

Section 4a. - ARD/IEP SECTION
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INDIVIDUAL EDUCATION PROGRAM

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Section 4a. INDIVIDUAL EDUCATION PROGRAM

I. REQUIRED ARD/IEP

TEC §29.005. Individualized Education Program

- (a) Before a child is enrolled in a special education program of a school district, the district shall establish a committee composed of the persons required under 20 U.S.C. Section 1414(d) to develop the child's individualized education program. If a committee is required to include a regular education teacher, the regular education teacher included must, to the extent practicable, be a teacher who is responsible for implementing a portion of the child's individualized education program.

TAC §89.1050. The Admission, Review, and Dismissal (ARD) Committee.

- (a) Each school district must shall establish an admission, review, and dismissal (ARD) committee for each eligible student with a disability and for each student for whom a full individual and initial evaluation is conducted pursuant to §89.1011 of this title (relating to Full Individual and Initial Evaluation). The ARD committee is the individualized education program (IEP) team defined in federal law and regulations, including, specifically, 34 Code of Federal Regulations (CFR), §300.321. The school district is responsible for all of the functions for which the IEP team is responsible under federal law and regulations and for which the ARD committee is responsible under state law, including the following:

<u>TAC §89.1050(a):</u>	<u>Op. Guideline below</u>
(1) 34 CFR, §§300.320-300.325, and Texas Education Code (TEC), §29.005 (individualized education programs);	Section 4
(2) 34 CFR, §§300.145-300.147 (relating to placement of eligible students in private schools by a school district);	Section 5
(3) 34 CFR, §§300.132, 300.138, and 300.139 (relating to the development and implementation of service plans for eligible students in private school who have been designated to receive special education and related services);	Section 5
(4) 34 CFR, §300.530 and §300.531, and TEC, §37.004 (Disciplinary Placement of Students with Disabilities);	Section 6
(5) 34 CFR, §§300.302-300.306 (relating to evaluations, re-evaluations, and determination of eligibility);	Section 3
(6) 34 CFR, §§300.114-300.117 (relating to least restrictive environment);	Section 4
(7) TEC, §28.006 (Reading Diagnosis);	Section 4
(8) TEC, §28.0211 (Satisfactory Performance on Assessment Instruments Required; Accelerated Instruction);	Section 4
(9) TEC, §28.0212 (Junior High or Middle School Personal Graduation Plan);	Section 4
(10) TEC, §28.0213 (Intensive Program of Instruction);	Section 4
(11) TEC, Chapter 29, Subchapter I (Programs for Students Who Are Deaf or Hard of Hearing);	Section 4
(12) TEC, §30.002 (Education for Children with Visual Impairments);	Section 4
(13) TEC, §30.003 (Support of Students Enrolled in the Texas School for the Blind and Visually Impaired or Texas School for the Deaf);	Section 8
(14) TEC, §33.081 (Extracurricular Activities); (suspension)	Section 6
(15) TEC, Chapter 39, Subchapter B (Assessment of Academic Skills); and	Section 4
(16) TEC, §42.151 (Special Education). (funding)	Section 8

TAC §89.1050 Admission, Review, and Dismissal (a-j) in its entirety is in this OG Section 4a.

§300.112 Individualized education programs (IEP).

The State must ensure that an IEP, or an IFSP that meets the requirements of section 636(d) of the Act, is developed, reviewed, and revised for each child with a disability in accordance with §§300.320 through 300.324, except as provided in §300.300(b)(3)(ii). (Authority: 20 U.S.C. 1412(a)(4))

The school district will establish an admission, review, and dismissal (ARD) committee for each student who is to be considered for eligibility or already eligible for special education under current state and federal regulations. The ARD committee in Texas is the IEP team that is defined in federal regulations (CFR §300.321).

An IEP will be developed for each child with a disability in the district who meets the state and federal guidelines for special education eligibility. The IEP (or IFSP for students birth through two years of age with a visual and/or who is deaf or hard of hearing) will be in effect at the beginning of each school year and reviewed no less than on an annual basis. Each IEP will contain all the components required in state and federal regulations.

(§§300.320 Definition of IEP, .321 IEP Team, .322 Parent Participation, .323 when IEPs must be in effect, .324 Development of IEP) (300.300(b) Parent Consent).

TAC §89.1050. The Admission, Review, and Dismissal (ARD) Committee.

- (b) For a student from birth through two years of age with a visual impairment or who is deaf or hard of hearing, an individualized family services plan (IFSP) meeting must be held in place of an ARD committee meeting in accordance with 34 CFR, §§300.320-300.324, and the memorandum of understanding between the Texas Education Agency and the Department of Assistive and Rehabilitative Services. For students three years of age and older, school districts must develop an IEP.

§300.323 When IEPs must be in effect.

- (a) **General.** At the beginning of each school year, the public agency must have in effect, for each child with a disability within its jurisdiction, an IEP, as defined in §300.320.
- (b) IEP or IFSP for children aged three through five; (c) Timeline below; (d) Teacher Accessibility and Input; (e) Transfer Instate; (f) Transfer Out of state; (g) Records *(all found in this section 4)*

II. TIMELINE

§300.323 When IEPs must be in effect.

(c) Initial IEPs; provision of services. The public agency must ensure that--

- (1) A meeting to develop an IEP for a child is conducted within 30-days of a determination that the child needs special education and related services; and**
- (2) As soon as possible following development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.**

TAC §89.1011. Full Individual and Initial Evaluation

- (b) If a parent submits a written request to a school district's director of special education services or to a district administrative employee for a full individual and initial evaluation of a student, the school district must, not later than the 15th school day after the date the district receives the request:
 - (1) provide the parent with prior written notice of its proposal to conduct an evaluation consistent with 34 Code of Federal Regulations (CFR), §300.503; a copy of the procedural safeguards notice required by 34 CFR, §300.504; and an opportunity to give written consent for the evaluation; or
 - (2) provide the parent with prior written notice of its refusal to conduct an evaluation consistent with 34 CFR, §300.503, and a copy of the procedural safeguards notice required by 34 CFR, §300.504.
- (c) Except as otherwise provided in this section, a written report of a full individual and initial evaluation of a student must be completed as follows:
 - (1) not later than the 45th school day following the date on which the school district receives written consent for the evaluation from the student's parent, except that if a student has been absent from school during that period on three or more school days, that period must be extended by a number of school days equal to the number of school days during that period on which the student has been absent; or
 - (2) for students under five years of age by September 1 of the school year and not enrolled in public school and for students enrolled in a private or home school setting, not later than the 45th school day following the date on which the school district receives written consent for the evaluation from the student's parent.
- (d) The admission, review, and dismissal (ARD) committee must make its decisions regarding a student's initial eligibility determination and, if appropriate, individualized education program (IEP) and placement within 30 calendar days from the date of the completion of the written full individual and initial evaluation report. If the 30th day falls during the summer and school is not in session, the student's ARD committee has until the first day of classes in the fall to finalize decisions concerning the student's initial eligibility determination, IEP, and placement, unless the full individual and initial evaluation indicates that the student will need extended school year services during that summer.
- (e) Notwithstanding the timelines in subsections (c) and (d) of this section, if the school district received the written consent for the evaluation from the student's parent at least 35 but less than 45 school days before the last instructional day of the school year, the written report of a full individual and initial evaluation of a student must be provided to the student's parent not later than June 30 of that year. The student's ARD committee must meet not later than the 15th school day of the following school year to consider the evaluation. If, however, the student was absent from school three or more days between the time that the school district received written consent and the last instructional day of the school year, the timeline in subsection (c)(1) of this section applies to the date the written report of the full individual and initial evaluation is required.
- (f) If a student was in the process of being evaluated for special education eligibility by a school district and enrolls in another school district before the previous school district completed the full individual and initial evaluation, the new school district must coordinate with the previous school district as necessary and as expeditiously as possible to ensure a prompt completion of the evaluation in accordance with 34 CFR, §300.301(d)(2) and (e) and §300.304(c)(5). The timelines in subsections (c) and (e) of this section do not apply in such a situation if:
 - (1) the new school district is making sufficient progress to ensure a prompt completion of the evaluation; and
 - (2) the parent and the new school district agree to a specific time when the evaluation will be completed.

- (g) For purposes of subsections (b), (c), and (e) of this section, school day does not include a day that falls after the last instructional day of the spring school term and before the first instructional day of the subsequent fall school term.
- (h) For purposes of subsections (c)(1) and (e) of this section, a student is considered absent for the school day if the student is not in attendance at the school's official attendance taking time or at the alternate attendance taking time set for that student. A student is considered in attendance if the student is off campus participating in an activity that is approved by the school board and is under the direction of a professional staff member of the school district, or an adjunct staff member who has a minimum of a bachelor's degree and is eligible for participation in the Teacher Retirement System of Texas.

Upon completion of a full individual evaluation (FIE) the district will hold an ARD/IEP meeting to consider the student's eligibility for special education services and to develop an IEP. This must be done within 30 calendar days of the completion of the evaluation. It is the responsibility of the educational diagnostician/LSSP to schedule the ARD/IEP meeting within the required timelines.

Following the required timelines, the ARD/IEP Committee will meet to review the FIE and determine if the child is a child with a disability and if there is an educational need in order for the student to be eligible for special education services. Documentation of the discussion regarding eligibility for services will be completed using district forms and filed by the educational diagnostician/LSSP in the student's special education eligibility folder.

III. WRITTEN REPORT OF ARD / IEP MEETING

§300.22 Individualized Education Program.

Individualized education program or IEP means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with §§300.320 through 300.324. (Authority: 20 U.S.C. 1401(14))

TAC §89.1050 The Admission, Review and Dismissal Committee

- (i) If the student's parent is unable to speak English and the parent's native language is Spanish, the school district must provide a written copy or audio recording of the student's IEP translated into Spanish. If the student's parent is unable to speak English and the parent's native language is a language other than Spanish, the school district must make a good faith effort to provide a written copy or audio recording of the student's IEP translated into the parent's native language.
- (1) For purposes of this subsection, a written copy of the student's IEP translated into Spanish or the parent's native language means that all of the text in the student's IEP in English is accurately translated into the target language in written form. The IEP translated into the target language must be a comparable rendition of the IEP in English and not a partial translation or summary of the IEP in English.
 - (2) For purposes of this subsection, an audio recording of the student's IEP translated into Spanish or the parent's native language means that all of the content in the student's IEP in English is orally translated into the target language and recorded with an audio device. A school district is not prohibited from providing the parent with an audio recording of an ARD committee meeting at which the parent was assisted by an interpreter as long as the audio recording provided to the parent contains an oral translation into the target language of all of the content in the student's IEP in English.
 - (3) If a parent's native language is not a written language, the school district must take steps to ensure that the student's IEP is translated orally or by other means to the parent in his or her native language or other mode of communication.
 - (4) Under 34 CFR, §300.322(f), a school district must give a parent a written copy of the student's IEP at no cost to the parent. A school district meets this requirement by providing a parent with a written copy of the student's IEP in English or by providing a parent with a written translation of the student's IEP in the parent's native language in accordance with paragraph (1) of this subsection.

The staff will provide a copy of the ARD/IEP document to be sent home to the parents within 48 hours of the meeting. Translation, if required, will be provided within ten school days from the meeting date.

TAC §89.1055 Content of the Individualized Education Program.

- (j) The written statement of the IEP must document the decisions of the ARD committee with respect to issues discussed at each ARD committee meeting. The written statement must also include:
- (1) the date of the meeting;
 - (2) the name, position, and signature of each member participating in the meeting; and
 - (3) an indication of whether the child's parents, the adult student, if applicable, and the administrator agreed or disagreed with the decisions of the ARD committee.

Contact the Special Education Coordinator or Executive Director for consultation when an ARD/IEP meeting is going to reconvene due to parental disagreement.

IV. DEFINITIONS

§300.11 Day; business day; school day.

