



# Admission, Review, and Dismissal Committee

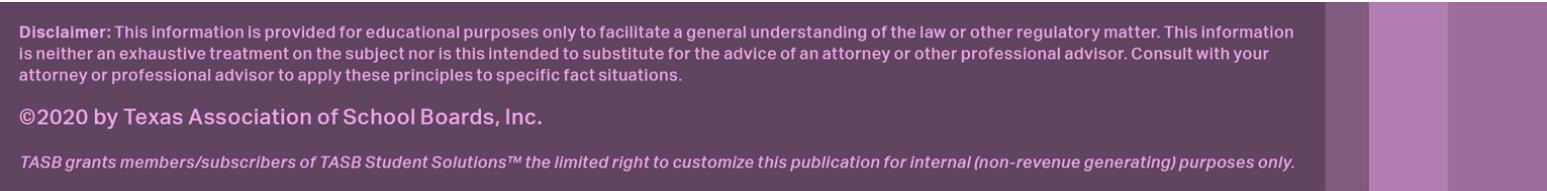
## ADMISSION, REVIEW, AND DISMISSAL COMMITTEE MEETING

March 24, 2021

Disclaimer: This information is provided for educational purposes only to facilitate a general understanding of the law or other regulatory matter. This information is neither an exhaustive treatment on the subject nor is this intended to substitute for the advice of an attorney or other professional advisor. Consult with your attorney or professional advisor to apply these principles to specific fact situations.

©2020 by Texas Association of School Boards, Inc.

TASB grants members/subscribers of TASB Student Solutions™ the limited right to customize this publication for internal (non-revenue generating) purposes only.



**CONTENTS**

ADMISSION, REVIEW, AND DISMISSAL COMMITTEE MEETING..... 1

    What is Required ..... 1

        Initial ARD Meeting ..... 1

        Developing the IEP ..... 1

        Periodic Review and Revision of the IEP ..... 2

        Recessing and Reconvening a Meeting ..... 3

        Mutual Agreement ..... 3

        Parent Request for an ARD Committee Meeting ..... 4

        IEP Facilitation ..... 4

    Additional Procedures ..... 5

        Initial ARD Meeting ..... 5

        Developing the IEP ..... 6

        Periodic Review and Revision of the IEP ..... 8

        Recessing and Reconvening a Meeting ..... 8

        Mutual Agreement ..... 9

        Parent Request for an ARD Committee Meeting ..... 9

    Evidence of Implementation ..... 9

    Resources ..... 10

CITATIONS ..... 10

# ADMISSION, REVIEW, AND DISMISSAL COMMITTEE MEETING

## What is Required

The District must have an IEP in effect for each student with a disability at the beginning of each the school year. For a student with a disability who transfers into the District within the same year, the District will comply with the transfer rules and procedures. See [CHILDREN WHO TRANSFER]. The IEP is developed and agreed upon at an initial ARD Committee meeting and revised as needed, but no less than once annually. Campus Special Education Personnel must provide the parent with written notice prior to any ARD meeting to allow the parent the opportunity to meaningfully participate in the meeting and provide Prior Written Notice of any proposed change to the student's IEP following the ARD meeting before any changes may be implemented. See [PARENT PARTICIPATION] and [PRIOR WRITTEN NOTICE].

## **Initial ARD Meeting**

At the initial ARD meeting, the ARD Committee must determine if the student is eligible for special education services based on the initial FIE and, where appropriate, placement in special education and the development of an IEP, within 30 calendar days from the date of the completion of the written initial FIE report.

The ARD Committee may wait to finalize decisions until the first day of classes in the fall if the 30<sup>th</sup> day falls during the summer when school is not in session, unless the initial evaluation indicates that the student will require Extended School Year services during that summer. See [EXTENDED SCHOOL YEAR SERVICES]. If the District received written consent for the evaluation from the parent at least 35 but fewer than 45 school days before the last instructional day of the school year and the student was not absent from school three or more days between the time the District received written consent and the last instructional day of the school year, the ARD Committee is only required to meet prior to the 15<sup>th</sup> school day of the following school year, unless the initial evaluation indicates that the student will require Extended School Year services during that summer. If the Initial evaluation indicates that the student will require Extended School Year services during that summer, the ARD Committee must convene as early as possible. A school day does not include a day that falls after the last instructional day of the spring school term and before the first instructional day of the subsequent school term.

## **Developing the IEP**

The District must provide all members of the ARD Committee the opportunity to collaboratively participate in developing the IEP. The ARD Committee must consider:

- The student's strengths;
- The parent's concerns regarding the student's education;
- The results of the initial evaluation or most recent evaluation of the student; and
- The academic, developmental, and functional needs of the student.

The ARD Committee must decide whether the student's IEP will last for the entire year or if the IEP will be for a shorter duration.

Service Providers and Campus Special Education Personnel will ensure that special education and related services are provided to the student in accordance with the student's IEP as soon as possible following the development of the IEP at the ARD meeting, and in compliance with Prior Written Notice requirements. See [PRIOR WRITTEN NOTICE].

### **Periodic Review and Revision of the IEP**

The ARD Committee must periodically review the student's IEP to assess the student's progress. At a minimum, the IEP should be reviewed annually to determine whether the student has achieved the annual goals. Where necessary, the ARD Committee must revise the IEP to address:

- Any lack of expected progress toward the annual goals and in the general education curriculum, if needed;
- The results of any reevaluation;
- Information about the student provided to, or by the parent, in a Review of Existing Evaluation Data, see [REVIEW OF EXISTING EVALUATION DATA];
- The student's anticipated needs; or
- Additional matters.

The ARD Committee must convene to address transition goals for the student if a participating agency, other than the District, fails to provide transition services outlined in the student's IEP. See [TRANSITION SERVICES].

If the student has been reevaluated, the ARD Committee and District Special Education Personnel should encourage the consolidation of any meetings related to the evaluation with other ARD Committee meetings.

The entire ARD Committee must convene an ARD meeting to make changes to an IEP unless the ARD Committee amends the IEP through the IEP amendment process. See

[AMENDMENT WITHOUT A MEETING].

### **Recessing and Reconvening a Meeting**

If possible, the ARD Committee must reach mutual agreement regarding a decision of the ARD Committee related to the required elements of the IEP. If mutual agreement is not reached, the District must offer the parent a single opportunity to recess and reconvene the ARD Committee meeting at a mutually agreed upon time and place within 10 school days of the ARD meeting, unless the parties mutually agree otherwise. However, the ARD Committee is not required to offer a recess and reconvene if the student's presence on the campus presents a danger of physical harm to the student or others or if the student has committed an expellable offense or an offense that might lead to a placement in a disciplinary alternative education program.

During the recess period, members of the ARD Committee should consider alternatives, gather additional data, prepare additional documentation, and/or seek additional individuals to help the ARD Committee reach a mutual agreement.

Should the ARD Committee still fail to reach a mutual agreement after it reconvenes,, the District must implement the IEP that it has determined to be appropriate for the student after giving the parent Prior Written Notice and waiting the required five (5) school days. See [PRIOR WRITTEN NOTICE]

The ARD Committee may also recess an ARD meeting for reasons other than the failure to reach mutual agreement.

### **Mutual Agreement**

Where mutual agreement is reached, the IEP must include:

- The date of the meeting;
- The name, position, and signature of each ARD Committee member participating in the meeting; and
- An indication of whether the student's parents, the adult student (if applicable), and the Campus Administrator agreed or disagreed with the decisions of the ARD Committee.

If mutual agreement is not reached, the IEP must include a written statement explaining the reason for the disagreement. In addition, each member, including the parent, who disagrees with the IEP is entitled to include their own statement of disagreement in the IEP.

## Parent Request for an ARD Committee Meeting

A parent may request an ARD Committee meeting at any time and for any reason. Upon receipt of a written request for an ARD Committee meeting from the parent, the Campus Special Education Personnel must schedule and convene the meeting or, within 5 school days, provide the parent with Prior Written Notice explaining why the District refuses to convene the meeting. See [PARENT PARTICIPATION] and [PRIOR WRITTEN NOTICE]

## IEP Facilitation

IEP facilitation refers to a method of alternative dispute resolution that involves the use of a trained facilitator to assist an ARD Committee in developing an IEP for a student with a disability. The facilitator uses facilitation techniques to help the committee members communicate and collaborate effectively. While the District is not required to offer IEP facilitation as an alternative dispute resolution method, TEA encourages the use of IEP facilitation.

The District is not prohibited from incorporating elements of IEP facilitation into ARD Committee meetings that are conducted without the assistance of a facilitator. For example, the District may provide training on communication skills, conflict management, or meeting effectiveness to individuals who participate in ARD Committee meetings to enhance collaboration and efficiency in those meetings.

If the District chooses to offer IEP facilitation, it may use independent contractors, employees, or other qualified individuals as facilitators. At a minimum, an individual who serves as a facilitator must:

- (1) have demonstrated knowledge of federal and state requirements relating to the provision of special education and related services to students with disabilities;
- (2) have demonstrated knowledge of and experience with the ARD Committee meeting process;
- (3) have completed 18 hours of training in IEP facilitation, consensus building, and/or conflict resolution; and
- (4) complete continuing education as determined by the District.

IEP facilitation must be voluntary on the part of the participants and must be provided at no cost to the parents. Additionally, the District may not use IEP facilitation to deny or delay the right to pursue a special education complaint, mediation, or due process hearing in accordance with federal law.

A facilitator is not a member of the ARD Committee and has no decision-making authority over the ARD Committee meeting. The facilitator must be impartial and cannot provide

input or an opinion into the development of a student's IEP. A facilitator assists with the overall organization and conduct of the ARD Committee meeting by:

- assisting the committee in establishing an agenda and setting the time allotted for the meeting,
- assisting the committee in establishing a set of guidelines for the meeting,
- guiding the discussion and keeping the focus on developing a mutually-agreed-upon IEP for the student,
- ensuring that each committee member has an opportunity to participate,
- helping to resolve disagreements that arise, and
- helping to keep the ARD Committee on task and within the time allotted for the meeting.

If the District at any time chooses to offer IEP facilitation, the District will develop a written Board policy in accordance with state law.

TEA has also developed information regarding TEA IEP Facilitation as an alternative dispute resolution method, and such information is available upon request from TEA and on the TEA website. TEA IEP Facilitation may be used at the request of the parent and the District when an ARD ends in disagreement. The parent and the District may request an independent facilitator from TEA to attend the reconvene ARD meeting by completing and submitting the required form within 5 days of the ARD Committee meeting that ended in disagreement.

## **Additional Procedures**

### **Initial ARD Meeting**

District or Campus Assessment Personnel will notify Campus Special Education Personnel upon completion of the written initial FIE report. Campus Special Education Personnel will keep a schedule of completion dates to ensure that all initial ARD meetings are held within 30 calendar days of the completion of the initial FIE (or within the appropriate time frame for evaluations completed during the summer). District or Campus Assessment Personnel will ensure that the parent has been provided a copy of the student's initial FIE with enough time to allow the parent the opportunity to review the report prior to the ARD meeting. District or Campus Assessment Personnel will also, upon request of the parent, schedule a time to go over the initial FIE with the parent prior to the initial ARD meeting.

Campus Special Education Personnel will invite the parent to the initial ARD meeting and provide written notice to the parent at least 5 school days before the meeting—unless the parent has agreed to a shorter time frame. If a parent is non-responsive to communication, after several attempts at communicating with the parent, Campus Special Education Personnel will send the parent notice of the scheduled ARD meeting, and the

ARD Committee will convene without the parent within the required timeframe. See [PARENT PARTICIPATION].

For evaluations completed when school is not in session, the ARD Committee will document efforts to determine if the student needs ESY services and the final decision of the ARD Committee. If the ARD Committee determines that ESY services are not needed, Campus Special Education Personnel will communicate with the parent to schedule the initial ARD meeting once school resumes. If ESY is needed, the initial ARD meeting will be scheduled as soon as possible before ESY begins.

After the initial ARD meeting is complete, Campus Special Education Personnel must provide the parent Prior Written Notice and obtain informed consent for the provision of special education and related services from the parent. See [CONSENT FOR SERVICES]. Following receipt of consent, Campus Special Education Personnel must wait five (5) school days before special education and related services may be provided to the student, unless the 5-days notice is waived by the parent. See [PRIOR WRITTEN NOTICE].

### **Developing the IEP**

The Campus Special Education Personnel will follow and share the ARD Agenda for the ARD Committee meeting. The ARD Agenda provides a specific order in which information is presented and discussed during the ARD Committee meeting. This order should be followed by the ARD Committee to ensure that assessment leads to the development of accommodations, goals and objectives, and that accommodations, goals and objectives lead to a determination of services to be provided, and services lead to placement. Following the ARD Agenda ensures that a student's placement and services are determined by the student's needs. The ARD Agenda should include the following topics, if applicable, in this order:

- (1) Introductions
- (2) Purpose of ARD
- (3) Statement of Confidentiality and Norms for the Meeting
- (4) Review of Evaluation Data and Other Information
- (5) Determination of Eligibility
- (6) Consideration of Special Factors
- (7) Present Levels of Academic Achievement and Functional Performance
- (8) Accommodations



- (9) Goals and Objectives
- (10) Assistive Technology
- (11) Graduation Plan (if applicable for student's age)
- (12) Transition (if applicable for student's age or AU eligible)
- (13) Determination of Participation in State and District Assessments
- (14) Behavior Intervention Plan (if applicable)
- (15) Determination of Special Education and Related Services
  - a. Instructional Services
  - b. Related Services
  - c. Supplementary Aids & Services
  - d. Accelerated Instruction/Intensive Program of Instruction
  - e. Compensatory Services
  - f. Least Restrictive Environment Considerations
- (16) Extended School Year Services
- (17) Placement Determination
- (18) Review of Deliberations/Minutes
- (19) Assurances
- (20) Signatures of Committee Members

All members of the ARD Committee must work together in a collaborative manner to develop the IEP. At the beginning of the ARD meeting, the Special Education Administrator will ensure that all required members are in attendance and set ground rules for participation and collaboration, including setting reasonable time limitations, if necessary. The following statement may be read: *"In order to facilitate a collaborative environment, participants will conduct themselves in a courteous manner. This expectation must be followed in order to work together to develop an appropriate educational plan for the student. All participants will conduct themselves professionally at all times during this ARD meeting. Unnecessary outbursts, rude or unprofessional behavior will result in the administrator requesting the removal of the party from the*

*committee meeting. This action could result in a recess of the meeting and rescheduling for another date and time.”*

District Special Education Personnel will provide opportunities for training on communication skills, conflict management, or meeting effectiveness to individuals who participate in ARD Committee meetings to enhance collaboration and efficiency in those meetings.

### **Periodic Review and Revision of the IEP**

Campus Special Education Personnel will keep a schedule to ensure that all IEPs are reviewed, at a minimum, annually. Aside from annual ARD meetings, an ARD meeting may be called for a variety of reasons, including, but not limited to, the following:

- Upon request by a member of the ARD Committee to discuss concerns related to the student;
- The student has already mastered or is not likely to master the annual goals in the IEP;
- Additional academic or behavioral goals or objectives need to be added or modified;
- Issues with student placement;
- Accommodations or modifications need to be addressed prior to State Assessments;
- Attendance or disciplinary issues;
- Possible dismissal from special education services;
- Receipt of new information, diagnoses or evaluations;
- Hospitalization; and/or
- At the request of a parent.

### **Recessing and Reconvening a Meeting**

Campus Special Education Personnel will consult with the parent at the end of the disagreed or recessed ARD meeting to determine the time and place for the reconvened ARD meeting. If the parties mutually agree to hold the reconvene after 10 school days have passed, Campus Special Education Personnel will obtain a written statement from the parent agreeing to the delay.

In addition to considering alternatives, gathering data, preparing further documentation, and/or obtaining additional resources to assist in enabling the ARD Committee to reach mutual agreement, Campus Special Education Personnel should consult with the Campus Principal to determine if a staffing should be held prior to the reconvene ARD meeting to discuss alternative options and proposals and review additional information collected by the Campus.

In particularly challenging ARDs where it looks like mutual agreement may not be possible

even following the recess, Campus Special Education Personnel will consult with the Campus Principal to determine whether it would be beneficial to request an IEP facilitator through TEA. If the Campus determines that an IEP facilitator would be helpful, Campus Special Education Personnel will contact the parent to seek consent for the request.

### **Mutual Agreement**

The ARD Committee will make every effort to ensure that mutual agreement regarding the IEP can be reached. However, the ARD Committee will not reach decisions based upon a majority vote. If mutual agreement cannot be reached, the ARD Committee will offer the parent a single opportunity to recess for up to 10 school days or another mutually agreeable time. Additionally, the ARD Committee will document all recommendations by the ARD Committee in which the parent disagrees, as well as the parent's position of disagreement, in the ARD minutes.

The ARD Committee will provide the parent a copy of their procedural safeguards and explain the process for resolving the disagreement if the ARD Committee is unable to reach mutual agreement after the recess. The ARD Committee will also notify the parent that the IEP will be implemented in 5 school days from receipt of the Prior Written Notice. The ARD Committee and all Campus Personnel will act professionally towards the student's parent should the parent exercise their right to disagree with the decisions of the ARD Committee.

### **Parent Request for an ARD Committee Meeting**

Campus Special Education Personnel will provide the parent a copy of the *Parent's Guide to the Admission, Review, and Dismissal Process*, informing the parent of the right to request an ARD meeting to discuss educational concerns about their student. See [PARENT PARTICIPATION].

All written requests from a parent for an ARD meeting should immediately be provided to Campus Special Education Personnel. Upon receipt of a written request for an ARD meeting from the parent, Campus Special Education Personnel will contact the parent to schedule the ARD meeting on a mutually agreeable date and time. Campus Special Education Personnel will then notify the ARD Committee members of the scheduled ARD meeting.

Campus Special Education Personnel will maintain all documentation related to written requests for an ARD meeting from the parent and the District's efforts to schedule and convene the meeting within a reasonable time.

### **Evidence of Implementation**

- Receipt of *Parent's Guide to the Admission, Review, and Dismissal Process*
- *Parent's Guide to the Admission, Review, and Dismissal Process*

- Receipt of Notice of Procedural Safeguards
- Notice of Procedural Safeguards
- FIE (to document date completed)
- ESY Documentation
- Notice(s) of ARD meeting
- Written Requests for ARD Meetings
- Schedule of Deadlines for ARD Meetings
- Attempts to Contact the Parent or Guardian to Ensure Parental Participation in ARD Meeting
- Draft IEP
- ARD/IEP
- Signature Page of ARD/IEP
- Notice(s) of ARD Meetings
- Prior Written Notice(s) of Decisions in ARD Meetings
- Documentation of Recess Activities
- Statement(s) of Disagreement
- Parent Requests for ARD Meeting and Response

## **Resources**

[The Legal Framework for the Child Centered Special Education Process: Admission, Review, and Dismissal Committee Meeting Framework - Region 18](#)

[Parent's Guide to the Admission, Review, and Dismissal Process - Texas Education Agency](#)

[Guidance on ARD Guide Production and Required Dissemination - Texas Education Agency](#)

[Individualized Education Program Facilitation - Texas Education Agency](#)

[OSEP Letter to Morris \(Aug. 15, 2007\) - U.S. Department of Education](#)

[OSEP Letter to Richards \(Jan. 7, 2010\) - U.S. Department of Education](#)

## **CITATIONS**

Board Policy EHBAB; 34 CFR 300.305(a)(2), 300.323, 300.324; Texas Education Code 29.005, 29.019, 29.020; 19 TAC 89.1011(d),(e),(g), 89.1050(e),(g), 89.1055, 89.1196, 89.1197

# Admission, Review & Dismissal Committee

## ARD COMMITTEE MEMBERSHIP

March 24,2021

Disclaimer: This information is provided for educational purposes only to facilitate a general understanding of the law or other regulatory matter. This information is neither an exhaustive treatment on the subject nor is this intended to substitute for the advice of an attorney or other professional advisor. Consult with your attorney or professional advisor to apply these principles to specific fact situations.

©2020 by Texas Association of School Boards, Inc.

TASB grants members/subscribers of TASB Student Solutions™ the limited right to customize this publication for internal (non-revenue generating) purposes only.

**CONTENTS**

What is Required..... 1  
    Transfer of Rights – ARD Committee Membership.....2  
    Attendance and Excusal .....2  
Additional Procedures ..... 3  
Evidence of Implementation ..... 4  
Resources ..... 4  
CITATIONS ..... 5

# ARD COMMITTEE MEMBERSHIP

## What is Required

The ARD Committee must include the following individuals:

- The parents of the student with a disability.
- Not less than one of student's regular education teachers who must, to the extent practicable, be a teacher responsible for implementing a portion of student's IEP if the student is, or may be, participating in the regular education environment.
- Not less than one of student's special education teachers, or where appropriate, not less than one of student's special education providers who is appropriately certified or licensed.
- A representative of the District (usually the Campus Special Education Administrator) who:
  - Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of students with disabilities;
  - Is knowledgeable about the general education curriculum; and
  - Is knowledgeable about the availability of resources of the District.
- An individual who can interpret the instructional implications of evaluation results, who may be the regular education teacher, special education teacher or provider, a District representative (usually the District or Campus Assessment Personnel), or a discretionary member on the ARD Committee.
- The student with a disability, whenever appropriate, including when a purpose of the meeting will be the consideration of the postsecondary goals for the student and the transition services needed to assist the student in reaching those goals. See [TRANSITION SERVICES].
- At the discretion of the parent or the District, other discretionary members or individuals who have knowledge or special expertise regarding the student, including related services personnel as appropriate.
- With the consent of the parents, and to the extent appropriate, a representative of any participating agency that is likely to be responsible for providing or paying for transition services.
- A representative from career and technical (CTE) education, preferably the student's CTE teacher, when considering initial or continued placement of student

in CTE. See [TRANSITION SERVICES].

- If the student is identified as an English language learner, a professional staff member on the LPAC committee, who may be the regular education or special education teacher on the ARD Committee.
- In the case of a student with a suspected or documented visual impairment, a teacher who is certified in the education of students with visual impairments.
- In the case of a student suspected or documented as being a student who is deaf or hard of hearing, a teacher certified in the education of students who are deaf or hard of hearing.
- In the case of a student with suspected or documented deaf-blindness, a teacher who is certified in the education of students with visual impairments and a teacher who is certified in the education of students who are deaf or hard of hearing.
- In the case of a student who was previously served under the Early Childhood Intervention (ECI) program, at the request of the parent, by invitation to the initial ARD Committee meeting only, the ECI service coordinator or other representatives of the ECI system.

### **Transfer of Rights – ARD Committee Membership**

The ARD Committee must include an adult student following a transfer of rights. Following the transfer of rights, while the parent must be provided the notice of the ARD Committee meeting, it does not give the parent the right to attend the meeting, unless invited. The adult student or the District may invite individuals with knowledge or special expertise regarding the adult student, including student's parents, to be members of the ARD Committee. See [RULE OF CONSTRUCTION] and [ADULT STUDENT AND TRANSFER OF RIGHTS].

### **Attendance and Excusal**

If the parent and the Campus Special Education Administrator agree in writing that an ARD Committee member's attendance is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting, the member is not required to attend the ARD Committee meeting.

When an ARD Committee member's area of the curriculum or related services is being modified or discussed in the ARD Committee meeting, the member may be excused from attendance at the meeting, in whole or in part, if: the parent, in writing, and the Campus Special Education Administrator consent to the excusal and the member to be excused submits to the parent and the ARD Committee, in writing, input into the development of the IEP prior to the meeting. See [CONSENT TO EXCUSE MEMBER FROM



## ATTENDING ARD COMMITTEE MEETING].

These excusal requirements do not apply to the following ARD Committee members: the parent, the student with a disability, an adult student following a transfer of rights, and a discretionary member.

### **Additional Procedures**

Campus Special Education Personnel who is responsible for scheduling an ARD meeting must ensure that all relevant and required individuals have been invited to the ARD Committee meeting and will attend. Thus, where feasible, it is imperative that the purpose of the ARD meeting is clear to ensure all of the required members are in attendance.

Campus Special Education Personnel will ensure that parents have the opportunity to participate in the ARD meeting and make reasonable efforts to schedule the ARD at a mutually agreeable time and location through a variety of efforts, including written communication, phone calls and email communications to the parent, and home visits, where appropriate. See [PARENT PARTICIPATION]. If Campus Special Education Personnel are unable to convince the parent to attend the ARD meeting or the parent indicates that the parent will not be attending the ARD meeting and gives permission for the ARD meeting to proceed without them, the ARD Committee can commence the process without parent participation. See [PARENT PARTICIPATION]. If the ARD Committee will proceed without the parent's participation, the ARD minutes/deliberations should include an explanation of the attempts to obtain parent participation and/or a statement that the parent gave permission to proceed without the parent.

Prior to the ARD meeting, Campus Special Education Personnel will provide the notice of the ARD meeting and ensure that the notice properly identifies those who will be in attendance and the purpose of the ARD meeting. Prior to sending out the notice, Campus Special Education Personnel will contact the parent or adult student to ask for the names and role of any individuals invited by the parent or adult student that will be attending the ARD meeting, as well as any concerns/issues the parent or adult student would like to discuss as the ARD meeting. Depending on the parent/adult student's answer, the Campus Special Education Personnel may need to invite additional members to the meeting. Campus Special Education Personnel should contact the District's Special Education Director or designee regarding how to proceed if the parent indicates that an advocate or attorney will be in attendance at the ARD meeting.

Campus Special Education Personnel are responsible for compiling and processing the ARD/IEP paperwork. Campus Special Education Personnel are responsible for sending out the notice of the ARD meeting and ensuring that the notice properly identifies those who will be in attendance and the purpose of the ARD meeting. See [PARENT PARTICIPATION]. Campus Special Education Personnel must also notify the appropriate ARD Committee members of the date and time of the ARD meeting, gather

relevant information for the ARD, and create a draft IEP for the ARD Committee members review and input. Campus Special Education Personnel will also be responsible for ensuring that a Prior Written Notice is prepared and information and paperwork are disseminated to the appropriate individuals after the ARD Committee meeting. See [PRIOR WRITTEN NOTICE].

If an interpreter is needed for the ARD meeting, Campus Special Education Personnel will arrange for the interpreter to attend the ARD meeting. See [PARENT PARTICIPATION].

