

Proportionate share funds are not provided to the private school. These funds can be used for consultation services, other services identified by the District, and can be used to purchase equipment by the District for the private school student. Such equipment is not owned by the private school and cannot be used for any other student who has not been identified for proportionate share services.

### **Services to be Provided (With the Proportionate Amount of Funds)**

*20 USC §1412(a)(10)(A)(i), 1412(a)(10)(A)(i)(I), 1412(a)(10)(A)(i)(III), 1412(a)(10)(A)(i)(V), 1412(a)(10)(A)(vi)(I), 1412(a)(10)(A)(vi)(II)*



Special education and related services must be provided in accordance with this document.

Services may be direct to parentally placed private school children.

Services may be provided:

- On the premises of private, including religious, schools, to the extent consistent with law;
- Directly by employees of a public agency; or
- Through contract by the public agency with an individual, association, agency, organization, or other entity.

Services, including materials and equipment, must be secular, neutral, and nonideological.

Each LEA must maintain in its records and provide to the TEA:

- The number of children served under this document.

#### **LEA Specific Information:**

The Director of Special Education will be responsible for maintaining records of the number of students served.

#### **Consultation**

*20 USC §1412(a)(10)(A)(iii), 1412(a)(10)(A)(iii)(I), 1412(a)(10)(A)(iii)(II), 1412(a)(10)(A)(iii)(III), 1412(a)(10)(A)(iii)(IV), 1412(a)(10)(A)(iii)(V)*

Consultation must occur during the design and development of special education and related services for parentally placed private school children.

The LEA must consult with private school representatives and representatives of parents of parentally placed private school children with disabilities, including regarding:

- The child find process and how parentally placed private school children suspected of having a disability can participate equitably;
- How parents, teachers, and private school officials will be informed of the process;
- The determination of the proportionate amount of federal funds available to serve parentally placed private school children with disabilities under this document;
- The determination of how the amount was calculated;

- The consultation process among the LEA, private school officials, and representatives of parents of parentally placed private school children with disabilities;
- How the consultation process will operate throughout the school year to ensure that parentally placed private school children with disabilities identified through the child find process can meaningfully participate in special education and related services;
- How, where, and by whom special education and related services will be provided for parentally placed private school children with disabilities;
- A discussion of types of services, including direct services and alternate service delivery mechanisms, how such services will be apportioned if funds are insufficient to serve all children, and how and when these decisions will be made; and
- How, if the LEA disagrees with the views of the private school officials on the provision of services or the types of services, whether provided directly or through a contract, the LEA must provide to the private school officials a written explanation of the reasons why the LEA chose not to provide services directly or through a contract.

### **LEA Specific Information:**

The Director of Special Education will be responsible for ensuring that meaningful consultations with private schools occur and will keep documentation of consultations.

Consultations will occur at least once a year and as needed throughout the process of Child Find and provision of proportionate share services.

### **Written Affirmation**

*20 USC §1412(a)(10)(A)(iv)*

When timely and meaningful consultation has occurred, the LEA must:

- Obtain a written affirmation signed by the representatives of participating private schools; or
- If such representatives do not provide written affirmation within a reasonable period of time, forward the documentation of the consultation process to the TEA.

### **Right of the Private School Official to Complain**

*20 USC §1412(a)(10)(A)(v)(I), 1412(a)(10)(A)(v)(II)*

A private school official has the right to submit a complaint to the TEA that the LEA did not:

- Engage in consultation that was meaningful and timely; or
- Give due consideration to the views of the private school official.

The complaining private school official must provide the basis of the noncompliance to the TEA.

The LEA must forward the appropriate documentation to the TEA.

If the private school official is dissatisfied with the decision of the TEA:

- The official may submit a complaint to the U.S. Secretary of Education by providing the basis of the noncompliance to the Secretary; and
- In the event of a complaint to the Secretary, the TEA must forward the appropriate documentation to the Secretary.

### **Dual Enrollment**

*19 Texas Administrative Code (TAC) §89.1096(c), 89.1096(c)(1), 89.1096(c)(2), 89.1096(d), 89.1096(e)*

Dual enrollment is when a parent of a child with a disability enrolls the child in both the public and private school.

To dually enroll, the child must meet the age requirements:

- Begins on the child's third birthday;
- Continues until whichever comes first:
  - The end of the school year in which the child turns five; or
  - When the child is eligible to attend the LEA's kindergarten program.

The LEA must comply with the [ARD Committee](#) information in this document.

From the individualized education program (IEP), the parent and the LEA must determine:

- Based on the requirements concerning placement in the [Least Restrictive Environment](#), and the policies and procedures of the LEA:
  - Which special education and/or related services will be provided to the child; and
  - The location where those services will be provided.

The LEA must provide special transportation with federal funds only when the [ARD Committee](#) determines that the condition of the child warrants the service in order for the child to receive the special education and related services (if any) set forth in the IEP.

Complaints regarding the implementation of the components of the child's IEP that have been selected by the parent and the LEA may be filed with the TEA.

The procedures relating to due process hearings do not apply to complaints regarding the implementation of the components of the child's IEP that have been selected by the parent and the LEA.

### LEA Specific Information:

The District will provide transportation, with federal funds, for a child determined eligible for related service transportation by the student's ARD committee.

## Discipline

### Authority of School Personnel

#### Authority to Remove for Less than 10 Consecutive School Days

*20 United States Code (USC) §1415(k)(1)(B), 34 Code of Federal Regulations (CFR) part 300.530(b)(1)*

School personnel may remove a child with a disability who violates a student code of conduct from his or her current placement to an appropriate interim alternative educational setting (IAES), another setting, or suspension, for not more than 10 consecutive school days to the extent those alternatives are applied to children without disabilities.

School personnel may remove a child with a disability who violates a student code of conduct from his or her current placement for 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 Change of Placement.

#### Authority to Remove for More than 10 Consecutive School Days

*20 USC §1415(k)(1)(C), 1415(k)(1)(D), 1415(k)(1)(G), 1415(k)(1)(H), 34 CFR part 300.530(c), 300.530(d), 300.530(g), 300.530(h)*

School personnel may apply the relevant disciplinary procedures that would be applied to children without disabilities in the same manner and for the same duration as the procedures that would be applied to children without disabilities, if:

- In the Manifestation Determination review, the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child's disability;
- Notification of a Change of Placement is given; and
- Services During Periods of Removal are provided.

School personnel may remove a student to an IAES without regard to whether the behavior is determined to be a manifestation of the child's disability, if:

- There are [Special Circumstances](#); and
- The removal is for not more than 45 school days.

### **LEA Specific Information:**

All students, regardless of disability, are subject to the Crystal City ISD Student Code of Conduct. School personnel must consider any unique circumstances on a case-by-case basis when determining whether a disciplinary assignment is appropriate for a child with a disability who violates the Student Code of Conduct.

On an individual basis, and only as determined by a student's ARD committee, the Student Code of Conduct may be supplemented by a student's behavior intervention plan.

A campus principal or other appropriate administrator may suspend a student who violates the Crystal City Student Code of Conduct. A suspension may not exceed three school days.

A campus principal or other appropriate administrator may also assign other consequences as permitted by the Student Code of Conduct; however, should a disciplinary assignment result in a "Change of Placement," as described in the *Change of Placement* Section, a manifestation determination review ("MDR") must be conducted by a student's ARD committee prior to implementing the disciplinary assignment.

Notice of a proposed change of placement and procedural safeguards will be given to the parents by the campus administrator no later than the date the disciplinary decision is made.

If a MDR is required due to a Change of Placement, the disciplinary assignment will only occur if the student's ARD committee determines that the conduct is not a manifestation of a student's disability, as described in the *Manifestation Determination* Section, or if a student's conduct is among those types of conduct identified in the *Special Circumstances* Section.

Even if a student's conduct is among those types of conduct identified in the Special Circumstances Section, the District must conduct a MDR.

If a child commits an offense that is among those identified under the *Special Circumstances* Section, the campus administrator may remove a student from the instructional setting for up to 45 school days even if the conduct is determined to be a manifestation of the student's disability. If the conduct is determined not to be a manifestation of the student's disability, the campus administrator may apply the same disciplinary procedures (including the same manner and same duration) to children with disabilities as the procedures that would be applied to children without disabilities, except that the ARD committee must determine: .

- The services the student will receive to enable the student to continue to make progress in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and
- The Interim Alternative Education Setting, based student's IEP.

Campus Administrators will track disciplinary referrals on a weekly basis and consider whether a student's behavior is such that it requires a meeting of the student's ARD committee to review or revise the student's Functional Behavior Assessment (FBA) and/or Behavior Intervention Plan (BIP). Likewise, classroom teachers may request an ARD committee meeting to discuss a student's behavior, FBA, or BIP. Each of the student's teachers must be provided with a copy of the student's BIP.

## Change of Placement

### Federal and State Requirements

*20 USC §1415(k)(1)(A), 34 CFR part 300.530(a), 300.536(a)(1), 300.536(a)(2)*

School personnel must consider any unique circumstances on a case-by-case basis when determining whether a change in placement is appropriate for a child with a disability who violates a student code of conduct.

A change of placement occurs if:

- The removal is for more than 10 consecutive school days; or
- The child has been subjected to a series of removals that constitute a pattern.

### Pattern

*34 CFR part 300.536(a)(2), 300.536(a)(2)(i), 300.536(a)(2)(ii), 300.536(a)(2)(iii)*

The child has been subjected to a series of removals that constitute a pattern when:

- The series of removals total more than 10 school days in a school year;
- The child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and
- Additional factors to be considered are:
  - The length of each removal;
  - The total amount of time the child has been removed; and
  - The proximity of the removals to one another.

## Decision

*34 CFR part 300.536(b)(1), 300.536(b)(2)*

The local educational agency's (LEA's) determination is subject to review through due process and judicial proceedings.

The LEA determines, on a case-by-case basis, whether a pattern of removals constitutes a change of placement.