- (a) **Day** means calendar day unless otherwise indicated as business day or school day.
- (b) **Business day** means Monday through Friday, except for Federal and State holidays (unless holidays are specifically included in the designation of business day, as in §300.148(c)(1)(ii)).
- (c) (1) **School day** means any day, including a partial day, that children are in attendance at school for instructional purposes.
- (2) **School day** has the same meaning for all children in school, including children with and without disabilities. (Authority: 20 U.S.C. 1221e-3)

§300.14 Equipment. Equipment means--

- (a) Machinery, utilities, and built-in equipment, and any necessary enclosures or structures to house the machinery, utilities, or equipment; and
- (b) All other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture; printed, published and audio-visual instructional materials; telecommunications, sensory, and other technological aids and devices; and books, periodicals, documents, and other related materials. (Authority: 20 U.S.C. 1401(7))

§300.22 Individualized education program. Individualized education program or IEP means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with §§300.320 through 300.324. (Authority: 20 U.S.C. 1401(14))

§300.23 Individualized education program team. Individualized education program team or IEP Team means a group of individuals described in §300.321 that is responsible for developing, reviewing, or revising an IEP for a child with a disability. (Authority: 20 U.S.C. 1414(d)(1)(B))

§300.38 Secretary. Secretary means the Secretary of Education. (Authority: 20 U.S.C. 1401(28))

§300.39 Special education.

(a) General.

- (1) **Special education** means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including--
 - (i) Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and
 - (ii) Instruction in physical education.
- (2) **Special education** includes each of the following, if the services otherwise meet the requirements of paragraph (a)(1) of this section--
 - (i) Speech-language pathology services, or any other related service, if the service is considered special education rather than a related service under State standards;
 - (ii) Travel training; and
 - (iii) Vocational education.
- (b) **Individual special education terms defined.** The terms in this definition are defined as follows:
 - (1) **At no cost** means that all specially-designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to non-disabled students or their parents as a part of the regular education program.
 - (2) **Physical education** means--
 - (i) The development of--
 - (A) Physical and motor fitness;
 - (B) Fundamental motor skills and patterns; and
 - (C) Skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports); and

- (ii) Includes special physical education, adapted physical education, movement education, and motor development.
- (3) **Specially designed instruction** means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction--
 - (i) To address the unique needs of the child that result from the child's disability; and
 - (ii) To ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children.
- (4) **Travel training** means providing instruction, as appropriate, to children with significant cognitive disabilities, and any other children with disabilities who require this instruction, to enable them to--
 - (i) Develop an awareness of the environment in which they live; and
 - (ii) Learn the skills necessary to move effectively and safely from place to place within that environment (e.g., in school, in the home, at work, and in the community).
- (5) **Vocational education** means--

Organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career not requiring a baccalaureate or advanced degree.
- (6) **Vocational and technical education** means organized educational activities that--
 - (i) Offer a sequence of courses that--
 - (A) Provides individuals with the rigorous and challenging academic and technical knowledge and skills the individuals need to prepare for further education and for careers (other than careers requiring a Master's or doctoral degree) in current or emerging employment sectors;
 - (B) May include the provision of skills or courses necessary to enroll in a sequence of courses that meet the requirements of this subparagraph; and
 - (C) Provides, at the postsecondary level, for a 1- year certificate, an associate degree, or industry-recognized credential; and
 - (ii) Include competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, and occupation-specific skills, or an individual.

§300.44 Universal design. **Universal design** has the meaning given the term in section 3 of the Assistive Technology Act of 1998, as amended, 29 U.S.C. 3002. *Universal design for learning will provide multiple means of representation of materials for comprehension, multiple means of action or expression and multiple means of engagement.*

TEC §29.002. DEFINITION. In this subchapter, "special services" means:

- (1) special education instruction, which may be provided by professional and supported by paraprofessional personnel in the regular classroom or in an instructional arrangement described by Section 42.151; and
- (2) related services, which are developmental, corrective, supportive, or evaluative services, not instructional in nature, that may be required for the student to benefit from special education instruction and for implementation of a student's individualized education program.

V. CONTENT OF THE INDIVIDUALIZED EDUCATION PROGRAM (IEP).

§300.320 Definition of individualized education program.

(a) General. As used in this part, the term individualized education program or IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with §§300.320 through 300.324, and that must include--

- (1) A statement of the child's present levels of academic achievement and functional performance, including--**
 - (i) How the child's disability affects the child's involvement and progress in the general education curriculum (i.e., the same curriculum as for non-disabled children); or**
 - (ii) For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;**
- (2) (i) A statement of measurable annual goals, including academic and functional goals designed to--**
 - (A) Meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and**
 - (B) Meet each of the child's other educational needs that result from the child's disability;****(ii) For children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives;**

If the ARD/IEP Committee determines an alternate state assessment is appropriate, the ARD will develop short term objectives in addition to the measurable annual goals required in (2)(i) above.
- (3) A description of--**
 - (i) How the child's progress toward meeting the annual goals described in paragraph (2) of this section will be measured; and**
 - (ii) When periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided;**
- (4) 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 child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child--**
 - (i) To advance appropriately toward attaining the annual goals;**
 - (ii) To be involved in and make progress in the general education curriculum in accordance with paragraph (a)(1) of this section, and to participate in extracurricular and other nonacademic activities; and**
 - (iii) To be educated and participate with other children with disabilities and non-disabled children in the activities described in this section;**

Copy and paste the link into your browser to review additional TEA information

<http://tea.texas.gov/academics/special-student-populations/special-education/programs-and-services/resources-to-support-student-progress-in-the-general-curriculum>

Special education, related services and supplementary aids and services based on peer reviewed research to the extent practicable means to the extent that research is possible and available. Services with the greatest body of research are not necessarily the service required for a child to receive FAPE. An IEP is not required to include specific instructional methodologies unless the ARD/IEP committee agrees it is necessary for the child to receive FAPE. The final decision must be made by the child's ARD/IEP team based on the individual needs of the child. If the ARD/IEP committee determines a qualified student with a disability requires related aids and services to participate in a regular education class or program (including accelerated classes) then the student must receive those related aids and services. Additional information on scientifically based research and response to intervention resources may be found on the Region 10 ESC Special Education website.

- (5) An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in paragraph (a)(4) of this section;**

- (6) (i) A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and districtwide assessments consistent with section 612(a)(16) of the Act; and
- (ii) If the IEP Team determines that the child must take an alternate assessment instead of a particular regular State or districtwide assessment of student achievement, a statement of why--
 - (A) The child cannot participate in the regular assessment; and
 - (B) The particular alternate assessment selected is appropriate for the child; and
- (7) The projected date for the beginning of the services and modifications described in paragraph (a) (4) of this section, and the anticipated frequency, location, and duration of those services and modifications.

Documentation for provision of services described in the IEP will be through a variety of information and sources based on the most appropriate means for the individual service and environment. Special education instructional and related services will be documented by progress on the IEP, student attendance and lesson plans. In addition, portfolios may be maintained as well as provider logs. Provider logs will be maintained by each service provider and reviewed at the IEP meeting as appropriate. Any service interruption resulting from special education staff absence will be reported to the appropriate administration following local district procedures.

The Federal Register dated August 14, 2006, provides guidance in this area within its discussion of the comments regarding the proposed 2006 IDEA regulations. A comment to the regulations asked for clarification regarding the term duration. The response in the Federal Register was:

The meaning of the term "duration" will vary, depending on such things as the needs of the child, the service being provided, the particular format used in an IEP, and how the child's day and IEP are structured. What is required is that the IEP include information about the amount of services that will be provided to the child, so that the level of the agency's commitment of resources will be clear to parents and other IEP Team members. The amount of time to be committed to each of the various services to be provided must be appropriate to the specific service, and clearly stated in the IEP in a manner that can be understood by all involved in the development and implementation of the IEP. (Federal Register, Vol 71 No 156 p. 46667)

Requirements for Documenting the Provision of Services

- **Frequency** –**how often** the child will receive the service(s) (number of times per day or week). If the service is less than daily then the conditions for the provision of the services must be clearly specified within the ARD documents using a weekly reference (ex: 1 hour per week, 30 minutes every two weeks)
- **Duration** –**how long** each "session" will last (number of minutes) and **when** services will begin and end (starting and ending dates) How long will each session be (15 minutes, 30 minutes)? If a term (1 class period) is used in the IEP to define duration of service, the term must be defined in the IEP (example: 1 class period = 50 minutes).
- **Location** –**where** services will be provided (in the general education classroom or another setting such as a special education resource room).

(b) **Transition** *see [Transition](#) in this Section 4.*

(c) **Transfer of rights at age of majority.** *See [VI. Parent Rights](#) below.*

(d) **Construction.** Nothing in this section shall be construed to require--

- (1) That additional information be included in a child's IEP beyond what is explicitly required in section 614 of the Act; or
- (2) The IEP Team to include information under one component of a child's IEP that is already contained under another component of the child's IEP. (Authority: 20 U.S.C. 1414(d)(1)(A) and (d)(6))

§300.324 Development, review, and revision of IEP.

(a) Development of IEP.

- (1) **General.** In developing each child's IEP, the IEP Team must consider--
 - (i) The strengths of the child;
 - (ii) The concerns of the parents for enhancing the education of their child;

- (iii) The results of the initial or most recent evaluation of the child; and
- (iv) The academic, developmental, and functional needs of the child.

(2) Consideration of special factors. The IEP Team must...

- (i) In the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior.

The IEP committee is required to 'consider the use of positive behavioral interventions and supports, and other strategies to address that behavior' if the child's behavior impedes his or her learning or that of others. The final decision on interventions, strategies and supports is left to the IEP committee. Additional resources include the Texas Behavior Support Initiative (TBSI) and the TEA statewide project Texas Collaborative for Emotional Development in Schools (TxCEDs). See also Section 6. Discipline.

- (ii) In the case of a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP; <https://www.txel.org/lpac/>

Also find more information regarding English Language Learners in Section 1. and LEP in Section 4b.

English Language Learners served by special education have needs related to a disability as well as needs related to language. The ARD committee and the LPAC will collaborate to make appropriate assessment decisions for these students in accordance with the procedures outlined in the ARD manual and the LPAC framework (found on ESC 20 link provided). The LPAC framework serves as a guide in making decisions about the inclusion of LEP students in the Texas Student Assessment Program and helps districts meet the educational needs of English learners.

- (iii) In the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP Team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child;
- (iv) Consider whether the child needs assistive technology devices and services.
- (v) Consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode;

(b) Review and revision of IEP. *located in this Section 4 of the document.*

TAC §89.1055. Content of the Individualized Education Program (IEP).