The Campus Special Education ARD Facilitator will ensure that proper documentation of ARD Committee member excusal from a particular meeting is completed. If an ARD Committee member is not required to attend the ARD meeting (in whole or in part) because the member's area of the curriculum or related services is not being modified or discussed in the meeting, a statement signed by the Campus Special Education ARD Facilitator and the parent must be completed noting that the person will not be in attendance, that the person's attendance is not necessary, and that the area of the curriculum or related service is not being modified or discussed during the ARD meeting. If an ARD Committee member whose curriculum or related service area is being discussed at the ARD will not be in attendance, a statement signed by the Campus Administrator and the parent must be completed agreeing to the member's excusal. Attached to this statement must be the member's written input into the development of the IEP. The Campus Special Education Personnel will attach the signed documentation of a member's excusal to the ARD documentation.

## **Evidence of Implementation**

- ARD/IEP
- Documentation of Parent Participation Attempts
- Notice(s) of ARD Meeting
- Prior Written Notice
- *Notice of Procedural Safeguards*
- *Parent's Guide to the Admission, Review, and Dismissal Process*
- Documentation of Member Excusal
- Documentation Regarding Parent Participation

## **Resources**

**[The Legal Framework for the Child-Centered Special Education Process: Admission, Review, and Dismissal Committee Membership - Region 18](#)**

**[Consent to Excuse Member from ARD Committee Legal Framework - Region 18](#)**

[Parent's Guide to the Admission, Review, and Dismissal Process - Texas Education Agency](#)

[OSEP Letter to Anonymous \(Mar. 31, 2008\) - U.S. Department of Education](#)

[OSEP Letter to Serwecki \(Feb. 28, 2005\) - U.S. Department of Education](#)

[OSEP Letter to Andel \(Feb. 17, 2016\) - U.S. Department of Education](#)

[OSEP Letter to Caplan \(Mar. 17, 2008\) - U.S. Department of Education](#)

[OSERS Questions and Answers on Individualized Education Programs \(IEPs\), Evaluations, and Reevaluations \(revised Sept. 2011\) - U.S. Department of Education](#)

## **CITATIONS**

Board Policy EHBAA; Board Policy EHBAB; 20 U.S.C. 1414; 34 CFR 300.156(c), 300.321, 300.322, 300.328, 300.501, 300.520(a), 300.9; Texas Education Code 29.005, 37.007; Texas Government Code 392.002; 19 TAC 75.1023(d)(1), 89.1015, 89.1045(b), 89.1049(d), 89.1050(c), 1052(b), 89.1075(a)

# ADMISSION, REVIEW, AND DISMISSAL COMMITTEE

## AMENDMENT *WITHOUT A MEETING*

March 24, 2021

Disclaimer: This information is provided for educational purposes only to facilitate a general understanding of the law or other regulatory matter. This information is neither an exhaustive treatment on the subject nor is this intended to substitute for the advice of an attorney or other professional advisor. Consult with your attorney or professional advisor to apply these principles to specific fact situations.

©2020 by Texas Association of School Boards, Inc.

TASB grants members/subscribers of TASB Student Solutions™ the limited right to customize this publication for internal (non-revenue generating) purposes only.

**CONTENTS**

AMENDMENT WITHOUT A MEETING..... 1

    What is Required ..... 1

        Definitions..... 1

    Additional Procedures..... 1

    Evidence of Implementation..... 3

    Resources..... 3

CITATIONS..... 3

## **AMENDMENT WITHOUT A MEETING**

### **What is Required**

After the annual ARD meeting, changes to a student's IEP may be made either:

- By the entire ARD Committee at an ARD Committee meeting; or
- By amending the IEP rather than by redrafting the entire IEP.

Specifically, in making changes to a student's IEP after the annual ARD meeting for a school year, the parent of a special education student and the District may agree not to convene an ARD meeting for the purposes of making those changes, and instead may develop a written document to amend or modify the student's current IEP (the "ARD Amendment"). If changes are made to the student's IEP through an ARD Amendment, the Campus Special Education Personnel must ensure that the ARD Committee is informed of those changes. Upon request by the parent, the Campus Special Education Personnel will provide the parent with a revised copy of the IEP with the amendments incorporated.

Eligibility determinations, changes of placements, and manifestation determination reviews, in accordance with federal law, may not be conducted through the amendment without a meeting process.

### **Definitions**

"Change of placement" means a proposed change to the IEP which substantially or materially affects the composition of the educational program and services provided to the student. A simple change in the location of a building or facility is not, generally, viewed to be a change in placement where there are no significant changes in the educational program.

Individualized Educational Program ("IEP") means a written statement for each special education student that includes the student's present levels of academic achievement and functional performance, participation in state and district-wide assessments, transition services, annual goals, special factors, special education, related services, supplementary aids and services, extended school year services, and least restrictive environment.

### **Additional Procedures**

In making changes to a student's IEP after the student's annual ARD meeting, the parent of a student with a disability—or an adult student—and Campus Special Education

Personnel may agree not to convene an ARD meeting for the purposes of making those changes, and instead may develop a written document to amend or modify the student's current IEP. Campus Special Education Personnel should document and maintain a record of any communications between the parent and Campus Special Education Personnel regarding the IEP amendment.

The purpose of the IEP amendment is to make minor changes to the IEP during the year it is in effect. Examples of when an IEP amendment without a meeting may be appropriate include:

- To correct minor errors or discrepancies in ARD documentation;
- To add or remove instructional accommodations and/or supplementary aids where doing so will not result in a change in service delivery hours and/or student placement;
- To add or remove assistive technology devices where doing so will not result in a change in service delivery hours and/or student placement;
- To modify transportation services once eligibility for transportation is established;
- To modify statewide testing accommodations.

If substantial or comprehensive changes need to be made to a student's IEP, an ARD meeting should be convened to develop a new, complete IEP. An IEP amendment without an ARD meeting cannot be utilized for eligibility determinations, to change a student's placement, or for manifestation determination reviews and for any other purpose for which the District determines an IEP amendment without a meeting may not be used. If Campus Special Education Personnel and the parent agree to amend the student's IEP without convening an ARD Committee meeting, Campus Special Education Personnel must obtain the parent's signature indicating agreement or disagreement with the proposed change. **[DISTRICT SHOULD DETERMINE IF THIS IS APPROPRIATE FOR THEIR PROCEDURE]** Campus Special Education Personnel must also provide the parent with Prior Written Notice of the amendment, as well as a revised copy of the IEP with the amendment(s) incorporated. See **[PRIOR WRITTEN NOTICE]**.

If the parent disagrees with the amendment or fails to return the signed agreement, an ARD meeting must be held to discuss the changes. If the parent returns the signed agreement, indicating agreement with the amendment, the campus must wait 5 days from the time Campus Special Education Personnel receive the signed agreement to implement the changes, unless the parent has agreed otherwise. Once the IEP is amended, the ARD Committee members must be informed of those changes.

An IEP amendment cannot replace the required annual ARD meeting, and parents continue to have the option to call an ARD meeting to consider IEP changes at any time. In summary, Campus Special Education Personnel should complete the following steps to amend an IEP without an ARD Committee meeting:

- Determine that there is consensus among District-based members of the ARD Committee that the IEP amendment is indicated and appropriate;
- Discuss the proposed IEP amendment with the student's parent in person or by

- phone;
- Obtain parent signature of agreement to amend the IEP; [DISTRICT SHOULD DETERMINE IF THIS IS APPROPRIATE FOR THEIR PROCEDURE]
  - Distribute the signed amendment to all ARD members and implementers;
  - File the original, signed amendment in the student's eligibility form with the annual IEP being amended;
  - Inform the ARD Committee of the amendment;
  - Provide parent with Prior Written Notice;
  - Provide parent with a copy of the IEP with the amendments incorporated.

### **Evidence of Implementation**

- IEP Amendment
- Parent's Written Agreement
- Documentation of Amendment Discussions
- Prior Written Notice
- ARD/IEP

### **Resources**

[The Legal Framework for the Child-Centered Special Education Process: Amendment Without a Meeting - Region 18](#)

[Amending an IEP Without a Meeting - Partners Resource Network](#)

[OSERS Dear Colleague Letter \(Aug. 1, 2016\) - U.S. Department of Education](#)

[OSERS Questions and Answers on Individualized Education Programs \(IEPs\), Evaluations, and Reevaluations \(Sept. 2011\) - U.S. Department of Education](#)

### **CITATIONS**

Board Policy EHBAA; Board Policy EHBAB; 20 U.S.C. 1414, 1415(k); 34 CFR 300.116, 300.306, 300.324(a), 300.530(e)



# Admission, Review & Dismissal Committee

## ANNUAL GOALS

March 24, 2021

Disclaimer: This information is provided for educational purposes only to facilitate a general understanding of the law or other regulatory matter. This information is neither an exhaustive treatment on the subject nor is this intended to substitute for the advice of an attorney or other professional advisor. Consult with your attorney or professional advisor to apply these principles to specific fact situations.

©2020 by Texas Association of School Boards, Inc.

TASB grants members/subscribers of TASB Student Solutions™ the limited right to customize this publication for internal (non-revenue generating) purposes only.

**CONTENTS**

ANNUAL GOALS ..... 1

What is Required ..... 1

    Definitions.....1

Additional Procedures ..... 2

Evidence of Procedure..... 4

Resources..... 4

CITATIONS ..... 4

## ANNUAL GOALS

### What is Required

The ARD Committee must develop specific, measurable academic and functional goals in a student's IEP each academic year. A student's annual goals must be designed to meet the student's needs that result from the student's disability to enable the student to be involved in and to make progress in the general education curriculum, and meet each of the student's other educational needs that result from the student's disability. Annual goals describe what a student with a disability can reasonably be expected to accomplish in the special education program within a twelve-month period. It is a skill and/or knowledge that can be measured and mastered based on given criteria.

The IEP must include a description of (1) how the student's progress towards the annual goals will be measured and (2) when periodic reporting on progress towards annual goals—e.g. through quarterly or periodic IEP progress reports issued along with report cards—will be provided.

For students with disabilities who take alternate achievement tests aligned to alternate achievement standards, the ARD Committee must include in the student's IEP a description of short-term objectives or benchmarks. Short-term objectives are developed based on the major components of the student's annual goals and serve as milestones for measuring progress toward meeting those goals. Like annual goals, short-term objectives must also be specific and measurable.

### Definitions

“Present Levels / Present Levels of Academic Achievement and Functional Performance (PLAAFP)” for the school-aged student summarizes the current strengths and needs of the student in both academic and functional performance areas. It must include how the student's disability affects the student's involvement and progress in the general education curriculum, regardless of the setting in which the student currently receives services. Additionally, it may describe the current instructional level of the student compared to the grade level Texas Essential Knowledge and Skills, and, if the student is below grade level, the PLAAFP also may describe the prerequisite skills the student needs in order to achieve grade-level proficiency. PLAAFP for the preschool student summarizes the current levels of present performance related to the student's developmental domains, functional performance, and pre-academic skills. It must include how the student's disability affects the student's participation in appropriate activities. Additionally, it may describe the student's current developmental levels compared to the Texas Prekindergarten Guidelines or district-adopted prekindergarten curriculum. See [PRESENT LEVELS].

## **Additional Procedures**

Campus Special Education Personnel will consult with the student's general education teacher(s), where applicable, when developing a draft of the annual goals. Where feasible, Campus Special Education Personnel should send the parent a draft of the annual goals prior to the ARD meeting. The ARD Committee, including the parent, will provide input regarding the annual goals at the ARD meeting.

The annual goals should be based on the student's present levels of academic achievement and functional performance ("PLAAFP") and tailored to meet the student's educational needs that result from the student's disability. See [PRESENT LEVELS]. As such, Campus Special Education Personnel will assess the student prior to developing annual goal when preparing for annual ARD meetings. The goals should be realistic, attainable, and reasonably calculated to enable a student to make appropriate progress in light of the student's unique circumstances. The criterion should specify the amount of growth expected to meet the annual goal and be based on how the progress will be measured—not necessarily the score required for passing the course or assignment. Restating attainment of a grade level standard should not be a student's annual goal, as attainment of a grade level standard is a goal for every general education student. Additionally, a goal should be something that can be reasonably attained within one year.

When developing annual goals, Campus Personnel should include the following components within the annual goals:

- **Timeframe:** Identifies the amount of time, usually specified in interval periods, for the goal to be completed;
- **Conditions:** Describes the specific resources that must be used for a student to reach the goal. The condition of the goal should relate to the behavior being measured;
- **Behavior:** Represents an action the student must take to achieve the goal that can be directly observed, measured, and monitored;
- **Criterion:** Identifies the frequency or to what standard the behavior must occur to demonstrate that the goal has been met; and
- **Unit of Measure:** A means for evaluating the goals and objectives

Although short-term objectives or benchmarks are only required for students who take alternate tests, it is recommended that all special education students have short-term objectives within their IEP to gauge a student's progress. Benchmarks/short-term objectives should include intermediate steps that serve to gauge student progress or lack of progress toward master of the annual goal. The short-term objectives or benchmarks

should also include a timeframe, conditions, behavior, criterion, and unit. Mastering benchmarks/short-term objectives does not necessarily mean that the student has mastered an annual goal.

It is imperative that goals and objectives/benchmarks are measurable and that the teacher/service providers who are required to track progress understand how the goal will be measured and what data will be collected to show whether the student is progressing on the goals.

Each IEP goal should correspond to specially designed instruction or related services that a student needs based on the student's unique academic or functional needs. For example, if a student's PLAAFP data shows that the student's pragmatic speech is impacting his or her education, a student may have a speech goal related to improving pragmatic speech, as well as direct speech therapy related services to help the student master the goal. See [SUPPLEMENTARY AIDS AND SERVICES, SPECIAL EDUCATION, AND RELATED SERVICES]. Thus, goals should only be drafted after examining the student's PLAAFP. The ARD Committee will then determine what specially designed instruction or special education services the student requires, as well as the frequency, duration, and location of these services, to meet the annual goals.

The ARD Committee has discretion over the areas in which a student requires measurable annual goals. However, the ARD Committee will implement an annual goal in any area where content is modified, specifically addressing how the content is modified. Additionally, the ARD Committee will include an annual goal for each subject where the student is removed from the general education setting, even if the content is not modified during that period.

The ARD Committee must include in the student's IEP how the student is progressing towards meeting the annual goals and the reporting intervals for the ARD Committee to assess the student's progress on the goals (e.g. quarterly or concurrent with report card grades).

Campus Special Education Personnel, such as the student's case manager, and/or general education teacher for a student who is mainstreamed, should be tasked with collecting student data to create progress reports to be sent to the student's parent. The progress data should be as specific as possible and based on data from the student's current teachers and related service providers who are tasked with monitoring the student's goals.

If the progress data reveals that a student has mastered an annual goal, the ARD Committee should convene and determine whether to remove the goal from the student's IEP or modify the goal to target a more difficult concept that directly or sequentially relates to the original goal. If input from teachers reflect that a particular annual goal is no longer appropriate, the ARD Committee should convene to determine if changes to the goals are indicated.

## **Evidence of Procedure**

- FIE
- IEP
- Documentation of Collaboration Between Campus Personnel in Drafting Goals
- Progress Reports on Annual Goals
- Consistent Progress Documentation
- Report Card Grades
- State Assessment Results
- Teacher Input
- Student/Parent Input

## **Resources**

[The Legal Framework for the Child-Centered Special Education Process: Annual Goals - Region 18](#)

[IEP Annual Goal Development Question & Answer Document – Texas Education Agency and PGC Network](#)

[IEP Goal Development in Texas Online Training – Region 20](#)

[Standards-Based Individualized Education Program Guidance – Texas Education Agency](#)

[Texas Essential Knowledge and Skills \(TEKS\) – Texas Education Agency](#)

[OSEP Letter to Hayden \(October 3, 1994\) – U.S. Department of Education](#)

[OSEP Letter to Kelly \(August 24, 2007\) – U.S. Department of Education](#)

[OSERS Dear Colleague Letter \(November 16, 2015\) – U.S. Department of Education](#)

[OSEP Letter to Lenz \(February 7, 2014\) – U.S. Department of Education](#)

[Annual Goals - SPEDTEX](#)

## **CITATIONS**

Board Policy EHBAB; 34 CFR 300.320(a)(2)–(3); 19 TAC 89.1055(j); *Endrew F. ex rel. Joseph F. v. Douglas County Sch. Dist. RE-1*, 137 S. Ct. 988 (2017); *Cypress-Fairbanks Indep. Sch. Dist. v. Michael F. by Barry F.*, 118 F. 3d 245 (5<sup>th</sup> Cir. 1997)

# Admission, Review & Dismissal Committee

## DETERMINATION OF ELIGIBILITY

March 24, 2021

Disclaimer: This information is provided for educational purposes only to facilitate a general understanding of the law or other regulatory matter. This information is neither an exhaustive treatment on the subject nor is this intended to substitute for the advice of an attorney or other professional advisor. Consult with your attorney or professional advisor to apply these principles to specific fact situations.

©2020 by Texas Association of School Boards, Inc.

TASB grants members/subscribers of TASB Student Solutions™ the limited right to customize this publication for internal (non-revenue generating) purposes only.

**CONTENTS**

DETERMINATION OF ELIGIBILITY..... 1

    What is Required ..... 1

        Definitions ..... 1

    Additional Procedures ..... 3

    Evidence of Implementation..... 4

    Resources ..... 5

CITATIONS ..... 5



## DETERMINATION OF ELIGIBILITY

### What is Required

After completion of student's FIE, the ARD Committee must determine whether the student has a disability and, by reason of the disability, the student needs special education and related services. If it is determined, through an appropriate evaluation, that the student has one of the disabilities, but only needs a related service and not special education, the student is not a student with a disability under the IDEA. See [FULL INDIVIDUAL AND INITIAL EVALUATION].

The ARD Committee must draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the student's physical condition, social or cultural background, and adaptive behavior. The committee must also ensure that information obtained from all of these sources is documented and carefully considered.

The ARD Committee must not determine a student is a student with a disability if the determinant factor for the Committee's determination is:

- Lack of appropriate instruction in reading, including the essential components of reading instruction as defined in the Elementary and Secondary Education Act which means explicit and systematic instruction in:
  - Phonemic awareness;
  - Phonics;
  - Vocabulary development;
  - Reading fluency, including oral reading skills; and
  - Reading comprehension strategies;
- Lack of appropriate instruction in math; or
- Limited English proficiency.

District Assessment Personnel must provide a copy of the evaluation report to the student's parent, and Campus Special Education Personnel must provide documentation of determination of eligibility to student's parent.

### Definitions

A "child/student with a disability" means a child evaluated in accordance with the IDEA as having a/an:

- intellectual disability [INTELLECTUAL DISABILITY];

- Hearing impairment (including deafness) [DEAF OR HARD OF HEARING];
- Speech or language impairment [SPEECH OR LANGUAGE IMPAIRMENT];
- Visual impairment (including blindness) [VISUAL IMPAIRMENT];
- Serious emotional disturbance [EMOTIONAL DISTURBANCE];
- Orthopedic impairment [ORTHOPEDIC IMPAIRMENT];
- Autism [AUSTISM];
- Traumatic brain injury [TRAUMATIC BRAIN INJURY];
- Other health impairment [OTHER HEALTH IMPAIRMENT];
- Specific learning disability [SPECIFIC LEARNING DISABILITY];
- Deaf-blindness [DEAF-BLINDNESS]; or
- Multiple disabilities [MULTIPLE DISABILITIES]; and

by reason thereof, needs special education and related services.

“Special education” means specially designed instruction, at no cost to the parents, to meet the unique needs of a student 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.

“Specially designed instruction” means instruction adapted, as appropriate, to the needs of the eligible student under the IDEA, which may include the content, methodology or delivery of instruction; addressing the unique needs of the student that result from the student’s disability; and ensuring access of the student to the general curriculum so that the student can meet the educational standards with the jurisdiction of the District that apply to all students.

“Related services” means a wide array of developmental, corrective, and other supportive services that are required to assist the student to benefit from special education. Related services do not include a medical device that is surgically implanted, the optimization of that device’s functioning (mapping), maintenance of that device, or the replacement of that device. Special education and related services are based on peer-reviewed research to the extent practicable. This means there is reliable evidence to demonstrate that the program or services are effective in meeting the needs of the student. Peer-reviewed research ensures that the quality of the research meets the established standard of the field. Peer-reviewed research may apply to academic, as well as nonacademic areas,

such as behavioral interventions. Related services include, but are not limited to assistive technology, audiology services, counseling services, interpreting services, medical services, music therapy, occupational therapy, orientation and mobility services, parent counseling and training, physical therapy, psychological services, recreation, rehabilitation counseling services, school health services, social work services in school, speech-language therapy, and transportation.

## **Additional Procedures**

District or Campus Assessment Personnel—which includes, but is not limited to, a licensed specialist in school psychology, an educational diagnostician or 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 or related service—is responsible for collecting and reviewing data in connection with the determination of the student’s eligibility. However, determination of eligibility itself is made by the student’s ARD Committee, including the parent and the qualified Assessment Personnel. See [ARD COMMITTEE MEMBERSHIP].

District or Campus Assessment Personnel will ensure a copy of the evaluation report is provided to the parent and the other members of the ARD Committee within a reasonable time before the ARD Committee meeting (at least one week before the ARD, if possible) so that all members can review, question, and fully understand the information provided. For an initial evaluation or when a reevaluation indicates a possible additional eligibility, the District or Campus Assessment Personnel will review the results of the evaluation prior to the ARD meeting in a face-to-face meeting with the parent, whenever possible. In addition, if feasible, the school members of the ARD Committee may meet with the District or Campus Assessment Personnel prior to the ARD to review and discuss the evaluation.

The ARD Committee must convene within the required timeframes under the law to determine eligibility. See [ARD COMMITTEE MEETING] and [EVALUATION PROCEDURES]. Typically, this must occur within 30 calendar days from the date of the completion of the written initial FIE report. However, the ARD Committee may wait to finalize eligibility decisions until the first day of classes in the fall if the 30<sup>th</sup> day falls during the summer when school is not in session, unless the initial evaluation indicates that the student will require Extended School Year services during that summer. See [EXTENDED SCHOOL YEAR SERVICES] and [EVALUATION PROCEDURES].

Determining eligibility under the IDEA is a two-part analysis. A student is eligible if (1) the student has one or more of the disabilities identified by the IDEA and (2) needs special education and related services. Thus, the ARD Committee must determine not only that a student has one or more of the disabilities identified in the IDEA, but must also find that the student’s condition adversely affects educational performance to such an extent that the student needs special education and related services (as defined above). If a student

has a disability, but the disability does not result in a need for special education services, the student is not considered a child/student with a disability eligible for services under the IDEA. While the need for special education and related services should be determined by the ARD Committee on an individualized basis, in most cases where a student is being educated in the regular classroom with only minor accommodations and is making educational progress (i.e. passing marks, advancement from grade to grade, minimal behavior issues, success on standardized tests, etc.), the student does not “need” special education and related services within the meaning of the law.

Determination of eligibility will not be based on a single criterion. In determining if the student has a disability and the educational needs of the student, the ARD Committee must document and carefully consider information from a variety of sources including:

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

If the student does not meet the eligibility criteria under the IDEA, or does not need special education or related services due to his/her disability, Campus Personnel should refer the student to the Campus or District Personnel responsible for compliance with Section 504 to determine whether the student is eligible for accommodations or services as a student with a disability under Section 504.

Likewise, not all struggling students have a disability. In these situations, the Campus Support Team may meet and recommend other general education services or programs in an effort to help the student. The Campus Support Team may also recommend additional interventions available to non-disabled students. Finally, the student’s progress should be monitored to ensure that, in the future, the student does not need special education services. See [CHILD FIND DUTY].

## **Evidence of Implementation**

- Intervention History Documentation
- Section 504 Documentation
- Referral Documentation
- Teacher Information
- Parent Information
- Minutes from Review of FIE with Parent/Staff
- FIE
- ARD/IEP

- Progress Documentation

## **Resources**

[The Legal Framework for the Child-Centered Special Education Process: Determination of Eligibility - Region 18](#)

[Eligibility Determination - Learning Disabilities Association of America](#)

[Diagnosis vs Disability - Texas Project First](#)

[OSEP Letter to Clarke \(March 8, 2007\) - U.S. Department of Education](#)

[Eligibility - SPEDTEX](#)

## **CITATIONS**

Board Policy EHBA; Board Policy EHBAA; Board Policy EHBAB; 20 U.S.C. 1021(7), 1401(3)(A), 1414, 6368(3), 7801(20); 34 CFR 300.8(a)(1-2), 300.27, 300.306 (a-b), 300.8(a)(1-2); 19 TAC 89.1050(a)

# Admission, Review & Dismissal Committee

## EXTENDED SCHOOL YEAR SERVICES

March 24, 2021

Disclaimer: This information is provided for educational purposes only to facilitate a general understanding of the law or other regulatory matter. This information is neither an exhaustive treatment on the subject nor is this intended to substitute for the advice of an attorney or other professional advisor. Consult with your attorney or professional advisor to apply these principles to specific fact situations.

©2020 by Texas Association of School Boards, Inc.

TASB grants members/subscribers of TASB Student Solutions™ the limited right to customize this publication for internal (non-revenue generating) purposes only.

**CONTENTS**

EXTENDED SCHOOL YEAR SERVICES ..... 1

    What is Required ..... 1

        Limitations on ESY ..... 1

        Regression-Recoupment Analysis..... 1

        Definitions ..... 2

    Additional Procedures ..... 2

        Determine Student Needs ..... 2

        ESY ARD Meeting ..... 3

        Providing ESY Services..... 3

    Evidence of Implementation..... 4

    Resources..... 4

CITATIONS ..... 4

## **EXTENDED SCHOOL YEAR SERVICES**

### **What is Required**

The ARD Committee must ensure extended school year (“ESY”) services are available as necessary to provide a FAPE to students with disabilities.

ESY services are special education and related services provided to a student with a disability beyond the normal school year of the District in accordance with the student’s IEP and at no cost to the parents of the student that meets the standards set forth by TEA. The ARD Committee must determine whether ESY services are necessary for the provision of FAPE. If the ARD Committee does not propose ESY services for discussion at the annual review of the student’s IEP, the parent may request that the ARD Committee discuss ESY services. The ARD Committee must determine the need for ESY services from formal and/or informal evaluations provided by the District or the parents. For a student enrolling in the District during the school year, information obtained from student’s previous district, as well as information collected during the current year, may be used to determine the need for ESY services.

If the student for whom ESY services were considered but rejected loses critical skills because of the decision not to provide ESY services, and if those skills are not regained after the reasonable period of time for recoupment, the ARD Committee must reconsider the current IEP if the student’s loss of critical skills interferes with the implementation of the student’s IEP.

### **Limitations on ESY**

The District may not limit ESY services to particular categories of disability or unilaterally limit the type, amount, or duration of ESY services.