## Notification

*20 USC §1415(k)(1)(E), 1415(k)(1)(H), 34 CFR part 300.530(e), 300.530(h), 300.536*

On the date on which the decision is made to make a removal that constitutes a change of placement, the LEA must:

- Notify the parents of that decision; and
- Provide the parents the [Procedural Safeguards](#) notice.

A [Manifestation Determination](#) must be made within 10 school days of any decision to make a change of placement of a child with a disability because of a violation of a student code of conduct.

The LEA must comply with the [Services During Periods of Removal](#).

## [LEA Specific Information:](#)

The campus administrator will determine whether a disciplinary removal will result in a Change of Placement. If any of the following occur during a school day, that day will be counted by the campus administrator as one full day of removal:

- partial or full day assignment to In-School Suspension ("ISS");
- partial or full day assignment to Out-of School Suspension;
- sitting in an administrator's office , for disciplinary reasons for longer than a class period;
- partial or full day assignment to the DAEP; and
- any disciplinary assignment that results in a student missing or being denied a related service required by that student's IEP, including a bus suspension.

For student removed for more than ten days cumulatively during a school year, the campus administrator will determine whether a pattern of removals has occurred based upon consideration of the following:

- whether the student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals, and
- the total amount of time the student has been removed and the proximity of the removals to one another.

Examples of substantially similar conduct may include:

- Rude and profane language/gestures towards other students and teachers/staff, threats made against students and/or staff.
- Scuffles, fights, and assaults.

If a student is subjected to more than ten days of removals during a semester or any three-month period, then proximity has been established.

Should the campus administrator recommend that a student be assigned to a disciplinary alternative education placement (DAEP) or recommend that the student should be expelled for a violation of the Student Code of Conduct, the campus administrator will convene a DAEP Conference or Expulsion Hearing as appropriate, to consider the alleged violation of the code of conduct to determine whether there is sufficient reason to determine the student engaged in the alleged misconduct.

If the DAEP Conference or Expulsion Hearing results in a Change of Placement due to disciplinary assignment in excess of ten consecutive days, or if this disciplinary assignment will result in a Change of Placement when considered with the other days of removal during that school year, the campus administrator will notify the Diagnostician of this Change of Placement and provide a written copy of the Disciplinary Placement Order that is the basis of the Change of Placement.

The Diagnostician will schedule the ARD committee meeting to conduct a Manifestation Determination Review, as required by the Manifestation Determination Review Section.

## **Manifestation Determination**

### **Federal and State Requirements**

*20 USC §1415(k)(1)(E), 34 CFR part 300.530(e)(1)*

A manifestation determination must be made within 10 school days of any decision to make a [Change of Placement](#) of a child with a disability because of a violation of a student code of conduct.

### **Membership and Meeting**

*20 USC §1415(k)(1)(E)(i), 34 CFR part 300.530(e)(1), Texas Education Code (TEC) §37.004(b)(4)*

The manifestation determination must be made by the [ARD Committee](#) with the following members:

- The local educational agency (LEA);
- The parent; and
- The relevant members of the child's admission, review, and dismissal (ARD) committee:



- As determined by the parent and the LEA.

### Information

*20 USC §1415(k)(1)(E)(i), 34 CFR part 300.530(e)(1)*

The committee must review all relevant information in the student's file, including:

- The child's individualized education program (IEP);
- Any teacher observations; and
- Any relevant information provided by the parents.

### Determination

*20 USC §1415(k)(1)(E)(i), 1415(k)(1)(E)(i)(I), 1415(k)(1)(E)(i)(II), 34 CFR part 300.530(e)(1), 300.530(e)(1)(i), 300.530(e)(1)(ii), 300.530(e)(2)*

The conduct is a manifestation of the child's disability if the committee determines that either one of the following conditions is met:

- If the conduct was caused by, or had a direct and substantial relationship to, the child's disability; or
- If the conduct in question was the direct result of the LEA's failure to implement the IEP.

When Behavior is a Manifestation of the child's disability, the LEA must comply with the applicable guidelines.

When Behavior is Not a Manifestation of the child's disability, the LEA must comply with the applicable guidelines.

### LEA Specific Information:

Educational diagnosticians will be responsible for providing written notice of MDR.

The manifestation determination must be made by the ARD committee and must include an individual that can interpret evaluation results, such as an educational diagnostician.

### **Documents to be reviewed include:**

1. IEP
  - a. Goals
  - b. FBA and BIP (if done or available)
  - c. Other Relevant Data (such as behavioral history)
2. Current Evaluation (can be a REED or last FIE)

3. Teacher Observations
4. Review Disciplinary Infraction
5. Relevant Information from Parent
6. The Disciplinary Placement Order that Assigns the Change of Placement Required by the District's Student Code of Conduct

## Determination

In considering whether the conduct had a direct and substantial relationship to a child's disability, the ARD committee should consider the circumstances surrounding the behavior, the characteristics of the student's disability, and how these characteristics have manifested in the past. The ARD committee may consider whether the conduct in question occurs across settings and across time, in determining whether the conduct may have a relationship to the student's disability.

In considering if the conduct in question was the direct result of the LEA's failure to implement the IEP, the ARD committee should consider if services were provided consistently as per the IEP and whether any inconsistencies may have caused the student's conduct.

### When Behavior is a Manifestation

*20 USC §1415(k)(1)(F), 1415(k)(1)(F)(i), 1415(k)(1)(F)(ii), 1415(k)(1)(F)(iii), 34 CFR part 300.530(e)(3), 300.530(f)(1), 300.530(f)(1)(i), 300.530(f)(1)(ii), 300.530(f)(2), TEC §37.004(b)*

If the admission, review, and dismissal (ARD) committee determines in a [Manifestation Determination](#) review that the conduct was the direct result of the failure of the local education agency (LEA) to implement the individualized education program (IEP), the LEA must take immediate steps to remedy those deficiencies.

If the ARD committee determines in a [Manifestation Determination](#) review that the conduct was a manifestation of the child's disability, the ARD committee must either:

- Conduct a functional behavioral assessment (FBA):
  - Unless the LEA had conducted a FBA before the behavior that resulted in the change of placement occurred; and
  - Implement a behavioral intervention plan (BIP) for the child; or
- If a BIP already has been developed:
  - Review the BIP; and
  - Modify it, as necessary, to address the behavior.

If the ARD committee determines in a [Manifestation Determination](#) review that the conduct was a manifestation of the child's disability, the ARD committee must also:

- Return the child to the placement from which the child was removed:
  - Except as provided under [Special Circumstances](#);
  - Unless the parent and the LEA agree to a change of placement as part of the modification of the behavioral intervention plan.

### **LEA Specific Information:**

If the ARD committee determines in a Manifestation Determination review that the conduct was the direct result of the failure of the local education agency (LEA) to implement the IEP, the District will take immediate steps to remedy those deficiencies.

If an FBA does not exist, one must be conducted. Prior written notice and consent will be obtained from parent. If a BIP exists, it should be reviewed and any modifications should be addressed as necessary in regards to the behavior or disciplinary infraction.

If a behavior is not addressed in the BIP, but is addressed in the FBA, the ARD committee will need to modify the BIP to address the targeted behavior.

If the behavior was not identified in the FBA, then a new FBA will be conducted.

### **When Behavior is Not a Manifestation**

*20 USC §1415(k)(1)(C), 34 CFR part 300.530(c)*

For a disciplinary change in placement that would exceed 10 consecutive school days, if the admission, review, and dismissal (ARD) committee determines in a [Manifestation Determination](#) review that the conduct was not a manifestation of the child's disability:

- School personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities;
  - Except that [Services During Periods of Removal](#) must be provided.

The local educational agency (LEA) must comply with the [Services During Periods of Removal](#).

### **LEA Specific Information:**

If the ARD committee concludes the student's conduct is not a manifestation of the student's disability, the ARD committee will also determine:

- the services the student will receive to enable the student to continue to make progress in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and
- the Interim Alternative Education Setting, based student's IEP.

## Services During Periods of Removal

### Removals for Less than 10 Cumulative Days

*34 CFR part 300.530(d)(2), 300.530(d)(3)*

A local educational agency (LEA) is only required to provide services during periods of removal to a child 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 child without disabilities who is similarly removed.

### Removals for More than 10 Cumulative Days that are Not a Change of Placement

*34 CFR part 300.101(a), 300.530(b)(2), 300.530(d)(2), 300.530(d)(4)*

The LEA must conduct a change of placement analysis and comply with the [Change of Placement](#) information.

After a child with disability has been removed from his or her current placement for 10 school days in the same school year, if the current removal is for not more than 10 consecutive school days and is not a change of placement:

- School personnel, in consultation with at least one of the child 's teachers, determine the extent to which services are needed for a free appropriate public education (FAPE):
  - To enable the child to continue to participate in the general education curriculum, although in another setting;
  - To enable the child to progress toward meeting the goals set out in the child's individualized education program IEP; and
- Services may be provided in an interim alternative educational setting (IAES).

### Removals that Are a Change of Placement

*20 USC §1415(k)(1)(D)(i), 1415(k)(1)(D)(ii), 1415(k)(2), 34 CFR part 300.530(d)(1)(i), 300.530(d)(1)(ii), 300.530(d)(2), 300.530(d)(5), 300.531, TEC §37.004(b)*

The LEA must comply with the [Manifestation Determination](#).

[When Behavior is Not a Manifestation](#) of the child's disability, or when a child with a disability is removed from the child's current placement due to [Special Circumstances](#), the [ARD Committee](#) must determine:

- Educational services for a Free Appropriate Public Education (FAPE) which may be provided in an interim alternative education setting (IAES):
  - To enable the child to continue to participate in the general education curriculum, although in another setting; and/or
  - To enable the child to progress toward meeting the goals set out in the child's IEP;
- As appropriate, a functional behavioral assessment;
- Behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur; and
- The interim alternative educational setting (IAES).