- (a) The individualized education program (IEP) developed by the admission, review, and dismissal (ARD) committee for each student with a disability must comply with the requirements of 34 Code of Federal Regulations (CFR), §300.320 and §300.324.
- (b) The IEP must include a statement of any individual appropriate and allowable accommodations in the administration of assessment instruments developed in accordance with Texas Education Code (TEC), §39.023(a)-(c), or districtwide assessments of student achievement (if the district administers such optional assessments) that are necessary to measure the academic achievement and functional performance of the student on the assessments. If the ARD committee determines that the student will not participate in a general statewide or districtwide assessment of student achievement (or part of an assessment), the IEP must include a statement explaining:
 - (1) why the student cannot participate in the general assessment; and
 - (2) why the particular alternate assessment selected is appropriate for the student.
- (c) If the ARD committee determines that the student is in need of extended school year (ESY) services, as described in §89.1065 of this title (relating to Extended School Year Services), then the IEP must identify which of the goals and objectives in the IEP will be addressed during ESY services.
- (d) For students with visual impairments, from birth through 21 years of age, the IEP or individualized family services plan (IFSP) must also meet the requirements of TEC, §30.002(e).
- (e) For students eligible under §89.1040(c)(1) of this title (relating to Eligibility Criteria), the strategies described in this subsection must be considered, based on peer-reviewed, research-based

educational programming practices to the extent practicable and, when needed, addressed in the IEP:

- (1) extended educational programming (for example: extended day and/or extended school year services that consider the duration of programs/settings based on assessment of behavior, social skills, communication, academics, and self-help skills);
 - (2) daily schedules reflecting minimal unstructured time and active engagement in learning activities (for example: lunch, snack, and recess periods that provide flexibility within routines; adapt to individual skill levels; and assist with schedule changes, such as changes involving substitute teachers and pep rallies);
 - (3) in-home and community-based training or viable alternatives that assist the 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 school to community);
 - (4) positive behavior support strategies based on relevant information, for example:
 - (A) antecedent manipulation, replacement behaviors, reinforcement strategies, and data-based decisions; and
 - (B) a behavioral intervention plan developed from a functional behavioral assessment that uses current data related to target behaviors and addresses behavioral programming across home, school, and community-based settings;
 - (5) beginning at any age, consistent with subsection (h) of this section, futures planning for integrated living, work, community, and educational environments that considers skills necessary to function in current and post-secondary environments;
 - (6) parent/family training and support, provided by qualified personnel with experience in Autism Spectrum Disorders (ASD), that, for example:
 - (A) provides a family with skills necessary for a student to succeed in the home/community setting;
 - (B) includes information regarding resources (for example: parent support groups, workshops, videos, conferences, and materials designed to increase parent knowledge of specific teaching/management techniques related to the student's curriculum); and
 - (C) facilitates parental carryover of in-home training (for example: strategies for behavior management and developing structured home environments and/or communication training so that parents are active participants in promoting the continuity of interventions across all settings);
 - (7) 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 (acquisition, fluency, maintenance, generalization) that encourages work towards individual independence as determined by, for example:
 - (A) adaptive behavior evaluation results;
 - (B) behavioral accommodation needs across settings; and
 - (C) transitions within the school day;
 - (8) communication interventions, including language forms and functions that enhance effective communication across settings (for example: augmentative, incidental, and naturalistic teaching);
 - (9) social skills supports and strategies based on social skills assessment/curriculum and provided across settings (for example: trained peer facilitators (e.g., circle of friends), video modeling, social stories, and role playing);
 - (10) professional educator/staff support (for example: training provided to personnel who work with the student to assure the correct implementation of techniques and strategies described in the IEP); and
 - (11) teaching strategies based on peer reviewed, research-based practices for students with ASD (for example: those associated with discrete-trial training, visual supports, applied behavior analysis, structured learning, augmentative communication, or social skills training).
- (f) If the ARD committee determines that services are not needed in one or more of the areas specified in subsection (e) of this section, the IEP must include a statement to that effect and the basis upon

which the determination was made.

- (g) If the ARD committee determines that a behavior improvement plan or a behavioral intervention plan is appropriate for a student, that plan must be included as part of the student's IEP and provided to each teacher with responsibility for educating the student.
- (h) In accordance with TEC, §29.011 and §29.0111, not later than when a student reaches 14 years of age, the ARD committee must consider, and if appropriate, address:
 - (1) appropriate student involvement in the student's transition to life outside the public school system;
 - (2) if the student is younger than 18 years of age, appropriate parental involvement in the student's transition;
 - (3) if the student is at least 18 years of age, appropriate parental involvement in the student's transition, if the parent is invited to participate by the student or the school district in which the student is enrolled;
 - (4) any postsecondary education options;
 - (5) a functional vocational evaluation;
 - (6) employment goals and objectives;
 - (7) if the student is at least 18 years of age, the availability of age-appropriate instructional environments;
 - (8) independent living goals and objectives; and
 - (9) appropriate circumstances for referring a student or the student's parents to a governmental agency for services.
- (i) In accordance with 34 CFR, §300.320(b), beginning not later than the first IEP to be in effect when the student turns 16 years of age, or younger if determined appropriate by the ARD committee, and updated annually thereafter, the IEP must include the following:
 - (1) appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and
 - (2) the transition services, including courses of study, needed to assist the student in reaching the postsecondary goals developed under paragraph (1) of this subsection.

TEC §29.0052. Individualized Education Program Supplement

- (a) Except as provided by Subsection (b), for each child who was enrolled in a school district's special education program under this subchapter during the 2019—2020 school year or the 2020-2021 school year, the district shall prepare a supplement to be included with the written statement of the individualized education program developed for the child under Section 29.005(b). The supplement must include information indicating:
 - (1) if applicable, whether the written report of the child's full individual and initial evaluation under Section 29.004 was completed during the 2019-2020 school year or the 2020-2021 school year and if so, whether the report was completed by the date required under that section;
 - (2) if applicable, whether the child's initial individualized education program was developed under Section 29.005(b) during the 2019-2020 school year or the 2020-2021 school year and if so, whether the program was developed by the date required under 34 C.F.R. Section 300.323(c)(1);
 - (3) whether the provision of special services to the child under an individualized education program during the the 2019-2020 school year or the 2020-2021 school year was interrupted, reduced, delayed, suspended, or discontinued; and
- (4) whether compensatory educational services are appropriate for the child based on the information under Subdivisions (1)-(3) or any other factors.
- (b) Subsection (a) does not apply to a child if during the 2020-2021 school year the written statement of the child's individualized education program documents the information described under Subsections (a)(1)-(4).
- (c) Section 29.005(f) and Section 29.0051 do not apply to a supplement prepared for inclusion with a written statement of an individualized education program as required by this section.
- (d) The commissioner may adopt rules as necessary to implement this section.
- (e) This section expires September 1, 2023

The district will prepare a supplement to the IEP report documenting any delays during the 2019-2020 or 2020-2021 school year to a student's full and individual initial evaluation, delays in the development of the student's initial IEP program, and whether any provision of special services to the student were interrupted, reduced,

delayed, suspended, or discontinued. The supplement will also include any compensatory education services that are appropriate for the child based on these delays.

TAC §89.1055 also located in next section 4b. ADDITIONAL IEP INFORMATION.
located in next section 4. ADDITIONAL IEP INFORMATION (F. - ESY)

TAC §89.1075. General Program Requirements and Local District Procedures – Commensurate Day.

(e) Students with disabilities must have available an instructional day commensurate with that of students without disabilities. The ARD committee must determine the appropriate instructional setting and length of day for each student, and these must be specified in the student's IEP.

<https://tea.texas.gov/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=51539626957>

See TEA website for PowerPoint on Residential Facilities if needed. When conducting ARD Committee meetings, assessment personnel responsible for student's ARD will ensure that personnel are not mentioned by name as the sole supporter of services for future needs in any portion of the ARD forms, including IEPs and deliberations.

TAC §89.1801 Instructional Requirements for Education Services Provided in a Juvenile Residential Facility.

(g) Length and number of school days required.

- (1) The school district in a pre-adjudication secure detention facility or a post-adjudication secure correctional facility shall, at a minimum, provide a seven-hour school day that consists of at least five and one-half hours of required secondary curriculum to students in the facility. For each school year, each school district must operate so that the facility provides for at least 180 days of instruction for students.
- (2) The school district in a pre-adjudication secure detention facility or a post-adjudication secure correctional facility shall ensure that students with disabilities are provided instructional days commensurate with those provided to students without disabilities in accordance with requirements contained in §89.1075.

VI. PARENT RIGHTS / PARTICIPATION *(also in Section 7)*

TEC §29.005.

(d) If the child's parent is unable to speak English, the district shall:

- (1) provide the parent with a written or audiotaped copy of the child's individualized education program translated into Spanish if Spanish is the parent's native language; or
- (2) if the parent's native language is a language other than Spanish, make a good faith effort to provide the parent with a written or audiotaped copy of the child's individualized education program translated into the parent's native language.

TAC §89.1050. The Admission, Review and Dismissal Committee.

- (d) The school district must take steps to ensure that one or both parents are present at each ARD committee meeting or are afforded the opportunity to participate, including notifying the parents of the meeting early enough to ensure that they will have an opportunity to attend and scheduling the meeting at a mutually agreed upon time and place. Additionally, a school district must allow parents who cannot attend an ARD committee meeting to participate in the meeting through other methods such as through telephone calls or video conferencing. The school district must provide the parents with written notice of the ARD committee meeting that meets the requirements in 34 CFR, §300.322, at least five school days before the meeting unless the parents agree to a shorter timeframe.
- (e) Upon receipt of a written request for an ARD committee meeting from a parent, the school district must:
- (1) schedule and convene a meeting in accordance with the procedures in subsection (d) of this section; or
 - (2) within five school days, provide the parent with written notice explaining why the district refuses to convene a meeting.
- (f) If the parent is unable to speak English, the school district must provide the parent with a written notice required under subsection (d) or (e)(2) of this section in the parent's native language, unless it is clearly not feasible to do so. If the parent's native language is not a written language, the school district must take steps to ensure that the notice is translated orally or by other means to the parent in his or her native language or other mode of communication so that the parent understands the content of the notice.
- (g) All members of the ARD committee must have the opportunity to participate in a collaborative manner in developing the IEP. A decision of the ARD committee concerning required elements of the IEP must be made by mutual agreement if possible. The ARD committee may agree to an annual IEP or an IEP of shorter duration.
- (1) When mutual agreement about all required elements of the IEP is not achieved, the parent who disagrees must be offered a single opportunity to recess and reconvene the ARD committee meeting. The period of time for reconvening the ARD committee meeting must not exceed ten school days, unless the parties mutually agree otherwise. The ARD committee must schedule the reconvened meeting at a mutually agreed upon time and place. The opportunity to recess and reconvene is not required when the student's presence on the campus presents a danger of physical harm to the student or others or when the student has committed an expellable offense or an offense that may lead to a placement in a disciplinary alternative education program. The requirements of this subsection do not prohibit the ARD committee from recessing an ARD committee meeting for reasons other than the failure to reach mutual agreement about all required elements of an IEP.
 - (2) During the recess, the ARD committee members must consider alternatives, gather additional data, prepare further documentation, and/or obtain additional resource persons who may assist in enabling the ARD committee to reach mutual agreement.
 - (3) If a recess is implemented as provided in paragraph (1) of this subsection and the ARD committee still cannot reach mutual agreement, the school district must implement the IEP that it has determined to be appropriate for the student. *For more information on Mutual Agreement, see IX.*
 - (4) Each member of the ARD committee who disagrees with the IEP developed by the ARD committee is entitled to include a statement of disagreement in the IEP.
- (h) Whenever a school district proposes or refuses to initiate or change the identification, evaluation, or educational placement of a student or the provision of a free appropriate public education to the student, the school district must provide prior written notice as required in 34 CFR, §300.503, including providing the notice in the parent's native language or other mode of communication. This notice must be provided to the

parent at least five school days before the school district proposes or refuses the action unless the parent agrees to a shorter timeframe.

Three ARD Notice Invitation Attempts to ensure parent participation in the IEP meeting.

The Tyler ISD will make advance attempts to notify parents of ARD/IEP meetings and arrange a mutually agreeable time and location.

- 1. The first ARD Notice of the ARD/IEP meeting form will be provided in writing 2 weeks (10 working days) prior to the scheduled ARD/IEP date. This early notice will allow more time to contact the parent and then proceed at the first scheduled date and time. The Notice form includes options to agree to the proposed date, change the date, hold the meeting on the phone or suggest the district proceed without the parent in attendance. A copy of the completed Notice form sent to the parent is maintained in the student eligibility file as documentation.*
- 2. The second attempt to notify the parents of the ARD will also be in writing, by email or by phone (if there is no response from the parent after the first notice). The Tyler ISD will copy the first notice form and send it as the second Notice of ARD/IEP meeting by mail or with the student. This attempt may be any source of documented contact dependent on the best manner to contact the parent to ensure attendance.*
- 3. The third Notice contact will be attempted to get parental participation if there is no response from the first two attempts. After 3 attempts and no response, the Tyler ISD may go forward with the ARD meeting as scheduled.*

The first attempt MUST be in written form however the staff may call and discuss the proposed date with parents in order to pick a reasonable date for both parties for the written Notice. The second Notice may also be in written form using a copy of the first Notice sent and the third Notice may be a follow-up phone call to home and work. All dates of scheduling attempts and the initials of personnel attempting contact must be documented on the district Notice form and filed in the student eligibility folder. TYler ISD works diligently to ensure that parents and guardians have every opportunity to provide meaningful input.