ESY services are limited to the educational needs of the student 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 if those services are similar to, or the same as, the services in the students’ IEP. The student should not be denied ESY services simply because the student is receiving care and treatment services from other agencies.

### **Regression-Recoupment Analysis**

A student qualifies for ESY services if, in one or more critical areas addressed in the student’s current IEP (“critical skill”), the student has exhibited, or reasonably may be expected to exhibit, severe or substantial regression that cannot be regained within a reasonable period of time.



The reasonable period of time for recoupment of acquired skills must be determined on the basis of needs identified in the student's IEP. If the loss of acquired 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 student or to others, ESY services may be justified without consideration of the period of time of recoupment of such skills. The period of time of recoupment must not exceed eight weeks.

If the ARD Committee determines the student needs ESY services, the IEP must identify which goals and objectives in the IEP will be addressed during ESY services.

### **Definitions**

“Severe or substantial regression” means that the student has been, or will be, unable to maintain one or more acquired critical skills in the absence of ESY services.

“Critical Skills” – A skill is critical when the loss of that skill results, or is reasonably expected to result, in any of the following 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 student 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.

### **Additional Procedures**

#### **Determine Student Needs**

The ARD Committee must determine the need for ESY services for all students with disabilities on an individual student basis. The ARD Committee should make recommendations for ESY services based on documentation, including formal and/or informal evaluations provided by the Assessment Personnel, Campus Special Education Personnel, Campus General Education Personnel, and/or the parents, that in one or more critical areas addressed in the current IEP goals and/or objectives the student has exhibited (or reasonably may be expected to exhibit) severe or substantial regression of an acquired critical skill that cannot be recouped within a reasonable length of time, not to exceed 8 weeks.

ESY should be specifically requested and/or recommended at the annual ARD Committee meeting when deemed appropriate based on student data. The request may be made by District Special Education Personnel involved in the student's program or the parent.

If the annual ARD is held in the fall semester, the ARD Committee must consider whether to delay the decision about ESY services until later in the school year if limited documentation is available. If this is the case, then another ARD must be held in the Spring to revisit the issue.

If the student qualifies for ESY services, ESY services should be documented in the IEP in a supplement or separate section. The ARD Committee must decide on the appropriate IEP goals and objectives the student will work on during the period of time that ESY services are provided. Goals for students recommended for ESY services will be identified from the student's current IEP. These goals should be identified as being critical to the student's academic, behavioral, or functional development. And, that without ESY services, the student would suffer regression in that critical skill area that cannot be recouped within a reasonable period of time, not to exceed 8 weeks.

### **ESY ARD Meeting**

The ARD Committee will consider the following components during the ARD meeting held to consider ESY services:

- ESY Supplement/Section – the ESY ARD Supplement/Section must be completed in its entirety during the ARD and be included in the IEP
- ESY IEP Goals & Objectives – if student meets the ESY recommendation requirements, the ARD Committee must identify current goals that will be addressed during the period of time ESY services will be provided. The ARD Committee documentation must state the time and duration for ESY services.
- Transportation Supplement/Section – transportation, as a related service, will be considered and offered to students with disabilities who need this service to benefit from ESY services. If a parent has declined specialized transportation during the regular school year, but the ARD Committee determines that there will be a need for this service during ESY services, an ARD must be held to add this service. The ARD documentation must indicate that this service will only be for the duration of ESY. In addition, a Transportation Supplement/Section must be completed and submitted along with the other ESY documentation.

### **Providing ESY Services**

It is not unusual for the teacher or service providers working with a student during ESY to be different than the teacher or service provider(s) during the regular school year. It is imperative that those who are most familiar with the student, the student's needs and the student's IEP goals to share relevant information with the teacher and service provider who will be providing ESY services. This information should include the critical skills or emerging skills that will be addressed during ESY services, specifics about the BIP if the student has one, specifics about accommodations and any other pertinent information. Additionally, the teacher and service providers providing ESY services must document

progress in the student's IEP and communicate the levels of performance the student attained on goals back to the student's campus so the student's teacher will have a good baseline for what was accomplished during ESY. All documentation related to the student's academic and behavioral performance during ESY should be included in the IEP updates and shared with the student's teacher and other service providers.

### **Evidence of Implementation**

- Formal/Informal Evaluations by Assessment Team/SPED staff
- ARD/IEP
- ESY Supplement/Section
- Transportation Supplement
- Documentation Collected During ESY

### **Resources**

[The Legal Framework for the Child-Centered Special Education Process: Extended School Year Services - Region 18](#)

[Extended School Year Services for Students with Disabilities - Texas Education Agency](#)

[Special Education Rules & Regulations Side-by-Side - Region 18](#)

[Extended School Year Services - SPEDTEX](#)

[Parent's Guide to the Admission, Review, and Dismissal Process - Texas Education Agency](#)

[OSEP Letter to Kleczka \(Sept. 29, 1998\) - U.S. Department of Education](#)

[What Are Extended School Year Services? - Partners Resource Network](#)

### **CITATIONS**

Board Policy EHBA; Board Policy EHBAA; Board Policy EHBAB; Board Policy EHBAF;  
34 CFR 300.106; 19 TAC 89.1055; 89.1065

# ADMISSION, REVIEW, AND DISMISSAL COMMITTEE

## GRADUATION

March 24, 2021

Disclaimer: This information is provided for educational purposes only to facilitate a general understanding of the law or other regulatory matter. This information is neither an exhaustive treatment on the subject nor is this intended to substitute for the advice of an attorney or other professional advisor. Consult with your attorney or professional advisor to apply these principles to specific fact situations.

©2020 by Texas Association of School Boards, Inc.

TASB grants members/subscribers of TASB Student Solutions™ the limited right to customize this publication for internal (non-revenue generating) purposes only.

**CONTENTS**

GRADUATION ..... 1

    What is Required ..... 1

        Foundation High School Program..... 1

        Endorsements..... 2

        Substitutions under the Foundation High School Program ..... 2

        Transition to the Foundation High School Program ..... 3

        Distinguished Achievement, Recommended, and Minimum High School Programs 3

        Student’s Eligible to Return to School After Graduating ..... 4

        Certificates of Attendance and Participation in Graduation Ceremonies ..... 5

        Financial Aid Application Requirements ..... 5

        Definitions ..... 6

    Additional Procedures ..... 6

    Evidence of Implementation..... 9

    Resources..... 9

CITATIONS ..... 9

## GRADUATION

### What is Required

The District's obligation to make FAPE available to all students with disabilities does not apply to students with disabilities who have graduated from high school with a regular high school diploma. Graduation from high school with a regular high school diploma constitutes a change of placement, requiring Prior Written Notice, and requires compliance with the Summary of Performance procedures. See [PRIOR WRITTEN NOTICE] and [SUMMARY OF PERFORMANCE]. An eligible student who is receiving special education services who is 21 years of age on September 1 of a school year will be eligible for services through the end of that school year or until graduation with a regular high school diploma, whichever comes first.

### **Foundation High School Program**

A special education student without modified curriculum who entered 9<sup>th</sup> grade in the 2014-2015 school year or later may graduate and be awarded a regular high school diploma if the student:

- Demonstrates mastery of the required state standards or District standards, if they are greater;
- Satisfactorily completes the credit requirements for graduation under the Foundation High School Program; and
- Achieves satisfactory performance on the required state assessments, unless the student's ARD Committee has determined that satisfactory performance on the required state assessments is not necessary for graduation. See [ADMISSION, REVIEW AND DISMISSAL COMMITTEE] and [STATE AND DISTRICTWIDE ASSESSMENTS].

A special education student entering the 9<sup>th</sup> grade in the 2014-15 school year or later whose curriculum is modified may graduate and be awarded a regular high school diploma if the student:

- Demonstrates mastery of the required state standards or District standards if they are greater;
- Satisfactorily completes the credit requirements for graduation under the Foundation High School Program through courses, one or more of which contain modified curriculum that is aligned to the standards applicable to general education;

- Achieves satisfactory performance on the required state assessments, unless the student’s ARD Committee has determined that satisfactory performance on the required state assessments is not necessary for graduation; and
- Successfully completes the student’s IEP and meets one of the following conditions:
  - Has obtained full-time employment and mastered sufficient self-help skills to enable the student to maintain the employment without direct and ongoing educational support of the District;
  - Has demonstrated mastery of specific employability skills and self-help skills that do not require direct ongoing educational support of the District;
  - Be involved with an agency that can provide services that are no longer the responsibility of the District; or
  - No longer meets age eligibility requirements.

## Endorsements

Special education students may earn an endorsement by successfully completing, with or without modification, the curriculum requirements for graduation under the Foundation High School Program, as well as the additional endorsement curriculum requirements, and successfully completing all curriculum requirements for that endorsement without modification of the curriculum or with modification of the curriculum, provided that the curriculum, as modified, is sufficiently rigorous as determined by the student’s ARD Committee.

The student’s ARD Committee will determine whether the student is required to achieve satisfactory performance on an end-of-course assessment to earn an endorsement on the student’s transcript.

A special education 11<sup>th</sup> or 12<sup>th</sup> grade student is eligible to receive an endorsement if the student has taken each of the required state assessments, but failed to achieve satisfactory performance on no more than two of the assessments, as long as the student meets the other endorsement requirements.

In order for a special education student to use a course to satisfy both a requirement under the Foundation High School Program and an endorsement requirement, the student must satisfactorily complete the course without any modified curriculum.

## Substitutions under the Foundation High School Program

A special education student who is unable to complete two credits in the same language in a language-other-than-English (“LOTE”) due to the student’s disability, may substitute

a combination of two credits from English language arts, mathematics, science, or social studies or two credits in career and technical education, technology applications, or other academic electives for the LOTE credit requirements if the ARD Committee determines that the student is unable to complete the LOTE credit requirements.

A student who, due to student's disability or illness, is unable to participate in physical activity, may substitute one credit in English language arts, mathematics, science, social studies, a locally-designed course that meets the state criteria for substitution under state law, or one academic credit elective for the physical education credit requirement if the ARD Committee determines that the student is unable to participate in the physical activity.

A substitute credit for LOTE or physical education may not be used to satisfy any other graduation requirement.

### **Transition to the Foundation High School Program**

A special education student who entered grade 9 before the 2014-2015 school year may graduate and be awarded a high school diploma under the Foundation High School Program, if the student's ARD Committee determines that the program is appropriate for the student and the student satisfies the requirements of the program.

A special education student transitioning to the Foundation High School Program who meets the requirements for an endorsement may earn an endorsement.

A special education student transitioning to the Foundation High School Program during the student's 11th or 12th grade year who has taken each of the required state assessments but failed to achieve satisfactory performance on no more than two assessments, may graduate if the student has satisfied all other applicable graduation requirements.

### **Distinguished Achievement, Recommended, and Minimum High School Programs**

A special education student entering the 9th grade before the 2014-15 school year may graduate and be awarded a regular high school diploma if the student demonstrates mastery of the state standards (or District standards if they are greater), satisfactorily completes credit requirements for graduation under the recommended or distinguished achievement high school programs, and achieves satisfactory performance on the required state assessment.

An 11<sup>th</sup> or 12<sup>th</sup> grade special education student who has taken each of the required state assessments but failed to achieve satisfactory performance on no more than two of the assessments is eligible to graduate under the recommended or distinguished achievement high school program if the student meets all other applicable graduation requirements.



A special education student entering the 9th grade before the 2014-15 school year may also graduate and be awarded a regular high school diploma if the student demonstrates mastery of the state standards (or District standards if they are greater), satisfactorily completes credit requirements for graduation under the minimum high school program, and participates in or satisfactorily performs on the required state assessments, as determined by the ARD Committee.

A special education student entering the 9th grade before the 2014-15 school year may also graduate and be awarded a regular high school diploma if the student:

- Demonstrates mastery of the state standards or District standards if they are greater through courses, one or more of which contain modified content that is aligned to the standards required under the minimum high school program;
- Satisfactorily completes credit requirements under the minimum high school program; participates in or satisfactorily performs on the required state assessments, as determined by the ARD Committee; and
- Successfully completes the IEP and meets one of the following conditions:
  - Has obtained full-time employment and mastered sufficient self-help skills to enable the student to maintain the employment without direct and ongoing educational support of the District;
  - Has demonstrated mastery of specific employability skills and self-help skills that do not require direct ongoing educational support of the District;
  - Be involved with an agency that can provide services that are no longer the responsibility of the District; or
  - No longer meets age eligibility requirements.

### **Students Eligible to Return to School After Graduating**

A special education student who meets the age requirement for eligibility for continued services—i.e. who has not reached age 21 on September 1 of a school year—will be eligible for services and may return to school after graduation as long as the student was awarded a diploma that meets the following conditions:

- The student was required to successfully complete the student's IEP; and
- The student was required to:
  - Obtain full-time employment, based on the student's abilities and local employment opportunities, in addition to mastering sufficient self-help skills to enable the student to maintain the employment without direct and ongoing

- educational support of the District;
- Demonstrate mastery of specific employability skills and self-help skills that do not require direct and ongoing education support of the District; or
  - Have access to services that were not within the legal responsibility of public education or employment or educational options for which the student has been prepared by the academic program.

See [AGE RANGES FOR ELIGIBILITY]. The ARD Committee must determine student's educational service needs upon the request of the student or parent to resume services.

### **Certificates of Attendance and Participation in Graduation Ceremonies**

Campus Administration must issue a certificate of attendance to a special education student who has completed four years of high school but has not yet completed the student's IEP. Campus Administration must allow special education students receiving certificates of attendance to participate in a graduation ceremony with students receiving high school diplomas. A special education student may participate in only *one* graduation ceremony to receive a certificate of attendance. The student will then return to school to complete the IEP goals and objectives before receiving a diploma. A student receiving a certificate of attendance is not prevented from receiving a diploma if the student completes the student's IEP.

### **Financial Aid Application Requirements**

Beginning with students enrolled in grade 12 during the 2021-22 school year, each student will complete and submit a free application for federal student aid ("FAFSA") or a Texas application for state financial aid ("TAFSA") before graduating from high school.

A student is not required to submit a FAFSA or TASFA if:

- The student's parent submits a signed form indicating that the parent authorizes the student to decline to complete and submit the financial aid application;
- The student signs and submits a form declining to complete and submit the financial aid application, if the student is 18 years of age or older or the student's disabilities of minority have been removed for general purposes; or
- A school counselor authorizes the student to decline to complete and submit the financial aid application for good cause, as determined by the school counselor.

District Administration must adopt a form to be used for purposes of documenting a waiver to submit the FAFSA or TASFA, and the form must be approved by the Texas Education Agency and made available in English, Spanish, and any other language spoken by a majority of the students enrolled in a bilingual education or special language program in

the District or on a campus. If a school counselor notifies District Administration that a student has complied with the financial aid application requirement for the purpose of determining whether the student meets high school graduation requirements, the school counselor may only indicate whether the student has complied and may not indicate the manner in which the student complied.

## **Definitions**

“Regular high school diploma” means the standard high school diploma awarded to the preponderance of students in Texas that is fully aligned with Texas standards, or a higher diploma, except that a regular high school diploma shall not be aligned to the alternate academic achievement standards described in section 1111(b)(1)(E) of the ESEA. A regular high school diploma does not include a recognized equivalent of a diploma, such as a general equivalency diploma, certificate of completion, certificate of attendance, or similar lesser credential.

“Employability and Self-Help Skills” are those skills that directly relate to the preparation of students for employment, including general skills necessary to obtain or retain employment.

“Modified curriculum” and “Modified content” refer to any reduction in the amount or complexity of the required Texas Essential Knowledge and Skills. Substitutions that are specifically authorized in statute or rule must not be considered modified curriculum or modified content.

## **Additional Procedures**

The above graduation requirements are designed to ensure students finish high school with skills designed to meet their unique needs and prepare them for further education, employment, and/or independent living. Because graduation is a change of placement, the ARD Committee decides whether a student has met graduation requirements under the above framework.

In order for the ARD Committee to determine whether a student has met his/her graduation requirements, the following questions may be considered:

- For a student graduating in accordance with his/her IEP by obtaining full-time employment and mastering sufficient self-help skills to enable the student to maintain the employment without direct and ongoing educational support, the ARD Committee may consider:
  - What is the student’s postsecondary goal in the areas of employment, education/training, and independent living (if applicable)?
  - What are the disability related needs of the student relative to their transition plan and their postsecondary goals for transition?

- What courses, if any, has the student completed that have prepared them with the employment skills and/or self-help skills necessary to obtain or retain a job?
  - What jobs (paid or unpaid) has the student held during high school?
  - Is the student currently employed? If so, where and for how long?
  - Is the student successful in this job(s)? How do you know?
  - Did the student require any support from special education in order to obtain or retain the job?
  - If so, who will the student contact once they graduate from high school to access the same type of support to retain their job or obtain a new job?
  - If so, is the student already in contact with this person/agency?
- For a student graduating in accordance with his/her IEP by demonstrating mastery of specific employability skills and self-help skills that do not require direct ongoing educational support, the ARD Committee may consider:
    - What is the student's postsecondary goal in the areas of: employment, education/training, and independent living (if applicable)?
    - What are the disability related needs of the student relative to their transition plan and their postsecondary goals for transition?
    - What courses, if any, has the student completed that have prepared them with the employment skills and/or self-help skills necessary to obtain or retain a job?
    - What jobs (paid or unpaid) has the student held during high school?
    - Is the student currently employed? If so, where and for how long?
    - Is the student successful in this job(s)? How do you know?
    - Did the student require any support from special education in order to obtain or retain the job?
    - If so, who will the student contact once they graduate from high school to access the same type of support to retain their job or obtain a new job?
    - If so, is the student already in contact with this person/agency?
    - If the student has never held a job or been competitively employed, what courses has the student taken that have prepared them to obtain or retain a job (as identified in their postsecondary employment goal), including courses that have provided instruction for self-help skills that the student would need in order to be successful in that job (based on their individual disability-related needs in the PLAAFP)?
    - Was the student successful in these courses? How do you know (ex. IEP goal was created, and the student mastered the goal)?
  - For a student graduating in accordance with his/her IEP by being involved with an agency that can provide services that are no longer the responsibility of the District, the ARD Committee may consider:

- What is the student's postsecondary goal in the areas of: employment, education/training, and independent living (if applicable)?
  - What are the disability related needs of the student relative to their transition plan and their postsecondary goals for transition?
  - What courses, if any, has the student completed that have prepared them with the employment skills and/or self-help skills necessary to obtain or retain a job?
  - What jobs (paid or unpaid) has the student held during high school?
  - Is the student currently employed? If so, where and for how long?
  - Is the student successful in this job(s)? How do you know?
  - Did the student require any support from special education in order to obtain or retain the job?
  - If so, who will the student contact once they graduate from high school to access the same type of support to obtain or maintain a new job or support in a postsecondary education program?
  - If so, is the student already in contact and receiving services with this person/agency?
  - If not, what should be the next steps for the student to complete in order to access this support or service?
- For a student who no longer meets age eligibility requirements, the ARD Committee may consider:
    - Is this student currently 22? If so, they will not be eligible for services through special education during the next school year.
    - Will this student turn 22 on or before September 1 of next year? If so, they will not be eligible for services through special education during the next school year.

When the ARD Committee determines that modifications to the curriculum are required, the ARD Committee must also ensure that the curriculum remains sufficiently rigorous for the student to retain eligibility for an endorsement.

In regard to state assessments, the ARD Committee will determine whether the state assessment or an alternate assessment is appropriate. The ARD Committee will also determine whether a student is required to achieve satisfactory performance on an end-of-course assessment instrument to earn an endorsement on the student's transcript. See [STATE AND DISTRICTWIDE ASSESSMENTS].

A student dismissed from special education services must complete the requirements for high school graduation and perform satisfactorily on any remaining assessments taken after the student is dismissed from special education. Therefore, the ARD Committee should carefully consider whether the student is capable of completing the requirements and passing the statewide exit-level assessment before dismissing the student.

Students who have completed four years of high school, but have not completed the graduation plan in their IEP may be allowed to participate in a graduation ceremony with their peers and receive a certificate. Campus Special Education Personnel determine which students meet this requirement and will contact and notify the parent and the adult student that they have an opportunity to participate in the ceremony. Campus Special Education Personnel will tell the parent and adult student that the student may only participate in one graduation ceremony and if the student were to participate now, that when the student completes his/her IEP graduation plan, he/she will receive a diploma, but will not be allowed to participate in another ceremony.

### **Evidence of Implementation**

- FIE
- ARD/IEP
- Graduation Plan
- Summary of Performance
- State and Districtwide Assessments
- Prior Written Notice

### **Resources**

[The Legal Framework for the Child-Centered Special Education Process: Graduation - Region 18](#)

[The Legal Framework for the Child-Centered Special Education Process: Summary of Performance - Region 18](#)

[Graduation Guidance - Texas Education Agency](#)

[Statewide High School Transition Network - Texas Education Agency](#)

[State Graduation Requirements - Texas Education Agency](#)

[Graduation Guidance - Region 4](#)

[Graduation - SPEDTEX](#)

### **CITATIONS**

Board Policy EHBAA; Board Policy EHBAB; Board Policy EHBAD; 20 U.S.C. 1412(a)(1)(A); 34 CFR 300.101(a), 300.102(a)(3), 300.305(e)(1-3); Texas Education Code 28.022, 28.025, 28.0256, 39.025, 42.003(a), 74.1021, 74.1025(n), 74.12, 74.13;

19 TAC 89.1035, 89.1070, 89.1414(c)(5)(A), 101.3022(f), 101.3023; Texas Family Code Chapter 31; HB 3 Sec. 5.001(c)



# Admission, Review, and Dismissal Committee

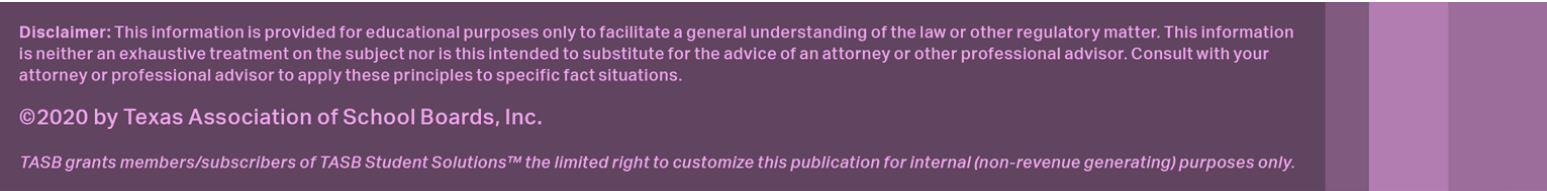
## LEAST RESTRICTIVE ENVIRONMENT

March 24, 2021

Disclaimer: This information is provided for educational purposes only to facilitate a general understanding of the law or other regulatory matter. This information is neither an exhaustive treatment on the subject nor is this intended to substitute for the advice of an attorney or other professional advisor. Consult with your attorney or professional advisor to apply these principles to specific fact situations.

©2020 by Texas Association of School Boards, Inc.

TASB grants members/subscribers of TASB Student Solutions™ the limited right to customize this publication for internal (non-revenue generating) purposes only.





**CONTENTS**

LEAST RESTRICTIVE ENVIRONMENT ..... 1

    What is Required ..... 1

        Continuum of Alternative Placements ..... 1

        Placement Decisions ..... 1

        Preschool-Aged Students ..... 2

        Career and Technical Education (“CTE”) Programs ..... 2

        Regional Day School Program for the Deaf ..... 2

        Students Residing in a Residential Facility ..... 2

        Definitions ..... 2

    Additional Procedures ..... 5

        Continuum of Alternative Placements ..... 5

        Placement Decisions ..... 5

        Preschool-Aged Students ..... 7

        Career and Technical Education (“CTE”) Programs ..... 8

        Regional Day School Program for the Deaf ..... 8

        Students Residing in a Residential Facility ..... 8

    Evidence of Implementation ..... 9

    Resources ..... 9

CITATIONS ..... 10

# LEAST RESTRICTIVE ENVIRONMENT

## What is Required

District and Campus Special Education Personnel must educate a student with a disability in the least restrictive environment (LRE) which means that the student is educated with students who are not disabled to the maximum extent appropriate. Students should only be placed in special classes or separate schooling, or otherwise be removed from regular education classes when the student cannot be appropriately educated in regular education classes with the use of supplementary aids and services. Campus Special Education Personnel must also ensure that students with disabilities are able to participate with nondisabled students in extracurricular or nonacademic activities or services to the maximum extent appropriate to the needs of the student. See [SUPPLEMENTARY AIDS AND SERVICES].

## Continuum of Alternative Placements

District and Campus Special Education Personnel must make a continuum of alternative placements for special education and related services available to meet the needs of students with disabilities. The continuum ranges from the least restrictive setting to the most restrictive setting and must include instruction in general education classes, special classes, special schools, home instruction, and instruction in hospitals and institutions along with the provision for supplementary services such as resource room or itinerant instruction provided in conjunction with regular placement. Generally, the farther removed the student is from the general education classroom, the more restrictive the setting.

## Placement Decisions

Decisions regarding placement of students with disabilities must be made by the ARD Committee, including the parents, at least annually based on the student's IEP, in conformity with the least restrictive environment, and as close as possible to the student's home. Unless the IEP requires some other arrangement, the student should be educated at the school that the student would attend if nondisabled. The placement or instructional setting for a student with a disability must be specified in the student's IEP. The IEP must also include an explanation of the extent, if any, to which the student will not participate with nondisabled peers in the regular class and in extracurricular and other nonacademic activities. The instructional settings/placements include:

- Mainstream
- Homebound
- Hospital class
- Speech therapy
- Resource room or services

- Self-contained (mild, moderate, or severe) regular campus
- Off home campus
- Nonpublic day school
- Vocational adjustment class or program
- Residential care and treatment facility (not school district resident)
  - See [PLACEMENT IN RESIDENTIAL FACILITY]
- State supported living center.

### **Preschool-Aged Students**

The requirement that District and Campus Special Education Personnel provide students with FAPE in the least restrictive environment also applies to preschool-aged students regardless of whether the District provides free preschool programs to all preschool-aged students. See [AGES 0-5].

### **Career and Technical Education (“CTE”) Programs**

Campus Special Education Personnel may provide Career and Technical Education (“CTE”) services to a student with a disability in a separate program specifically designed to address the student’s individual occupational or training needs if a student is unable to receive a FAPE in a regular CTE classroom using supplementary aids and services. When determining placement in a CTE classroom, the ARD Committee will consider the student’s graduation plan, the content of the IEP including transition services, and classroom supports. See [GRADUATION] and [TRANSITION SERVICES].