### LEA Specific Information:

The educational diagnostician, in consultation with at least one of the child 's teachers, and a campus administrator will determine the extent to which services are needed for a free appropriate public education (FAPE).

### **Special Circumstances**

*18 USC §930(g)(2), 1365(h)(3), 20 USC §1415(k)(1)(G), 1415(k)(1)(G)(i), 1415(k)(1)(G)(ii), 1415(k)(1)(G)(iii), 21 USC §812 (Schedule I, Schedule II, Schedule III, Schedule IV, Schedule V), 34 CFR part 300.530(g), 300.530(g)(1), 300.530(g)(2), 300.530(g)(3), 300.530(i)(1), 300.530(i)(2), 300.530(i)(3), 300.530(i)(4)*

Special circumstances exist if the child:

- Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of the state educational agency (SEA) or the local educational agency (LEA):
  - 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 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;
- 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 under the jurisdiction of an SEA or an LEA:
  - Controlled substance means a drug or other substance identified under 21 USC §812 schedules I, II, III, IV, or V;

- 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; or
- Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the state education agency (SEA) or the LEA:
  - The term "serious bodily injury" means bodily injury which involves a substantial risk of death; extreme physical pain; protracted and obvious disfigurement; or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

If special circumstances exist, the LEA may remove a child with a disability under the special circumstances provisions of [Authority of School Personnel](#).

If the removal is for more than 10 consecutive school days, the LEA must comply with the [Change of Placement](#) and conduct a [Manifestation Determination](#) review:

- School personnel may remove a student to an interim alternative educational setting (IAES) without regard to whether the behavior is determined to be a manifestation of the child's disability;
  - As long as the removal is for not more than 45 school days if the behavior is a manifestation of the child's disability; and
- [Services During Periods of Removal](#) must be determined and provided.

## Restraint and Time-Out

### Federal and State Requirements

*19 Texas Administrative Code (TAC) §89.1053(j), 89.1053(l), Texas Education Code (TEC) §37.0021(g)*

Any behavior management technique and/or discipline management practice must be implemented in such a way as to protect the health and safety of the student and others. No discipline management practice may be calculated to inflict injury, cause harm, demean, or deprive the student of basic human necessities.

This section and any rules or procedures adopted under this section do not apply to

- A peace officer while performing law enforcement duties;
- Juvenile probation, detention, or corrections personnel; or
- An educational services provider with whom a student is placed by a judicial authority, unless the services are provided in an educational program of a school district.

## **Confinement**

*Texas Penal Code (TPC) §46.01(3), 46.01(6), 46.01(1), 46.05, 19 TAC §89.1053(a), TEC §37.0021(a), 37.007(a)(1), 37.0021(f), 37.0021(f)(1), 37.0021(f)(2)*

It is the policy of this state to treat with dignity and respect all students, including students with disabilities who receive special education services. 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.

This section does not prevent 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); or
- The confinement is necessary to prevent the student from causing bodily harm to the student or another person.

## **Physical Restraint**

*19 TAC §89.1053(b)(1), 89.1053(b)(2), 89.1053(b)(1)(A), 89.1053(b)(1)(B), 89.1053(b)(2), 89.1053(c), 89.1053(c)(1), 89.1053(c)(2), 89.1053(c)(3), 89.1053(c)(4), 89.1053(d), 89.1053(d)(1), 89.1053(d)(2), 89.1053(d)(3), 89.1053(d)(4), 89.1053(e), 89.1053(e)(1), 89.1053(e)(2), 89.1053(e)(3), 89.1053(e)(4), 89.1053(e)(5), 89.1053(e)(5)(A), 89.1053(e)(5)(B), 89.1053(e)(5)(C), 89.1053(e)(5)(D), 89.1053(e)(5)(E), 89.1053(e)(5)(F), 89.1053(e)(5)(G), 89.1053(e)(5)(H), 89.1053(e)(5)(I), 89.1053(f), 89.1053(f)(1), 89.1053(f)(2), 89.1053(f)(3), 89.1053(f)(4), 89.1053(k), TEC §37.0021(b)(1)*

"Restraint" means the use of physical force or a mechanical device to significantly restrict the free movement of all or a portion of the student's body.

"Emergency" means a situation in which a student's behavior poses a threat of:

- Imminent, serious physical harm to the student or others; or
- Imminent, serious property destruction.

A school employee, volunteer or independent contractor may use restraint only in an "emergency" and with the following limitations:

- Restraint must be limited to the use of such reasonable force as is necessary to address the emergency;
- Restraint must be discontinued at the point at which the emergency no longer exists;

- Restraint must be implemented in such a way as to protect the health and safety of the student and others; and
- Restraint must not deprive the student of basic human necessities.

Training for school employees, volunteers, or independent contractors must be provided according to the following requirements:

- 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;
- 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;
- Training on use of restraint must include prevention and de-escalation techniques and provide alternatives to the use of restraint; and
- All trained personnel must receive instruction in current professionally accepted practices and standards regarding behavior management and the use of restraint.

The following documentation requirements must be met in a case in which restraint is used by school employees, volunteers, or independent contractors:

- On the day restraint is utilized, the campus administrator or designee must be notified verbally or in writing regarding the use of restraint;
- On the day restraint is utilized, a good faith effort must be made to verbally notify the parent(s) regarding 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;
- Written documentation regarding the use of restraint must be placed in the student's special education eligibility folder in a timely manner 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 behavioral intervention plan (BIP); and
- Written notification to the parent(s) and documentation to the student's special education eligibility folder must include the following:
  - Name of the student;
  - Name of the staff member(s) administering the restraint;



- Date of the restraint and the time the restraint began and ended;
- Location of the restraint;
- Nature of the restraint;
- A description of the activity in which the student was engaged immediately preceding the use of restraint;
- The behavior that prompted the restraint;
- The efforts made to de-escalate the situation and alternatives to restraint that were attempted; and
- Information documenting parent contact and notification.

Physical restraint does not include the use of:

- Physical contact or appropriately prescribed adaptive equipment to promote normative body positioning and/or physical functioning;
- 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, or provide comfort;
- Limited physical contact or appropriately prescribed adaptive equipment to prevent a student from engaging in ongoing, repetitive self-injurious behaviors; or
- Seat belts and other safety equipment used to secure students during transportation.

Cumulative data regarding the use of restraint must be reported through the Public Education Information Management System (PEIMS).

**LEA Specific Information:**

Each campus's administrator, in consultation with the Director of Special Education, will designate a core team of personnel, including a campus administrator who will participate in training on the use of restraint.

The Director of Special Education will be responsible for ensuring that the team is trained in the use of and reporting of restraint as required above.

Campus personnel must report any use of restraint to a student's parents and to the Director of Special Education.

The Special Education Department will input the restraint into PEIMS

## Time-out

*19 TAC §89.1053(b)(3), 89.1053(b)(3)(A), 89.1053(b)(3)(B), 89.1053(g)(2), 89.1053(g)(3), 89.1053(g), 89.1053(g)(1), 89.1053(h), 89.1053(h)(1), 89.1053(h)(2), 89.1053(h)(3), 89.1053(h)(4), 89.1053(i), TEC §37.0021(b)(3), 37.0021(b)(3)(A), 37.0021(b)(3)(B)*

"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.

A school 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;
- 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 individualized education program (IEP) and/or BIP if it is utilized on a recurrent basis to increase or decrease a targeted behavior; and
- Use of time-out must not be implemented in a fashion that precludes the ability of the 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.

Training for school employees, volunteers, or independent contractors must be provided according to the following requirements:

- 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;
- 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;
- 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 the 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; and
- All trained personnel must receive instruction in current professionally accepted practices and standards regarding behavior management and the use of time-out.

Necessary documentation or data collection regarding the use of time-out, if any, must be addressed in the IEP or BIP. 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.

### **LEA Specific Information:**

Time-out may only be used as a strategy on a recurrent basis if it is specified as part of a student's IEP or BIP.

### **Personal Graduation Plan**

*19 Texas Administrative Code (TAC) §89.1050(a)(9), Texas Education Code (TEC) §28.0212(a), 28.0212(a)(1), 28.0212(a)(2), 28.0212(c), 28.0212(b), 28.0212(b)(1), 28.0212(b)(2), 28.0212(b)(3), 28.0212(b)(4), 28.0212(b)(5), 28.0213*

A child's individualized education program (IEP) may be used as the child's personal graduation plan.

A principal must designate a guidance counselor, teacher, or other appropriate individual to develop and administer a personal graduation plan for each child who requires a personal graduation plan.

A personal graduation plan must be developed for any middle school, junior high, or high school child who:

- Does not perform satisfactorily on [State-wide Assessment](#); or
- Is not likely to receive a high school diploma before the fifth school year following the child's enrollment in grade level nine, as determined by the local educational agency (LEA).

A personal graduation plan must address participation of the parent:

- Including consideration of the parent's educational expectations for the child.

A personal graduation plan must include:

- Educational goals for the child;
- Diagnostic information;
- Appropriate monitoring and intervention;
- Other evaluation strategies; and
- An intensive program of instruction.

A personal graduation plan must provide innovative methods to promote the child's advancement, including:

- Flexible scheduling;
- Alternate learning environments;
- On-line instruction; and
- Other interventions that are proven to accelerate the learning process and have been scientifically validated to improve learning and cognitive ability.

### **Intensive Program of Instruction**

*TEC §28.0211, 28.0213(a), 28.0213(b), 28.0213(b)(1), 28.0213(b)(1)(A), 28.0213(b)(1)(B), 28.0213(b)(2), 28.0213(c), 28.0213(c)(1), 28.0213(c)(2),*

An LEA must offer an intensive program of instruction to a child who does not perform satisfactorily on a state-wide assessment instrument.

An LEA must design the intensive program of instruction to:

- Enable a child to:
  - To the extent practicable, perform at the child's grade level at the conclusion of the next regular school term; or
  - Attain a standard of annual growth specified by the LEA and reported by the LEA to the agency; and
- If applicable, carry out the purposes of satisfactory performance on assessment instruments.