A. Participation

§300.322 Parent Participation.

- (a) Tyler ISD responsibility — general.** The public agency must take steps to ensure that one or both of the parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate, including--
 - (1) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and**
 - (2) Scheduling the meeting at a mutually agreed on time and place.**
- (b) Information provided to parents.**
 - (1) The notice required under paragraph (a)(1) of this section must--**
 - (i) Indicate the purpose, time, and location of the meeting and who will be in attendance; and**
 - (ii) Inform the parents of the provisions in §300.321(a)(6) and (c) (relating to the participation of other individuals on the IEP Team who have knowledge or special expertise about the child), and §300.321(f) (relating to the participation of the Part C service coordinator or other representatives of the Part C system at the initial IEP Team meeting for a child previously served under Part C of the Act).**
 - (2) For a child with a disability beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, the notice also must--**
 - (i) Indicate--**
 - (A) That a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the child, in accordance with §300.320(b); and**
 - (B) That the agency will invite the student; and**
 - (ii) Identifies any other agency that will be invited to send a representative.**
- (c) Other methods to ensure parent participation.** If neither parent can attend an IEP Team meeting, the public agency must use other methods to ensure parent participation, including individual or conference telephone calls, consistent with §300.328 (related to alternative means of meeting participation).

The campus staff will make every effort to accommodate the parents' schedule, however, there is no requirement that an IEP meeting must be held outside of regular business hours for the school. OSEP Letter to Thomas (6-3-2008).

- (d) **Conducting an IEP meeting without a parent in attendance.** A meeting may be conducted without a parent in attendance if the public agency is unable to convince the parents that they should attend. In this case, the public agency must keep a record of its attempts to arrange a mutually agreed on time and place such as:
 - (1) Detailed records of telephone calls made or attempted and the results of those calls;
 - (2) Copies of correspondence sent to the parents and any responses received; and
 - (3) Detailed records of visits made to the parent's home or place of employment and the results of those visits.
- (e) **Use of interpreters or other action, as appropriate.** The public agency must take whatever action is necessary to ensure that the parent understands the proceedings of the IEP Team meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English.
- (f) **Parent copy of child's IEP.** The public agency must give the parent a copy of the child's IEP at no cost to the parent. (Authority: 20 U.S.C. 1414(d)(1)(B)(i))

§300.501 Parent Participation in Meetings.

(b) Parent participation in meetings.

- (1) The parents of a child with a disability must be afforded an opportunity to participate in meetings with respect to--
 - (i) The identification, evaluation, and educational placement of the child; and
 - (ii) The provision of FAPE to the child.
- (2) The public agency must provide notice consistent with §300.322(a)(1) and (b)(1) to ensure that parents of children with disabilities have the opportunity to participate in meetings described in paragraph (b)(1) of this section.
- (3) A meeting does not include informal or unscheduled conversations involving public agency personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. A meeting also does not include preparatory activities that public agency personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

(c) Parent involvement in placement decisions.

- (1) The public agency must ensure that a parent of each child with a disability is a member of any group that makes decisions on the educational placement of the parent's child.
- (2) In implementing the requirements of paragraph (c)(1) of this section, the public agency must use procedures consistent with the procedures described in §300.322(a) through (b)(1). (*found on previous page*)
- (3) If neither parent can participate in a meeting in which a decision is to be made relating to the educational placement of their child, the public agency must use other methods to ensure their participation, including individual or conference telephone calls, or video conferencing.
- (4) A placement decision may be made by a group without the involvement of a parent, if the public agency is unable to obtain the parent's participation in the decision. In this case, the public agency must have a record of its attempt to ensure their involvement. (Authority: 20 U.S.C. 1414(e), 1415(b)(1))

§300.327 Educational placements.

Consistent with §300.501(c), the public agency must ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child.

§300.328 Alternative means of meeting participation.

When conducting IEP Team meetings and placement meetings pursuant to this subpart, and Subpart E of this part, and carrying out administrative matters under section 615 of the Act (such as scheduling, exchange of witness lists, and status conferences), the parent of a child with a disability

and the public agency may agree to use alternative means of meeting participation, such as video conferences and conference calls.

B. Transfer of Rights at Age of Majority

§300.320 Definition of individualized education program

- (c) **Transfer of rights at age of majority.** Beginning not later than one year before the child reaches the age of majority under State law, the IEP must include a statement that the child has been informed of the child's rights under Part B of the Act, if any, that will transfer to the child on reaching the age of majority under §300.520.

§300.520 Transfer of parental rights at age of majority.

- (a) **General.** A State may provide that, when a child with a disability reaches the age of majority under State law that applies to all children (except for a child with a disability who has been determined to be incompetent under State law)--
- (1) (i) The public agency must provide any notice required by this part to both the individual and the parents; and
 - (ii) All other rights accorded to parents under Part B of the Act transfer to the child;
 - (2) All rights accorded to parents under Part B of the Act transfer to children who are incarcerated in an adult or juvenile, State or local correctional institution; and
 - (3) Whenever a State transfers rights under this part pursuant to paragraph (a)(1) or (a)(2) of this section, the public agency must notify the individual and the parents of the transfer of rights.
- (b) **Special rule.** A State must establish procedures for appointing the parent of a child with a disability, or if the parent is not available, another appropriate individual, to represent the educational interests of the child throughout the period of the child's eligibility under Part B of the Act if, under State law, a child who has reached the age of majority, but has not been determined to be incompetent, can be determined not to have the ability to provide informed consent with respect to the child's educational program. (Authority: 20 U.S.C. 1415(m))

TEC §29.017. Transfer of Parental Rights at Age of Majority.

- (a) A student with a disability who is 18 years of age or older or whose disabilities of minority have been removed for general purposes under Chapter 31, Family Code, shall have the same right to make educational decisions as a student without a disability, except that the school district shall provide any notice required by this subchapter or 20 U.S.C. Section 1415 to both the student and the parents. All other rights accorded to parents under this subchapter or 20 U.S.C. Section 1415 transfer to the student.
- (b) All rights accorded to parents under this subchapter or 20 U.S.C. Section 1415 transfer to students who are incarcerated in an adult or juvenile, state or local correctional institution.
- (c) Not later than one year before the 18th birthday of a student with a disability, the school district at which the student is enrolled shall:
- (1) provide to the student and the student's parents:
 - (A) written notice regarding the transfer of rights under this section; and
 - (B) information and resources regarding guardianship, alternatives to guardianship, including a supported decision-making agreement under Chapter 1357, Estates Code, and other supports and services that may enable the student to live independently; and
 - (2) ensure that the student's individualized education program includes a statement that the district provided the notice, information, and resources required under Subdivision (1).
- (c-1) In accordance with 34 C.F.R. Section 300.520, the school district shall provide written notice to the student and the student's parents of the transfer of rights under this section. The notice must include the information and resources provided under Subsection (c)(1)(B).
- (c-2) If a student with a disability or the student's parent requests information regarding guardianship or alternatives to guardianship from the school district at which the student is enrolled, the school district shall provide to the student or parent information and resources on supported decision-making agreements under Chapter 1357, Estates Code.
- (c-3) The commissioner shall develop and post on the agency's Internet website a model form for use by school districts in notifying students and parents as required by Subsections (c) and (c-1). The form must include

the information and resources described by Subsection (c). The commissioner shall review and update the form, including the information and resources, as necessary.

(d) The commissioner shall develop and post on the agency's Internet website the information and resources described by Subsections (c), (c-1), and (c-2).

(e) Nothing in this section prohibits a student from entering into a supported decision-making agreement under Chapter 1357, Estates Code, after the transfer of rights under this section.

(f) The commissioner shall adopt rules implementing the provisions of 34 C.F.R. Section 300.520(b).

SECTION 4. This Act applies beginning with the 2018-2019 school year.

TAC §89.1049. Parental Rights Regarding Adult Students.

(a) In accordance with 34 Code of Federal Regulations (CFR), §300.320(c) and §300.520, and Texas Education Code (TEC), §29.017, beginning at least one year before a student reaches 18 years of age, the student's individualized education program (IEP) must include a statement that the student has been informed that, unless the student's parent or other individual has been granted guardianship of the student under the Probate Code, Chapter XIII, Guardianship, all rights granted to the parent under the Individuals with Disabilities Education Act (IDEA), Part B, other than the right to receive any notice required under IDEA, Part B, will transfer to the student upon reaching age 18. Beginning with the 2018-2019 school year, the IEP must also state that the student has been provided information and resources regarding guardianship, alternatives to guardianship, including a supported decision-making agreement under Texas Estates Code, Chapter 1357, and other supports and services that may enable the student to live independently. After the student reaches the age of 18, except as provided by subsection (b) of this section, the Tyler ISD shall provide any notice required under IDEA, Part B, to both the adult student and the parent.

(b) In accordance with 34 CFR, §300.520(a)(2), and TEC, §29.017(a), all rights accorded to a parent under IDEA, Part B, including the right to receive any notice required by IDEA, Part B, will transfer to an 18-year-old student who is incarcerated in an adult or juvenile, state or local correctional institution, unless the student's parent or other individual has been granted guardianship of the student under Texas Estates Code, Title 3.

(c) In accordance with 34 CFR, §300.520(a)(3), a school district must notify in writing the adult student and parent of the transfer of parental rights, as described in subsections (a) and (b) of this section, at the time the student reaches the age of 18. This notification is separate and distinct from the requirement that the student's IEP include a statement relating to the transfer of parental rights beginning at least one year before the student reaches the age of 18. This notification is not required to contain the elements of notice referenced in 34 CFR, §300.503, but must include a statement that parental rights have transferred to the adult student. Beginning with the 2018-2019 school year, the notice must also include information and resources regarding guardianship, alternatives to guardianship, including a supported decision-making agreement under Texas Estates Code, Chapter 1357, and other supports and services that may enable the student to live independently, and must provide contact information for the parties to use in obtaining additional information.

(d) A notice under IDEA, Part B, which is required to be given to an adult student and parent does not create a right for the parent to consent to or participate in the proposal or refusal to which the notice relates. For example, a notice of an admission, review, and dismissal (ARD) committee meeting does not constitute invitation to, or create a right for, the parent to attend the meeting. However, in accordance with 34 CFR, §300.321(a)(6), the adult student or the school district may invite individuals who have knowledge or special expertise regarding the student, including the parent.

(e) Nothing in this section prohibits a supported decision-making agreement or a valid power of attorney from being executed by an individual who holds rights under IDEA, Part B.

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For "Alternatives to Guardianship," see Section 4b. under Y. Transition Planning.

VII. MEMBERSHIP OF THE ARD / IEP COMMITTEE

§300.321 IEP Team.

- (a) **General.** The public agency must ensure that the IEP Team for each child with a disability includes--
- (1) The parents of the child;
 - (2) Not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);
 - (3) Not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child;
 - (4) A representative of the public agency who -
 - (i) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
 - (ii) Is knowledgeable about the general education curriculum; and
 - (iii) Is knowledgeable about the availability of resources of the local education agency.
 - (5) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in paragraphs (a)(2) through (a)(6) of this section;
 - (6) At the discretion of the parent or the public agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
 - (7) Whenever appropriate, the child with a disability.
- (b) **Transition services participants.**
- (1) In accordance with paragraph (a)(7) of this section, the public agency must invite a child with a disability to attend the child's IEP meeting if a purpose of the meeting will be the consideration of the postsecondary goals for the child and the transition services needed to assist the child in reaching those goals under §300.320(b).
 - (2) If the child does not attend the IEP Team meeting, the public agency must take other steps to ensure that the child's preferences and interests are considered.
 - (3) To the extent appropriate, with the consent of the parents or a child who has reached the age of majority, in implementing the requirements of paragraph (b)(1) of this section, the public agency must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.
- (c) **Determination of knowledge and special expertise.** The determination of the knowledge or special expertise of any individual described in paragraph (a)(6) of this section must be made by the party (parents or the public agency) who invited the individual to be a member of the IEP Team.
- (d) **Designating a public agency representative.** The public agency may designate a public agency member of the IEP Team to also serve as the agency representative, if the criteria in paragraph (a)(4) of this section are satisfied.
- (e) **IEP Team attendance.**
- (1) A member of the IEP Team described in paragraph (a)(2) through (a)(5) of §300.321, is not required to attend an IEP meeting, in whole or in part, if the parent of a child with a disability and the public agency agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.
 - (2) A member of the IEP Team described in (e)(1) may be excused from attending an IEP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if--
 - (i) The parent, in writing, and the LEA consent to the excusal; and
 - (ii) The member submits, in writing to the parent and the IEP Team, input into the development of the IEP prior to the meeting.
- (f) **Initial IEP meeting for child under Part C.** In the case of a child who was previously served under Part C of the Act, an invitation to the initial IEP meeting must, at the request of the parent, be sent to the Part C service coordinator or other representatives of the Part C system to assist with the smooth transition of services. (Authority: 20 U.S.C. 1414 (d)(1)(B) – (d)(1)(D))

(See TAC §89.1050.)