### **Regional Day School Program for the Deaf**

The District has access to a regional day school programs for the deaf operated by school districts at sites previously established by the State Board of Education. In addition, any student who has a hearing impairment which severely impairs processing linguistic information through hearing, even with recommended amplification, and which adversely affects educational performance will be eligible for consideration for the Regional Day School Program for the Deaf, subject to ARD Committee recommendations.

### **Students Residing in a Residential Facility**

Students residing in a residential facility must also be educated in the least restrictive environment to the greatest extent appropriate. See [RESIDENTIAL FACILITY WITHIN A DISTRICT].

### **Definitions**

“General education setting” includes general education classrooms and other settings on a campus, including lunchrooms and playgrounds, in which students without disabilities participate.

“Inclusion” is a personalized special education program delivered to a student with a disability in conjunction with a regular education curriculum where support is provided to the student within the general education classroom.

“Mainstream” is an instructional arrangement/setting for providing special education and related services to a student in the regular classroom in accordance with the student’s IEP. Qualified special education personnel must be involved in the implementation of the student’s IEP through the provision of direct, indirect and/or support services to the student, and/or the student’s regular classroom teacher(s) necessary to enrich the regular classroom and enable student success. The student’s IEP must specify the services that will be provided by qualified special education personnel to enable the student to appropriately progress in the general education curriculum and/or appropriately advance in achieving the goals set out in the student’s IEP. Examples of services provided in this instructional arrangement include, but are not limited to, direct instruction, helping teacher, team teaching, co-teaching, interpreter, education aides, curricular or instructional modifications/accommodations, special materials/equipment, positive classroom behavioral interventions and supports, consultation with the student and his/her regular classroom teacher(s) regarding the student’s progress in regular education classes, staff development, and reduction of ratio of students to instructional staff.

“Homebound” is an instructional arrangement/setting for providing special education and related services to students who are served at home or hospital bedside.

- Students served on a homebound or hospital bedside basis are expected to be confined for a minimum of four consecutive weeks as documented by a physician licensed to practice in the United States. Homebound or hospital bedside instruction may, as provided by District policy, also be provided to chronically ill students who are expected to be confined for any period of time totaling at least four weeks throughout the school year as documented by a physician licensed to practice in the United States. The student’s ARD committee shall determine the amount of services to be provided to the student in this instructional arrangement/setting in accordance with federal and state laws, rules, and regulations.
- Home instruction may also be used for services to infants and toddlers (birth through age 2) and young students (ages 3-5) when determined appropriate by the student’s individualized family services plan (IFSP) committee or ARD committee.

“Hospital class” is an instructional arrangement/setting for providing special education instruction in a classroom, in a hospital facility, or a residential care and treatment facility not operated by the school district. If the students residing in the facility are provided special education services outside the facility, they are considered to be served in the instructional arrangement in which they are placed and not considered in a hospital class.

“Speech therapy” is an instructional arrangement/setting for providing speech therapy services whether in a regular education classroom or in a setting other than a regular education classroom. When the only special education or related service provided to a student is speech therapy, then this instructional arrangement may not be combined with any other instructional arrangement.

“Resource room or services” is an instructional arrangement/setting for providing special education and related services to a student in a setting other than regular education for less than 50% of the regular school day.

“Self-contained (mild, moderate, or severe) regular campus” is an instructional arrangement/setting for providing special education and related services to a student who is in a self-contained program for 50% or more of the regular day on a regular school campus.

“Off home campus” is an instructional arrangement/setting for providing special education and related services to the following, including, but not limited to, students at South Texas Independent School District and Windham Independent School District:

- A student who is one of a group of students from more than one school district served in a single location when a free appropriate public education is not available in the respective sending district;
- A student in a community setting or environment (not operated by a school district) that prepares the student for postsecondary education/training, integrated employment, and/or independent living in coordination with the student's individual transition goals and objectives, including a student with regularly scheduled instruction or direct involvement provided by school district personnel, or a student in a facility not operated by a school district (other than a nonpublic day school) with instruction provided by school district personnel; or
- A student in a self-contained program at a separate campus operated by the school district that provides only special education and related services.

“Nonpublic day school” is an instructional arrangement/setting for providing special education and related services to students through a contractual agreement with a nonpublic school for special education.

“Vocational adjustment class or program” is an instructional arrangement/setting for providing special education and related services to a student who is placed on a job (paid or unpaid unless otherwise prohibited by law) with regularly scheduled direct involvement by special education personnel in the implementation of the student's IEP. This instructional arrangement/setting shall be used in conjunction with the student's individual transition goals and only after the school district's career and technical education classes have been considered and determined inappropriate for the student.

“Residential care and treatment facility (not school district resident)” is an instructional arrangement/setting for providing special education and related services to students who reside in care and treatment facilities and whose parents do not reside within the boundaries of the school district providing educational services to the students. In order to be considered in this arrangement, the services must be provided on a school district campus. If the instruction is provided at the facility, rather than on a school district campus, the instructional arrangement is considered to be the hospital class arrangement/setting rather than this instructional arrangement. Students with disabilities who reside in these facilities may be included in the average daily attendance of the district in the same way as all other students receiving special education.

“State supported living center” is an instructional arrangement/setting for providing special education and related services to a student who resides at a state supported living center when the services are provided at the state supported living center location. If services are provided on a local school district campus, the student is considered to be served in the residential care and treatment facility arrangement/setting.

## **Additional Procedures**

The student’s ARD Committee and District and Campus Special Education Personnel will ensure that a student with a disability spends as much time as possible with peers who do not receive special education instruction. District and Campus Special Education Personnel will tailor the environment in which the special education and related services are provided to the student’s individual needs and disabilities.

The student’s ARD Committee will only consider placing the student in special classes or a separate school—or otherwise remove the student from the general education classroom—where the ARD Committee determines that the District cannot provide a satisfactory education within the general education classroom with supplementary aids and services.

## **Continuum of Alternative Placements**

District and Special Education Personnel will provide a continuum of alternative placements that includes instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions. Where appropriate, District and Special Education Personnel will offer the opportunity for the student to receive supplementary services, including instruction in a resource classroom or inclusion instruction, in conjunction with placement in the general education setting.

## **Placement Decisions**

The ARD Committee, including District and Campus Special Education Personnel, the student’s parent or guardian, and other persons knowledgeable about the student, will hold an annual ARD meeting to determine the student’s placement. The ARD Committee

will first consider whether placement in the general education classroom is possible by asking the following questions:

- Can the student be appropriately educated in the general education classroom?
- What efforts has the Campus made thus far to determine whether the student can be appropriately educated in the general education classroom and were those efforts successful?
- Has the whole range of aids, services, or additional supports necessary to allow the student to receive FAPE in the general education classroom been considered including resource rooms and additional inclusion support? See [SUPPLEMENTARY AIDS AND SERVICES, SPECIAL EDUCATION, RELATED SERVICES].
- Has the Campus made efforts to modify the regular program to accommodate the student and were those efforts successful?
- Has the Campus considered both the education benefits as well as the social and communication benefits of a regular education setting?
- What are the negative effects on the education of other students in the regular classroom if the student with a disability were integrated in the classroom? Does it significantly impair the education of other students or does it require so much of the teacher's time that the teacher will be unable to educate the other students?
- Is the cost of integrated placement, with appropriate supplementary aids and services, so great that it would significantly impact the education of the other students in the District?
- Is it possible to place the student in regular education for some academic programs?
- Is it possible to place the student in regular non-academic classes?
- Is it possible to provide interaction with nondisabled students during lunch and recess?

The ARD Committee will make an individualized placement determination for each student, considering all relevant evaluation data and placement options. This will include balancing the student's overall educational experience in a regular education setting with the benefits the student would receive in a special education setting. For example, a student may greatly benefit from the social aspects of a regular education classroom while absorbing limited educational information in that setting. The ARD Committee will also consider any potentially harmful effects on the student or the quality of services when selecting the placement. The ARD Committee should not place a student outside of the general education classroom solely because of needed modifications to the general education curriculum. However, a student with a disability need not fail in the general education environment before the ARD Committee can consider or implement a

placement in a more restrictive setting. Moreover, the ARD Committee can consider the student's past record of performance in a mainstream environment elsewhere in the District or even another school district.

Administrative convenience is never a legitimate consideration in determining LRE. The ARD Committee will not consider lack of personnel or resources as an excuse to relieve the District of the obligation to make FAPE available to students in the LRE.

The ARD Committee will consider whether the student needs to attend a campus or other placement other than the campus that the student would attend if nondisabled. The District may choose to centralize services where it is necessary to serve the needs of the student, utilize personnel effectively, and provide a comprehensive and consistent program. If possible, however, the ARD Committee will place the student in the campus that the student would attend if nondisabled. Additionally, for all students that may require placement in a setting outside of the student's home campus, the Campus Special Education Personnel should consider having knowledgeable staff from the particular centralized site or outside placement attend the ARD Committee.

The ARD Committee will outline the placement decision in the student's IEP and explain the extent, if any, that the student will not participate with nondisabled peers in the general education setting and/or in extracurricular and other nonacademic activities. The ARD Committee should consult with the parent or guardian to ensure that placement is as close as possible to the student's home.

Following the placement decision, Campus Special Education Personnel will provide the student's parent or guardian with Prior Written Notice regarding the placement decision following the ARD meeting and wait the required 5 school days before implementing the student's new placement, unless the parent waives the 5-day notice.

### **Preschool-Aged Students**

District and/or Campus Personnel will provide special education and related services in the least restrictive environment to any student between the ages of 3 through 5 that qualifies for special education services in any eligibility category, and student from birth through age 2 that qualifies for special education services due to a visual impairment or who is deaf or hard of hearing. The preschool-aged student's placement will be outlined in the student's Individualized Family Services Plan ("IFSP") (for a student ages 0 through 2) or IEP (for a student ages 3 through 5).

If the District does not provide preschool programs to nondisabled preschool students, District Special Education Administration will consider whether the District will provide FAPE through other preschool programs operated by public agencies or a private school program. The ARD Committee may also determine that the least restrictive environment for a preschool-aged student is home instruction where appropriate.



See [AGES 0-5].

### **Career and Technical Education (“CTE”) Programs**

The ARD Committee will include a representative from the CTE program as a member of the student’s ARD Committee when determining placement in a CTE program. The ARD Committee will also consider whether current enrollment numbers in the CTE classroom could have a harmful effect on the student’s ability to learn.

For a student with disabilities placed in the CTE program, Campus Special Education Personnel will communicate with the CTE teacher and any state rehabilitation agencies (where necessary) regarding planning for the student. Campus Special Education Personnel will monitor the instruction provided to the student in the CTE program to ensure that the instruction is consistent with the student’s IEP. Where necessary and appropriate, Campus Special Education Personnel will provide supplementary aids and services, including, but not limited to, modified instruction and instructional aids and devices, in CTE programs. See [SUPPLEMENTARY AIDS AND SERVICES, SPECIAL EDUCATION, RELATED SERVICES].

### **Regional Day School Program for the Deaf**

Should the ARD Committee determine that placement in the Regional Day School Program for the Deaf is appropriate for a student with a hearing impairment, the ARD Committee will outline the services that the District cannot appropriately provide on a campus and that a regional day school program can provide in the student’s IEP.

For placement of a hearing impaired student in a regional day school program for the deaf operated by school districts at sites previously established by the State Board of Education, the ARD Committee will consider additional factors, such as distance to the nearest regional day school program, before recommending placement at such program.

A member of the ARD Committee and the parent may visit the regional day school program campus to verify that the student will be able to receive FAPE in accordance with their IEP prior to assigning the placement. Campus Special Education Personnel will communicate any potential placement in a regional day school program to District Special Education Administration prior to any final decision regarding the placement.

### **Students Residing in a Residential Facility**

The ARD Committee will make decisions related to placement in a residential facility on an individualized basis considering the student’s unique needs, and the District will comply with all requirements related to residential placements. See [PLACEMENT IN RESIDENTIAL FACILITY]. The ARD Committee will consider both educational and non-educational needs, including health and safety, of the student that may impact the student’s ability to receive FAPE on a District campus. However, the ARD Committee

should not consider convenience to the District or to the residential facility in the determination to place a student in a residential facility.

District Special Education Administration will consult with the proposed residential facility to determine whether the facility has space available for the student and whether such space, if available, is appropriate for the provision of FAPE based on the student's individual needs. The ARD Committee will identify additional placement options if the ARD Committee determines that the proposed residential facility is not appropriate. Furthermore, Campus Special Education Personnel will communicate any potential placement in a residential facility to the District Special Education Administration prior to any final decision regarding the placement.

### **Evidence of Implementation**

- FIE
- ARD/IEP
- Continuum of Instructional Settings
- Documentation of Communication with Regional Day School for the Deaf
- Documentation of Communication with Residential Facility
- Documentation of Coordination Between Campus Special Education Personnel and CTE teacher

### **Resources**

[The Legal Framework for the Child-Centered Special Education Process: Least Restrictive Environment - Region 18](#)

[Least Restrictive Environment - Region 20](#)

[The Least Restrictive Environment \(LRE\): Question & Answer Document \(Jan. 4, 2016\) - Texas Education Agency and Region 20](#)

[SPEDTEX - Least Restrictive Environment \(TEA\)](#)

[Student Attendance Accounting Handbook \(TEA\)](#)

[OSERS Letter to Anderson \(Dec. 4, 2012\) – U.S. Department of Education](#)

[OSERS Letter to Anonymous \(Mar. 30, 2009\) – U.S. Department of Education](#)

[OSERS Letter to Wohle \(Feb. 1, 2008\) – U.S. Department of Education](#)

[OSERS Letter to Spitzer-Resnick \(June 22, 2012\) – U.S. Department of Education](#)

[OSERS Dear Colleague Letter on Children with Disabilities Residing in Nursing Homes \(Apr. 26, 2016\) – U.S. Department of Education](#)

## CITATIONS

Board Policy EHBA; Board Policy EHBAA; Board Policy EHBAB; Board Policy EHBFB;  
Board Policy EHBH; 20 USC 1412(a)(5)(A); 34 CFR 300.101, 300.102(a)(1),  
300.114(a)(2), 300.115(a)-(b), 300.116, 300.117, 300.320; 19 TAC 75.1023, 89.63,  
89.1050(a)(6), 89.1075(e), 89.1080

# Admission, Review, and Dismissal Committee

## PARENT PARTICIPATION

March 24, 2021

Disclaimer: This information is provided for educational purposes only to facilitate a general understanding of the law or other regulatory matter. This information is neither an exhaustive treatment on the subject nor is this intended to substitute for the advice of an attorney or other professional advisor. Consult with your attorney or professional advisor to apply these principles to specific fact situations.

©2020 by Texas Association of School Boards, Inc.

TASB grants members/subscribers of TASB Student Solutions™ the limited right to customize this publication for internal (non-revenue generating) purposes only.

**CONTENTS**

PARENT PARTICIPATION ..... 1

    What is Required ..... 1

        Parent’s Guide to the Admission, Review, and Dismissal Process..... 1

        Responsibility for Parent Participation ..... 1

        Notice of ARD Committee Meeting ..... 1

        Conducting an ARD Committee Meeting Without the Parent in Attendance..... 2

        Parent Copy of the Student’s IEP ..... 2

    Additional Procedures ..... 3

        Parent’s Guide to the Admission, Review, and Dismissal Process..... 3

        Responsibility for Parent Participation ..... 3

        Notice of ARD Committee Meeting ..... 4

        Conducting an ARD Committee Meeting Without the Parent in Attendance..... 4

        Parent Copy of the Student’s IEP ..... 5

    Evidence of Implementation..... 5

    Resources..... 5

CITATIONS ..... 6

# PARENT PARTICIPATION

## What is Required

### **Parent's Guide to the Admission, Review, and Dismissal Process**

Campus Special Education Personnel must provide the parent the *Parent's Guide to the Admission, Review, and Dismissal Process* (the "Guide") as soon as practicable after a referral for possible special education services, but no later than 5 school days before the initial ARD Committee meeting. The Guide must also be provided upon request of the student's parent.

### **Responsibility for Parent Participation**

Campus Special Education Personnel must make reasonable efforts to ensure that one or both of the parents of the student with a disability are present at each ARD meeting and afforded a reasonable opportunity to participate. To do so, Campus Special Education Personnel must ensure that the parents are provided a notice of the ARD meeting early enough to ensure that they will have the opportunity to attend and schedule the ARD meeting at a mutually agreed upon time and place.

If no parent or guardian is able to attend the ARD Committee meeting in person, Campus Special Education Personnel must use other methods to encourage parent participation, including via telephone or videoconference.

A meeting in which a parent must be given the opportunity to participate, does not include:

- Informal or unscheduled conversations between Service Providers;
- Conversations related to teaching methodology, lesson plans, or communications related to the provision of services; and
- Interactions between the Campus ARD Committee members in preparation of developing a proposal or a response to a parent proposal that will be discussed at the ARD meeting.

The ARD Committee must ensure that the parent is able to understand the entirety of the ARD meeting and provide an interpreter for parents with deafness or whose native language is other than English.

### **Notice of ARD Committee Meeting**

Campus Special Education Personnel must provide the parent or guardian of a student with a disability with written notice of an ARD Committee meeting at least 5 school days

before the ARD meeting unless the parent agrees to a shorter timeframe. The written notice must:

- State the purpose, time, and location of the meeting;
- Notify the parents of the provisions relating to participation of other individuals who have knowledge or special expertise about the student; and
- Notify the parents of the participation of the IDEA Part C service coordinator or IDEA Part C representatives at the initial ARD Committee meeting for the student previously served under Part C of the IDEA.

See [ADMISSION, REVIEW, AND DISMISSAL COMMITTEE MEMBERSHIP].

By the first IEP to be in effect when a student turns 16, or younger if determined appropriate by the ARD Committee, Campus Special Education Personnel must also indicate in the notice:

- That the ARD Committee will consider postsecondary and transition services for the student at the ARD meeting;
- That the student will be invited to the meeting; and
- That any other agency may send a representative with the consent of the parents or adult student.

All written notices must be provided in the parent's native language, unless clearly not feasible. Where the parent's native language is not a written language, Campus Special Education Personnel must ensure that notice is translated orally or by other means to the parent in the parent's native language or other mode of communication to ensure the parent understands the content of the notice.

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

The ARD Committee may convene an ARD meeting without the parent if Campus Special Education Personnel are unable to convince the parent to attend the meeting. Campus Special Education Personnel must keep a record of each attempt to arrange the meeting at a mutually agreed upon time and place. These efforts include, but are not limited to records of telephone calls made or attempted and the results of those calls, copies of correspondence sent to the parent and any responses received, and detailed records of visits to the parent's home or place of employment and the results of those visits.

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

Campus Special Education Personnel must provide the parent a copy of the student's

IEP at no cost. If a parent is unable to speak English and Spanish is the parent's native language, the parent must be provided a written copy or audio recording of the student's IEP translated into Spanish. If a parent is unable to speak English and the parent's native language is a language other than Spanish, Campus Special Education Personnel must make a good faith effort to provide the parent with a written copy or audio recording of the student's IEP translated into the parent's native language. If the parent's native language is not a written language, Campus Special Education Personnel must take reasonable steps to ensure that the student's IEP is translated orally or by other means in the parent's native language or other mode of communication.

Any translation must be a comparable rendition of the IEP in English and not a partial translation or a summary of the IEP in English. Campus Special Education Personnel may provide the parent an audio recording of an ARD meeting where the parent was assisted by an interpreter if the audio recording contains an oral translation into the target language of all of the content in the student's IEP in English.

## **Additional Procedures**

### **Parent's Guide to the Admission, Review, and Dismissal Process**

The parent can access the Guide both on the Texas Education Agency's website and District's website.

### **Responsibility for Parent Participation**

When scheduling the ARD meeting with the parent, Campus Special Education Personnel will provide the parent multiple different dates/times of the day for the ARD meeting to ensure that the parent can participate. Campus Special Education Personnel will also notify the parent that the parent may participate in the ARD meeting in-person, by phone, or by video conference. ARD meetings will be held at the student's campus, unless the parent objects to this location. If the parent objects to the location of the meeting, Campus Special Education Personnel will work with the parent to find an alternative location within the District for the meeting.

Where feasible, Campus Special Education Personnel will send a draft of the IEP (or at least a draft of the PLAAFP, proposed goals and objectives, accommodations, and BIP) to the parent within a reasonable amount of time for the parent to review prior to the ARD meeting. Campus Special Education Personnel will explain to the parent that the draft IEP is solely for the purpose of discussion and development of the student's IEP and are only recommendations for review and discussion with the parents at the ARD Committee meeting.

During the ARD meeting, Campus Special Education Personnel will check in with the parent to make sure that the parent fully understands the ARD process and what is being discussed in the meeting. Campus ARD Committee members must enter the ARD



Committee meeting with an open mind and must meaningfully consider the parents' input as well as all available appropriate alternatives. The minutes/deliberations of the ARD Committee meeting should reflect the input and the concerns of the parent as well as the District's response to those concerns.

Campus Special Education Personnel should contact District Special Education Administration regarding the need for an interpreter in an ARD meeting.

### **Notice of ARD Committee Meeting**

Campus Special Education Personnel will coordinate with the parent to set up an ARD meeting at a mutually-agreeable time and date. Campus Personnel will provide at least three (3) notices of the ARD to the parent delivered in three (3) different methods (hand delivery, mail, phone call, email, etc.) on three (3) different days. The first notice must be provided to the parent at least five (5) school days before the scheduled ARD meeting. While Campus Special Education Personnel may provide the notice to the parent through the student, (e.g. by placing the notice in the student's backpack), such a delivery method may not be appropriate depending on the student's ability to deliver the notice to the parent and should be followed up with a phone call, email, or other documented delivery method to the parent.

In addition to the notice requirements above, Campus Special Education Personnel will ask the parent to provide the names of any other individuals invited by that parent that will be attending the ARD meeting and will include these in the ARD notice feasible. Campus Special Education Personnel should contact the District's Special Education Director regarding how to proceed if the parent indicates that an advocate or attorney will attend the ARD meeting.

If necessary, Campus ARD Committee members should schedule and participate in a staffing prior to an ARD meeting to prepare a draft proposal or a response to a parent proposal that will be discussed at the ARD meeting. It is likely that a staffing will need to be scheduled prior to the ARD with District Special Education Personnel (and possibly the District's legal representation), if the parent indicates that an attorney or advocate will be present at the ARD, or if the campus is aware of a significant concern or proposal of the campus and/or parent. Parents have no right to attend a staffing.

All requests for Prior Written Notice translated in a parent's native language should go through the Special Education Department. Campus Special Education Personnel should not attempt to translate such documentation through an online translation system.

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

Campus Special Education Personnel must keep a record of all attempts to arrange a mutually agreeable time and place for an ARD meeting including keeping a phone log of all calls made or attempted and the results of those calls; all letters, emails, text

messages, and/or other communications sent to the parent and the parent's response, and any record of any visits to the parent's home or place of employment. Campus Special Education Personnel must make at least 3 documented attempts to convince the parent to attend the ARD meeting. If Campus Special Education Personnel still cannot convince the parent to attend the ARD meeting after all reasonable efforts to encourage participation have been made, the ARD Committee will convene an ARD meeting without the parent. During the ARD meeting, the Campus Special Education Personnel should outline the attempts taken to obtain parent participation and this information should be included in the minutes/deliberations of the ARD meeting. Campus Special Education Personnel will ensure that the parent receives a copy of the IEP and Prior Written Notice following the ARD meeting. The documentation will also explain to the parent that the parent is welcome to contact the campus after reviewing the IEP to schedule another ARD meeting.

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

Campus Special Education Personnel will provide the parent with a copy of the student's IEP. If the ARD meeting is recorded by Campus Special Education Personnel and the parent requests a copy of the recording, the parent will be provided with a copy of the recording in accordance with the District's student records policies. The recording or videotaping of ARD Committee meetings should be in accordance with District policies.

All requests for an IEP translated in a parent's native language should go through District Special Education Department. Campus Special Education Personnel should not attempt to translate such documentation through an online translation system.

### **Evidence of Implementation**

- Receipt of *Parent's Guide to the Admission, Review, and Dismissal Process*
- *Parent's Guide to the Admission, Review, and Dismissal Process*
- Notice(s) of ARD Meeting
- Attempts to Contact the Parent or Guardian to Ensure Parental Participation in ARD Meeting
- Draft of ARD/IEP
- Final ARD/IEP
- Documentation that ARD/IEP Was Provided to Parent in Language Accessible to Parent
- Documentation of Translator or Interpreter for Parent Where Necessary

### **Resources**

[The Legal Framework for the Child Centered Special Education Process: Parent Participation Framework - Region 18](#)

[Parent's Guide to the Admission, Review, and Dismissal Process - Texas Education Agency](#)

[OSEP Letter to Thomas \(June 3, 2008\) - U.S. Department of Education](#)

[OSEP Letter to Northrop \(May 21, 2013\) - U.S. Department of Education](#)

[OSEP Letter to Breton \(Sept. 24, 2013\) - U.S. Department of Education](#)

[OSEP Letter to Anonymous \(Mar. 7, 2012\) - U.S. Department of Education](#)

## **CITATIONS**

Board Policy EHBAB; 34 CFR 300.321(b)(3), 300.322, 300.328, 300.501; Texas Education Code 26.0081(a)–(b), 29.005(d); 19 TAC 89.1050(d), (f), (i)

# Admission, Review, and Dismissal Committee

## PLACEMENT IN A RESIDENTIAL FACILITY

March 24, 2021

Disclaimer: This information is provided for educational purposes only to facilitate a general understanding of the law or other regulatory matter. This information is neither an exhaustive treatment on the subject nor is this intended to substitute for the advice of an attorney or other professional advisor. Consult with your attorney or professional advisor to apply these principles to specific fact situations.

©2020 by Texas Association of School Boards, Inc.

TASB grants members/subscribers of TASB Student Solutions™ the limited right to customize this publication for internal (non-revenue generating) purposes only.

**CONTENTS**

PLACEMENT IN A RESIDENTIAL FACILITY ..... 1

    What is Required ..... 1

        Texas School for the Blind and Visually Impaired (TSBVI) and Texas School for the Deaf (TSD) ..... 1

        In-State Versus Out-of-State Placements ..... 1

        Residential Approval and Application Process ..... 2

        Reporting and Responsibility ..... 2

    Additional Procedures ..... 2

        Residential Application Process ..... 3

        Reporting and Responsibility ..... 4

    Evidence of Implementation ..... 4

    Resources ..... 5

CITATIONS ..... 5

## PLACEMENT IN A RESIDENTIAL FACILITY

### What is Required

The District must provide a residential placement to a student with disabilities at no cost to the parents if the ARD Committee determines that such placement is necessary for the student to receive FAPE. District Special Education Administration may contract with a residential facility to provide some or all of the special education services listed in a student's IEP if the student cannot obtain an educational benefit in a less restrictive setting. See [ADMISSION, REVIEW AND DISMISSAL COMMITTEE] and [LEAST RESTRICTIVE ENVIRONMENT].