An LEA must use funds appropriated by the legislature for an intensive program of instruction to plan and implement intensive instruction and other activities aimed at helping a child satisfy state and local high school graduation requirements.

The Commissioner must distribute funds to LEAs that implement a program under this section based on the number of children identified by the LEA who:

- Do not perform satisfactorily on a state-wide assessment instrument; or
- Are not likely to receive a high school diploma before the fifth school year following the child's enrollment in grade nine, as determined by the LEA.

An LEA's determination of the appropriateness of a program for a child under this section is final and does not create a cause of action.

### **LEA Specific Information:**

The ARD committee will be responsible for the specifying the intensive program of instruction for students who are eligible for special education.

## **Program Administration**

### **Data Collection and Submission**

#### **Information for the Texas Education Agency**

*20 United States Code (USC) §1412(a), 1413(a)(7), [Performance Based Monitoring Analysis System 2009 Manual](#)*

The LEA *will* provide the Texas Education Agency (TEA) with information relating to the performance of children with disabilities participating in programs carried out under Individuals with Disabilities Education Act (IDEA) in order for TEA to carry out its duties.

#### **Information Regarding Disproportionality**

*20 USC §1418(d)*

The LEA *will* comply with [Child Find](#) guidelines.

The LEA *will* comply with the [Full and Individual Evaluation](#) section of this document.

The LEA *will* comply with the [ARD Committee](#) section of this document.

The TEA provides for the collection and examination of data through Public Education Information Management System (PEIMS) to determine if significant disproportionality based on race and ethnicity is occurring in the state and the LEAs of the state with respect to:

- The identification of children as children with disabilities in accordance with a particular impairment;
- The placement in particular educational settings of such children; and
- The incidence, duration, and type of disciplinary actions, including suspensions and expulsions.

In the case of a determination of significant disproportionality with respect to the identification of children as children with disabilities, or the placement in particular educational settings of such children, the state requires the LEA to publicly report on the revision of policies, practices, and procedures.

#### **Information Regarding the Provision of a Free Appropriate Public Education**

*20 USC §1418(a)*

The LEA *will* comply with the [ARD Committee](#) section of this document.

Data *will*be provided each year by the LEA through PEIMS to the TEA who, in turn, reports to the Secretary of Education and the public the number and percentage of children with disabilities:

- By race, ethnicity, limited English proficiency status, gender, and disability category, who are in the following category:
  - Receiving a free appropriate public education (FAPE).

### **Information Regarding Least Restrictive Environment**

*20 USC §1418(a)*

The LEA *will*comply with the [ARD Committee](#) including the section on [Least Restrictive Environment](#).

Data *will*be provided each year by the LEA through PEIMS to the TEA who, in turn, reports to the Secretary of Education and the public the number and percentage of children with disabilities:

- By race, ethnicity, limited English proficiency status, gender, and disability category, who are in each of the following separate categories:
  - Participating in regular education; and
  - In separate classes, separate schools or facilities, or public or private residential facilities.

### **Information Regarding Termination of Services**

*20 USC §1418(a)*

The LEA *will*comply with the [Full and Individual Evaluation](#).

The LEA *will*comply with the [ARD Committee](#) including the sections on [Determination of Eligibility and Educational Need](#) and [Graduation](#).

Data *will*be provided each year by the LEA through PEIMS to the TEA who, in turn, reports to the Secretary of Education and the public the number and percentage of children with disabilities:

- By race, ethnicity, limited English proficiency status, gender, and disability category, who are in the following category:
  - For each year of age from age 14-21, stopped receiving special education and related services because of program completion (including graduation with a regular secondary school diploma), or other reasons, and the reasons why those children stopped receiving special education and related services.

### **Information Regarding Parentally-Placed Private School Children**

*20 USC §1412(a)(10)(A)(i)(V)*

The LEA *will* comply with the [Private Schools](#) sections of this document.

Each LEA *will* maintain in its records and provide to the TEA the number of parentally-placed private school children evaluated, the number of parentally-placed private school children determined to be children with disabilities, and the number of parentally-placed private school children served.

### **Information Regarding Participation in State-or District-Wide Assessments**

*20 USC §1412(a)(16)*

The LEA *will* comply with the [ARD Committee](#) including [State- and District-Wide Assessments](#).

The TEA (or, in the case of a district-wide assessment, the LEA) must make available to the public, and report to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children, the following:

- The number of children with disabilities participating in regular assessments, and the number of those children who were provided accommodations in order to participate in those assessments;
- The number of children with disabilities participating in alternate assessments aligned to the state's content and achievement standards;
- The number of children with disabilities participating in alternate assessments aligned to alternate achievement standards (i.e., below enrolled grade level); and
- The performance of children with disabilities on regular assessments and on alternate assessments (if statistically reliable information does not reveal personally identifiable information about an individual child), compared with the achievement of all children, including children with disabilities, on those assessments.

### **Information Regarding Discipline**

*20 USC §1413(i), 1418(a), 19 Texas Administrative Code (TAC) §97.1021*

The LEA *will* comply with the [Discipline](#) portion of this document.

The LEA *will* comply with the [Restraint and Time-Out](#) section of this document.

Data *will* be provided each year by the LEA through PEIMS to the TEA who, in turn, reports to the Secretary of Education and the public the number and percentage of children with disabilities:

- By race, ethnicity, limited English proficiency status, gender, and disability category, who are in each of the following separate categories:

- Removed to an interim alternative educational setting (IAES);
  - The acts or items causing removals to an IAES;
  - The number and percentage of children with disabilities who are subject to long-term suspensions or expulsions; and
  - The incidence and duration of disciplinary actions including suspensions of one day or more; and
- The number and percentage of children with disabilities who are removed to alternative educational settings or expelled compared to children without disabilities who are removed to alternative educational settings or expelled.

The state may require that an LEA include in the records of a child with a disability a statement of any current or previous disciplinary action that has been taken against the child and transmit such statement to the same extent that such disciplinary information is included in, and transmitted with, the records of nondisabled children:

- The statement may include a description of any behavior engaged in by the child that required disciplinary action, a description of the disciplinary action taken, and any other information that is relevant to the safety of the child and other individuals involved with the child; and
- If the state adopts such a policy, and the child transfers from one school to another, the transmission of any of the child's records must include both the child's current IEP and any such statement of current or previous disciplinary action that has been taken against the child.

### **Information Regarding Migratory Children**

*20 USC §1413(a)(9), 6398(b)*

The LEA *will* cooperate in the Secretary's efforts under the Elementary and Secondary Education Act (ESEA) to ensure the linkage of records pertaining to migratory children with a disability for the purpose of electronically exchanging, among the states, health and educational information regarding such children.

### **Information on Direct Services by TEA**

*20 USC §1413(g)*

The TEA must use the payments that would otherwise have been available to an LEA to provide special education and related services directly to children with disabilities residing in the area served by that LEA, if the TEA determines that the LEA has not provided the information needed to establish IDEA eligibility of the LEA.



## LEA Specific Information:

During PEIMS snapshots, campus administrators and program directors will ensure that data is collected and monitored.

### Highly Qualified

#### Federal and State Requirements

*20 USC §1401(10)(B)(i), 1401(10)(B)(ii), 1401(10)(B)(iii), 1401(10)(C), 1401(10)(C)(i), 1401(10)(C)(ii), 1401(10)(D), 1401(10)(D)(i), 1401(10)(D)(ii), 1401(10)(D)(iii), 1401(10)(E), 1401(10)(F), 34 Code of Federal Regulations (CFR) part 200.55(a)(1), 200.55(a)(2)(i), 200.55(a)(2)(ii), 200.55(a)(2)(iii), 200.55(b), 200.56(a)(1), 200.56(a)(2)(ii), 200.56(b)(1), 200.56(b)(2), 200.56(a)(3), 200.56(a)(4), 200.56(b)(2), 200.56(b)(3), 200.56(b)(3)(i), 200.56(b)(3)(ii), 200.56(c)(1), 200.56(c)(2)(i), 200.56(c)(2)(ii)*

A special education teacher who is highly qualified under the following construct shall be considered highly qualified for purposes of the Elementary and Secondary Education Act of 1965 (ESEA).

Title I, Part A teachers in core academic subject areas must be “Highly Qualified” when hired, including:

- A teacher in a targeted, assisted school who is paid with funds under Title I, Part A;
- A teacher in a school-wide program school; and
- A teacher employed by a school district with funds under Title I, Part A to provide services to eligible private school students.

All teachers in core academic subject areas must be “Highly Qualified” by the end of school year 2005-2006.

Notwithstanding any other individual right of action that a parent or student may maintain under IDEA, nothing in this Special Education Operating Guidelines manual shall be construed to create a right of action on behalf of an individual student or class of students for the failure of a particular state educational agency or school district employee to be highly qualified.

#### Highly Qualified Definition

In order to be considered highly qualified, a special education teacher:

- Must hold at least a bachelor’s degree;
- Must be fully state certified as a special education teacher;
  - This may include certification obtained through alternative routes to certification;

- A special education teacher teaching in a public charter school in Texas must be certified to teach special education; and
- If a teacher has had certification or licensure requirements waived on an emergency, temporary, or provisional basis, the teacher is not highly qualified.
- Must demonstrate subject matter competency as set forth below.

In order to be considered highly qualified for subject matter competency:

- Teachers who teach at the public elementary school level must demonstrate subject matter competency:
  - By passing the appropriate elementary Examination for the Certification of Educators in Texas (ExCET) or Texas Examination of Educator Standards (TExES) exam; or
  - For experienced teachers, by meeting the High, Objective, Uniform State Standard of Evaluation (HOUSSE) requirements.
- Teachers who teach at the public middle and high school levels must demonstrate subject matter competency:
  - By passing the subject-specific ExCET or TExES exam; or
  - By successfully completing in each academic subject in which the teacher teaches;
    - An undergraduate major;
    - A graduate degree; or
    - Coursework equivalent to an undergraduate major; or
  - For experienced teachers, by meeting the HOUSSE requirements.