Decisions regarding eligibility and programming for a student with a disability will be made by a group of persons who meet at least annually as an ARD/IEP committee. This committee must include:

- The parent of the child*
- At least one general education teacher of the child. Efforts should be made to ensure that the general education representative of the ARD committee be a professional who has contact with the student either daily or weekly and thus has direct knowledge of the student. Efforts may include; selecting a teacher who provides academic instruction at some point in the student's schedule, selecting a teacher who provides instruction in physical education or a related arts area, selecting a teacher who provides intervention support, or selecting a teacher who provides instruction in an elective area,*

In the Tyler ISD, this representative is the campus principal or associate or assistant administrator as in §300.321 (d). The campus principal is most appropriate because of the responsibility to ensure implementation of the student's IEP. The campus principal is the appropriate representative because of the authority and responsibility to commit district resources and to ensure implementation of the student's IEP. The approved designee must be a district or campus administrator or assistant administrator. If the principal assigns a designee, the principal's designee will have the same authority to commit resources, however, the principal remains responsible for ensuring the IEP is implemented. The principal or associate or assistant administrator is the chair of the meeting and guides the discussion, ensuring parent participation and involvement.

In the Tyler ISD, the educational diagnostician, the LSSP, the Speech Language Pathologist and related service professionals may interpret in his or her area of expertise.

Generally, a child with a disability should attend the ARD/IEP meeting whenever appropriate. The law requires a student be invited if a consideration of postsecondary goals will be discussed. However, until the child reaches age 18, unless the rights of the parent are extinguished, the parent may decide if the student should attend an ARD/IEP meeting. If the parent refuses, this must be documented in the ARD/IEP minutes of the meeting. Due to post high school ramifications, the Tyler ISD encourages student involvement in the ARD/IEP meeting no later than the 8th grade to ensure not only the parent but also the student understands the differences in the Foundations and Endorsement Graduation Requirements and how that choice impacts his or her future. In addition, self advocacy cannot be learned if the student does not become involved in the ARD/IEP early in their education career. The 11th and 12th grade is getting a late start on student understanding of their disability, strengths and needs and how to advocate for themselves in the real world away from teacher support.

The educational diagnostician, transition facilitator, VAC teacher, or ARD specialist are responsible for inviting officials from other agencies to the IEP meeting if appropriate and obtaining parent/student consent/release of information. The Tyler ISD attempts to have representatives from other agencies meet with students and parents prior to the IEP meeting to ensure more quality time to discuss post secondary services and options.

If the members area is not being modified or discussed, the member may be excused for the meeting if the parent and Tyler ISD agree in writing on the district form that the members attendance is not necessary. The time that the representative left the meeting will be noted in the deliberations.

The Tyler ISD parental informed consent form is required in order to excuse an IEP member if their area of the curriculum or related service will be modified or discussed. Parental consent for excusal in (2)(i) must include all elements of informed consent found in Procedural Safeguards section. The Tyler ISD will attempt to provide a minimum of 3 days advance written input to the parent to consider excusal unless there are emergency circumstances which cannot be avoided. The parent always has the right not to agree to the excusal. The Tyler ISD will not routinely excuse IEP members and each IEP meeting requires either appropriate agreement or consent for the IEP member requesting excusal. Any excusal from the ARD/IEP Meeting will follow exact guidelines in §300.321 (e) (1-2) and be documented in writing on the Tyler ISD form provided to you.

Click link for TEA Guidance for Inviting Agency Rep to ARD Meeting.

https://tea.texas.gov/Academics/Special_Student_Populations/Special_Education_SPED/Programs_and_Services/State_Guidance/Guidance_for_Inviting_Agency_Representatives_to_Admission_Review_and_Dismissal_Committee_Meeting

TAC §89.1050 The Admission, Review, and Dismissal (ARD) Committee.

(c) ARD committee membership.

(1) ARD committees must include the following:

- (A) the parents of the student;
- (B) not less than one regular education teacher of the student (if the student is, or may be, participating in the regular education environment); who must, to the extent practicable, be a teacher who is responsible for implementing a portion of the student's IEP;
- (C) not less than one special education teacher of the student, or where appropriate, not less than one special education provider of the student;
- (D) a representative of the school district who:
 - (i) is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of students with disabilities;
 - (ii) is knowledgeable about the general education curriculum; and
 - (iii) is knowledgeable about the availability of resources of the school district;
- (E) an individual who can interpret the instructional implications of evaluation results, who may be a member of the committee described in subparagraphs (B)-(D) and (F) of this paragraph;
- (F) at the discretion of the parent or the school district, other individuals who have knowledge or special expertise regarding the student, including related services personnel, as appropriate;
- (G) whenever appropriate, the student with a disability;
- (H) to the extent appropriate, with the consent of the parents or a student who has reached the age of majority, a representative of any participating agency that is likely to be responsible for providing or paying for transition services;
- (I) a representative from career and technical education (CTE), preferably the teacher, when considering initial or continued placement of a student in CTE; and
- (J) a professional staff member who is on the language proficiency assessment committee who may be a member of the committee described in subparagraphs (B) and (C) of this paragraph, if the student is identified as an English language learner.

(2) The special education teacher or special education provider that participates in the ARD committee meeting must be appropriately certified or licensed as required by 34 CFR, §300.18 and §300.156.

(3) If the student is:

- (A) a student with a suspected or documented visual impairment, the ARD committee must include a teacher who is certified in the education of students with visual impairments;
- (B) a student with a suspected or documented auditory impairment, the ARD committee must include a teacher who is certified in the education of students who are deaf or hard of hearing; or
- (C) a student with suspected or documented deaf-blindness, the ARD committee must include a teacher who is certified in the education of students with visual impairments and a teacher who is certified in the education of students who are deaf or hard of hearing. Also see Section **4b. Additional IEP Requirements**. More information: http://tea.texas.gov/index2.aspx?id=2147498410&ekfxmen_noscript=1&ekfxmensel=e9edebdf8_25769804222_25769804224

(4) An ARD committee member is not required to attend an ARD committee meeting if the conditions of either 34 CFR, §300.321(e)(1), regarding attendance, or 34 CFR, §300.321(e)(2), regarding excusal, have been met.

TEC §75.1023. Provisions for Individuals Who Are Members of Special Populations

- (d) (1) The ARD committee shall include a representative from career and technical education, preferably the teacher, when considering initial or continued placement of a student in a career and technical education program. <http://ritter.tea.state.tx.us/rules/tac/chapter075/ch75bb.html>

TEC §89.1230(b) Eligible Students with Disabilities. A professional member of the language proficiency assessment committee shall serve on the admission, review, and dismissal (ARD) committee of each limited English proficient student who qualifies for services in the special education program.

VIII. ARD / IEP MEETINGS (Development of the IEP).

All appropriate district forms will be used to document the meeting and decisions. Staff responsibilities are outlined on following pages as well as included in Tyler ISD Job Descriptions. The special education staff will provide relevant evaluation and educational data to the ARD/IEP committee as appropriate.

Once the student is determined an eligible special education student, the parent or district staff may request an ARD meeting as needed in the future. An ARD meeting may be requested by contacting the student's diagnostician or ARD specialist.

- 1. The diagnostician, ARD specialist or diagnostician clerk will collaborate with campus staff to develop the ARD schedule using monthly data printout of annual ARD due dates.*
- 2. The diagnostician, ARD specialist or diagnostician clerk will complete the Notice of ARD and send the first notice approximately two weeks prior to the due date to allow time to reschedule and provide required notices.(see Procedural Safeguards).*
- 3. The diagnostician, ARD specialist or diagnostician clerk is responsible for notifying all required members of the ARD and using required district forms.*
- 4. The diagnostician or ARD specialist is responsible providing a copy of the completed IEP to the parent.*

A. Initial

TEC §29.005.Individualized Education Program.

(a) Before a child is enrolled in a special education program of a school district, the district shall establish a committee composed of the persons required under 20 U.S.C. Section 1401(11) to develop the child's individualized education program.

The assigned diagnostician, ARD specialist or diagnostician clerk will plan with the staff and parent an agreeable time for the Initial ARD meeting. The Tyler ISD will follow all requirements in this document Section 4 including I. through VII. (located on previous pages)

B. Annual Review

The Tyler ISD will follow federal and state requirements to conduct an Annual ARD/IEP meeting within 12 months. In the Tyler ISD, we conduct Annual ARD meetings prior to the 12 month anniversary date. If the anniversary date falls before the spring semester for a 5th grader entering 6th grade or an 8th grader entering 9th grade, the Tyler ISD, on an individual basis, may decide to conduct a spring end of the year annual review to prepare the student's IEP for the next campus.

§300.324 Development, review, and revision of IEP

(b) Review and revision of IEPs.

- (1) General.** The public agency must ensure that, subject to paragraph (b)(2) and (b)(3) of this section, the IEP Team--
 - (i)** Reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and
 - (ii)** Revises the IEP, as appropriate, to address--
 - (A)** Any lack of expected progress toward the annual goals described in §300.320(a)(2), and in the general education curriculum, if appropriate;
 - (B)** The results of any reevaluation conducted under §300.303;
 - (C)** Information about the child provided to, or by, the parents, as described under §300.305(a)(2);
 - (D)** The child's anticipated needs; or
 - (E)** Other matters.
- (2) Consideration of special factors.** The IEP Team must...
 - (i)** In the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior.

- (ii) In the case of a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP;
 - (iii) In the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP Team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child;
 - (v) Consider whether the child needs assistive technology devices and services.
 - (vi) Consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode;
- (3) Requirement with respect to regular education teacher. A regular education teacher of the child, as a member of the IEP Team, must, consistent with paragraph (a)(3) of this section, participate in the review and revision of the IEP of the child.

§300.116 Placements. *For placement in its entirety, please see LRE in next part of section 4.*

In determining the educational placement of a child with a disability, including a preschool child with a disability, the public agency must ensure that--

- (b) The child's placement--
 - (1) Is determined at least annually;
 - (2) Is based on the child's IEP; and
 - (3) Is as close as possible to the child's home, unless the parent agrees otherwise;

C. Reevaluation Planning ARD

§300.324 Development, review, and revision of IEP

- (a) (5) **Consolidation of IEP Team meetings.** To the extent possible, the public agency must encourage the consolidation of reevaluation meetings for the child and other IEP Team meetings for the child.

REED ARDs

The Tyler ISD will conduct a Review of Existing Evaluation Data (described in the FIE Section 2) prior to additional evaluation taking place. If the student is a special education student and the 3 year reevaluation is due within the next 12 months, the Annual ARD/IEP Committee may conduct the Review of Existing Evaluation Data and plan the evaluation during that Annual ARD Meeting.

The Case Manager or Diagnostician will contact all other service providers prior to the planning ARD or Annual ARD to gather input and to work toward consolidating all other required evaluations into one comprehensive Full and Individual Evaluation for the student, including Speech, OT/PT, etc..