When the ARD Committee determines that a residential placement is necessary for FAPE, the ARD Committee must list the services in the IEP which the District is unable to provide and which the residential facility will provide, document the appropriateness of the facility, and verify during the initial ARD meeting and each subsequent annual ARD meeting that the facility meets minimum standards for health and safety, is needed, appropriate, and the LRE for the student. The ARD Committee must also establish, in writing, criteria and estimated timelines for the student's return to the District.

When making a residential placement, the District must comply with the use of funds for contract services requirements of the law. See [USE OF FUNDS FOR CONTRACT SERVICES INCLUDING RESIDENTIAL PLACEMENTS]. In addition, Campus Special Education Personnel must make an initial and an annual on-site visit to verify that the residential facility can, and will, provide the services listed in the student's IEP.

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

Where appropriate based on the student's disability, the ARD Committee may determine that placement at the TSBVI or TSD is necessary. The ARD Committee must include in the IEP the services that TSBVI or TSD can appropriately provide and the criteria and estimated timelines for the student's return to the District. District Special Education Personnel may make an on-site visit to verify that TSBVI or TSD can and will offer the services listed in the student's IEP and to ensure an appropriate educational program for the student can be offered.

### **In-State Versus Out-of-State Placements**

The District may only enter into a contract with an in-state public or private residential placement that maintains current and valid licensure for the particular disabling condition and age of the student. The facility must be approved by the Texas Commissioner of Education. The same applies for out-of-state placements, so long as the facility is

approved by the appropriate agency in the state in which the facility is located.

### **Residential Approval and Application Process**

Residential facilities which provide educational services must have their educational programs approved for contracting purposes by the Commissioner of Education. Approval may be for one, two, or three years, as determined by the TEA. The Commissioner will renew approvals and issue new approvals only for those facilities which have students already placed or which have a pending request for approval from the District.

If a residential facility which has not been approved by the Commissioner of Education is being considered by the ARD Committee, the District Special Education Administration will notify TEA in writing of its intent to place the student at the facility. TEA will begin the approval procedures and conduct an on-site visit within 30 calendar days after notification.

However, prior approval is not required where a residential facility is only to provide related services or where District or Campus Special Education Personnel are to provide the education services within the residential facility.

District Special Education Administration must submit an application to TEA to receive approval from the Texas Commissioner of Education prior to placing a student in a residential facility where the facility will provide educational services listed in the student's IEP. A residential application may *only* be submitted for educational purposes.

### **Reporting and Responsibility**

The residential facility must periodically report to District Special Education Administration regarding the services the student has received or will receive in accordance with the contract, as well as any diagnostic or other evaluative information that is required to fulfill the District's obligations under the IDEA. If a student residentially placed by the ARD Committee changes residence to another Texas school district during the school year but remains in the residential facility, the District that placed the student remains responsible for the residential contract for the remainder of the school year.

### **Additional Procedures**

The ARD Committee will consider several different factors related to the student's individual needs when determining if residential placement is needed, including, but not limited to:

- The District's efforts to provide special education services in a placement within the District, including the curriculum offered and the supplemental services

provided;

- The educational benefits of receiving services on a traditional campus versus the educational benefits of receiving services in a residential facility;
- Any possible consequences, both for the individual student and for other students, of having the student educated in a placement within the District;
- Any physical or mental conditions or behavioral challenges prohibiting the student from receiving FAPE in a placement within the District;
- Any recommendations by evaluators or medical professionals in previous assessments related to residential placement; and
- Whether the demand for residential placement is primarily to provide educational benefit.

District or Campus Special Education Personnel must communicate any potential placement at a residential facility to the District Special Education Administration prior to any final decision regarding the placement.

If the ARD Committee determines that placement at a residential facility is necessary for the student to receive FAPE, the District will offer the program at no cost to the parents of the student. This may include transportation costs associated with travel to and from the residential facility for the student and/or the parents, as determined necessary and appropriate by the ARD Committee.

The ARD Committee will ensure that any in-state facility in which the ARD Committee seeks to place the student maintains current and valid licensure and has been approved or is in the process of being approved by the Texas Commissioner of Education prior to recommending placement. The ARD Committee will also ensure that any out-of-state facility in which the ARD Committee seeks to place the student maintains current and valid licensure and has been approved by the appropriate state agency in the state in which the facility is located.

### **Residential Application Process**

District Special Education Administration will notify the TEA of its desire to contract with a residential facility through the residential application process for each individual student the District seeks to place in a residential facility. District Special Education Administration will also submit any request for approval of state and federal funding for residential placement through the residential application process.

District Special Education Administration will indicate the following in its request for approval:



- Placement is not due primarily to the student's medical problems;
- Placement is not due primarily to problems in the student's home;
- The ARD Committee has established criteria and timelines for the student to return to District;
- The ARD Committee has attempted to implement lesser restrictive placements prior to determining that this placement is necessary and appropriate, except in emergency situations as documented by the ARD Committee;
- Placement in the residential facility is more cost effective than alternative placements considered; and
- The residential facility does not provide unfundable/unapprovable services.

### **Reporting and Responsibility**

District Special Education Administration will communicate with the residential facility at least once per District grading period to ensure that the student has received or will receive the services outlined in the contract and to discuss any diagnostic or other evaluative information where necessary.

District Special Education Administration will report all students placed in residential facilities to TEA through the Residential Facility Tracker by the end of the school year annually.

### **Evidence of Implementation**

- ARD/IEP
- Continuum of Alternative Placements Considered
- Documentation of Communication with Residential Facility
- Documentation of Site Visits Prior to Placement
- Residential Application
- Approval of Residential Facility
- Residential Facility Tracker

## **Resources**

[The Legal Framework for the Child-Centered Special Education Process: Placement in a Residential Facility - Region 18](#)

[Student Attendance Accounting Handbook \(TEA\)](#)

[Nonpublic Day and Residential Placement Notification and Application – \(TEA\)](#)

[Residential Facility Tracker - Texas Education Agency](#)

[Special Education in Residential Facilities - Texas Education Agency](#)

[OSEP Letter to Covall - U.S. Department of Education](#)

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

[Texas School for the Deaf](#)

## **CITATIONS**

Board Policy EHBAC; Texas Education Code 29.008(d); 19 TAC 89.61(a)-(c), 89.1085(c)

# ADMISSION, REVIEW, AND DISMISSAL COMMITTEE

## PRESENT LEVELS

March 24, 2021

Disclaimer: This information is provided for educational purposes only to facilitate a general understanding of the law or other regulatory matter. This information is neither an exhaustive treatment on the subject nor is this intended to substitute for the advice of an attorney or other professional advisor. Consult with your attorney or professional advisor to apply these principles to specific fact situations.

©2020 by Texas Association of School Boards, Inc.

TASB grants members/subscribers of TASB Student Solutions™ the limited right to customize this publication for internal (non-revenue generating) purposes only.

**CONTENTS**

PRESENT LEVELS ..... 1

    What is Required ..... 1

    Additional Procedures..... 1

    Evidence of Implementation ..... 2

    Resources..... 2

CITATIONS..... 3

## PRESENT LEVELS

### What is Required

A student's IEP should be based on a careful analysis of the student's present levels of academic achievement and functional performance (PLAAFP).

The PLAAFP must include how the student's disability affects the student's involvement and progress in the general education curriculum; or, for a preschool student, how the disability affects the preschool student's participation in appropriate activities.

The PLAAFP for the school-aged student summarizes the current strengths and needs of the student in both academic and functional performance areas. It must include how the student's disability affects the student's involvement and progress in the general education curriculum, regardless of the setting in which the student currently receives services. Additionally, it may describe the current instructional level of the student compared to the grade level Texas Essential Knowledge and Skills, and, if the student is below grade level, the PLAAFP also may describe the prerequisite skills the student needs in order to achieve grade-level proficiency.

PLAAFP for the preschool student summarizes the current levels of present performance related to the student's developmental domains, functional performance, and pre-academic skills. It must include how the student's disability affects the student's participation in appropriate activities. Additionally, it may describe the student's current developmental levels compared to the Texas Prekindergarten Guidelines or District-adopted prekindergarten curriculum.

### Additional Procedures

The PLAAFP data is the critical baseline and foundation for developing an IEP. When considering PLAAFP data, the ARD Committee should include within the PLAAFP statement the student's strengths, weaknesses, and needs in each assessed academic and functional area. From there, the PLAAFP statement should specifically address: 1) how the student's disability impacts the student's appropriate progress in light of the student's unique circumstances, including the student's access to the general education curriculum; or 2) how the disability impacts the preschool student's participation in appropriate activities. If the ARD documentation contains both current PLAAFP data as well as historical PLAAFP information, the date of the PLAAFP data should be clearly identified.

The ARD Committee should then use the PLAAFP data to create the student's annual goals, supplementary aids and services, special education, and related services. See

[ANNUAL GOALS] and [SUPPLEMENTARY AIDS AND SERVICES, SPECIAL EDUCATION, RELATED SERVICES]. The ARD Committee should ensure that the IEP represents a clear correlation between the student's PLAAFP data and the IEP annual goals. For example, if the PLAAFP demonstrates that a student's education is impacted by not following directions, then the student may have an annual goal related to complying with directions given by staff. Additionally, the student may have counseling as a related service to help achieve the goal of better classroom compliance.

Campus Special Education Personnel, such as the student's case manager, should gather all of the relevant data in advance of the ARD meeting to help the ARD Committee develop the student's PLAAFP in the IEP. The underlying sources to be used when considering PLAAFP data may include:

- Evaluation Reports
- Grades
- Student Work Samples
- State Assessment Data
- Benchmark Testing
- Teacher Input
- Student/Parent Input
- Classroom Observations
- Progress Reports for IEP Annual Goals
- Outside Provider Information

### **Evidence of Implementation**

- FIE
- ARD/IEP
- Progress Reports on the IEP Annual Goals
- Report Card Grades
- Teacher and Campus Special Education Administrator Input
- Student/Parent Input
- Student Work Samples
- State Assessment Results
- Benchmark Testing
- Input from Related Service Providers

### **Resources**

[The Legal Framework for the Child Centered Special Education Process: Present Levels Framework - Region 18](#)

Present Levels

Customized by Marble Falls ISD

[Present Levels of Academic Achievement and Functional Performance - Region 10](#)

[SPEDEX - PLAAFP](#)

[IEP Goal Development in Texas-Online Training - Region 20](#)

[Standards-Based Individualized Education Program Guidance - TEA](#)

[Texas Essential Knowledge and Skills \(TEKS\) - TEA](#)

[Texas Pre-Kindergarten Guidelines - TEA](#)

## **CITATIONS**

Board Policy EHBAB; 34 CFR § 300.320(a)(1)

# ADMISSION, REVIEW, AND DISMISSAL COMMITTEE

## PRIOR WRITTEN NOTICE

March 29, 2021

Disclaimer: This information is provided for educational purposes only to facilitate a general understanding of the law or other regulatory matter. This information is neither an exhaustive treatment on the subject nor is this intended to substitute for the advice of an attorney or other professional advisor. Consult with your attorney or professional advisor to apply these principles to specific fact situations.

©2020 by Texas Association of School Boards, Inc.

TASB grants members/subscribers of TASB Student Solutions™ the limited right to customize this publication for internal (non-revenue generating) purposes only.



**CONTENTS**

PRIOR WRITTEN NOTICE ..... 1

    What is Required ..... 1

        How and When the Notice Must Be Provided ..... 1

        Content of the Notice ..... 2

        Definitions ..... 2

    Additional Procedures ..... 3

        Drafting the Notice ..... 4

        ARD Committee Record as Notice ..... 6

        Provide Notice in a Timely Manner ..... 6

    Evidence of Implementation ..... 6

    Resources ..... 7

CITATIONS ..... 8

## PRIOR WRITTEN NOTICE

### What is Required

Campus Special Education Personnel must provide Prior Written Notice to a parent before the District:

- Proposes or refuses to initiate or change the identification of the student;
- Proposes or refuses to initiate or change the evaluation of the student;
- Proposes or refuses to initiate or change the educational placement of the student;
- Proposes or refuses to initiate or change the provision of a free appropriate public education (FAPE) to the student;
- Proposes to convene an ARD Committee meeting as part of the invitation to the admission review, and dismissal meeting;
- Implements an IEP with which the parent disagrees; or
- Ceases the provision of special education and related services due to the parent's revocation of consent for services.

### **How and When the Notice Must Be Provided**

Campus Special Education Personnel must provide the Prior Written Notice at least five school days before the District proposes or refuses the action, unless the parent agrees to a shorter timeframe.

If the parent submits a written request to the District's Special Education Director or to a Campus Administrator for an initial evaluation of the parent's child for special education services, District Special Education Personnel must, not later than the 15<sup>th</sup> school day after the date of receipt of the request, either:

- Provide the parent with Prior Written Notice of its proposal to conduct an evaluation, a copy of the *Notice of Procedural Safeguards*, and an opportunity to give written consent for the initial evaluation. See [CONSENT FOR INITIAL EVALUATION]; OR
- Provide the parent with Prior Written Notice of its refusal to conduct an evaluation and a copy of the *Notice of Procedural Safeguards*.

If a parent revokes consent for services, the District must provide Prior Written Notice to the parent before ceasing the provision of special education and related services to the student. See [CONSENT FOR SERVICES].

The Prior Written Notice must be in a 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. If the native language or other mode of communication of the parent is not a written language, the District must take steps to ensure that the notice is translated orally or by other means for the parent in the parent's native language or other mode of communication and that the parent understands the content of the notice.

The parent may elect to receive Prior Written Notices by electronic mail communication, if the District makes that option available.

### **Content of the Notice**

The District must include the following in the Prior Written Notice:

- A description of the action proposed by the District;
- An explanation of why the District proposes or refuses to take the action;
- A description of each evaluation procedure, assessment, record, or report the District used as a basis for the proposed or refused action;
- A description of other options that the ARD considered and the reasons why those options were rejected;
- A description of any other factors that are relevant to the District's proposal or refusal;
- A statement that the parent has protection under the procedural safeguards of the IDEA, and if the notice is not an initial referral for evaluation, the means by which a copy of the *Notice of Procedural Safeguards* can be obtained; and
- Sources for the parents to contact to obtain assistance in understanding the IDEA;

If the District is proposing to conduct an evaluation, it must also include in the Prior Written Notice a description of any evaluation procedure it proposes to conduct.

### **Definitions**

"Consent for services" is the informed consent that the District must obtain before the initial provision of special education and related serves.

“Informed Consent” means that: the parent has been given all the information related to the action for which parental permission is sought in the parent’s native language or other mode of communication; the parent understands and agrees in writing to the activity for which permission is sought, and the written consent describes the activity and lists any records that will be released and to whom; and the parent understands that the granting of his/her consent is voluntary and may be withdrawn at any time.

### **Additional Procedures**

The District must provide a parent with Prior Written Notice when it proposes or refuses to initiate or change the student’s identification, evaluation, placement, or how the student is provided a FAPE, regardless of whether the parent or District initiated the change or whether the parent agrees or disagrees with the change, or whether the District refuses to make a change or provide a service requested by the parent.

Prior Written Notice should be provided to notify the parent of the scheduling of an ARD meeting. Campus Special Education Personnel will provide the parent a Prior Written Notice of the ARD meeting at least 5 school days prior to the date of the ARD. If the Prior Written Notice of the ARD meeting is received by the parent less than or equal to 5 school days prior to the ARD, the parent must sign that they waive their right to the 5-day notice, and the signed notice must be attached to the ARD paperwork. If the parent will not waive their 5-day notice, the ARD meeting must be rescheduled to give the parent the requisite notice.

Special Education Personnel will also create and send to the parent a Prior Written Notice after each and every ARD meeting, detailing the decisions of the ARD Committee and including a description of all of the actions the ARD Committee has decided upon regarding the student’s IEP and all the actions that the ARD Committee rejected, an explanation of why the ARD Committee is proposing or refusing to do the stated actions, a description of all the alternate actions or options the ARD Committee considered, a description of the data and other relevant factors that the ARD Committee considered to make its decisions, a statement of the parent’s procedural rights, and information about the District, state, and local sources the parent can contact for questions regarding their rights. None of the actions documented in the ARD Committee can be implemented until 5 school days after the parent has received a copy of the Prior Written Notice, unless the parent has waived the waiting period at the ARD meeting.

Further, Special Education Personnel will create and send to the parent Prior Written Notice are when:

- Campus or District Special Education Personnel propose or refuse to conduct an initial evaluation of a student. See [REFERRAL FOR POSSIBLE SPECIAL EDUCATION SERVICES] and [CONSENT FOR INITIAL EVALUATION]

- Campus or District Special Education Personnel propose or refuse to conduct a reevaluation of a student. See [REVIEW OF EXISTING EVALUATION DATA] and [CONSENT FOR REEVALUATION]
- Campus Special Education Personnel refuse to schedule an ARD meeting at parent request. See [ARD COMMITTEE MEETING]
- Campus Special Education Personnel amend the IEP without an ARD meeting. See [AMENDMENT WITHOUT A MEETING]
- The parent has given the District written notice revoking consent for an evaluation. See [CONSENT FOR INITIAL EVALUATION] and [CONSENT FOR REEVALUATION]
- The parent has given the District written notice revoking consent for the student to receive special education services. See [CONSENT FOR SERVICES]

Furthermore, Campus Special Education Personnel should provide Prior Written Notice to a parent or an adult student when the student graduates from high school since graduation constitutes a change in placement. See [GRADUATION].

### Drafting the Notice

The District must provide the parent with several pieces of information in the Prior Written Notice, including the following:

- A description of the action proposed or refused by the District. For example:
  - *The District is proposing to conduct a three-year evaluation using existing data that includes teacher observations, student test results, and behavior logs.*
  - *Student has displayed aggressive behavior in the classroom for the last three months. Due to observed behavioral problems the District is proposing an evaluation to determine if student has a disability.*
  - *The District will conduct a transition assessment to gather information intended to help your student prepare for leaving high school.*
  - *Due to student's below grade level academic skills, student will receive direct special education services for reading and math as indicated in the attached IEP.*
- An explanation of why the District proposes or refuses to take the action. For example:

- *Student's reading skills are more than two years below grade level even after receiving small group instruction on specific skill deficits for the last six months.*
- *Student is displaying severe aggressive behavior. An FBA will be conducted to analyze the factors that may be contributing to this behavior.*
- *Student's speech or pronunciation at her age is not clear to teachers and parents. Teachers and parents have difficulty understanding her when she talks.*
- A description of each evaluation procedure, assessment, records, or report that the District used as a basis for the proposed or refused action. The basis for the proposed action or refusal could be:
  - teacher and/or parent input,
  - classroom performance,
  - formal assessment results,
  - work samples,
  - behavior logs,
  - progress on previous IEP goals and objectives, and/or
  - results of prereferral interventions.
- A statement that the parent has protection under the procedural safeguards of Part B of the Individuals with Disabilities Education Act (IDEA) and, if this notice is not an initial referral for evaluation, the means by which a copy of the Notice of Procedural Safeguard can be obtained. For example, Campus Special Education Personnel may direct the parent to the link on the District's website.
- Sources to contact for the parent to obtain assistance in understanding the provisions of Part B of the IDEA. For example, the contact information for the District's Regional Education Service Center.
- A description of other options that the ARD Committee considered and the reasons why those options were rejected. Other options considered by the ARD Committee could include:
  - delaying an evaluation,
  - conducting additional prereferral interventions,

- conducting different assessment procedures,
  - reviewing existing data,
  - adding or deleting services in an IEP,
  - adding accommodations and modifications to an IEP; or
  - considering the alternative placements on the continuum of placements.
- A description of any other factors that are relevant to the District's proposal or refusal. Other factors affecting a proposal or refusal could include language issues, cultural issues, communication concerns, health concerns, behavior concerns, and/or assistive technology. For example,
    - *Student is legally blind. District will conduct a Braille evaluation.*
    - *Student's primary language is Spanish. Some accommodations will be made for student's evaluation.*
    - *Student requires frequent restroom breaks due to student's health condition. Accommodations related to student's need for frequent breaks are addressed in the attached IEP.*

### **ARD Committee Record as Notice**

The record from an ARD Committee meeting may be used for the Prior Written Notice so long as the documents the parent receives contain all the content that must be included in the Prior Written Notice as described above. It is often easier, and more efficient, to prepare a separate document identified as a Prior Written Notice to ensure that all required elements of the Prior Written Notice are included, especially if the deliberations of the ARD Committee meeting are incomplete.

### **Provide Notice in a Timely Manner**

The law does not require that the Prior Written Notice be provided by a certain date after the ARD Committee makes its decision, but it should be done in a timely manner. Regardless, Campus Special Education Personnel must provide Prior Written Notice at least five school days before the District implements the proposal described in the notice, unless the parent agrees otherwise. The parent may waive the five-day notice requirement. If the parent waives the five-day notice requirement, Campus Special Education Personnel should maintain written documentation of the waiver.

### **Evidence of Implementation**

- ARD/IEP
- Documentation of Parent Agreement/Disagreement
- Notice of ARD Meeting
- Prior Written Notice after ARD Meeting
- Prior Written Notice for Evaluation
- Prior Written Notice for Graduation
- Prior Written Notice for ARD Amendment
- Evidence of Parent Receipt of Notice of Procedural Safeguards
- *Notice of Procedural Safeguards*
- *Parent's Guide to the Admission, Review, and Dismissal Process*
- Parent Revocation of Consent for Services
- Parent Request for Evaluation
- Parent Request for ARD Meeting

## **Resources**

[The Legal Framework for the Child-Centered Special Education Process: Prior Written Notice - Region 18](#)

[Notice of Procedural Safeguards - Texas Education Agency](#)

[Parent's Guide to the Admission, Review, and Dismissal Process - Texas Education Agency](#)

[Prior Written Notice Questions and Answers - Region 13](#)

[Prior Written Notice - Region 4](#)

[OSEP Letter to Ferrara \(Feb. 29, 2012\) - U.S. Department of Education](#)

[OSEP Letter to Lieberman \(Aug. 15, 2008\) - U.S. Department of Education](#)

[OSEP Letter to Spitzer-Resnick, Swedeen, and Pugh \(June 22, 2012\) - U.S. Department of Education](#)

[OSEP Letter to McWilliams \(July 16, 2015\) - U.S. Department of Education](#)

[OSEP Letter to Ward \(Aug. 31, 2012\) - U.S. Department of Education](#)

[OSEP Letter to Chandler \(Apr. 26, 2012\) - U.S. Department of Education](#)

[Prior Written Notice of Refusal - Partner Resource Network](#)



## **CITATIONS**

Board Policy EHBAA; Board Policy EHBAE; 20 U.S.C. 1414(b)(1), 1415; 34 CFR 300.300, 300.304(a), 300.322, 300.503, 300.504, 300.505; 19 TAC 89.1011, 89.1015, 89.1045(a), 89.1050(h), 89.1055(g)

# Admission, Review, and Dismissal Committee

## RULE OF CONSTRUCTION

March 24, 2021

Disclaimer: This information is provided for educational purposes only to facilitate a general understanding of the law or other regulatory matter. This information is neither an exhaustive treatment on the subject nor is this intended to substitute for the advice of an attorney or other professional advisor. Consult with your attorney or professional advisor to apply these principles to specific fact situations.

©2020 by Texas Association of School Boards, Inc.

TASB grants members/subscribers of TASB Student Solutions™ the limited right to customize this publication for internal (non-revenue generating) purposes only.

**CONTENTS**

RULE OF CONSTRUCTION ..... 1

    What is Required ..... 1

    Additional Procedures ..... 2

    Evidence of Implementation ..... 2

    Resources ..... 2

CITATIONS ..... 3

## RULE OF CONSTRUCTION

### What is Required

The District will establish an ARD Committee for each eligible student with a disability and for each student for whom an evaluation is conducted. See [EVALUATION]. The ARD Committee is the group of qualified professionals and the parent of the student that determines whether the student is a student with a disability and the educational needs of the student. The ARD Committee is the team that develops the IEP for the eligible student with a disability and determines the educational placement of the student.

The IEP is the written statement for each student with a disability that is developed, reviewed, and revised by the ARD Committee. The IEP must include:

- A statement of the student's present levels of academic achievement and functional performance, including how the student's disability affects the student's involvement and progress in the general education curriculum; or for preschool students, as appropriate, how the disability affects the student's participation in appropriate activities;
- A statement of measurable annual goals, including academic and functional goals designed to meet the student's needs that result from the student's disability to enable the student to be involved in and make progress in the general education curriculum; and meet each of the student's other educational needs that result from the student's disability, and, for students with disabilities who take alternate assessments aligned to alternate academic achievement standards, a description of benchmarks or short-term objectives;
- A description of how the student's progress toward meeting the annual goals described above will be measured and when periodic reports on the progress the student is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided;
- A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the student, or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided to enable the student to advance appropriately toward attaining the annual goals; to be involved in and make progress in the general education curriculum, and to participate in extracurricular and other nonacademic activities; and to be educated and participate with other students with disabilities and nondisabled students;

- An explanation of the extent, if any, to which the student will not participate with nondisabled students in the regular class;
- A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the student on State and districtwide assessments;
- If the ARD Committee determines that the student must take an alternate assessment instead of a particular regular State or districtwide assessment of student achievement, a statement of why the student cannot participate in the regular assessment; and why the particular alternate assessment selected is appropriate for the student; and
- The projected date for the beginning of the services and modifications described above, and the anticipated frequency, location, and duration of those services and modifications.

### **Additional Procedures**

Campus Special Education Personnel will be responsible for compiling and processing the student's ARD paperwork in accordance with the ARD forms utilized by the District. District Special Education Personnel may periodically review a random sampling of ARD documents within the District to ensure that all required components of the IEP are addressed by the ARD Committee for each student with a disability.

District Special Education Personnel will provide training regarding the role and duties of the ARD Committee and the components of the ARD document for all Campus Personnel.