Special education teachers teaching to alternate achievement standards:

- May demonstrate subject matter competency either:
  - By meeting the applicable requirements for any elementary, middle, or secondary school teacher who is new or not new to the profession; or
  - In case of instruction at the elementary level, by meeting the requirements applicable to an elementary school teacher; or

- In the case of instruction above the elementary level, by demonstrating subject matter knowledge appropriate to the level of instruction being provided, as determined by the state, needed to effectively teach those standards.

Special education teachers teaching multiple subjects:

- A special education teacher who teaches two or more core academic subjects exclusively to children with disabilities may demonstrate subject matter competency either:
  - By meeting the applicable requirements for any elementary, middle, or secondary school teacher who is new or not new to the profession; or
  - In the case of a teacher who is not new to the profession, by demonstrating competence in all the core academic subjects in which the teacher teaches, which may include a single HOUSSE covering multiple subjects; or
  - In the case of a new special education teacher who teaches multiple subjects and who is highly qualified in mathematics, language arts, or science, by demonstrating competence in the other core academic subjects, which may include a single HOUSSE covering multiple subjects, not later than two years after the date of employment.

### ***Additional Reference***

- [NCLB Bulletin October 21, 2003](#)

### **LEA Specific Information:**

The Human Resource Coordinator/Director will ensure that all personnel responsible for providing instruction or support to students who are eligible for special education satisfy the Highly Qualified Requirements of No Child Left Behind.

### **Administration of Facilities**

### **Federal and State Requirements**

*20 USC §1404(a)*

If the Secretary of Education determines that a program authorized under IDEA Part B will be improved by permitting program funds to be used to acquire appropriate equipment, or to construct new facilities or alter existing facilities, the Secretary is authorized to allow the use of those funds for those purposes.

The LEA *will* comply with the Administration of Funds section of Appendix A.

The LEA *will* comply with the Administration of Equipment section of Appendix A.

## **Compliance with Other Laws**

*20 USC §1404(b), 28 CFR part 36 (Appendix A), 41 (101-19.6) (Appendix A)*

Any construction of new facilities or alteration of existing facilities with authorized IDEA program funds *will* comply with the requirements of:

- Appendix A of part 36 of title 28, Code of Federal Regulations (commonly known as the 'Americans with Disabilities Accessibility Guidelines for Buildings and Facilities'); or
- Appendix A of subpart 101-19.6 of title 41, Code of Federal Regulations (commonly known as the 'Uniform Federal Accessibility Standards').

## **Contract Services**

*Texas Education Code (TEC) §29.008(d)*

An LEA that contracts for the provision of education services rather than providing the services itself *will* oversee the implementation of the child's IEP and must annually reevaluate the appropriateness of the arrangement.

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

## **Contracting with Residential Facilities**

*TAC §89.61*

An LEA may contract for an in-state residential placement of a child only with either public or private residential facilities which maintain current and valid licensure for the particular disabling condition and age of the child.

An LEA may contract for an out-of-state residential placement in accordance with this document.

Subject to the provisions of the [ARD Committee](#) construct and this document, the LEA may contract with a residential facility to provide some or all of the special education services listed in the contracted child's individualized education program (IEP).

If the facility provides any educational services listed in the child's IEP, the facility's education program must be approved by the Commissioner of Education.

An LEA, which intends to contract for residential placement of a child with a residential facility, *will* notify the TEA of its intent to contract for the residential placement through the residential application process.

The LEA has the following responsibilities when making a residential placement:

- Comply with the [ARD Committee](#) including [Least Restrictive Environment](#); and
- Make an initial and an annual on-site visit to verify that the residential facility can, and will, provide the services listed in the child's IEP which the facility has agreed to provide to the child.

When a child who is residentially placed by an LEA changes his residence to another Texas LEA, and the child continues in the contracted placement, the LEA which negotiated the contract *will* be responsible for the residential contract for the remainder of the school year.

Requests for approval of state and federal funding for residentially placed children *will* be negotiated on an individual basis through a residential application submitted by the LEA to the TEA.

A residential application may be submitted for educational purposes only.

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

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

Residential facilities which provide educational services *will* have their educational programs approved for contracting purposes by the Commissioner of Education:

- If the education program of a residential facility which is not approved by the Commissioner of Education is being considered for a residential placement by an LEA, the LEA should notify the TEA in writing of its intent to place a child at the facility;
- The TEA must begin approval procedures and conduct an on-site visit to the facility within 30 calendar days after the TEA has been notified by the LEA;
- Approval of the education program of a residential facility may be for one, two, or three years;

- The Commissioner of Education must renew approvals and issue new approvals only for those facilities which have contract children already placed or which have a pending request for residential placement from an LEA;
- The approval does not apply to residential facilities which only provide related services or residential facilities in which the accredited LEA where the facility is located provides the educational program; and
- LEAs which contract for an out-of-state residential placement must do so in accordance with the rules for in-state residential placement in this document, except that the facility must be approved by the appropriate agency in the state in which the facility is located, rather than by the Commissioner of Education in Texas.

### **LEA Specific Information:**

All contracts for services will be specific as to the types of services the consultants will perform.

The Director of Special Education, along with the Business Manager, will ensure that each contract is performed within the terms of the contract.

The Director of Special Education will evaluate the services provided by the contractor and ensure that the activities are allowable by the fund source.

### **Administration of Equipment**

The local educational agency (LEA) must comply with the [Admission, Review, and Dismissal \(ARD\) Committee](#) section, including [Special Factors](#) section.

The LEA must comply with the [Administrations of Facilities](#) section.

### **Definition**

*20 USC §1401(7)(A), 1401(7)(B); 34 CFR part 300.14, 300.14(a), 300.14(b)*

The term "equipment" includes:

- Machinery, utilities, and built-in equipment, and any necessary enclosures or structures to house such machinery, utilities, or equipment; and
- All other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as:
  - Instructional equipment and necessary furniture;
  - Printed, published, and audio-visual instructional materials;

- Telecommunications, sensory, and other technological aids and devices; and
- Books, periodicals, documents, and other related materials.

### **Acquisition of Equipment**

*20 USC §1404(a); 34 CFR part 300.105(a), 300.105(b), 300.718(a)*

The LEA must comply with the [Funding](#) section when acquiring equipment and supplies.

The LEA must ensure that assistive technology devices (ATDs) are made available to the child with a disability if required as part of the child's special education, related services, or supplementary aids and services.

On a case-by-case basis, the use of school-purchased ATDs in a child's home or in other settings is required if the child's ARD committee determines that the child needs access to those devices in order to receive FAPE.

If the Secretary of Education determines that a program authorized under IDEA Part B will be improved by permitting program funds to be used to acquire appropriate equipment, the Secretary is authorized to allow the use of those funds for those purposes.

### **Equipment in Private Schools**

*20 USC §1412(a)(10)(A)(vi)(II), 1412(a)(10)(A)(vii); 34 CFR part 300.138(c)(2), 300.144(a), 300.144(b), 300.144(c), 300.144(c)(1), 300.144(c)(2), 300.144(d)(1), 300.144(d)(2)*

The LEA must comply with the [Private Schools](#) and [Proportionate Share Funding for Parentally-Placed Private School Child](#) sections.

Special education and related services provided to parentally-placed private school children with disabilities, including materials and equipment, must be secular, neutral, and nonideological.

The LEA must hold title to and administer materials, equipment, and property purchased with those funds for the uses and purposes in the IDEA.

The LEA may place equipment and supplies in a private school for the period of time needed for the IDEA Part B program.

The LEA must ensure that the equipment and supplies placed in a private school:

- Are used only for IDEA Part B purposes; and
- Can be removed from the private school without remodeling the private school facility.

The LEA must remove equipment and supplies from a private school if:

- The equipment and supplies are no longer needed for IDEA Part B purposes; or

- Removal is necessary to avoid unauthorized use of equipment and supplies for other than IDEA Part B purposes.

### **Purchase of Instructional Materials**

*20 USC §1412(a)(23), 1413(a)(6)(A), 1413(b)(B); 34 CFR part 300.172(c), 300.210(a), 300.210(b)(1), 300.210(b)(2)*

By December 3, 2006, an LEA that chooses to coordinate with the National Instructional Materials Access Center, when purchasing print instructional materials, must acquire the print instructional materials in the same manner and subject to the same conditions as a state education agency (SEA) acquires print instructional materials.

Nothing will be construed to require an LEA to coordinate with the National Instructional Materials Access Center.

If an LEA chooses not to coordinate with the National Instructional Materials Access Center, the LEA *will* provide an assurance to the TEA that the LEA must provide instructional materials to blind persons or other persons with print disabilities in a timely manner.

### **Transfer of an Assistive Technology Device (ATD)**

*34 CFR part 80.32; 19 TAC §89.1056(b), 89.1056(b)(1), 89.1056(b)(3), 89.1056(b)(3)(A), 89.1056(b)(3)(B), 89.1056(b)(3)(C), 89.1056(b)(3)(E), 89.1056(d), 89.1056(d)(d)(1), 89.1056(d)(d)(2), 89.1056(d)(d)(3), 89.1056(d)(d)(4); TEC §30.0015(a)(1), 30.0015(a)(3), 30.0015(b), 30.0015(b)(1), 30.0015(b)(2), 30.0015(b)(3), 30.0015(c)(1), 30.0015(c)(2), 30.0015(c)(3), 30.0015(d)*

"Assistive technology device" means any device, including equipment or a product system that is used to increase, maintain, or improve functional capabilities of a child with a disability.

"Transfer" means the process by which an LEA that has purchased an ATD may sell, lease, or loan the device for the continuing use of a child with a disability changing the school of attendance in the district or leaving the district.