D. Brief / Revision ARD (New Provisions: Agreements, Amendments)

§300.324 Development, review, and revision of IEP

- (a) (4) **Agreement.**
 - (i) In making changes to a child's IEP after the annual IEP meeting for a school year, the parent of a child with a disability and the public agency may agree not to convene an IEP meeting for the purposes of making those changes, and instead may develop a written document to amend or modify the child's current IEP.
 - (ii) If changes are made to the child's IEP in accordance with paragraph (a)(4)(i) of this section, the public agency must ensure that the child's IEP Team is informed of those changes.
- (5) **Consolidation of IEP Team meetings.** To the extent possible, the public agency must encourage the consolidation of reevaluation meetings for the child and other IEP Team meetings for the child.
- (6) **Amendments.** Changes to the IEP may be made either by the entire IEP Team at an IEP Team meeting or, as provided in paragraph (a)(4) of this section, by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated.

Any agreement or amendment to the ARD/IEP Meeting will follow exact guidelines in §300.324 (a) (4 and 6) as listed above. The agreement in §300.324 (a) (4) must be documented in writing on the Tyler ISD form provided to you.

- a. The campus administrator must approve the decision to complete a proposed amendment to the IEP.*
- b. Discuss the proposed amendment with appropriate ARD/IEP team members including discussion with the parents in person or by phone.*
- c. Complete the district form provided to you and obtain parent signature of agreement to amend the IEP.*
- d. Distribute the signed amendment to all ARD/IEP team members and implementers.*
- e. File the original amendment with the parent signature in the student's eligibility form with the Annual IEP being amended.*

*Changes that require an ARD/IEP meeting. The amendment procedure **MAY NOT** be used for the following changes:*

- *Change in placement decisions*
- *Manifestation Determination, FBA or development of BIP*
- *Change services, time of services, add/drop services (excluding transportation)*
- *Eligibility determination or change*
- *Review lack of progress*
- *Proposing change to State and/or district testing level*

*Changes that **DO NOT** require an ARD/IEP meeting. The amendment procedure **MAY** be used for the following changes:*

- *State and district testing including grade level, expected achievement level*
- *Transportation*
- *Accommodations or revision of existing modifications*

E. Dismissal / Change of Placement / Summary of Performance (SOP).

§300.305 Additional requirements for evaluations and reevaluations.

For §300.305 in its entirety, see Section 2. FIE

(e) Evaluations before change in placement.

- (1) Except as provided in paragraph (e)(2) of this section, the public agency must evaluate a child with a disability in accordance with §§300.304 through 300.311 before determining that the child is no longer a child with a disability.**
- (2) The evaluation described in paragraph (e)(1) of this section is not required before the termination of a child's eligibility under this part due to graduation from secondary school with a regular diploma, or due to exceeding the age eligibility for FAPE under State law.**
- (3) For a child whose eligibility terminates under circumstances described in paragraph (e)(2) of this section, the public agency must provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals *(see Summary of Performance under F. on following pages)***

TAC §89.1225. Testing and Classification of Students.

- (k) The ARD committee in conjunction with the language proficiency assessment committee shall determine an appropriate assessment instrument and performance standard requirement for exit under subsection (h) of this section for students for whom those tests would be inappropriate as part of the IEP. The decision to exit a student who receives both special education and special language services from the bilingual education or English as a second language program is determined by the ARD committee in conjunction with the language proficiency assessment committee in accordance with applicable provisions of subsection (h) of this section.**

F. Graduation

(see also letter E. Dismissal - e.3. above)

<http://tea.texas.gov/index2.aspx?id=25769806149>

These Operating Guidelines include information for the new Foundation graduation requirements based on HB 5 passed by the 83rd legislature in 2013. The Minimum, Recommended and Distinguished Programs are still available for students who entered grade 9 before the 2012-2013 school year.

Graduation Rules Simplified: See the TEA Graduation side-by-side chart that compares the new Foundation Program to the old Minimum, Recommended and Distinguished High School Graduation Programs. Click on the link provided and look for Side-by-Side Comparison - Current Graduation Requirements and HB 5 Requirements to be Implemented Beginning in 2014-2015.
<http://tea.texas.gov/graduation.aspx>

TAC §74.1021. TRANSITION TO THE FOUNDATION HIGH SCHOOL PROGRAM has been repealed and replaced with §74.1027

TAC §74.1027. DIPLOMAS FOR CERTAIN INDIVIDUALS WHO ENTERED GRADE 9 BEFORE 2011-2012 SCHOOL YEAR.

- (a) Effective beginning with the 2017-2018 school year, in accordance with the Texas Education Code (TEC) §28.02541, a school district or an open-enrollment charter school may award a high school diploma to an individual who:
 - (1) entered Grade 9 before the 2011-2012 school year;
 - (2) successfully completed the curriculum requirements for high school graduation applicable to the individual when the individual entered Grade 9;
 - (3) has not performed satisfactorily on an assessment instrument or a part of an assessment instrument required for high school graduation, including an alternate assessment offered under TEC, §39.025 (c-2);
 - (4) has been administered at least three times the required subject-area test(s), including an alternate assessment as specified in paragraph (3) of this subsection, for which the individual has not performed satisfactorily on the exit-level assessment instrument applicable to the individual when the individual entered Grade 9; and
 - (5) meets the alternative requirements for graduation in accordance with subsection (c) of this section or the local alternative requirements approved by the board of trustees in accordance with subsection (d) of this section.
- (b) The school district or open-enrollment charter school in which the individual is enrolled or was last enrolled shall determine whether the individual may qualify to graduate and receive a high school diploma on the basis of the alternative requirements for graduation.
- (c) The alternative requirements for graduation shall permit an individual to qualify to graduate and receive a high school diploma if the individual:
 - (1) has met the performance standard on an alternate assessment as specified in §101.4003 of this title (relating to Texas Assessment of Knowledge and Skills Exit-Level Alternate Assessments);
 - (2) has performed satisfactorily on the applicable subject-area test of a state approved high school equivalency examination in accordance with §89.43(a)(4) of this title (relating to Eligibility for a Texas Certificate of High School Equivalency);
 - (3) provides evidence of attainment of a Texas Education Agency-approved industry-recognized post secondary license or certification;
 - (4) provides evidence of current active duty service in the armed forces or a DD Form 214 indicating honorable or general discharge from the armed forces; or
 - (5) has successfully completed college-level coursework and earned college credit.
- (d) With approval by the school district board of trustees, a school district may develop recommendations for local alternative requirement if the requirements would allow an individual to demonstrate proficiency in the content related to an examination for which the individual has not performed satisfactorily.
- (e) A decision regarding whether the individual qualifies to graduate and receive a high school diploma is final and may not be appealed.
- (f) The school district or open-enrollment charter school shall maintain documentation to support the decision to award or not award an individual a high school diploma.
- (g) Provision of this section expire September 1, 2023

Statutory Authority: The provisions of this §74.1027 issued under the Texas Education Code, §28.02541.
Source: The provisions of this §74.1027 adopted to be effective May 3, 2018, 43 TexReg 2577; amended to be effective February 10, 2020, 45 TexReg 893.

TAC §74.11. HIGH SCHOOL GRADUATION REQUIREMENTS.

- (a) To receive a high school diploma, a student entering Grade 9 in the 2014-2015 school year and thereafter must complete the following:
- (1) in accordance with subsection (c) of this section, requirements of the Foundation High School Program specified in §74.12 of this title (relating to Foundation High School Program); [and]
 - (2) testing requirements for graduation as specified in Chapter 101 of this title (relating to Assessment); and
[.]
 - (3) demonstrated proficiency, as determined by the district in which the student is enrolled, in delivering clear verbal messages; choosing effective nonverbal behaviors; listening for desired results; applying valid critical-thinking and problem-solving processes; and identifying, analyzing, developing, and evaluating communication skills needed for professional and social success in interpersonal situations, group interactions, and personal and professional presentations.
- (b) A school district shall clearly indicate the distinguished level of achievement under the Foundation High School Program, an endorsement, and a performance acknowledgment on the diploma and transcript or academic achievement record (AAR) of a student who satisfies the applicable requirements.
- (c) A student entering Grade 9 in the 2014-2015 school year and thereafter shall enroll in the courses necessary to complete the curriculum requirements for the Foundation High School Program specified in §74.12 of this title and the curriculum requirements for at least one endorsement specified in §74.13 of this title (relating to Endorsements).
- (d) A student may graduate under the Foundation High School Program without earning an endorsement if, after the student's sophomore year:
- (1) the student and the student's parent or person standing in parental relation to the student are advised by a school counselor of the specific benefits of graduating from high school with one or more endorsements; and
 - (2) the student's parent or person standing in parental relation to the student files with a school counselor written permission, on a form adopted by the Texas Education Agency (TEA), allowing the student to graduate under the Foundation High School Program without earning an endorsement.
- (e) ... *The special education reference is listed below. To read the full text for this section, you may click on this link: [http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=19&pt=2&ch=74&sch=B&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=19&pt=2&ch=74&sch=B&rl=Y)*

TAC §74.12. FOUNDATION HIGH SCHOOL PROGRAM.

- (a) Credits. A student must earn at least 22 credits to complete the Foundation High School Program.
- (b) Core courses. A student must demonstrate proficiency in the following ...*etc. The special education reference is listed below. To read the full text for this section, you may click on this link: [http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=19&pt=2&ch=74&sch=B&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=19&pt=2&ch=74&sch=B&rl=Y)*
- (5)(D) The determination regarding a student's ability to complete the second credit of LOTE must be agreed to by:
- (i) the teacher of the first LOTE credit course or another LOTE teacher designated by the school district, the principal or designee, and the student's parent or person standing in parental relation;
 - (ii) the student's admission, review, and dismissal (ARD) committee if the student receives special education services under the TEC, Chapter 29, Subchapter A; or
 - (iii) the committee established for the student under Section 504, Rehabilitation Act of 1973 (29 United States Code, Section 794) if the student does not receive special education services under the TEC, Chapter 29, Subchapter A, but is covered by the Rehabilitation Act of 1973.
- (E) A student, who due to a disability, is unable to complete two credits in the same language in a language other than English, may substitute a combination of two credits that are not being used to satisfy another specific graduation requirement selected from English language arts, mathematics, science, or social studies or two credits in career and technical education or technology applications for the LOTE credit requirements. The determination regarding a student's ability to complete the LOTE credit requirements will be made by:
- (i) the student's ARD committee if the student receives special education services under the TEC, Chapter 29, Subchapter A; or

- (ii) the committee established for the student under Section 504, Rehabilitation Act of 1973 (29 United States Code (USC), §794) if the student does not receive special education services under the TEC, Chapter 29, Subchapter A, but is covered by the Rehabilitation Act of 1973.

(F) and (G)

(6)(G) A student who is unable to participate in physical activity due to disability or illness may substitute an academic elective credit (English language arts, mathematics, science, or social studies) or a course that is offered for credit as provided by the TEC, §28.002 (g-1), for the physical education credit requirement. The determination regarding a student's ability to participate in physical activity will be made by:

- (i) the student's ARD committee if the student receives special education services under the TEC, Chapter 29, Subchapter A;
- (ii) the committee established for the student under Section 504, Rehabilitation Act of 1973 (29 USC, §794) if the student does not receive special education services under the TEC, Chapter 29, Subchapter A, but is covered by the Rehabilitation Act of 1973; or
- (iii) a committee established by the school district of persons with appropriate knowledge regarding the student if each of the committees described by clauses (i) and (ii) of this subparagraph is inapplicable. This committee shall follow the same procedures required of an ARD or a Section 504 committee.

TAC §74.13. ENDORSEMENTS.

- (a) A student shall specify in writing an endorsement the student intends to earn upon entering Grade 9.
- (b) A district shall permit a student to enroll in courses under more than one endorsement before the student's junior year and to choose, at any time, to earn an endorsement other than the endorsement the student previously indicated. This section does not entitle a student to remain enrolled to earn more than 26 credits.
- (c) A student must earn at least 26 credits to earn an endorsement. *The special education reference is listed below. To read the full text for this section, you may click on this link:*
[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=19&pt=2&ch=74&sch=B&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=19&pt=2&ch=74&sch=B&rl=Y)

TAC §74.14. PERFORMANCE ACKNOWLEDGMENTS.