### **Evidence of Implementation**

- ARD/IEP
- ARD Attendees Sheet
- ARD Signature Page
- ARD Committee Training
- ARD/IEP Training

### **Resources**

[The Legal Framework for the Child-Centered Special Education Process: Rule of Construction Framework – Region 18](#)

[IEP Model Form – Texas Education Agency](#)

[Model Form: Individualized Education Program – U.S. Department of Education](#)

[Admissions Review Dismissal \(ARD\) Committee - SPEDTEX](#)

**CITATIONS**

34 CFR 300.306(a)(1), 300.116(a), 300.320(a), 300.320(d), 300.321(a); Texas Education Code 29.005(f), 29.0051(c); 19 TAC 89.1040(b), 89.1050(a), 89.1055(a)

# ADMISSION, REVIEW, AND DISMISSAL COMMITTEE

## SPECIAL FACTORS

March 24, 2021

Disclaimer: This information is provided for educational purposes only to facilitate a general understanding of the law or other regulatory matter. This information is neither an exhaustive treatment on the subject nor is this intended to substitute for the advice of an attorney or other professional advisor. Consult with your attorney or professional advisor to apply these principles to specific fact situations.

©2020 by Texas Association of School Boards, Inc.

TASB grants members/subscribers of TASB Student Solutions™ the limited right to customize this publication for internal (non-revenue generating) purposes only.

**CONTENTS**

*SPECIAL FACTORS* ..... 1

*STUDENTS WITH BEHAVIORAL NEEDS*..... 1

    What is Required .....1

    Additional Procedures .....1

    Evidence of Implementation .....3

*ENGLISH LEARNER STUDENTS* ..... 3

    What is Required .....3

    Additional Procedures .....4

    Evidence of Implementation .....5

*BLIND OR VISUALLY IMPAIRED STUDENTS*..... 5

    What is Required .....6

        Braille .....6

        Expanded Core Curriculum .....6

        Texas School for the Blind .....7

    Additional Procedures .....7

    Evidence of Implementation .....9

*DEAF OR HARD OF HEARING STUDENTS*..... 9

    What is Required .....9

    Additional Procedures .....10

    Evidence of Implementation .....11

*ASSISTIVE TECHNOLOGY*..... 11

    What is Required .....11

    Additional Procedures .....12

    Evidence of Implementation .....13

*STUDENTS WITH AUTISM* ..... 14

    What is Required .....14

    Additional Procedures .....15

    Evidence of Implementation .....17



*DEFINITIONS* ..... 18

*RESOURCES* ..... 19

*CITATIONS* ..... 21

## **SPECIAL FACTORS**

State and federal law require consideration of special factors for students with the following special education eligibilities or needs/supports:

- Students with Behavioral Needs;
- English Learner Students;
- Blind or Visually Impaired Students;
- Deaf or Hard of Hearing Students;
- Assistive Technology; and
- Students with Autism Spectrum Disorder.

### ***STUDENTS WITH BEHAVIORAL NEEDS***

#### **What is Required**

If a special education student's behavior is impeding the student's learning or that of others, the ARD Committee must consider the use of positive behavioral interventions and supports and other behavior strategies to address the behavior. If appropriate, the ARD Committee will develop a Behavior Intervention Plan or a Behavior Improvement Plan ("BIP") to be included in the student's IEP. A BIP is a written plan developed as part of the IEP to address behavioral concerns affecting the student's educational progress. A BIP is based on a functional behavioral assessment ("FBA") of the problem behaviors, identifies events that predict these behaviors, and includes positive interventions to change behaviors and methods of evaluation. If the ARD Committee develops a BIP, a copy of the BIP will be provided to each of the student's teachers. The purpose of a BIP is to redirect the student's targeted behaviors to ensure the student can make appropriate progress in light of the student's unique circumstances.

An ARD Committee may also consider time-out as part of the student's IEP and/or BIP. If a student requires any type of time-out, the District must comply with state requirements and documentation. See [RESTRAINT AND TIME-OUT]. The ARD Committee is required to address any necessary documentation or data collection and use any collected data to judge the effectiveness of time-out as an intervention and provide a basis for making determinations regarding its continued use.

#### **Additional Procedures**

Behavior supports or interventions for a student with a disability may include direct services (such as counseling and/or social skills training), indirect services (such as consultation or training of service providers or parent training), behavior accommodations, curriculum modifications, behavior goals and objectives, and/or a BIP.

If the ARD Committee determines that a BIP is appropriate for the student, Campus or District Special Education Personnel, such as a teacher or a LSSP, may conduct an FBA for the student. An FBA is generally understood to be an individualized evaluation of a student to assist in determining eligibility and/or the nature and extent of the special education and related services that the student needs, including the need for a BIP. As such, in most cases, parental consent is required for an FBA. See [CONSENT FOR INITIAL EVALUATION] and [CONSENT FOR REEVALUATION].

An FBA is a process for collecting data to determine the possible cause of problem behaviors and to identify strategies to address the behaviors. Additionally, when considering positive behavior support strategies for a student with autism, the ARD Committee should consider a BIP developed from an FBA that uses current data related to target behaviors and addresses behavioral programming across environments.

The scope and nature of the FBA will depend on the nature and severity of the student's behaviors. The District or Campus Assessment Personnel will observe the student in various school settings and collect input from staff and members of the ARD Committee, including the parent. The District or Campus Assessment Personnel will consider the data, including interviews conducted with the student and/or parents that provides information about how the student's environment contributes to positive and problem behaviors, including the antecedents to the behavior. This information will be used to develop a hypothesis about why problem behaviors occur (the function of the behaviors) and will identify replacement behaviors that can be taught and that serve the same purpose for the student.

The FBA will provide the ARD Committee with information regarding the function of the student's behavior, factors that may trigger certain behavior, and interventions identified to decrease negative behaviors and increase appropriate behaviors. This information will be reviewed by the ARD Committee when developing a BIP and or behavior goals or accommodations for the student.

The BIP should include positive strategies and supports to help target the student's behaviors. The BIP should also include reinforcements and consequences to enable the student to reflect on the exhibited targeted behaviors.

The BIP must be provided to every teacher who is educating the student, as well as other staff members assisting the student, such as a paraprofessionals or related service providers who are working with the student.

The ARD Committee should determine the best way to monitor the student's progress and BIP implementation. The ARD Committee should also establish how often staff should document behaviors. For example, a campus can use a "BIP tracking sheet" for teachers to document, on a weekly basis, observed targeted behaviors and the interventions the teacher attempted, per the student's BIP. Use of a BIP tracking sheet

is one way to monitor whether the BIP is effective. The ARD Committee should ensure that teachers are aware of how to track BIP implementation and how frequent such information should be tracked.

If a student who is identified as a student with a disability under the IDEA violates the District's Student Code of Conduct, Campus Personnel must ensure that the student's BIP is followed when applying consequences from the Student Code of Conduct. See [DISCIPLINE].

If a student who has a BIP is not making progress on the student's behavior goals, or if either the rate or severity of behaviors targeted in the BIP increase, the ARD Committee should convene and discuss whether modifications to the BIP are indicated.

### **Evidence of Implementation**

- Student Discipline Records
- Teacher Documentation of Behaviors
- Parent Information of Home Behaviors
- BIP
- ARD/IEP
- BIP Tracking Sheet
- FBA
- FIE

## ***ENGLISH LEARNER STUDENTS***

### **What is Required**

For a student identified as a student with a disability who has limited English proficiency, the ARD Committee must consider the language needs of the student as such needs relate to the student's IEP. An English learner ("EL") (or English language learner ("ELL") or limited English proficient ("LEP") student) is a student who is in the process of acquiring English, and another language is their primary language. The ARD Committee, in conjunction with the language proficiency assessment committee ("LPAC"), must identify a student as an EL if the student has limited English ability or if the student has a significant cognitive disability such that the English language proficiency assessment cannot be administered. The ARD Committee should consider the extent of the student's language needs related to the student's IEP.

For students who have limited English proficiency and are eligible for special education, the ARD Committee and the LPAC must create assessment procedures to distinguish between language proficiency and disabling conditions. The decision for entry into a bilingual education or ESL program must be determined by the ARD Committee in conjunction with the LPAC. The ARD Committee, in conjunction with the LPAC, must also

comply with the State and Districtwide Assessment procedures, including selecting the appropriate assessments, documenting the decisions and justifications in the student's IEP, and determining and documenting any allowable testing accommodations. See [STATE AND DISTRICTWIDE ASSESSMENT].

The ARD Committee must include a member of the LPAC if a student is identified as an EL. See [ADMISSION, REVIEW, AND DISMISSAL COMMITTEE MEMBERSHIP].

The District must follow the standardized process for EL program reclassification for EL students who are also eligible for special education services. The ARD Committee in conjunction with the LPAC must meet annually at the end of the year to review progress and determine if an EL student is eligible to be reclassified or exit an EL program and be classified as English proficient. A student is deemed English proficient if the student can participate equally in a general education, all-English instructional program.

When determining whether a student can be reclassified or exit an EL program, the following factors will be considered:

- A proficiency rating on the state-approved English language proficiency test for reclassification or exit that is designated for indicating English proficiency in each of the four language domains (listening, speaking, reading and writing);
- Passing standard met on the reading assessment or for students at grade levels not assessed by the reading assessment, a score of the 40<sup>th</sup> percentile or above on both the English reading and the English language arts test of the state-approved norm-referenced standardized achievement instrument; and
- Results from a teacher evaluation using the state's standardized rubric.

A student may not be reclassified or exited from bilingual education or ESL program in prekindergarten or kindergarten. Additionally, a student may not be reclassified or exited from the bilingual education or ESL program if the LPAC recommends designated supports or accommodations on the state reading assessment instrument.

For an EL student with significant cognitive disabilities, the LPAC, in conjunction with the ARD Committee, may determine that the state's English language proficiency assessment for reclassification is not appropriate because of the nature of the EL student's disability. In these situations, the LPAC, in conjunction with the ARD Committee, may recommend an appropriate performance standard requirement for the EL student to be reclassified or exit a program.

### **Additional Procedures**

For students who are receiving special education services and identified as EL, the ARD Committee and the LPAC must work in collaboration. Joint meeting will occur between

key members of both committees to review the following considerations:

- Entry and Reclassification/exit criteria for ESL or bilingual services
- Appropriate listening, speaking, reading and writing assessments;
- Appropriate student performance standards to verify that second language acquisition support in English is needed or not needed;
- Review progress; and
- Determine linguistic needs such as language instruction.

The meetings may be informal discussions among members. However, the final recommendations are brought to the ARD Committee with LPAC representation at the ARD Committee Meeting. The two committees, in meeting to collaborate in the best interest of the student, should consider information regarding cognitive and linguistic abilities, affective needs, data from progress monitoring, assessment data from both special education and ESL/bilingual programming, and confidentiality of student information regarding the presence of any person not employed by the District.

Prior to an ARD meeting regarding an EL student's assessments, a Campus Special Education Professional, such as the student's case manager, should gather necessary data for the committees to make a data-based decision regarding the assessments and educational programs the EL student will take.

The Campus Special Education Professional should start gathering necessary data several weeks before the end of the academic year for the committee to review to determine whether the EL student may be reclassified or exit an EL program.

### **Evidence of Implementation**

- Referral for Special Education
- FIE
- ARD/ IEP
- EL Assessment
- LPAC Team Documents
- Training for LPAC Members
- ARD Attendance by LPAC Member
- Student's Academic Progress Consideration
- Documentation of Reclassification Consideration

## ***BLIND OR VISUALLY IMPAIRED STUDENTS***

## **What is Required**

In the development of the IEP for a VI student, proficiency in reading and writing is a significant indicator of the student's satisfactory educational progress. A student who is blind or visually impaired must be evaluated to determine the student's reading and writing skills, needs, and appropriate reading and writing media. The evaluation must be administered by a teacher certified to teach students with visual impairments and should be based on an appropriate literacy media and skills for the student's current and future instructional needs. See [VISUAL IMPAIRMENT].

### **Braille**

When considering a VI student's needs, District Assessment Personnel must determine the student's current and potential need for instruction in braille or the use of braille. A VI student's IEP must include instruction in braille and the use of braille, unless the ARD Committee determines and documents that braille is not an appropriate literacy medium for the student. The ARD Committee's decision must be based on the evaluation of the student's appropriate literacy media and literacy skills and the student's current and future instructional needs. Each person developing the IEP must be given information on the benefits of braille instruction. If the ARD Committee determines that braille instruction is appropriate for a student, such instruction may be used in combination with other appropriate special education services, but the braille instruction must be provided by a teacher certified to teach children with visual impairments.

### **Expanded Core Curriculum**

Before placing a student with a visual impairment in a classroom setting, or within a reasonable time period after placement, the Campus Special Education Personnel must provide an evaluation of the impairment and instruction in an expanded core curriculum, which is required for the student to succeed in classroom settings and derive lasting, practical benefits from education. Instruction in an expanded core curriculum must include instruction in:

- Compensatory skills, such as braille and concept development, and other skills needed to access the rest of the curriculum;
- Orientation and mobility;
- Social interaction skills;
- Career planning;
- Assistive technology, including optical devices;
- Independent living skills;
- Recreation and leisure employment;
- Self-determination; and
- Sensory efficiency.

In developing an IEP for a VI student, the ARD Committee must include in the IEP:

- A detailed description of the arrangements made to provide the student with an evaluation of the impairment and instruction in the expanded core curriculum;
- Plans and arrangements made for contacts with and continuing services to the student beyond regular school hours to ensure the student learns the skills and receives the instruction in the expanded core curriculum; and
- a statement reflecting that the student has received an explanation of the various community and state resources.

### **Texas School for the Blind**

The Texas School for the Blind and Visually Impaired (the “School for the Blind”) is a state agency established to serve as a special school in the continuum of statewide alternative placements for students who are 21 years of age or younger and who have a visual impairment. The School for the Blind is intended to serve students who require specialized or intensive educational or related services related to the visual impairment. The School for the Blind is not intended to serve students whose needs are appropriately addressed in a home or hospital setting or in a residential treatment facility, or students whose primary, ongoing needs are related to a severe or profound emotional, behavioral or cognitive deficit.

The ARD Committee for a VI student may determine that the appropriate placement for the student is the Texas School for the Blind. If the ARD Committee places a VI student in the Texas School for the Blind, the District must ensure that it provides the student with FAPE and that all legally required ARD meetings are conducted to develop and review the student’s IEP.

The District must provide each parent of a VI student with the state-adopted form that contains written information about programs offered by state institutions, including the Texas School for the Blind.

### **Additional Procedures**

VI Students have unique learning needs that must be addressed if they are going to access the regular core curriculum and become independent, productive citizens to the greatest extent possible. The District provides educational services for students ages 0-21 who meet eligibility criteria for VI. Eligible infants (ages 0-2 years) are served in their home by the District in conjunction with the local Early Childhood Intervention (ECI) Program. At age 3, eligible students are transitioned to the District to receive services through special education, as determined by the student’s ARD Committee. See [AGES 0-5]. Each Campus Administrator should ensure that appropriately trained personnel for



the blind or visually impaired attend the student's ARD meeting.

The ARD Committee will develop an IEP for the student based on the requirements described above, including the use of braille. Service delivery options may include indirect/consultation, direct services, community-based activities, or a combination of these options. IEP goals and objectives addressed by VI and Certified Orientation and Mobility Specialists ("COMS") Service Providers may be integrated with classroom teacher's goals and objectives. Services may include pre-braille instruction, braille instruction, visual efficiency training, instruction in the use of technology for the visually impaired, and the provision of large print or braille textbooks, assignments or tests. Modifications and accommodations necessary for the VI student to access the educational curriculum, appropriate goals and objectives, progress monitoring, and transition services will be addressed through consultation with the VI and/or COMS Service Providers and regular education staff.

Campus Special Education Personnel should document on the VI Supplement/Section of the IEP the following:

- Whether the student is functionally blind based on the functional vision evaluation and learning media assessment;
- Whether the ARD Committee has received information on the benefits of braille;
- The need for braille and the student's strengths and weaknesses in braille reading and writing;
- Appropriate learning and literacy media information;
- Whether the student has been provided a detailed explanation of the various community and state resources;
- Whether the parent has been provided information about the Texas School for the Blind and Visually Impaired and other programs offered by Texas institutions;
- Plans and arrangement for contacts with and continuing services to student beyond the regular school hours;
- All areas of the expanded core curriculum instruction; and
- Appropriate special media and special tools, appliances, aids, or devices commonly used by VI student (i.e. braille textbooks, braille writer, braille paper, sensory learning kit, low vision devices, canes, etc.).

Instruction for VI student should reflect the assessed needs of each student in all areas of expanded core curriculum. Assessments in all of these areas that determine each

student's strengths and weaknesses can be used to assist the ARD Committee to build a program that truly addresses life-long competencies. Not all areas will have equal urgency each year, but to make informed decisions on where to focus, it is essential to measure progress and functioning across all areas. The ARD Committee should prioritize needs in order to develop an appropriate and comprehensive educational program for students with visual impairments.

A student's need for vision services may vary over time. A student's needs may differ in intensity and focus during the student's school years. These fluctuations will be reflected in the IEP and should be fluid and flexible, based on immediate educational needs at any time during the student's educational process. Consideration for services may be especially necessary during periods of transition between schools or into community activities. Other considerations are when there are significant changes to the IEP and/or vocational considerations.

Campus-based members of the ARD Committee should stay apprised of the various resources in Texas that offer consultation and support to staff and/or family for special education students who are blind or visually impaired. Parents of VI students should be provided information about the Texas School for the Blind annually.

### **Evidence of Implementation**

- Referral for Special Education
- Notice of Procedural Safeguards
- FIE
- ARD/IEP
- VI Supplement/Section of IEP
- Teacher/Provider Certification
- ARD Attendance Sheet
- Documentation of Training
- Texas School for the Blind Information and Parent Receipt

## ***DEAF OR HARD OF HEARING STUDENTS***

### **What is Required**

The ARD Committee must consider the unique communication needs for students who are eligible for special education as a result of being deaf or hard of hearing and ensure that each student's communication mode is respected, used, and developed to an appropriate level of proficiency.

When developing an IEP for a student eligible for special education due to being deaf or hard of hearing, the ARD Committee must consider the following:

- The student's language and communication needs;
- The student's opportunities for direct communications with peers and professional personnel in the student's language and communication mode;
- The student's academic level, considering factors such as the student's grades, benchmark testing, and state assessments; and
- The student's full range of needs, including opportunities for direct instruction in the student's language and communication mode.

The District must provide each parent with the state-adopted form that contains written information about programs offered by state institutions for deaf or hard-of-hearing students.

### **Additional Procedures**

The District provides educational services for students ages 0-21 who meet eligibility criteria for AI. Eligible infants (ages 0-2 years) are served in their home by the District in conjunction with the local Early Childhood Intervention (ECI) Program. At age 3, eligible students are transitioned to the District to receive services through special education, as determined by the student's ARD Committee. See [AGES 0-5]. A Campus Administrator should ensure that appropriately trained personnel for the deaf or hard of hearing attend the student's ARD Committee meeting. The ARD Committee shall consider all the student's needs, academic levels, and supports as described above.

Students with AI may receive special education services through a variety of service delivery models. Many students are appropriately served on their home campus with special education services. Other students may need additional instructional support from a teacher of the deaf or hard of hearing, an interpreter, and/or a communication facilitator. For students who need additional Deaf Ed services, the District participates in the Round Rock ISD Regional Day School Program for the Deaf (RDSPD). Students receiving direct services via RDSPD may receive services according to a continuum of services based on the unique needs of the student.

The continuum of services for AI students include some or all of the following:

- Monitor/consult only (indirect services)
- Itinerant/direct services from a certified Teacher of the Deaf
- Site-based direct services in the RDSPD
- In-class support
- External support
- Audiological services
- Interpreting service
- Communication facilitator services
- Audiological management

- Counseling

The instructional program for AI students is designed to meet the individual needs of the student and will include both oral and total communication philosophies.

Campus-based members of the ARD Committee should stay apprised of the various resources in Texas that offer consultation and support to staff and/or families for special education students who are deaf or hard of hearing. At the initial ARD and at each annual ARD, Campus Special Education Personnel will provide the parents of AI students information about the Texas School for the Deaf describing the program offered, eligibility and admissions, and the rights of students. When signing the ARD document, the IEP should reflect that the parent received this information.

### **Evidence of Implementation**

- Referral for Special Education
- Notice of Procedural Safeguards
- FIE
- ARD/IEP
- Communication Needs Documentation
- Teacher Certification
- ARD Attendance Sheet
- Documentation of Training
- Parent Receipt of Texas School for the Deaf Information

## **ASSISTIVE TECHNOLOGY**

### **What is Required**

The ARD Committee must determine if a student needs assistive technology devices (ATD) and/or services. The term assistive technology service means any service that directly assists the student with a disability in the selection, acquisition, or use of an ATD, and includes:

- The evaluation of the needs of the student, including a functional evaluation in the student's customary environment;
- Purchasing, leasing, or otherwise providing for the acquisition of ATD's by the student;
- Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing ATD's;
- Coordinating other resources, such as therapies, interventions, or services to be used with the ATDs, such as those in the student's IEPs and rehabilitation plans;
- Training or technical assistance for the student or the family, if appropriate, to

- ensure the student and family understands how to properly use the ATD; and
- Training or technical assistance for all school staff who provide services to or who are substantially involved in the major functions of the student.

### **Additional Procedures**

Assistive Technology services or an ATD can be provided as a supplementary aide and service and utilized by the classroom teacher. Assistive Technology can also be a related service and implemented by an assistive technology specialist and/or part of a student's goals or objectives in the IEP. Campus staff working with students with disabilities will be informed of the assistive technology services and devices available and who to contact when campus staff have questions about the availability of services and devices and the operations and functions of various ATD's.

The ARD Committee will consider AT needs for every special education student, regardless of the student's eligibility, at least annually, but need not conduct a formal AT evaluation for every student with a disability. It is during this consideration that the ARD Committee is to determine if an AT evaluation is warranted and plan for any necessary AT evaluation. In some cases, members of the ARD Committee will be knowledgeable about the student's functional needs and the range of appropriate AT devices/services to meet those needs. In those cases, the ARD Committee may decide what AT devices/services should be provided for the student without the necessity of a formal AT evaluation. This is particularly true with readily available, low tech AT devices/services. In other situations, the ARD Committee may not have sufficient in-depth knowledge of the student's functional needs, or the members of the ARD Committee may not have the expertise or technical knowledge about what AT devices/services are available to meet the student's needs. In those cases, a formal AT evaluation should be requested by the ARD Committee. In addition, if a student can use an AT device successfully outside of school but struggles to use the same device in the classroom, that may also trigger the need for an AT evaluation. The ARD Committee may seek information from other sources such as an outside expert, a vendor of a device, or other Campus Personnel. If either a parent or Campus Personnel refers a student for an AT evaluation, the ARD Committee will determine whether the evaluation is needed and, if so, the scope of the evaluation.

Should the ARD Committee seek a formal AT evaluation, all IDEA requirements regarding evaluations, such as notice and parent consent, apply. See [REVIEW OF EXISTING EVALUATION DATA] and [EVALUATION PROCEDURES]. If an ARD Committee determines that an AT evaluation is warranted prior to selecting an ATD, Campus Special Education Personnel responsible for setting up the ARD Committee will invite an AT representative to an ARD meeting to discuss the AT evaluation results and the functions of the recommended device for the student. Alternatively, the Special Education Assessment Personnel should consult with the AT representative to obtain relevant information to share with the ARD Committee members.

Although there are no specific guidelines about what must be included as part of an AT evaluation for it to be sufficient, the District Special Education Personnel and District Assessment Personnel should consider both statutory and regulatory requirements regarding evaluations in general. The AT evaluation should be conducted by a qualified professional and consist of a detailed review and analysis of the student's needs and abilities and should be based on current information and data derived from a review of the student's educational records, observations, and discussions with classroom teachers, other services providers, and the parent. The AT evaluation should assess the student's needs across a variety of domains such as communication, written language, academic content areas, fine and gross motor skills, and daily living skills. The evaluation of a particular domain may be informal. For example, if the concern expressed by the ARD Committee relates to the student's handwriting, the evaluation of communication and daily living skills may be informal, based on input from teachers and parents, and simply note that functioning in those areas is adequate for the age and grade level of the student. In other domains, formal evaluation procedures may be appropriate using protocols, skills inventories, and various frameworks to assess the student's functional needs and develop recommendations regarding AT devices/services.

When considering a device for a student, the ARD Committee does not have to choose the most sophisticated device, but rather one that will enable the student to access the general education curriculum. The ARD Committee must consider the extent of the student's needs for the ATD. For example, the student may need to take the ATD home to appropriately complete homework. If a student is permitted to take an ATD home, the District may require the parent to complete any District-required forms or paperwork regarding the parent/student's responsibility for care of the ATD.

All campus staff members who work with students should be aware of the ATD addressed in the student's IEP and must allow the student to use the device in the manner described in the student's IEP. Campus staff working directly with the student must promptly notify Campus Administrative Personnel, Campus Special Education Personnel, if appropriate and necessary, District Special Education Personnel, or the AT representative if the student's ATD malfunctions so that it can be repaired and/or replaced. The District is required to provide and maintain any ATD that the student's ARD Committee has determined is necessary for implementing the student's IEP. If the ATD is not functioning or does not function correctly, the District is responsible for providing a substitute device, or for convening an ARD Committee meeting to review and, if appropriate, revise the student's IEP.

Campus Special Education Personnel, with support from the Special Education AT Specialist (as needed), is responsible for consistently implementing strategies, providing training, and collecting data regarding AT use or effectiveness.