When a child with a disability using a device changes the school of attendance in the LEA or ceases to attend school in the LEA, the LEA may transfer an assistive technology device according to the requirements of this section.

An ATD may only be transferred to:

- The school or LEA in which the child enrolls;
- A state agency, including the Texas Rehabilitation Commission and the Texas Department of Mental Health and Mental Retardation, that provides services to the child following the child's graduation from high school; or



- The child's parents or the child if the child has the legal capacity to enter into a contract.

A transfer must be in accordance with a transfer agreement which includes, specifically, the following:

- The transferor and transferee must represent and agree that the terms of the transfer are based on the fair market value of the ATD, determined in accordance with generally accepted accounting principles;
- The LEA must comply with the [Consent to Transfer Assistive Technology Devices](#) section before transferring an ATD; and
- If the transfer is a sale, then the sale of the ATD must be evidenced by a "Uniform Transfer Agreement" (UTA) which includes the following:
  - The names of the transferor and the transferee;
  - The date of the transfer;
  - A description of the ATD being transferred;
  - The terms of the transfer (including the transfer of warranties, to the extent applicable); and
  - The signatures of authorized representatives of both the transferor and the transferee.

Nothing in this document:

- Alters any existing obligation under federal or state law to provide ATDs to children with disabilities;
- Requires an LEA to transfer an ATD to any person or entity;
- Limits an LEA's right to sell, lease, loan, or otherwise convey or dispose of property as authorized by federal or state laws, rules, or regulations; or
- Authorizes any transfer of an ATD that is inconsistent with any restriction on transferability imposed by the manufacturer or developer of the ATD or applicable federal or state laws, rules, or regulations.

## Records

### Confidentiality of Information

*20 United States Code (USC) §1417(c), 34 Code of Federal Regulations (CFR) part 99.3, 300.610, 300.623(a),*

*Texas Education Code (TEC) §28.058*

Under the Family Educational Rights and Privacy Act (FERPA) and for the purposes of the administration of Records, "educational agency or institution" means any public or private agency or institution.

The educational agency or institution must ensure the confidentiality of any personally identifiable data, information, and records collected or maintained by the educational agency or institution, including but not limited to:

- The student's name;
- The name of the student's parent or other family member;
- The address of the student or student's family;
- A personal identifier, such as the student's social security number or student number;
- A list of personal characteristics that would make the student's identity easily traceable; or
- Other information that would make the student's identity easily traceable.

Each educational agency or institution must protect the confidentiality of personally identifiable information at the collection, storage, disclosure, and destruction stages.

### **LEA Specific Information:**

The Director of Special Education and the campus administrators will work together to ensure that all personnel receive training annually concerning confidentiality, including confidentiality of education records.

The Director of Special Education will ensure that information is kept in a secure location.

The Director of Special Education and the campus administrators will work together to ensure that confidential information distributed to teachers is kept in a secure location.

### **Special Education Eligibility Folder**

*20 USC §1414(d)(1)(A)(ii), 34 CFR part 300.320(d), 19 Texas Administrative Code (TAC) §89.1075(a)*

Each local educational agency (LEA) must maintain an eligibility folder for each child receiving special education services, in addition to the child's cumulative record.

The eligibility folder must include, but need not be limited to:

- Copies of referral data;
- Documentation of notices and consents;

- Evaluation reports and supporting data;
- Admission, review, and dismissal (ARD) committee reports; and
- The student's individualized education program (IEP).

Nothing in the Individuals with Disabilities Act (IDEA) will be construed to require that additional information be included in a student's IEP beyond what is explicitly required in the [ARD Committee](#) portion of this document.

### **LEA Specific Information:**

Evaluation personnel will be responsible for ensuring that copies of referral data, documentation of notices and consents, and evaluation reports and supporting data are provided to Special Education Department Secretary who will create or add to the eligibility folder.

The evaluation personnel will ensure that ARD committee reports and the individualized education program (IEP), prior written notices, and notice of ARD and any ARD related document is provided to the Special Education Department Secretary who will then include these in the eligibility folder.

Eligibility folders will be maintained in the Special Education Department Records Room, a secured location.

### **Annual Notification**

*34 CFR part 99.3, 99.31(a)(1), 99.7(a)(1), 99.63, 99.64, 99.7(a)(2), 99.7(a)(2)(i), 99.7(a)(2)(ii), 99.7(a)(2)(iii), 99.7(a)(2)(iv), 99.7(a)(3), 99.7(a)(3)(i), 99.7(a)(3)(ii), 99.7(a)(3)(iii), 99.7(b), 99.7(b)(1), 99.7(b)(2)*

Under the Family Educational Rights and Privacy Act (FERPA) and for the purposes of the administration of [Records](#):

- "Parent" means a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or a guardian;
- "Eligible student" means a student who has reached 18 years of age or is attending an institution of postsecondary education; and
- "Student," except as otherwise specifically provided in FERPA and the administration of [Records](#) section, means any individual who is or has been in attendance at an educational agency or institution and regarding whom the agency or institution maintains education records.

Each educational agency or institution shall annually notify parents of students currently in attendance, or eligible students currently in attendance, of their rights under FERPA.

The annual notification must inform parents or eligible students that they have the right to:

- Inspect and review the student's education records;
- Seek amendment of the student's education records that the parent or eligible student believes to be inaccurate, misleading, or otherwise in violation of the student's privacy rights;
- Consent to disclosures of personally identifiable information contained in the student's education records as provided in [Consent for Disclosure of Confidential Information](#), except [When Consent is not Required to Disclose Information](#); and
- File with the Family Policy Compliance Office a complaint concerning alleged failures by the educational agency or institution to comply with the requirements of FERPA.

The notice must include all of the following:

- The procedure for exercising the [Parent or Eligible Student Access to Education Records](#);
- The [Procedures for Amending Education Records](#); and
- A specification of criteria for determining who constitutes a school official and what constitutes a legitimate educational interest, if the educational agency or institution has a policy of disclosing education records without parental consent to school officials, including teachers, within the agency or institution whom the agency or institution has determined to have legitimate educational interests.

An educational agency or institution must effectively provide annual notification to parents or eligible students who are disabled.

An agency or institution of elementary or secondary education must effectively provide annual notification to parents who have a primary or home language other than English.

An educational agency or institution may provide annual notification by any means that are reasonably likely to inform the parents or eligible students of their rights.

### **LEA Specific Information:**

Notification will be distributed via the student handbook at each campus.

This will be reviewed by the Director of Special Education annually to determine whether revisions are required.

### **Parent or Eligible Student Access to Education Records**

#### **Education Records Defined**

*34 CFR part 99.3, 99.8, 300.611(b)*

Under the Family Educational Rights and Privacy Act (FERPA) and for the purposes of the administration of Records:

A "record" is any information recorded in any way, including but not limited to hand writing, print, computer media, video or audio tape, film, microfilm and microfiche.

The term "education records" means those records that are:

- Directly related to a student; and
- Maintained by an educational agency or institution or by a party acting for the agency or institution.

Records relating to an individual in attendance at the agency or institution who is employed as a result of his or her status as a student are education records.

The term "education records" does not include:

- Records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record;
- Records of the law enforcement unit of an educational agency or institution;
- Records relating to an individual who is employed by an educational agency or institution that:
  - Are made and maintained in the normal course of business;
  - Relate exclusively to the individual in that individual's capacity as an employee; and
  - Are not available for use for any other purpose;
- Records on a student who is 18 years of age or older, or is attending an institution of postsecondary education, that are:
  - Made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity;
  - Made, maintained, or used only in connection with treatment of the student; and
  - Disclosed only to individuals providing the treatment which does not include remedial educational activities or activities that are part of the program of instruction at the agency or institution; and

- Records that only contain information about an individual after he or she is no longer a student at that agency or institution.

### **List of Types and Location of Information**

*34 CFR part 300.616*

Each educational agency or institution must provide parents or eligible students on request a list of the types and locations of education records collected, maintained, or used by the agency.

### **Right to Inspect and Review Records**

*34 CFR part 99.10, 99.10(a)(1), 99.10(c), 99.10(d), 99.10(f), 99.4, 300.613(a), 300.613(b), 300.613(b)(1), 300.613(b)(2), 300.613(b)(3), 300.613(c), TEC §26.004(1), 26.004(2), 26.004(3), 26.004(4), 26.004(5), 26.004(6), 26.004(7), 26.004(8), 26.004(9), 26.004(10)*

An educational agency or institution must give full rights to either parent to inspect and review records relating to his or her child unless the agency or institution has been provided with evidence that there is a court order, state statute, or legally binding document relating to such matters as guardianship, divorce, separation, or custody that specifically revokes these rights.

A parent or eligible student has the right to inspect and review any education records of the student that are collected, maintained, or used by the educational agency or institution, including:

- Attendance records;
- Test scores;
- Grades;
- Disciplinary records;
- Counseling records;
- Psychological records;
- Applications for admission;
- Health and immunization information;
- Teacher and counselor evaluations; and
- Reports of behavioral patterns.

The right to inspect and review education records includes:

- The right to a response from the educational agency or institution to reasonable requests for explanations and interpretations of records;
- The right to request that the educational agency or institution provide copies of the records in compliance with [Copies Including Fees for Copies](#);
- The right to have the treatment records of the student reviewed by a physician or other appropriate professional of the parent or eligible student's choice; and
- The right to have a representative of the parent or eligible student inspect and review the records.

### **Timeline**

*34 CFR part 99.10(b), 300.613(a)*

The educational agency or institution must comply with a request to inspect and review any education records relating to the student:

- Without unnecessary delay and within a reasonable period of time;
- Before any [ARD Committee Meeting](#);
- Before a resolution session under the Notice of [Procedural Safeguards](#) ;
- Before any due process hearing under the Notice of [Procedural Safeguards](#) ; and
- Not more than 45 days after the request is received.

### **Records on More than One Student**

*34 CFR part 99.12(a), 300.615*

If any education records include information on more than one student, the parents of those children have the right to:

- Inspect and review only the information relating to their child; or
- Be informed of that specific information.