- (a) A student may earn a performance acknowledgment on the student's diploma and transcript for outstanding performance in a dual credit course by successfully completing... *The special education reference is listed below. To read the full text for this section, you may click on this link:*
[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=19&pt=2&ch=74&sch=B&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=19&pt=2&ch=74&sch=B&rl=Y)

TEC §28.025. HIGH SCHOOL DIPLOMA AND CERTIFICATE; ACADEMIC ACHIEVEMENT RECORD.

- (a) The State Board of Education by rule shall determine curriculum requirements for the foundation high school program that are consistent with the required curriculum under Section 28.002. The State Board of Education shall designate the specific courses in the foundation curriculum under Section 28.002(a)(1) required under the foundation high school program. Except as provided by this section, the State Board of Education may not designate a specific course or a specific number of credits in the enrichment curriculum as requirements for the program.
- (b) A school district shall ensure that each student, on entering ninth grade, indicates in writing an endorsement under Subsection (c-1) that the student intends to earn. A district shall permit a student to choose, at any time, to earn an endorsement other than the endorsement the student previously indicated. A student may graduate under the foundation high school program without earning an endorsement if, after the student's sophomore year:
 - (1) the student and the student's parent or person standing in parental relation to the student are advised by a school counselor of the specific benefits of graduating from high school with one or more endorsements; and
 - (2) the student's parent or person standing in parental relation to the student files with a school counselor written permission, on a form adopted by the agency, allowing the student to graduate under the foundation high school program without earning an endorsement.
- (b-1) The State Board of Education by rule shall require that the curriculum requirements for the foundation high school program under Subsection (a) include a requirement that students successfully complete:
 - (1) four credits in English language arts under Section 28.002(a)(1)(A), including one credit in English I, one credit in English II, one credit in English III, and one credit in an advanced English course

authorized under Subsection (b-2);

- (2) three credits in mathematics under Section 28.002(a)(1)(B), including one credit in Algebra I, one credit in geometry, and one credit in any advanced mathematics course authorized under Subsection (b-2);
- (3) three credits in science under Section 28.002(a)(1)(C), including one credit in biology, one credit in any advanced science course authorized under Subsection (b-2), and one credit in integrated physics and chemistry or in an additional advanced science course authorized under Subsection (b-2);
- (4) three credits in social studies under Section 28.002(a)(1)(D), including one credit in United States history, at least one-half credit in government and at least one-half credit in economics, and one credit in world geography or world history;
- (5) except as provided under Subsections (b-12), (b-13), and (b-14), two credits in the same language in a language other than English under Section 28.002(a)(2)(A);
- (6) five elective credits;
- (7) one credit in fine arts under Section 28.002(a)(2)(D); and
- (8) except as provided by Subsection (b-11), one credit in physical education under Section 28.002(a)(2)(C)

etc... The special education reference is listed below. To read the full text for this section, you may click on this link and select Chapter 28, and then 28.025: <http://www.statutes.legis.state.tx.us/?link=ED>

- (b-11) In adopting rules under Subsection (b-1), the State Board of Education shall allow a student who is unable to participate in physical activity due to disability or illness to substitute one credit in English language arts, mathematics, science, or social studies, one credit in a course that is offered for credit as provided by Section 28.002(g-1), or one academic elective credit for the physical education credit required under Subsection (b-1)(8). A credit allowed to be substituted under this subsection may not also be used by the student to satisfy a graduation requirement other than completion of the physical education credit. The rules must provide that the determination regarding a student's ability to participate in physical activity will be made by:
- (1) if the student receives special education services under Subchapter A, Chapter 29, the student's admission, review, and dismissal committee;
 - (2) if the student does not receive special education services under Subchapter A, Chapter 29, but is covered by Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), the committee established for the student under that Act; or
 - (3) if each of the committees described by Subdivisions (1) and (2) is inapplicable, a committee established by the school district of persons with appropriate knowledge regarding the student.
- (b-14) In adopting rules under Subsection (b-1), the State Board of Education shall allow a student who, due to disability, is unable to complete two courses in the same language in a language other than English, as provided under Subsection (b-1)(5), to substitute for those credits two credits in English language arts, mathematics, science, or social studies or two credits in career and technology education, technology applications, or other academic electives. A credit allowed to be substituted under this subsection may not also be used by the student to satisfy a graduation credit requirement other than credit for completion of a language other than English. The rules must provide that the determination regarding a student's ability to participate in language-other-than-English courses will be made by:
- (1) if the student receives special education services under Subchapter A, Chapter 29, the student's admission, review, and dismissal committee; or
 - (2) if the student does not receive special education services under Subchapter A, Chapter 29, but is covered by Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), the committee established for the student under that Act.
- (c) A person may receive a diploma if the person is eligible for a diploma under Section 28.0251. In other cases, a student may graduate and receive a diploma only if...
- (2) the student successfully completes an individualized education program developed under §29.005
- (c-7) Subject to Subsection (c-8), a student who is enrolled in a special education program under Subchapter A, Chapter 29, may earn an endorsement on the student's transcript by:
- (1) successfully completing, with or without modification of the curriculum:
 - (A) the curriculum requirements identified by the State Board of Education under Subsection (a); and
 - (B) the additional endorsement curriculum requirements prescribed by the State Board of Education under Subsection (c-2); and

- (2) successfully completing all curriculum requirements for that endorsement adopted by the State Board of Education:
 - (A) without modification of the curriculum; or
 - (B) with modification of the curriculum, provided that the curriculum, as modified, is sufficiently rigorous as determined by the student's admission, review, and dismissal committee.
- (c-8) For purposes of Subsection (c-7), the admission, review, and dismissal committee of a student in a special education program under Subchapter A, Chapter 29, shall determine whether the student is required to achieve satisfactory performance on an end-of-course assessment instrument to earn an endorsement on the student's transcript.
- (f) A school district shall issue a certificate of attendance to a student who receives special education services under Subchapter A, Chapter 29, and who has completed four years of high school but has not completed the student's individualized education program. A school district shall allow a student who receives a certificate to participate in a graduation ceremony with students receiving high school diplomas. A student may participate in only one graduation ceremony under this subsection. This subsection does not preclude a student from receiving a diploma under Subsection (c)(2).

TAC §89.1070. Graduation Requirements.

- (a) Graduation with a regular high school diploma under subsections (b)(1), (b)(3), (D), (f)(1), (f)(2), (f)(3), or (f)(4)(D) of this section terminates a student's eligibility for special education services under this subchapter and Part B of the Individuals with Disabilities Education Act and entitlement to the benefits of the Foundation School Program, as provided in Texas Education Code (TEC), §48.003(a).
- (b) A student entering Grade 9 in the 2014-2015 school year and thereafter who receives special education services may graduate and be awarded a regular high school diploma if the student meets one of the following conditions.
 - (1) The student has demonstrated mastery of the required state standards (or district standards if greater) in Chapters 110-117, 126-128, and 130 of this title and satisfactorily completed credit requirements for graduation under the Foundation High School Program specified in §74.12 of this title (relating to Foundation High School Program) applicable to students in general education as well as satisfactory performance as established in the TEC, Chapter 39, on the required end-of-course assessment instruments.
 - (2) The student has demonstrated mastery of the required state standards (or district standards if greater) in Chapters 110-117, 126-128, and 130 of this title and satisfactorily completed credit requirements for graduation under the Foundation High School Program specified in §74.12 of this title applicable to students in general education, but the student's ARD committee has determined that satisfactory performance on the end-of-course assessment instruments is not necessary for graduation.
 - (3) The student has demonstrated mastery of the required state standards (or district standards if greater) in Chapters 110-117, 126-128, and 130 of this title and satisfactorily completed credit requirements for graduation under the Foundation High School Program specified in §74.12 of this title through courses, one or more of which contain modified curriculum that is aligned to the standards applicable to student in general education, as well as satisfactory performance as established in the TEC, Chapter 39, on the required end-of-course assessment instruments, unless the student's ARD committee has determined that satisfactory performance on the required end-of-course assessment instruments is not necessary for graduation. The student must also successfully complete the student's individualized education program (IEP) and meet one of the following conditions.
 - (A) Consistent with the IEP, the student has obtained 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 local school district.
 - (B) Consistent with the IEP, the student has demonstrated mastery of specific employability skills and self-help skills that do not require direct ongoing educational support of the local school district.
 - (C) The student has access to services that are not within the legal responsibility of public education or employment or educational options for which the student has been prepared by the academic program.
 - (D) The student no longer meets age eligibility requirements.

- (c) A student receiving special education services may earn an endorsement under §74.13 of this title (relating to Endorsements) if the student:
- (1) satisfactorily completes the requirements for graduation under the Foundation High School Program specified in §74.12 of this title as well as the additional credit requirements in mathematics, science, and elective courses as specified in §74.13(e) of this title with or without modified curriculum;
 - (2) satisfactorily completes the courses required for the endorsement under §74.13(f) of this title without any modified curriculum or with modification of the curriculum provided that the curriculum, as modified, is sufficiently rigorous as determined by the student's ARD committee; and
 - (3) performs satisfactorily as established in the TEC, Chapter 39, on the required end-of-course assessment instruments unless the student's ARD committee determines that satisfactory performance is not necessary.
- (d) Notwithstanding subsection (c)(3) of this section, a student receiving special education services classified in Grade 11 or 12 who has taken each of the state assessments required by Chapter 101, Subchapter CC, of this title (relating to Commissioner's Rules Concerning Implementation of the Academic Content Areas Testing Program) or Subchapter DD of this title (relating to Commissioner's Rules Concerning Substitute Assessments for Graduation) but failed to achieve satisfactory performance on no more than two of the assessments is eligible to receive an endorsement if the student has met the requirements in subsection (c)(1) and (2) of this section.
- (e) A student receiving special education services 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 as provided in §74.1021 of this title (relating to Transition to the Foundation High School Program), if the student's ARD committee determines that the student should take courses under that program and the student satisfies the requirements of that program. Subsections (c) and (d) of the section apply to a student transitioning to the Foundation High School Program under this subsection. AS the TEC, §28.0258 and §39.025(a-2), modify the state assessment requirements applicable to students in general education, a student receiving special education services who is classified in Grade 11 or 12 who has taken each of the state assessments required by Chapter 101, Subchapter CC, of this title (relating to Commissioner's Rules Concerning Implementation of the Academic Content Areas Testing Program) or Subchapter DD of this title (relating to Commissioner's Rules Concerning Substitute Assessments for Graduation) but failed to achieve satisfactory performance on no more than two of the assessments may graduate if the student has satisfied all other applicable graduation requirements.
- (f) A student receiving special education services who entered Grade 9 before the 2014-2015 school year may graduate and be awarded a high school diploma if the student meets one of the following conditions.
- (1) The student has demonstrated mastery of the required state standards (or district standards if greater) in Chapters 110-117, 126-128, and 130 of this title and satisfactorily completed credit requirements for graduation (under the recommended or distinguished achievement high school programs in Chapter 74, Subchapter F, of this title (relating to Graduation Requirements, Beginning with School Year 2007-2008) or Chapter 74, Subchapter G, of this title (relating to Graduation Requirements, Beginning with School Year 2012-2013) as applicable, including satisfactory performance as established in the TEC, Chapter 39, on the required state assessments.
 - (2) Notwithstanding paragraph (1) of this subsection, as the TEC, §28.0258 and §39.025(a-2), modify the state assessment requirements applicable to students in general education, a student receiving special education services who is classified in Grade 11 or 12 may graduate under the recommended or distinguished achievement high school program, as applicable, if the student has taken each of the state assessments required by Chapter 101, Subchapter CC, of this title (relating to Commissioner's Rules Concerning Implementation of the Academic Content Areas Testing Program) or Subchapter DD of this title (relating to Commissioner's Rules Concerning Substitute Assessments for Graduation) but failed to achieve satisfactory performance on no more than two of the assessments and has met all other applicable graduation requirements in paragraph (1) of this subsection.
 - (3) The student has demonstrated mastery of the required state standards (or district standards if greater) in Chapters 110-118, 126-128, and 130 of this title and satisfactorily completed credit requirements for graduation (under the minimum high school program in Chapter 74, Subchapter F or G, of this title), as applicable, including participation in required state assessments. The student's ARD committee will determine whether satisfactory performance on the required state assessments is necessary for graduation.
 - (4) The student has demonstrated mastery of the required state standards (or district standards if greater) in Chapters 110-118, 126-128, and 130 of this title through courses, one or more of which contain modified

content that is aligned to the standards required under the minimum high school program in Chapter 74, Subchapter F or G, of this title, as applicable, as well as the satisfactorily completed credit requirements under the minimum high school program, including participation in required state assessments. The student's ARD committee will determine whether satisfactory performance on the required state assessments is necessary for graduation. The student graduating under this subsection must also successfully complete the student's IEP and meet one of the following conditions:

- (A) Consistent with the IEP, the student has obtained 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 local school district.
- (B) Consistent with the IEP, the student has demonstrated mastery of specific employability skills and self-help skills that do not require direct ongoing educational support of the local school district.
- (C) The student has access to services that are not within the legal responsibility of public education or employment or educational options for which the student has been prepared by the academic program.
- (D) The student no longer meets age eligibility requirements.