### **Evidence of Implementation**

- Referral for Special Education
- Notice of Procedural Safeguards
- FIE
- ARD/IEP
- AT Evaluation
- AT Checklist
- ATD Check-out
- ATD Progress Documentation
- ATD Student Training Documentation
- ATD Provider Training Documentation

## ***STUDENTS WITH AUTISM***

### **What is Required**

In the case of a student with autism, the ARD Committee must consider the following eleven (11) strategies based on peer-reviewed, research-based educational programming practices to the extent practicable, and when needed, in the student's IEP:

- Extended educational programming (e.g. extending the day and/or school year to ensure the student makes appropriate progress in areas of need, such as behavior, social skills, and academics);
- Daily schedules reflecting minimal unstructured time and including active engagement in learning activities. These schedules should consider, for example, meal periods, recess, and adapting to changes such as a substitute teacher, classroom location change, or a school event that deviates from the normal day (e.g. pep rally or student-wide meeting). The goal is to provide consistency for the student and contingency plans when the student's normal daily routine changes;
- In-home and community-based training or viable alternatives that assist the student 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 community to home);
- Positive behavior support strategies based on relevant information (e.g. antecedent manipulation, replacement behaviors, reinforcement strategies, and data-based decisions; and a BIP developed from an FBA that uses current data related to target behaviors and addresses behavioral programming across home, school, and community-based settings);
- Transition planning, to begin at any age the ARD Committee determines is appropriate, in considering future planning for the student's integrated living, work,

community, and educational environments that consider the skills needed for the student's current and postsecondary environments. See [TRANSITION SERVICES];

- Parent/family training and support by qualified personnel with experience in autism spectrum disorders. The goal of this training is to provide families with supports for the student to succeed beyond school—in home and in the community. The ARD Committee must also provide the parent information for community resources for the student (e.g. parent support groups, videos, and conferences related to parenting a student with autism). The parent/family training should also facilitate parental carryover of in-home training (e.g. behavior management strategies and developing structured home environments);
- Suitable staff-to-student ratio appropriate to identified activities and as needed to achieve social/behavioral progress based on the student's developmental and learning level 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;
- Interventions to improve the student's communication skills across settings;
- Social skills, supports and strategies based on social skills assessment and curriculum and applied across settings (for example: circle of friends, video modeling, social stories, and role playing);
- Professional development for teachers and staff related to educating students who have an Autism Spectrum Disorder; including training on the correct implementation of techniques and strategies described in the student's IEP; and
- Teaching strategies based on peer-reviewed, research-based practices for students with an Autism Spectrum Disorder (for example those associated with discrete-trial training, visual supports, applied behavioral analysis, structured learning, augmentative communication, or social skills training).

If the ARD Committee determines that the student does not need any of the supports listed above, it must state its decision and the basis of the decision in the student's IEP.

### **Additional Procedures**

The ARD Committee for an AU student will clearly show that each of the 11 strategies noted above were meaningfully discussed, even if the ARD Committee determines that the student does not need some of the listed services. Campus Special Education Personnel should consider the following practices when considering the 11 strategies:



- Ensure that staff involved in the provision of ESY services are provided with a copy of the student's IEP. Communication between the student's teacher during the regular school year and ESY staff is imperative to ensure that ESY staff receive updated information about the student and the goals/tasks to work on during ESY. Consider community options for ESY services, if appropriate.
- Within the student's daily schedule, include, for example, meals, restroom breaks, leisure breaks, course instruction, daily wrap-ups, and pack-up and dismissal. Attach a daily schedule to the ARD document, describe any difficulties with transitions between classes or activities, and address behavioral problems that may occur when a change occurs in routine or location. Minimal unstructured time means that IEP goals/objectives are being addressed throughout the day and across settings.
- Consider important life skills for in-home training such as training for the student to independently use the restroom or dress him or herself. Consider a data chart to track how often the student is completing the desired tasks. To help a student acquire critical skills across settings or generalize critical skills from one setting to another, the ARD Committee should discuss any skills the student exhibits in one setting but has not acquired in another setting. In-home training is a related service that requires an evaluation before implementation. When an in-home training evaluation is requested, Assessment Personnel will obtain consent from the parent and follow the evaluation procedures. See [CONSENT FOR INITIAL EVALUATION] and [EVALUATION PROCEDURES].
- Consider including prevention interventions, teacher interventions, and reinforcement interventions in the student's BIP if needed. See *Students with Behavior Needs* above.
- Begin consideration of transition support in elementary school to ensure the student is successful in his or her post-secondary transition.
- Gather parent input to determine the appropriate parent/family training and support needed for the student. Such input could be in the form of a parent questionnaire for the parent to express the student's talents, challenges, and specific information the parent needs to assist the student. The goal of parent training is to provide parents with the necessary skills and techniques to assist their student with the ongoing development and maintenance of skills and behaviors.
- Create a chart that includes activities related to the student's IEP objectives and goals and the level of staff-to-student ratio for each of the student's developmental and functioning levels. When determining staff-to-student ratios, an ARD Committee should consider the setting, a student's communication abilities, and

present level of competence in each area of instruction. Typically, a student in the acquisition phase of development may need more direct intensive instruction relative to later phases. As a student moves through the phases, there should be less adult supervision, more self-monitoring, and therefore, a higher staff to student ratio.

- Create a communication functions chart, including strategies such as a schedule card and visual supports. The ARD Committee should consider the student's communication across settings, and this review should not be limited to SLP services. Communication forms include physical, objects, sign language, pictures, line drawings, speech/verbal, independent writing, typing, or pointing to printed words.
- Social skills are a set of behaviors used to interact and communicate with others. The ARD Committee should consider various social skills including impulse control, willingness to do non-preferred activities, personal responsibility, concept of friendship, response to suggestions or requests, self-regulation, self-monitoring, reading/interpreting/responding to social cues, appropriate communication, environmental regulations skills, self-advocacy skills, play skills, and manners and listening. The ARD Committee may consider social skills strategies including trained peer facilitators, video modeling, social stories, role playing, incidental teaching, pivotal teaching strategies, social narratives, cartooning, or direct instruction.
- Document the training staff receives as it relates to educating or providing related services to students who have AU and ensure staff are trained at least annually.
- Teaching strategies based on peer-reviewed and/or research-based practices for students with AU may include ABA including errorless learning, prompting and prompt fading, shaping, task analysis, consistent classroom routines and expectations, choice-making, multiple opportunities to learn and practice skills in structured and naturalistic settings, manipulations of antecedents and consequences to increase desired behaviors and decrease challenging behaviors, discrete trial training, and/or structured learning. Special Education Personnel should create a strategy tracking chart to document student's progress in the various teaching strategies used to share with the ARD Committee.

### **Evidence of Implementation**

- Referral for Special Education
- FIE
- ARD/IEP
- AU Supplement/Section of IEP
- Staff Training

- Strategy Tracking Chart
- ESY Documentation
- Daily Schedules
- In-Home/Community-Training Documentation
- BIP/Behavior Interventions Tracking
- Futures Planning Documentation
- Parent Training Documentation
- Staff to Student Ratios
- Social Skills Documentation

## DEFINITIONS

“Assistive Technology Device” is any item, piece of equipment, or product, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a student with a disability. The term excludes surgically implanted medical devices.

“Autism” refers to the developmental disability that significantly affects verbal and nonverbal communication and social interaction, generally evident before age three, and adversely affects a student’s educational performance. See [AUTISM].

“Autism Spectrum Disorder” (“ASD”) refers to a complex developmental condition that involves persistent challenges in social interaction, speech and nonverbal communication, and restricted/repetitive behaviors. The effects of ASD and the severity of symptoms are different in each person. See [AUTISM].

“Behavioral Intervention Plan (“BIP”)” is a written plan developed as part of the IEP to address behavioral concerns affecting the student’s educational progress. It is based on a functional behavior assessment of the problem behaviors, identifies events that predict these behaviors, includes positive interventions to change behaviors, and includes methods of evaluation.

“Deaf or Hard of Hearing” means a hearing impairment that is so severe that the student is impaired in processing linguistic information through hearing, with or without amplification, whether permanent or fluctuating, and that adversely affects a student’s educational performance. Deaf usually refers to an individual with very little or no functional hearing and who often uses sign language to communicate. Hard of Hearing refers to an individual who has a mild-to-moderate hearing loss who may communicate through sign language, spoken language or both. See [DEAF OR HARD OF HEARING].

“English Learners” refers to a student whose native language is a language other than English or who comes from an environment where a language other than English is dominant and who has difficulty speaking, reading, writing, or understanding the English

language.

“Extended School Year Services (“ESY”)” means an individualized educational program provided beyond the regular school year for eligible students with disabilities. The need for ESY services must be determined on an individual basis by the student’s ARD Committee from formal and/or informal evaluations provided by the District or the parents. A student is eligible for ESY services when the student has exhibited or reasonably may be expected to exhibit severe or substantial regression in one or more critical skill areas that cannot be recouped within a reasonable period of time. See [EXTENDED SCHOOL YEAR SERVICES].

“Functional Behavior Assessment (“FBA”)” refers to a systematic process for describing problem behavior and identifying the environmental factors and surrounding events associated with problem behavior. The team that works closely with a student exhibiting problem behavior observes and identifies its problematic characteristics, identifies which actions or events precede and follow the behavior, and determines how often the behavior occurs.

“Significant Cognitive Disability” means an impairment in which a student who exhibits significant intellectual and adaptive behavior deficits in the ability to plan, comprehend, and reason, also indicates adaptive behavior deficits that limit the student’s ability to apply social and practical skills such as personal care, social problem-solving skills, dressing, eating, using money, and/or other functional skills across life domains; and is NOT identified based on English learner designation or solely on the basis of previous low academic achievement or the need for accommodations; and requires extensive, direct, individualized instruction, as well as a need for substantial supports that are neither temporary nor specific to a particular content area.

“Visual Impairment including Blindness” means an impairment in vision that, even with correction, adversely affects a student’s educational performance. The term includes both partial sight and blindness. A licensed ophthalmologist or optometrist determines the student has a progressive medical condition that will result in no vision or a serious visual loss after correction. See [VISUAL IMPAIRMENT].

## RESOURCES

[The Legal Framework for the Child-Centered Special Education Process: Special Factors - Region 18](#)

***Behavior***

[Texas Behavior Support - Region 4](#)

[Positive Behavioral Interventions & Supports \(PBIS\) - Center on Positive Behavioral Interventions & Supports \(OSEP Technical Assistance Center\)](#)

[OSEP Letter to Anonymous \(Mar. 17, 2008\) - U.S. Department of Education](#)

[OSEP Letter to Trader \(Oct. 19, 2006\) - U.S. Department of Education](#)

[OSERS Questions and Answers on Discipline Procedures \(Revised June 2009\) - U.S. Department of Education](#)

[OSERS Letter to Anonymous \(Dec. 16, 2010\) - U.S. Department of Education](#)

[OSERS Dear Colleague Letter \(Aug. 1, 2016\) - U.S. Department of Education](#)

[BIP - SPEDEX](#)

***English Learner Students***

[Guidance Related to ARD Committee and LPAC Collaboration - Texas Education Agency](#)

[Process for Considering Special Exit Criteria from Bilingual/English as a Second Language \(ESL\) Services - Texas Education Agency](#)

[OSEP Letter to Ralabate \(Oct. 9, 2002\) - U.S. Department of Education](#)

[Tools and Resources for Addressing English Learners with Disabilities - U.S. Department of Education](#)

***Blind and Visually Impaired***

[Sensory Impairments - Texas Education Agency](#)

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

[Programs and Administrative - Information and Resources - Texas School for the Blind and Visually Impaired](#)

[American Printing House for the Blind](#)

[OSERS Dear Colleague Letter \(June 19, 2013\) - U.S. Department of Education](#)

[Visually Impaired - SPEDEX](#)

*Deaf or Hard of Hearing*

[Sensory Impairments - Texas Education Agency](#)

[Statewide Outreach Center - Texas School for the Deaf](#)

[Texas School for the Deaf](#)

[Deaf Students Education Services - U.S. Department of Education](#)

[Deaf/Hard of Hearing - SPEDEX](#)

*Assistive Technology*

[Assistive Technology - Texas Education Agency](#)

[Texas Assistive Technology Network - Region 4](#)

*Autism*

[Texas Statewide Leadership for Autism Training - Region 13](#)

[Autism Spectrum Disorder - SPEDEX](#)

[Children with Autism - SPEDEX](#)

## **CITATIONS**

Board Policy EHBAB (Students with Behavior Needs; Blind or Visually Impaired; and Autism); Board Policy EHBE (Limited English Proficiency); Board Policy EHBH (Deaf or Hard of Hearing); 34 CFR 300.324(a)(2)(i) (Behavior); 34 CFR 300.24, 300.324(a)(2)(i)–(ii) (English Learners); 34 CFR 300.324(a)(2)(iii), 300.34(c)(7) (Blind or Visually Impaired); 34 CFR 300.324(a)(2)(iii)–(iv) (Communication; Deaf or Hard of Hearing); 34 CFR 300.324(a)(2)(v), 300.5, 300.6 (Assistive Technology); 34 CFR 300.320; 300.324(a)(4) (Autism); Texas Education Code 29.005(g) (Behavior); Texas Education Code 30.002, Texas Education Code 30.004, Texas Education Code 30.021 (Blind or Visually Impaired); Texas Education Code 29.303, Texas Education Code 30.004 (Deaf

or Hard of Hearing); 19 TAC 89.1053(i), 89.1055(g) (Behavior); 19 TAC 89.1050(c)(1)(J), 89.1203(7), 89.1226, 89.1230, 101.1005(a),(e) (English Learners); 19 TAC 89.1055(d) (Blind or Visually Impaired); 19 TAC 89.1055 (Autism)

# Admission, Review & Dismissal Committee

## STATE AND DISTRICTWIDE ASSESSMENTS

March 24, 2021

Disclaimer: This information is provided for educational purposes only to facilitate a general understanding of the law or other regulatory matter. This information is neither an exhaustive treatment on the subject nor is this intended to substitute for the advice of an attorney or other professional advisor. Consult with your attorney or professional advisor to apply these principles to specific fact situations.

©2020 by Texas Association of School Boards, Inc.

TASB grants members/subscribers of TASB Student Solutions™ the limited right to customize this publication for internal (non-revenue generating) purposes only.



**CONTENTS**

STATE AND DISTRICTWIDE ASSESSMENTS ..... 1

    What Is Required ..... 1

        Participation in State and Districtwide Assessments ..... 1

        Accommodation Guidelines ..... 1

        Alternate Assessments ..... 1

        Assessment Requirements for Graduation ..... 2

        IEP Documentation ..... 2

        Annual Assessment of English Language Proficiency ..... 2

        Definitions ..... 2

    Additional Procedures ..... 3

        Accommodation Guidelines ..... 3

        Alternate State Assessments ..... 4

        Assessment Requirements for Graduation ..... 5

        IEP Documentation ..... 5

        Annual Assessment of English Language Proficiency ..... 6

    Evidence of Implementation ..... 7

    Resources ..... 7

CITATIONS ..... 8

# STATE AND DISTRICTWIDE ASSESSMENTS

## What Is Required

### Participation in State and Districtwide Assessments

All students with disabilities are included in general and Districtwide assessment programs. When necessary, the student's IEP should include the appropriate accommodations and alternate assessments needed for the student, as determined by the ARD committee.

### Accommodation Guidelines

The TEA (for statewide assessments) or District Special Education Administration (for Districtwide assessments) must develop guidelines for appropriate accommodations. The guidelines will 1) identify those accommodations that do not invalidate the assessment score; and 2) instruct the ARD Committee to select the appropriate accommodations for each assessment.

### Alternate Assessments

The TEA (for statewide assessments) or District Special Education Administration (for Districtwide assessments) will create guidelines for alternate academic achievement standards for students with significant cognitive disabilities who cannot participate in general assessments, even with IEP accommodations. The guidelines will 1) align with state academic content standards and alternate academic achievement standards under the Every Student Succeeds Act ("ESSA"); and 2) measure the achievement of students with the most significant cognitive disabilities.

The TEA (for statewide assessments) or District Special Education Administration (for Districtwide assessments) must provide the ARD Committee with a clear explanation of the difference between alternate assessments and those based on grade-level academic achievement standards. The TEA (for statewide assessments) or District Special Education Administration (for Districtwide assessments) will inform the parents of students selected to take an alternate assessment that their child's achievement will be measured based on alternate academic achievement standards. The TEA or District Special Education Administration must also provide the ARD Committee, including the student's parent, information about how the student's education may be impacted due to taking an alternate assessment. For example, a student who takes an alternate assessment may not meet the requirements for a regular high school diploma or may be delayed in receiving a diploma. However, the TEA or District Special Education Administration shall not preclude a student from attempting to complete the regular high school diploma requirements.

## Assessment Requirements for Graduation

A special education student is not subject to the individual graduation committee requirements set forth in Texas law. The ARD Committee must determine if special education students in grades 9 through 12 are required to achieve satisfactory performance on an end-of-course assessment to graduate and receive a high school diploma. See [GRADUATION].

## IEP Documentation

The ARD Committee will include in the student's IEP a statement about the appropriate and allowable testing accommodations that are needed to measure a student's academic and functional performance on a state or Districtwide assessment.

If the ARD Committee determines that a student will take an alternate state or Districtwide assessment, the IEP will include a statement of why the student cannot participate in the general assessment, as well as the alternate assessment selected by the ARD Committee for the student.

For English learner ("EL") special education students, the ARD Committee and the language proficiency assessment committee ("LPAC") will select the appropriate assessments and document the decisions and justifications in the student's IEP. The ARD Committee will also document any testing accommodations in the IEP.

## Annual Assessment of English Language Proficiency

The District must annually administer a state-identified EL assessment to an EL student in kindergarten through grade 12 in the areas of listening, speaking, reading, and writing. The ARD Committee and the LPAC may determine the special education services for the student to participate in the English language proficiency ("ELP") assessment due to the student's disability. The committees' decision and justification must be clearly stated in the student's IEP. An EL student who receives special education services may also receive testing accommodations, to be determined by the ARD Committee and the LPAC. See [SPECIAL FACTORS].

## Definitions

"English Learner" is a student whose native language is language other than English or who comes from an environment where a language other than English is dominant and who has difficulty speaking, reading, writing, or understanding the English language..

A student with a "significant cognitive disability" is a student who:

- exhibits significant intellectual and adaptive behavior deficits in their ability to plan, comprehend, and reason, and also indicates adaptive behavior deficits that limit their ability to apply social and practical skills such as personal care, social

problem-solving skills, dressing, eating, using money, and other functional skills across life domains;

- is not identified based on English learner designation or solely on the basis of previous low academic achievement or the need for accommodations; and
- requires extensive, direct, individualized instruction, as well as a need for substantial supports that are neither temporary nor specific to a particular content area.

## **Additional Procedures**

### **Accommodation Guidelines**

Prior to an ARD meeting about an accommodations or alternate assessments, Campus Special Education Personnel should collect baseline data about the student's educational and behavioral performance. An ARD Committee should then review the data and describe its considerations for accommodations and/or alternative assessments in detail in the IEP.

When considering accommodations that do not invalidate the assessment score, the ARD Committee should consider TEA's policies on accommodations for alternative assessments. The policies are categorized by three different types of accommodations: 1) accessibility features; 2) locally-approved designated supports; and 3) designated supports that require TEA approval.

Accessibility features are procedures and materials available to any student who regularly benefits from their use during instruction. Accessibility features may be provided to students based on their needs; however, a student cannot be required to use them during testing. Testing coordinators are responsible for ensuring that test administrators understand the proper implementation of these procedures and use of these materials. In some cases, a student may need to complete the test in an individual setting to eliminate distractions to other students and to ensure that the security and confidentiality of the test are maintained.

Locally-approved designated supports include accommodations that may be made available to students who meet eligibility criteria. The decision to use a designated support during a state assessment should be made by the ARD Committee on an individual student basis and take into consideration the needs of the student and whether the student routinely receives the support during classroom instruction and classroom testing. The twelve locally-approved designated supports available for the STAAR are:

- Basic Transcribing
- Braille/Refreshable Braille
- Calculation Aids

- Content and Language Supports
- Extra Time
- Individualized Structured Reminders
- Large Print
- Manipulating Test Materials
- Mathematics Manipulatives
- Oral/Signed Administration
- Spelling Assistance
- Supplemental Aids

The designated supports requiring TEA approval include complex transcribing, extra day, mathematics scribe, and other. If the ARD Committee determines that the student needs accommodations requiring TEA approval, Campus Special Education Personnel will notify the District Testing Coordinator who will submit an Accommodation Request Form to TEA. TEA's Accommodations Task Force will communicate with the District Testing Coordinator, by email once a decision has been made. Campus Special Education Personnel should note the expiration date for the provided accommodation included in the TEA decision email. As this process may take several weeks, Campus Special Education Personnel should make this request within a reasonable amount of time before a scheduled assessment, when feasible. A new accommodation request will need to be submitted each calendar year if the student continues to demonstrate a need. Campus Special Education Personnel should be trained to ensure they understand the process for requesting student assessment accommodations that require TEA approval.

### **Alternate State Assessments**

The ARD Committee will also determine whether a student grades 3 through 8 and those in high school, who has a significant cognitive disability, and is receiving special education services needs to take the STAAR Alternate 2 assessment. This decision must be made on a case-by-case basis, considering each student's individual strengths, needs, instruction, and accommodations—as documented in the student's IEP. In determining whether the student is eligible for the STAAR Alternate 2 assessment, the ARD Committee must carefully consider the following criteria:

- Does the student have a significant cognitive disability?
- Does the student require specialized, extensive supports to access the grade-level curriculum and environment?
- Does the student require intensive, individualized instruction in all institutional settings?
- Does the student access and participate in the grade-level TEKS through prerequisite skills?

- Is the STAAR Alternate 2 assessment determination based on the student's significant cognitive disability and NOT any other factors?

If the answer is “Yes” to all eligibility criteria above, the ARD Committee must discuss assurances related to the student's participation in the STAAR Alternate 2 assessment. The STAAR Alternate 2 assessment is given in the spring during a three-week period and may include breaks as needed based on the student's needs. The STAAR Alternate 2 assessment is provided at the student's campus or at an alternate site if determined necessary based on the child's individual needs. Campus Special Education Personnel will ensure that the assessment is provided in a testing environment where the student can avoid distractions and receive all individual accommodations.

Student participation in assessments should be reviewed at each annual ARD meeting. The District will provide training to ensure that ARD Committee members are aware of and understand all of the state or Districtwide guidelines on alternate assessments.

### **Assessment Requirements for Graduation**

The ARD Committee can consider different factors for determining whether a student is required to achieve satisfactory performance on an end-of-course assessment. Student progress and demonstrated ability to access the general education curriculum are factors to consider. For example, a special education student may have issues with long-term retrieval that causes the student to perform unsatisfactorily on an end-of-course assessment. Despite this, the student is still making appropriate academic progress and achieving satisfactory scores on classroom assignments and homework. In an instance like this, the ARD Committee may excuse the student from retaking the assessment.

The ARD Committee may also consider whether a special education student improved his or her score on the second administration of the end-of-course exam. If the student does not achieve satisfactory performance but makes improvement the second time, the ARD Committee may excuse the student from retaking the assessment.

A student that takes an alternative assessment will take the STAAR Alternate 2 in all grade levels and subject areas instead of the EOC. The ARD Committee will determine if the student can take standard EOC assessments or will require a modified or alternate form of the assessment.

Student participation in assessments should be reviewed after each assessment in which a student did not meet passing criteria to plan appropriate interventions, and at each annual ARD meeting.

### **IEP Documentation**

The PLAAFP section of a student's IEP should clearly document the results of the previous year's state assessments, as well as any effective accommodations the student

received. Accommodations will also be addressed for each subject area on the state assessment page. Accommodations used on assessments should also be used regularly in the student's academic instruction.

The ARD Committee should include detailed deliberations in the student's IEP that reflect its discussion related to state assessments. The deliberations should include the underlying data the ARD Committee relied upon but need not include a list of each test and/or accommodation recommended, as this is detailed elsewhere in the IEP. Detailed deliberations also help to guide the ARD Committee, educators, related service providers, and other campus staff on the student's expectations. Further, detailed deliberations help demonstrate the ARD Committee's meaningful discussion.

### **Annual Assessment of English Language Proficiency**

The TELPAS Alternate is a holistic inventory that assesses the language domains of listening, speaking, reading, and writing for students with significant cognitive disabilities in grades 2 through 12 who are in the process of acquiring English proficiency in those areas. The ARD Committee in conjunction with the student's LPAC Committee will meet to review participation requirements and determine and document the student's eligibility for TELPAS Alternate. If the TELPAS Alternate is being considered for a student in grade 2, the ARD Committee and LPAC must ask the following questions:

- Is the student identified in PEIMS as LEP/EL?
- Does the student have a significant cognitive disability?
- Does the student require specialized, extensive supports to access the grade-level curriculum and environment?
- Does the student require intensive, individualized instruction in all institutional settings?
- Does the student access and participate in the grade-level TEKS through prerequisite skills?
- Is the assessment determination based on the student's significant cognitive disability and English learner status and NOT any other factors?

If the answer is "Yes" to all of the above criteria, the student is eligible to participate in TELPAS Alternate. If a student entering grades 3 through 12 has been identified as EL and the ARD Committee has followed the guidelines above in "Alternate Assessments" to determine the student's participation in STAAR Alternate 2, the student will be assessed with TELPAS Alternate.

## **Evidence of Implementation**

- The English Language Proficiency Assessment
- FIE
- ARD/IEP
- Report Card Grades
- Progress Reports on Annual Goals
- Teacher and Campus Special Education Administrator Input
- State or Districtwide Assessment Results
- Accommodation Requests/Approval

## **Resources**

[The Legal Framework for the Child-Centered Special Education Process: State and Districtwide Assessments - Region 18](#)

[Assessments for Students with Disabilities – Texas Education Agency](#)

[Accommodation Resources – Texas Education Agency](#)

[2020-2021 Accessibility Features - Texas Education Agency](#)

[Accommodation Request Process - Texas Education Agency](#)

[Guidance Related to ARD Committee and LPAC Collaboration – Texas Education Agency](#)

[OSERS Letter to Anonymous \(August 25, 2009\) – U.S. Department of Education](#)

[STAAR Alternate 2 Resources – Texas Education Agency](#)

[STAAR Alternate 2 Participation Requirements - Texas Education Agency](#)

[TELPAS Alternate Resources - Texas Education Agency](#)

[TELPAS Alternate Participation Requirements - Texas Education Agency](#)

[State Assessments - SPEDTEX](#)



## CITATIONS

Board Policy EKB; Board Policy EKBA; 34 CFR 200.1(d), 200.2(e), 300.160(b)–(e), 300.320; Texas Education Code 39.023(a)–(c); 39.025(a-4); 19 TAC 74.1025(n), 89.1055, 89.1203(7), 101.1003(b)–(c), 101.1005, 101.3013(b), 101.3023(a)

# ADMISSION, REVIEW, AND DISMISSAL COMMITTEE

## SUPPLEMENTARY AIDS AND SERVICES, SPECIAL EDUCATION, RELATED SERVICES

March 24, 2021

Disclaimer: This information is provided for educational purposes only to facilitate a general understanding of the law or other regulatory matter. This information is neither an exhaustive treatment on the subject nor is this intended to substitute for the advice of an attorney or other professional advisor. Consult with your attorney or professional advisor to apply these principles to specific fact situations.

©2020 by Texas Association of School Boards, Inc.

TASB grants members/subscribers of TASB Student Solutions™ the limited right to customize this publication for internal (non-revenue generating) purposes only.