### **Copies Including Fees for Copies**

*20 USC §1412(a)(8), 34 CFR part 99.10(d), 99.10(d)(1), 99.10(d)(2), 99.11(a), 99.11(b), 99.30(a), 99.30(c), 99.30(c)(1), 99.30(c)(2), 99.34(a)(2), 300.617(a), 300.617(b), TEC §26.012*

If circumstances effectively prevent the parent or eligible student from exercising the right to inspect and review the student's education records, the educational agency or institution must:

- Provide the parent or eligible student with a copy of the records requested; or
- Make other arrangements for the parent or eligible student to inspect and review the requested records.

An educational agency or institution may charge a reasonable fee for a copy of an education record which is made for the parent or eligible student, unless the imposition of a fee effectively prevents exercising the right to inspect and review the student's education records.

An educational agency or institution must not charge a fee to search for or to retrieve the education records of a student.

When a disclosure of confidential records is made pursuant to [Consent for Disclosure of Confidential Information](#):

- If a parent or eligible student so requests, the educational agency or institution must provide a copy of the records disclosed; and
- If the parent of a student who is not an eligible student as defined in the [Annual Notification](#) portion of this document so requests, the agency or institution must provide the student with a copy of the records disclosed.

When a disclosure of confidential information is made pursuant to the requirements noted under the section of this document entitled, [When Consent is not Required to Disclose Information](#), specifically the conditions that apply to disclosure of information to other educational agencies or institutions, the educational agency or institution must give the parent or eligible student, upon request, a copy of the record that was disclosed.

#### [LEA Specific Information](#):

Requests for ARD and IEP records and supporting data will be referred to the SPED secretary. The Special Education Department Secretary will be responsible for providing these documents to the parents within a reasonable period, but no more than 45 days after the request is received.

Upon request, the Special Education Department Secretary must provide parents or eligible students a list of the types and locations of education records collected, maintained, or used by the district.

Unless the District has been provided with a court order relating to such matters as guardianship, divorce, separation, or custody that specifically revokes these rights of parents/guardian, then the District will provide records upon request.



The District 's fee for copies will be 10¢ per page, but in all circumstances the parents or guardian of a student may have one copy of all records at no charge.

## **Procedures for Amending Education Records**

### **Request to Amend**

*34 CFR part 99.20(a), 99.20(b), 99.20(c), 300.618(a), 300.618(b), 300.618(c), 300.619*

A parent or eligible student may request the educational agency or institution to amend the student's education record if the parent or eligible student believes the education records relating to the student contain information that is:

- Inaccurate;
- Misleading; or
- In violation of the student's rights of privacy.

Within a reasonable period of time after the agency or institution receives the request, the educational agency or institution must decide whether to amend the record as requested.

If the educational agency or institution decides not to amend the record as requested, it must:

- Inform the parent or eligible student of its decision; and
- Advise the parent or eligible student of the right to a records hearing.

### **Opportunity for a Records Hearing**

*34 CFR part 99.21(a), 300.618(c), 300.619*

An educational agency or institution must give a parent or eligible student, on request, an opportunity for a hearing to challenge the content of the student's education records on the grounds that the information contained in the education records is:

- Inaccurate;
- Misleading; or
- Otherwise in violation of the privacy or other rights of the student.

### **Hearing Procedures**

*34 CFR part 99.22, 99.22(a), 99.22(b), 99.22(c), 99.22(d), 99.22(e), 99.22(f), 300.621*

The records hearing must meet, at a minimum, the following requirements:

- Must be held within a reasonable time after the request for the hearing from the parent or eligible student has been received;
- The educational agency or institution must give the parent or eligible student the following notice of the hearing:
  - Date;
  - Time; and
  - Place;
- The notice must be provided a reasonable amount of time prior to the hearing;
- The hearing may be conducted by any individual, including an official of the educational agency or institution, who does not have direct interest in the outcome of the hearing;
- The parent or eligible student must be given a full and fair opportunity to present evidence relevant to the issues:
  - The parent or eligible student may, at their own expense, be assisted or represented by one or more individuals of his or her own choice, including an attorney; and
- Within a reasonable period of time, the educational agency or institution must make its decision in writing based solely on the evidence presented at the hearing, and must include:
  - A summary of the evidence; and
  - The reasons for the decision.

### **Results of Records Hearing**

*34 CFR part 99.21(b)(1), 99.21(b)(1)(i), 99.21(b)(1)(ii), 99.21(b)(2), 99.21(c), 99.21(c)(1), 99.21(c)(2), 300.620(c), 300.620(c)(1), 300.620(c)(2), 300.620(a), 300.620(b), 300.622(a)*

If, as a result of the hearing, the educational agency or institution decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, it must:

- Amend the record accordingly; and
- Inform the parent or eligible student of the amendment in writing.

If, as a result of the hearing, the educational agency or institution decides that the information in the education record is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it must inform the parent or eligible student of the right to place a statement in the record:

- Commenting on the contested information in the record;
- Setting forth the reasons for disagreeing with the decision of the agency or institution; or
- Both.

Any statement placed in the records of the student must:

- Be maintained as part of the records of the student for as long as the record is maintained by the agency; and
- Disclosed whenever it discloses the portion of the record to which the statement relates.

### LEA Specific Information:

If a request to amend a student's education record is made, the campus administrator or Director of Special Education, will determine if the record is inaccurate, misleading, or in violation of the student's rights of privacy. Within fifteen business days, the appropriate administrator will determine if the information is, indeed, inaccurate, misleading, or in violation of the student's rights of privacy. The District shall notify the parents in writing of its decision on the request.

If the District amends an educational record, then it must inform the parent of the amendment and provide the parent the amended educational record. If the District decides not to amend the record, then the administrator or Director of Special Education must inform the parents of the decision and advise the parent of the right to a hearing.

The records hearing must meet, at a minimum, the following requirements:

- The hearing must be held within ten school days after the request for the hearing from the parent has been received; the District must give the parent the date, time, and place of hearing; the notice must be provided in a reasonable amount of time prior to the hearing; the hearing will be conducted by the Director of Curriculum and Instruction, or another administrator who does not have direct interest in the outcome of the hearing; the parent must be given a full and fair opportunity to present evidence relevant to the issues and may, at their own expense, be assisted or represented by one or more individuals of his or her own choice, including an attorney; and within ten District business days, the District must make its decision in writing based solely on the evidence presented at the hearing, and must include: a summary of the evidence and the reasons for the decision.

If, as a result of the hearing, the District decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, it must amend the record accordingly and inform the parent of the amendment in writing.

If, as a result of the hearing, the District decides that the information in the education record is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it must inform the parent that he or she has thirty (30) District business days to exercise their right to place a statement

in the record commenting on the contested information in the record, setting forth the reasons for disagreeing with the decision of the District.

Any statement placed in the records of the student must be maintained as part of the records of the student for as long as the record is maintained by the District and disclosed whenever it discloses the portion of the record to which the statement relates.

## When Consent is Not Required to Disclose Information

### Conditions Where Consent is Not Required

*26 USC §152, 34 CFR part 99.31(a), 99.31(a)(2), 99.31(a)(3), 99.31(a)(4)(i), 99.31(a)(4)(i)(A), 99.31(a)(4)(i)(B), 99.31(a)(4)(i)(C), 99.31(a)(4)(i)(D), 99.31(a)(4)(ii), 99.31(a)(5)(i), 99.31(a)(5)(i)(A), 99.31(a)(5)(i)(B), 99.31(a)(5)(ii), 99.31(a)(6)(i), 99.31(a)(7), 99.31(a)(8), 99.31(a)(9)(i), 99.31(a)(10), 99.31(a)(11), 99.31(a)(12), 99.31(a)(13), 99.31(a)(14), 99.31(a)(15), 99.31(b), 99.34, 99.35, 99.36(a), 99.36(b)(2), 99.36(b)(3), 99.36(c), 300.622(b)(1), 300.622(a), 19 TAC §89.1075(c)*

Consent for Disclosure of Confidential Information is not required before personally identifiable information is released if:

- The disclosure is to officials of Individuals with Disabilities Education Act (IDEA) Part B participating agencies for purposes of meeting a requirement of IDEA Part B except as otherwise provided in this document;
- The disclosure is to other school officials, including teachers, within the agency or institution whom the agency or institution has determined to have legitimate educational interests, including when:
  - Providing to each teacher who provides instruction to a child with disabilities the relevant sections of the child's current individualized education program (IEP);
  - Informing each teacher of specific responsibilities relating to implementing the IEP, such as goals and benchmarks, and of needed accommodations, modifications, and supports for the child; or
  - Disclosing from the education records of a student appropriate information concerning disciplinary action taken against the student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community to teachers and school officials who have a legitimate educational interest in the behavior of the student;
- The disclosure is to officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll, is enrolled or is receiving services, subject to the Conditions that Apply to Disclosure of Information to Other Educational Agencies or Institutions;

- The disclosure is to authorized representatives listed in the [Conditions that Apply to Disclosure of Information for Federal or State Program Purposes](#);
- The disclosure is in connection with financial aid for which the student has applied for which the student has received, if the information is necessary for such purposes as to:
  - Determine eligibility for the aid;
  - Determine the amount of the aid;
  - Determine the conditions for the aid; or
  - Enforce the terms and conditions of the aid;
- Unless further limited by state law, the disclosure is to state and local officials or authorities to whom this information is specifically:
  - Allowed to be reported or disclosed pursuant to a state statute adopted before November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and the system's ability to effectively serve the student whose records are released; or
  - Allowed to be reported or disclosed pursuant to [Conditions that Apply to Disclosure of Information as Permitted by State Statute After November 19, 1974 Concerning the Juvenile Justice System](#);
- The disclosure is to organizations conducting studies for, or on behalf of, educational agencies or institutions subject to the [Conditions that Apply to Disclosure of Information to Organizations Conducting Studies](#);
- The disclosure is to accrediting organizations to carry out their accrediting functions;
- The disclosure is to the parent of a dependent student, as defined in section 152 of the Internal Revenue Code of 1986;
- The disclosure is to comply with a judicial order or lawfully issued subpoena subject to the [Conditions that Apply to a Judicial Order or Lawfully Issued Subpoena](#);
- The disclosure is to appropriate parties in connection with a health or safety emergency, if knowledge of the information is necessary to protect the health or safety of the student or other individuals;
- The disclosure is information the educational agency or institution has designated as "directory information," in compliance with 34 CFR 99.31(a)(11) and 34 CFR 99.31(b);

- The disclosure is to the parent of a student who is not an eligible student or to the student;
- The disclosure is of certain information made in connection with disciplinary proceedings at an institution of postsecondary education; or
- The disclosure is of certain information given by an institution of postsecondary education to a parent of a student.

### **Conditions that Apply to Disclosure of Information to Other Educational Agencies or Institutions**

*34 CFR part 99.31(a)(2), 99.34(a), 99.34(b), 99.34(a)(1), 99.34(a)(1)(i), 99.34(a)(1)(ii), 99.34(a)(2), 99.34(a)(3)*

An educational agency or institution that discloses an education record to officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll, is enrolled, or is receiving services, must:

- Make a reasonable attempt to notify the parent or eligible student at the last known address of the parent or eligible student, unless:
  - The disclosure is initiated by the parent or eligible student; or
  - The [Annual Notification](#) of the agency or institution includes a notice that the agency or institution forwards education records to other agencies or institutions that have requested the records and in which the student seeks or intends to enroll;
- Give the parent or eligible student, upon request, a copy of the record that was disclosed; and
- Give the parent or eligible student, upon request, an opportunity for a hearing under the [Procedures for Amending Education Records](#).

### **Conditions that Apply to Disclosure of Information for Federal or State Program Purposes**

*34 CFR part 99.35(a), 99.35(b), 99.35(b)(1), 99.35(b)(2), 99.35(c), 99.31(a)(3), 99.31(a)(3)(i), 99.31(a)(3)(ii), 99.31(a)(3)(iii), 99.31(a)(3)(iv)*

The following officials may have access to education records in connection with an audit or evaluation of federal- or state- supported education programs, or for the enforcement of or compliance with Federal legal requirements which relate to those programs:

- The Comptroller General of the United States;
- The Attorney General of the United States;
- The United States Secretary of Education; or

- State and local educational authorities.

Unless there has been [Consent for Disclosure of Confidential Information](#) or the collection of personally identifiable information is specifically authorized by federal law, the information that is collected for disclosure for federal or state program purposes must:

- Be protected in a manner that does not permit personal identification of individuals by anyone except the Comptroller General of the United States, the Attorney General of the United States, the United States Secretary of Education, or state and local educational authorities; and
- Be destroyed when no longer needed for the purpose of audit or evaluation of federal or state supported education programs, or for the enforcement of or compliance with federal legal requirements which relate to those programs.

### **Conditions that Apply to Disclosure of Information as Permitted by State Statute after November 19, 1974 Concerning the Juvenile Justice System**

*34 CFR part 99.38(a), 99.38(b), 99.31(a)(5)(i)(B)*

If reporting or disclosure allowed by state statute concerns the juvenile justice system and the system's ability to effectively service, prior to adjudication, the student whose records are released, an educational agency or institution may disclose education records.

The officials and authorities to whom the records are disclosed must certify in writing to the educational agency or institution that the information will not be disclosed to any other party, except as provided under state law, without the prior written consent of the parent of the student.

### **Conditions that Apply to Disclosure of Information to Organizations Conducting Studies**

*34 CFR part 99.31(a)(6), 99.31(a)(6)(i)(A), 99.31(a)(6)(i)(B), 99.31(a)(6)(i)(C), 99.31(a)(6)(ii), 99.31(a)(6)(ii)(A), 99.31(a)(6)(ii)(B), 99.31(a)(6)(iii), 99.31(a)(6)(iv), 99.63*

Under the Family Educational Rights and Privacy Act (FERPA) and for the purposes of the administration of [Records](#), the term "organization" includes, but is not limited to, federal, state, and local agencies, and independent organizations.

Information may be disclosed to organizations conducting studies for, or on behalf of, educational agencies or institutions to:

- Develop, validate, or administer predictive tests;
- Administer student aid programs; or
- Improve instruction.

The agency or institution may disclose information to organizations conducting studies only if:

- The study is conducted in a manner that does not permit personal identification of parents and students by individuals other than representatives of the organization; and
- The information is destroyed when no longer needed for the purposes for which the study was conducted.

If the Family Policy Compliance Office (FPCO) determines that a third party outside the educational agency or institution to whom information is disclosed fails to destroy the information when no longer needed for the purposes for which the study was conducted, the educational agency or institution may not allow that third party access to personally identifiable information from education records for at least five years.

### **Conditions that Apply to a Judicial Order or Lawfully Issued Subpoena**

*34 CFR part 99.31(a)(9)(ii), 99.31(a)(9)(ii)(A), 99.31(a)(9)(ii)(B), 99.31(a)(9)(iii)(A), 99.31(a)(9)(iii)(B)*

The educational agency or institution may disclose information to comply with a judicial order or lawfully issued subpoena only if the agency or institution makes a reasonable effort to notify the parent or eligible student of the order or subpoena in advance of compliance, so that the parent or eligible student may seek protective action, unless the disclosure is in compliance with:

- A federal grand jury subpoena and the court has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed; or
- Any other subpoena issued for a law enforcement purpose and the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed.

If an educational agency or institution initiates legal action against a parent or student, the educational agency or institution may disclose to the court, without a court order or subpoena, the education records of the student that are relevant for the educational agency or institution to proceed with the legal action as plaintiff.

If a parent or eligible student initiates legal action against an educational agency or institution, the educational agency or institution may disclose to the court, without a court order or subpoena, the student's education records that are relevant for the educational agency or institution to defend itself.

### **LEA Specific Information:**

A record of each request for access will be maintained with the Special Education eligibility folder for each student.



Each request of record of access must include the name of the party requested or received personally identifiable information from the educational records. The purpose for which the authority/agency will use the record and the date access was given.

The following parties are not required to be entered on a record of access: parents, any eligible student, a school official whom the District has determined to have a legitimate educational interest, a party with written consent from the parent or eligible student, a party seeking directory information, a party seeking or receiving the records as part of grand jury or other law enforcement subpoena, and the issuing court or agency that has ordered that existence or the contents of the subpoena or information furnished in response to the subpoena not be disclosed.

### Inspection of Record of Access

The record of access may be inspected by the parent or eligible student, school official or assistants who are responsible for the custody of records, and for the purpose of auditing record keeping procedures.

### Redisclosure of Information

#### Sender Responsibilities

*26 USC §152, 34 CFR part 99.33(c), 99.33(d), 99.33(a)(1), 99.31(a)(8), 99.31(a)(9), 99.31(a)(11), 99.31(a)(12), 99.31(a)(14), 99.31(a)(15)*

An educational agency or institution may disclose personally identifiable information from an education record only on the condition that the party to whom the information is disclosed will not disclose the information to any other party without the prior consent of the parent or eligible student, except that:

- The conditional redisclosure requirements do not apply to disclosures made:
  - To parents of dependent students as defined in Section 152 of the Internal Revenue Code of 1986;
  - Pursuant to court orders, lawfully issued subpoenas, or litigation as otherwise defined in [When Consent is not Required to Disclose Information](#);
  - The disclosure is information the educational agency or institution has designated as "directory information," in compliance with 34 CFR 99.31(a)(11) and 34 CFR 99.31(b);
  - To the parent of a student who is not an eligible student or to the student;
  - In connection with a disciplinary proceeding at an institution of postsecondary education; or

- To a parent of a student at an institution of postsecondary education regarding the student's violation of any federal, state, or local law, or of any rule or policy of the institution, governing the use or possession of alcohol or a controlled substance.

An educational agency or institution must inform a party to whom disclosure is made of the requirements of redisclosure of information, except when the disclosure is pursuant to [When Consent is not Required to Disclose Information](#).

### **Recipient Responsibilities**

*34 CFR part 99.33(a)(2), 99.33(b), 99.33(b)(1), 99.33(b)(2), 99.33(e), 99.63*

The officers, employees, and agents of a party that receives education records from an educational agency or institution must use the information only for the purposes for which the disclosure was made, except that:

- The party receiving the information may make further disclosures of the information on behalf of the educational agency or institution if:
  - The disclosures meet the requirements of [When Consent is not Required to Disclose Information](#); and
  - The educational agency or institution has complied with the requirements of 34 CFR part 99.33(b)(2)

If the Family Policy Compliance Office (FPCO) determines that a third party improperly rediscloses personally identifiable information from education records, the educational agency or institution may not allow that third party access to personally identifiable information from education records for at least five years.

### **LEA Specific Information:**

Requests for such disclosures will be forwarded to the Director of Special Education and/or campus administrator for determination as to whether the requested records may be disclosed.

### **Destruction of Special Education Records**

In accordance with Federal and State regulations, LEAs must establish a records retention schedule for destruction of special education records. All special education records must be maintained for seven years from the student(s) graduation and/or last date of service.

A public notice of intent to destroy records must be published. This notice of the destruction of records procedure must outline how the parent, guardian, or adult student may request student files and the deadline to make the request.

### **LEA Specific Information:**

Over the summer the Director of Special Education will determine which records will be maintained or destroyed.

The Director of Special Education will issue a public notice of intent to destroy public records in local newspaper. The public will have two weeks to respond to the notice. All requests must be made to the Special Education office and within one week, the Special Education office must provide the educational record. After a two week period, identified records will be destroyed, unless requests have been received prior to the deadline.

Records may be destroyed upon completion of requests.