**CONTENTS**

SUPPLEMENTARY AIDS AND SERVICES, SPECIAL EDUCATION, RELATED SERVICES ..... 1

    What is Required ..... 1

        Supplementary Aids and Services ..... 2

        Special Education ..... 2

        Related Services..... 2

        Other Supports ..... 3

    Additional Procedures ..... 4

        Supplementary Aids and Services ..... 4

        Special Education ..... 6

        Related Services..... 6

        Other Supports ..... 8

    Evidence of Implementation..... 9

    Resources..... 9

CITATIONS ..... 11

## **SUPPLEMENTARY AIDS AND SERVICES, SPECIAL EDUCATION, RELATED SERVICES**

### **What is Required**

The IEP for each student with a disability must include a statement of the special education and related services and supplementary aids and services to be provided to the student and a statement of the program modifications or supports for school personnel that will be provided to enable the student –

- to advance appropriately toward attaining the annual goals,
- to be involved in and make progress in the general education curriculum,
- to participate in extracurricular and other nonacademic activities; and
- to be educated and participate with other children with disabilities and nondisabled children.

Nonacademic and extracurricular services and activities may include:

- Meals
- Recess periods
- Counseling services
- Athletics
- Transportation
- Health Services
- Recreational activities
- District Special interest groups or clubs
- Referrals to other agencies that provide assistance to individuals with disabilities
- Employment of students, including both employment by the District and assistance in making outside employment available

In developing a student's IEP, the ARD Committee will include a schedule of all special education services, supplementary aids and services, related services, and modifications a student will receive, including the projected start date, anticipated frequency, and anticipated duration of those services. Students with disabilities will have available an instructional day commensurate with that of students without disabilities, as appropriate, which will be determined by the ARD Committee and specified in the student's IEP.

The ARD Committee must determine and include in the student's IEP the expected location of where the student will receive services and modifications. If the District assigns the student to a different campus other than where the student is zoned to attend based on residence, the District must allow any other student who is residing in the student's

home to transfer to the school if the other student(s) is entitled to attend school in the District and the school offers the appropriate grade level for the other student(s) at the campus. The District is not required to transport the other student(s) who is permitted to transfer unless the other student(s) is entitled to transportation as a related service. The transfer right does not apply to the other student(s) if the special education student attends a residential facility.

## **Supplementary Aids and Services**

Supplementary aids and services are aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable the student with a disability to be educated with nondisabled students to the maximum extent appropriate. The ARD Committee must determine the necessary supplementary aides and services to be provided to or on behalf of a student who is eligible to receive special education services.

## **Special Education**

Special education is specially-designed instruction, at no cost to parents, to meet the unique needs of the student with a disability. The ARD Committee must determine needed special education services that meet the unique needs of the student with a disability.

## **Related Services**

The ARD Committee determines what related services a student with a disability needs. Related services are an array of developmental, corrective, and other supportive services as may be required to assist the student with a disability to benefit from special education. Related services include, but are not limited to assistive technology, audiology services, counseling services, interpreting services, medical services, music therapy, occupational therapy, orientation and mobility services, parent counseling and training, physical therapy, psychological services, recreation, rehabilitation counseling services, school health services, social work services in school, speech-language therapy, and transportation.

For example, audiology services are a related service. The ARD Committee or Section 504 committee may determine that a student is eligible to receive audiology services pursuant to the Health and Human Services Commission if the student is:

- 1) 20 years of age or younger;
- 2) Has a disability or chronic medical condition;
- 3) Is eligible for Medicaid benefits; and
- 4) Has been prescribed the services under the student's Individualized Education Program (IEP) or a plan created under Section 504.

See [FUNDING FOR NONEDUCATIONAL SERVICES].

Transportation is a related service and extends to transporting students who are residentially placed by the District. If an ARD Committee places a student at a residential school, the District, which is the resident school district, is required to transport the student, at the student's beginning and of the term at the residential campus, including regularly scheduled holidays when the student is expected to leave the residential campus. If the ARD Committee determines that the student requires an accompanied adult for safety measures, the committee must designate and provide transportation for an adult who will be with the student during the round-trip transportation. The District is not responsible for transportation costs for students who are placed in a residential setting by their parents rather than by the ARD Committee.

## **Other Supports**

### *Training to Implement the IEP*

For those employees who work primarily outside of special education and who do not possess the knowledge and skills necessary to implement the student's IEP, the District will train such staff at a time and place designated by the District. Such training will be evidence-based and related to instruction of students with disabilities, including students with disabilities who also have other intellectual or mental health conditions and will be designed specifically for educators who work outside of special education. In developing the training, the District will consult with experts in research-based practices for students with disabilities who may be associated with outside entities (e.g. colleges, universities, nonprofit organizations, and regional education service centers in Texas) as well as those employed by the District.

### *Intensive Program of Instruction*

The ARD Committee must design an intensive program of instruction for students who do not perform satisfactorily on a state assessment or who are not likely to receive a high school diploma before the fifth year following the student's enrollment in grade 9. See [STATE AND DISTRICTWIDE ASSESSMENTS].

The purpose of an intensive program of instruction designed by the ARD Committee is to ensure students attain annual growth on the basis of the student's IEP and to carry out the Student Success Initiative (SSI) purpose described further below.

### *Accelerated Reading Instruction*

The District will administer a state-adopted or District-adopted reading instrument to determine students' reading development and comprehension. Such reading instruments also evaluate a student's risk for dyslexia or other reading difficulties. See [DYSLEXIA]. If the evaluation results reveal a reading deficiency, the District will notify the student's parent of the results and will implement an accelerated reading instruction program to help the student progress in his or her reading skills.

For special education students in kindergarten or grades 1 and 2 who do not perform satisfactorily on the state-adopted or District-adopted list of reading instruments, the ARD Committee must determine how the student will participate in the accelerated instruction program.

### *Student Success Initiative for Children In Grades Three Through Eight*

The ARD Committee must determine the manner in which the student will participate in an accelerated instruction program when required. For special education students in grades 5 or 8 who do not perform satisfactorily on the reading or math state assessment the first time, the ARD Committee must meet before the student will take the assessments for a second time. See [STATE AND DISTRICTWIDE ASSESSMENTS]. When meeting, the Committee must determine the manner in which the student will participate in the accelerated instruction and whether the student will be promoted or retained. In accordance with the SSI requirements, the ARD Committee can promote a special education student in grades 5 or 8 to the next grade if the ARD Committee determines that the student has made sufficient progress in measurable academic IEP goals. See [ANNUAL GOALS].

If the District promotes the student under the SSI, the District does not have to administer the state assessment to the student for a second time.

No later than September 1 of each school year, the District must notify the parent of the options the ARD Committee has as provided in the SSI.

### *Personal Graduation Plan in Junior High and Middle School*

A graduation plan is required for students who do not perform satisfactorily on a state assessment (or who are likely not to receive a high school diploma before the fifth year following the student's enrollment in grade 9. See [STATE AND DISTRICTWIDE ASSESSMENTS] and [PARENT NOTIFICATION AND PERSONAL GRADUATION PLAN].

A student's IEP may be used as a graduation plan for students in junior high and middle school.

## **Additional Procedures**

### **Supplementary Aids and Services**

In order to access the general education curriculum in the least restrictive environment, students with disabilities may require supplementary aids and services. Supplementary aids and services encompass a broad range of student supports, which include (but are not limited to):

- Accommodations – changes to materials or procedures that enable students with disabilities to participate meaningfully in learning and assessments. Examples include shortened assignments, extended time given for completing assignments, or preferential seating. Accommodations do **NOT** change **what** the student is expected to master.
- Modifications – changes in what the student is expected to learn that is different from his or her grade-level curriculum. Examples include reducing the expectations for an assignment or test or modifying the work to a prerequisite skill level compared to the curriculum (TEKS). Modifications **DO** change **what** the student is expected to master.
- Assistive technology – items, devices or products that are used to increase, maintain, or improve the functional capabilities of a student with a disability.
- Adapted equipment – examples include a footstool for a student whose feet do not comfortably reach the floor when sitting in a regular desk or wheelchair accessible playground equipment.
- Adapted materials – examples include large-print textbooks, writing tablets with raised lines, or soft pencil grips to help with manual dexterity.
- Communication aids – examples include sign language, interpreting services and assistive and augmentative communication devices.
- Resource support – one-on-one or small group work in subject areas where the student needs re-teaching, tutoring or slower-paced instruction.
- Paraprofessional support – sometimes called an “aide,” the paraprofessional provides instructional support under the direct supervision of a highly qualified teacher.
- Collaborative teaching – the special education teacher acts as a co-teacher in the general education classroom (direct instruction) or as a “consultant” to the general education teacher (indirect instruction). Note: When the IEP calls for coordination between regular and special education teachers, parents should be clear on how responsibilities will be divided: who will be responsible for instruction, who will be responsible for modifications, and who will assign grades.
- Staff development – this includes training and supports needed by the teacher in order to implement the student’s IEP.



- Peer tutoring or assistance – natural supports in the classroom. Some students learn best through peer modeling and interactions, and this practice often initiates friendships between students with and without disabilities.

Like all special education services, supplementary aids and services are based on the individual needs of the student, not what the parent may want for the student. Supplementary aids and services are provided in addition to related services, although there can be some overlap between the two.

The ARD Committee will explore, recommend and document the appropriate supplementary aids and services that will support the student in the least restrictive environment. The time to discuss supplementary aids and services should be indicated on the ARD Agenda, following a review of evaluation data, the PLAAFP, and annual goals and objectives. Placement decisions should be made only after the ARD Committee reviews the supplementary aids and support the student will need in order to function in the least restrictive environment. The ARD Committee will also consider those supplementary aids and services as necessary to allow a student with a disability to participate in extracurricular and nonacademic settings with their peers without disabilities. When discussing supplementary aids and services, the ARD Committee should review the student's entire school day and schedule, including playground activities, lunch, and extracurricular activities.

## **Special Education**

The unique needs of a student with a disability encompass more than mastering academic subjects. The student's unique needs should be broadly construed to include academic, social, health, emotional, physical, and vocational needs. These needs will be addressed by the student's ARD Committee.

The IDEA does not require a specific instructional methodology. The District, through decisions made by teachers and service providers, must provide the student an instructional methodology that enables the student to access a FAPE.

When a student needs the curriculum modified, the ARD Committee will develop goals and objectives that modify what the student will be taught and what the student is expected to learn. Modifications may include changes to assignment (answer different test questions, do projects instead of tests, complete different homework assignments) or to the curriculum, (learning different materials, being graded using different standards, being excused from projects, etc.).

## **Related Services**

Related services are a support to the commitment that all students with disabilities have available to them a free appropriate public education with special education services designed to meet their specific needs. Some students may need related services to meet

their individually designed special education goals. The need for related services is considered during the students ARD meeting in the review and discussion of the student's evaluation and ongoing assessment data. An ARD Committee's decisions regarding the need for related services to support educational goals must be clearly identified in the student's IEP and must be determined on an individual basis.

In determining whether a particular related service should be provided, the ARD Committee will consider the evaluation and the recommendations of the related service provider who conducted the evaluation. When considering related services, the ARD Committee should be mindful that the IDEA does not include an exhaustive list of related services to be provided. Accordingly, an ARD Committee should consider a variety of services that may assist the student to benefit from special education.

However, the IDEA specifically excludes from related services a medical device that is surgically implanted (e.g. cochlear implant), the optimization of that device's functioning (e.g. mapping), maintenance of that device, or the replacement of that device. This exclusion does not limit the right of a student with a surgically implanted device to receive related services that are determined by the ARD Committee to be necessary for the student to receive FAPE, limit the responsibility of the District to appropriately monitor and maintain medical devices that are needed to maintain the health and safety of the student, including breathing, nutrition, or operation of other bodily functions, while the student is transported to and from school or is at school; or prevent the routine checking of an external component of a surgically implanted device to make sure it's functioning properly.

The following "best service" practices should be considered by the ARD Committee when making decisions regarding related services:

- Related services are a collaborative, integrative service with a focus on early intervention to minimize deficits and diminish the need for services in later years.
- Related Service Providers are members of the collaborative team, providing needed support to the student, teacher, and other team members.
- Related service evaluations are conducted in natural environments during daily activities and focus on the barriers to learning and participation.
- Related service IEP goals and objectives are expressed in terms of desired educational outcomes and all team members will implement (collaborative IEPs).
- Related service delivery will be provided through a continuum of available options.
- Related service intervention is provided in natural settings during daily routines as the problems are occurring. This allows the Related Service Provider to model strategies/solutions for Classroom Personnel.

- Teachers are the foundation of the integrated model and will incorporate the suggestions of the related service providers throughout the school day.

When considering a related service, the Related Service Provider will conduct an evaluation and make recommendations about the need for the service and for service delivery. The evaluation will be in context of the FIE and will focus on accessing instruction. After considering the need for intensive intervention, the age and developmental level of the student, and the student's effort, attitude, and motivation, the ARD Committee determines whether or not the student is eligible for the related service.

In addition to the evaluation and determination of need, the Related Service Provider will provide recommendations for services. Service delivery options include: monitoring; consultation; classroom based integrated services; pull out in an individual or group setting; community-based services; or a combination of these options. It is critical that the ARD Committee clarify the service delivery model as direct services (provided directly to the student by the service provider regardless of the setting) or indirect services/consultation (services provided to teachers or other staff, regardless of setting, to assist the student in accessing the curriculum). Recommendations will also include goals and objectives, and frequency, duration, and location of sessions.

### **Other Supports**

The ARD Committee should be knowledgeable of the various opportunities for a special education student to interact with the student's nondisabled peers both in education-related settings and in extracurricular and nonacademic settings to determine if supports are necessary.

Although training on IEP implementation is only required for staff members who work primarily outside of special education, the District will provide training to staff who work with special education students. The District will solicit input from staff who work directly with students in determining the professional development and training opportunities that the District offers.

The District Special Education Personnel should ensure that campuses provide an individualized intensive program of instruction for those students who are likely not to receive a high school diploma before the fifth school year following the student's enrollment in grade 9.

Each campus should ensure that Special Education Personnel develop and implement an accelerated reading instruction for all special education students who have performed unsatisfactorily on the state assessments.

If a student is not making appropriate progress in light of the student's unique circumstances, the ARD Committee should convene and reconsider the schedule of

services. For example, the ARD Committee may consider increasing the amount of inclusion minutes or making the student's placement more restrictive if the student is not progressing. Changes such as these will be reflected in the student's IEP.

The ARD Committee can determine to place a student at a District campus other than the student's zoned residential campus. The ARD Committee may make this decision if it believes another District campus can provide more appropriate supports for the student to access the general education curriculum. If an ARD Committee places a student in a campus other than the student's zoned residential campus, the parent's other children who reside at the home also have the right to attend the campus, if they are otherwise eligible to attend school in the District. The purpose of this transfer rights policy is to accommodate parents with multiple children in the District. Campus Administrators will be made aware of this transfer procedure and must not deny enrollment solely because the other student was not placed at the school by an ARD Committee.

## **Evidence of Implementation**

- FIE
- ARD/IEP
- Referral Documentation
- Teacher Input
- Parent Input
- Support Service Documentation
- Related Service Provider Documentation
- Session Notes
- Progress Reports on Annual Goals
- Report Card Grades
- Benchmarking Testing
- State Assessment Results
- District-Wide Assessment Results
- Campus Enrollment Documentation
- Staff Training
- Evidence of Intensive Program of Instruction
- Evidence of Accelerated Instruction Programs

## **Resources**

[Scientifically Based Research - Region 10](#)

[Response to Intervention \(Rtl\) Resources – Region 10](#)

[Progress in the General Curriculum \(PGC\) Network – Region 20](#)

Supplementary Aids and Service, Sped Related Services Customized by Marble Falls ISD

[Accelerated Instruction and Intensive Programs of Instruction for Students in Special Education Programs – Texas Education Agency](#)

[Student Success Initiative – Texas Education Agency](#)

[Related Services for Students with Disabilities–Questions and Answers – Texas Education Agency](#)

[National Center on Intensive Intervention – OSEP Technical Assistance Center](#)

[Center for Parent Information and Resources – OSEP Technical Assistance Center](#)

[National Center on Accessible Educational Materials – OSEP Technical Assistance Center](#)

[OSERS Dear Colleague Letter \(November 16, 2015\) – U.S. Department of Education](#)

[OSEP Letter to Chambers \(May 9, 2012\) – U.S. Department of Education](#)

[OSERS Dear Colleague Letter \(Oct. 23, 2015\) – U.S. Department of Education](#)

[OCR Dear Colleague Letter \(Dec. 26, 2007\) – U.S. Department of Education](#)

[OSEP Letter to McWilliams \(July 16, 2015\) – U.S. Department of Education](#)

[OSEP Letter to Spitzer-Resnick, Swedeen, and Pugh \(June 22, 2012\) – U.S. Department of Education](#)

[OSEP Letter to Anonymous \(Sept. 11, 2007\) – U.S. Department of Education](#)

[OSERS Questions and Answers On Individualized Education Programs \(IEPs\), Evaluations, and Reevaluations \(Sept. 2011\) – U.S. Department of Education](#)

[OSERS Questions and Answers on Serving Children with Disabilities Eligible for Transportation \(Nov. 2009\) – U.S. Department of Education](#)

[OSEP Letter to Ackron \(Nov. 20, 1990\) – U.S. Department of Education](#)

[OSEP Letter to Ackerhalt \(Sept. 6, 2012\) – U.S. Department of Education](#)

[White v. Ascension Parish School Board \(5th Cir. 2003\)](#)

[OSEP Letter to Trigg \(Nov. 30, 2007\) – U.S. Department of Education](#)

[OSEP Letter to Clarke \(Mar. 8, 2007\) – U.S. Department of Education](#)

## CITATIONS

Board Policy EHBA and Board Policy EHBAB (Supplementary Aids and Services; Special Education; Related Services; Program Modifications and Supports for School Personnel; Initiation Frequency, and Duration of Services; Location); Board Policy EHBC, Board Policy EKC, and Board Policy EIE (Accelerated Reading Instruction; Student Success Initiative for Children in Grades Three Through Eight); 34 CFR 300.320 (Special Education; Program Modifications and Supports for School Personnel; Initiation, Frequency, and Duration of Services; Location), 300.39(a) (Special Education), 300.42 (Supplementary Aids and Services), 300.34 (Related Services), 300.107 (Program Modifications and Supports for School Personnel), 300.117 (Program Modifications and Supports for School Personnel); Texas Education Code 38.033 (Related Services), 21.451 28.0023(d) (Program Modifications and Supports for School Personnel), 28.0211, 28.0213, 39.023 (Intensive Program of Instruction), 28.006 (Accelerated Reading Instruction), 28.0211 (Student Success Initiative for Children in Grades Three Through Eight), 28.0212(c) (Initiation, Frequency, and Duration of Services), 25.0343 (Location); 19 TAC 89.1050(a)(1) (Supplementary Aids and Services, Special Education, Related Services, Program Modifications and Supports for School Personnel), 89.1090 (Related Services), 74.38(e)(1) (Program Modifications and Supports for School Personnel), 89.1050(a)(10) (Intensive Program of Instruction), 89.1050(a)(7) (Accelerated Reading Instruction), 89.1050(a)(7) (Personal Graduation Plan in Junior High and Middle School), 89.1075(e) (Initiation, Frequency, and Duration of Services)

# Child Find

## TRANSITION SERVICES

March 24, 2021

Disclaimer: This information is provided for educational purposes only to facilitate a general understanding of the law or other regulatory matter. This information is neither an exhaustive treatment on the subject nor is this intended to substitute for the advice of an attorney or other professional advisor. Consult with your attorney or professional advisor to apply these principles to specific fact situations.

©2020 by Texas Association of School Boards, Inc.

TASB grants members/subscribers of TASB Student Solutions™ the limited right to customize this publication for internal (non-revenue generating) purposes only.

**CONTENTS**

TRANSITION SERVICES..... 1

    What is Required..... 1

        By Age 14.....1

        By Age 16.....2

        By Age 17.....2

        By Age 18.....2

        Other Issues Relevant to Transition.....3

        Transition and Employment Guide.....3

    Additional Procedures..... 3

    Evidence of Implementation..... 4

    Resources..... 4

CITATIONS..... 5



## TRANSITION SERVICES

### What is Required

Transition services are the coordinated set of activities for a student 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 student with a disability to facilitate the student's movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. Transition services are based on the individual student's needs, taking into account the student's strengths, preferences, and interests; and includes instruction, related services; community experiences; the development of employment and other post-school adult living objectives; and the acquisition of daily living skills and provision of a functional vocational evaluation, if appropriate. Transition services may be special education, if provided as specially-designed instruction, or a related service, if required to assist the student with a disability to benefit from special education. See [SUPPLEMENTARY AIDS AND SERVICES, SPECIAL EDUCATION, RELATED SERVICES].

Transition planning is done by the ARD Committee and must include the input of the student. If the student does not attend the ARD Committee meeting, the Campus Special Education Personnel must take other steps to ensure the student's preferences and interests are considered during the transition planning. See [ADMISSION, REVIEW, AND DISMISSAL COMMITTEE MEETING] and [ADMISSION, REVIEW, AND DISMISSAL COMMITTEE MEMBERSHIP].

### **By Age 14**

Not later than when the student reaches the age of 14, the ARD Committee must annually consider and, if appropriate, address the following in the student's IEP during transition planning:

- appropriate student involvement in the student's transition to life outside of the public school system;
- appropriate involvement in the student's transition by the student's parent and other persons invited to participate by the parent or the Campus Special Education Personnel (if the student is younger than 18);
- appropriate postsecondary education options, including preparation for postsecondary-level coursework;

- appropriate functional vocational evaluation;
- appropriate employment goals and objectives;
- if the student has reached 18, the availability of age appropriate instructional environments, including community settings or environments that prepare the student for postsecondary education or training, competitive integrated employment, or independent living, in coordination with the adult student's transition goals and objectives;
- appropriate independent living goals and objectives;
- appropriate circumstances for facilitating a referral of a student or the student's parent to a governmental agency for services or public benefits, including a referral to place a student on a waiting list for public benefits; and
- the use and availability of appropriate supplementary aids, services, curricula, and other opportunities to assist the student in developing decision-making skills and supports and services to foster the student's independence and self-determination, including a supported decision-making agreement.

### **By Age 16**

Not later than the first IEP to be in effect when the student turns 16, the ARD Committee must include and update annually the following in a student's IEP during transition planning:

- appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and independent living skills; and
- Transition services, including courses of study needed to assist the student in reaching those postsecondary goals.

### **By Age 17**

Not later than one year before the student's 18th birthday, the Campus Special Education Personnel must comply and provide notification to the student and the student's parent of the transfer of rights to the adult student. See [ADULT STUDENT AND TRANSFER OF RIGHTS].

### **By Age 18**

For an adult student, the ARD Committee must consider and, if appropriate, address involvement in the student's transition and future by the adult student's parent and other

persons, if the parent or other person is invited to participate by the adult student or the Campus Special Education Personnel or has the adult student's consent to participate pursuant to a supported decision-making agreement or other legal document. See [ADULT STUDENT AND TRANSFER OF RIGHTS].

### **Other Issues Relevant to Transition**

When determining the course of study, the ARD Committee must consider the student's graduation plan and post-secondary goals. See [GRADUATION]. In addition, the District must ensure that students with disabilities have access to career and technical education (CTE) classes. When determining placement in a CTE class, the ARD Committee must consider the student's graduation plan, the content of the student's IEP, including the consideration of transition services, and classroom supports. If a participating agency fails to provide the transition services described in the student's IEP, the ARD Committee must identify alternative strategies to meet the transition objectives set out in the IEP.

### **Transition and Employment Guide**

The District must post the *Texas Transition and Employment Guide* (the "Guide") on the District's website. The ARD Committee will provide written information and, if necessary, assistance to the student or parent regarding how to access the electronic version of the Guide at the first meeting of the student's ARD Committee at which transition is discussed and again at the first ARD Committee meeting at which transition is discussed that occurs after the date on which the Guide is updated. In addition, on request, the Campus Special Education Personnel will provide a printed copy of the Guide to the student or parent.

### **Additional Procedures**

Transition planning provides the focus for the development of the IEP for students age 14 (or younger if deemed appropriate by the ARD Committee) and older. For students with autism, transition planning can be considered at any age. Transition planning is intended to be flexible, dynamic and appropriate. Transition services emphasize the acquisition of functional skills and hands-on knowledge, enabling students to enter the workforce or continue their education or training. Such services also allow students to live as autonomously as possible, given the extent of their disabilities.

The student's individual transition plan should be individually designed and based on the student's interests, strengths, and preferences. Students should be encouraged and coached to advocate for themselves during the transition planning, at the ARD Committee meeting, and in future environments. The transition planning should always include the student and it is preferable that the student attend at least that portion of the ARD meeting that focuses on transition planning. If the student cannot attend, the student's general education teacher (if appropriate), CTE teacher (if appropriate) and special education teacher should collaborate on providing feedback regarding the student's interests,

strengths, and preferences. In addition, a functional vocational evaluation should be conducted, if appropriate, to be considered by the ARD Committee during transition planning.

Transition planning is documented by the ARD Committee on the Transition Supplement/Section of the IEP and should include:

- appropriate measurable postsecondary goals that are annually updated and based upon age appropriate transition assessment;
- transition services, including courses of study, that will reasonably enable the student to meet those postsecondary goals;
- annual IEP goals related to the student's transition service needs;
- evidence that the student was invited to the ARD meeting where transition services are discussed or documentation that the student's input was obtained and considered if the student is unable to attend the ARD meeting; and
- if appropriate, evidence that a representative of any participating agency was invited to the ARD Committee meeting with the prior consent of the parent or adult student.

### **Evidence of Implementation**

- ARD/IEP
- Transition Supplement/Section of ARD/IEP
- Documentation of Student Participation in Transition Planning
- Course of Study
- Transition/Vocational Assessments
- Contacts with Outside Agencies
- Document Acknowledging Receipt of *Texas Transition and Employment Guide*

### **Resources**

[The Legal Framework for the Child Centered Special Education Process: Transition Services Framework - Region 18](#)

[Secondary Transition Guidance \(TEA\)](#)

[Texas Transition and Employment Guide](#)

[Texas Transitions Network \(TEA\)](#)

[Students with Disabilities Preparing for Postsecondary Education: Know Your Rights and Responsibilities \(OCR\)](#)

[OSERS Questions and Answers on Secondary Transition \(2011\)](#)

[SPEDEX - Secondary Transition in Texas](#)

**CITATIONS**

34 CFR 300.43(a)-(b), 300.320(b), 300.321(b)(2), 300.324; Texas Education Code 28.025, 29.011, 29.0111, 29.0112(e); Texas Estates Code Ch. 1357; 19 TAC 75.1023, 89.1055(j)-(l)