- (g) All students graduating under this section must be provided with a summary of academic achievement and functional performance as described in 34 Code of Federal Regulations (CFR), §300.305(e)(3). This summary must consider, as appropriate, the views of the parent and student and written recommendations from adult service agencies on how to assist the student in meeting postsecondary goals. An evaluation as required by 34 CFR, §300.305(e)(1), must be included as part of the summary for a student graduating under subsections (b)(2);(b)(3)(A), (B), or (C) or (f)(4)(A), (B), or (C) of this section.

The manner in which a student with a disability meets requirements for graduation will be determined by the IEP/ARD committee. This Summary of Performance (SOP) will be completed prior to graduation using the district approved form. (Agency input will be requested upon parent/adult student consent, Summary of Performance is supported with information included in student's IEP/transition supplement.)

- (h) Students who participate in graduation ceremonies but who are not graduating under subsections (b)(2);(b)(3)(A), (B), or (C) or (g)(4)(A), (B), or (C) of this section and who will remain in school to complete their education do not have to be evaluated in accordance with subsection (g) of this section.
- (i) Employability and self-help skills referenced under subsections (b)(3) and (f)(4) of the section are those skills directly related to the preparation of students for employment, including general skills necessary to obtain or retain employment.
- (j) For students who receive a diploma according to subsections (b)(2);(b)(3)(A), (B), or (C) or (f)(4)(A), (B), or (C) of this section, the ARD committee must determine needed educational services upon the request of the student or parent to resume services, as long as the student meets the age eligibility requirements.
- (k) For purposes of this section, modified curriculum and modified content refer to any reduction of the amount or complexity of the required knowledge and skills in Chapters 110-117, 126-128, and 130 of this title. Substitutions that are specifically authorized in statute or rule must not be considered modified curriculum or modified content.

Graduation options for students with disabilities receiving special education services who entered grade 9 before the 2011-2012 school year. *Division 2. Participation and Assessment Requirements for Graduation:*
<http://ritter.tea.state.tx.us/rules/tac/chapter101/>

SB 149 - Individual Graduation Committees (IGC) Frequently Asked Questions. *Click on link below for specific answers to questions regarding special education students. Choose the IGC link.*
<http://tea.texas.gov/graduation.aspx>

TEC §28.0212. Personal Graduation Plan

- (a) A principal shall designate a guidance counselor, teacher, or other appropriate individual to develop and administer a personal graduation plan for each student enrolled in a junior high, middle, or high school who:
 - (1) does not perform satisfactorily on an assessment instrument administered under Subchapter B, Chapter 39 (TAKS); or
 - (2) is not likely to receive a high school diploma before the fifth school year following the student's enrollment in grade level nine, as determined by the district.
- (b) A personal graduation plan must:
 - (1) identify educational goals for the student;

- (2) include diagnostic information, appropriate monitoring and intervention, and other evaluation strategies;
 - (3) include an intensive instruction program described by Section 28.0213;
 - (4) address participation of the student's parent or guardian, including consideration of the parent's or guardian's educational expectations for the student; and
 - (5) provide innovative methods to promote the student's advancement, including flexible scheduling, alternative learning environments, on-line instruction, and other interventions that are proven to accelerate the learning process and have been scientifically validated to improve learning and cognitive ability.
- (c) Notwithstanding Subsection (b), a student's individualized education program developed under Section 29.005 may be used as the student's personal graduation plan under this section.

Graduation Ceremonies.

Participation of students with disabilities in graduation ceremonies.

TEC §28.025 (f) A school district shall issue a certificate of attendance to a student who receives special education services under Subchapter A, Chapter 29, and who has completed four years of high school but has not completed the student's individualized education program. A school district shall allow a student who receives a certificate to participate in a graduation ceremony with students receiving high school diplomas. A student may participate in only one graduation ceremony under this subsection. This subsection does not preclude a student from receiving a diploma under Subsection (c)(2).

<http://tea.texas.gov/index2.aspx?id=25769806149>

The Tyler ISD will discuss graduation ceremonies and certificate of attendance during the Annual ARD/IEP meeting for students not completing their IEP but wishing to participate in the graduation ceremony with their classmates. At the annual ARD/IEP meeting beginning the 8th grade year provide the following information to parents: a student who has completed 4 years of high school but has not completed the IEP may elect to participate in a graduation ceremony with his class. The student shall receive a certificate of attendance. The student shall receive a diploma upon completion of the IEP. By law, a student may participate in only one graduation ceremony.

TAC §74.71 HIGH SCHOOL GRADUATION REQUIREMENTS

To read the full text for this section, you may click on this link:

<http://tea.texas.gov/index2.aspx?id=25769806149>

TAC §74.72. MINIMUM HIGH SCHOOL PROGRAM.

The special education reference is listed below in (F). To read the full text for this section, you may click on this link: [http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=19&pt=2&ch=74&sch=G&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=19&pt=2&ch=74&sch=G&rl=Y)

- (F) A student who is unable to participate in physical activity due to disability or illness may substitute an academic elective credit (English language arts, mathematics, science, or social studies) for the physical education credit requirement. The determination regarding a student's ability to participate in physical activity will be made by:
- (i) the student's admission, review, and dismissal (ARD) committee if the student receives special education services under the Texas Education Code (TEC), Chapter 29, Subchapter A;
 - (ii) the committee established for the student under Section 504, Rehabilitation Act of 1973 (29 United States Code, §794) if the student does not receive special education services under the TEC, Chapter 29, Subchapter A, but is covered by the Rehabilitation Act of 1973; or
 - (iii) a committee established by the school district of persons with appropriate knowledge regarding the student if each of the committees described by clauses (i) and (ii) of this subparagraph is inapplicable.
- This committee shall follow the same procedures required of an ARD or a Section 504 committee.

The Tyler ISD encourages student involvement in the ARD/IEP meeting no later than the 8th grade to ensure not only the parent but also the student understands the differences in the Minimum and Recommended High School Programs. <http://www.tea.state.tx.us/index2.aspx?id=6108>

TAC §74.73. RECOMMENDED HIGH SCHOOL PROGRAM.

The special education reference is listed below in (G). To read the full text for this section, you may click on this link: [http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=19&pt=2&ch=74&sch=G&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=19&pt=2&ch=74&sch=G&rl=Y)

- (G) A student who is unable to participate in physical activity due to disability or illness may substitute an academic elective credit (English language arts, mathematics, science, or social studies) for the physical education credit requirement. The determination regarding a student's ability to participate in physical activity will be made by:
- (i) the student's admission, review, and dismissal (ARD) committee if the student receives special education services under the Texas Education Code, Chapter 29, Subchapter A;
 - (ii) the committee established for the student under Section 504, Rehabilitation Act of 1973 (29 United States Code, §794) if the student does not receive special education services under the TEC, Chapter 29, Subchapter A, but is covered by the Rehabilitation Act of 1973; or
 - (iii) a committee established by the school district of persons with appropriate knowledge regarding the student if each of the committees described by clauses (i) and (ii) of this subparagraph is inapplicable. This committee shall follow the same procedures required of an ARD or a Section 504 committee.

TAC §74.74. DISTINGUISHED ACHIEVEMENT HIGH SCHOOL PROGRAM - ADVANCED HIGH SCHOOL PROGRAM.

The special education reference is listed below in (G). To read the full text for this section, you may click on this link: [http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=19&pt=2&ch=74&sch=G&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=19&pt=2&ch=74&sch=G&rl=Y)

- (G) A student who is unable to participate in physical activity due to disability or illness may substitute an academic elective credit (English language arts, mathematics, science, or social studies) for the physical education credit requirement. The determination regarding a student's ability to participate in physical activity will be made by:
- (i) the student's admission, review, and dismissal (ARD) committee if the student receives special education services under the Texas Education Code (TEC), Chapter 29, Subchapter A;
 - (ii) the committee established for the student under Section 504, Rehabilitation Act of 1973 (29 United States Code, §794) if the student does not receive special education services under the TEC, Chapter 29, Subchapter A, but is covered by the Rehabilitation Act of 1973; or
 - (iii) a committee established by the school district of persons with appropriate knowledge regarding the student if each of the committees described by clauses (i) and (ii) of this subparagraph is inapplicable. This committee shall follow the same procedures required of an ARD or a Section 504 committee.

TAC §101.4003. Texas Assessment of Knowledge and Skills Exit-Level Alternate Assessments.

- (a) In accordance with the Texas Education Code (TEC), Chapter 39, Subchapter B, the commissioner of education adopts certain assessments as provided in the figure in this subsection as alternate assessments that a person may use in place of corresponding Texas Assessment of Knowledge and Skills (TAKS) exit-level assessments beginning in the fall of 2017. Attached Graphic – go to this link to see the graphic: [http://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=19&pt=2&ch=101&rl=4003](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=19&pt=2&ch=101&rl=4003)
- (b) An eligible person who has met the passing standard on a state-approved alternate exit-level assessment as set by the commissioner and provided in the figure in subsection (a) of this section in a particular subject area has satisfied the exit-level testing requirement in that subject area.
- (c) A person is eligible to substitute an alternate exit-level assessment for a TAKS exit-level assessment for purposes of this subchapter if the person was first enrolled in Grade 9 prior to the 2011-2012 school year or first enrolled in Grade 10 or above in the 2011-2012 school year. *Source Note: 38 TexReg 9024; amended to be effective November 5, 2017, 42 TexREG 6144.*

For all current Chapter 101 Commissioner's Rules: [http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=19&pt=2&ch=101](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=19&pt=2&ch=101)

For current Commissioner's Rules Concerning Substitute Assessments for Graduation go to this link: [http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=19&pt=2&ch=101&sch=DD&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=19&pt=2&ch=101&sch=DD&rl=Y)

See next ARD/IEP Section 4b for exemption from physical education for graduation

See next ARD/IEP Section 4b for State Assessment (TAKS, EOC, STAAR) and District Wide Assessments.

G. Individual Graduation Committee

TEC §74.1025

- (n) A student receiving special education services is not subject to the individual graduation committee requirements in the TEC, §28.0258, or the provisions of this section. As provided in §89.1070 of this title (relating to Graduation Requirements) and §101.3023 of this title (relating to Participation and Graduation Assessment Requirements for Students Receiving Special Education Services) a student's admission, review, and dismissal (ARD) committee determines whether a student is required to achieve satisfactory performance on an EOC assessment to graduate.

TEC §28.0258. HIGH SCHOOL DIPLOMA AWARDED ON BASIS OF INDIVIDUAL GRADUATION COMMITTEE REVIEW.

- (a) This section applies only to an 11th or 12th grade student who has failed to comply with the end-of-course assessment instrument performance requirements under Section 39.025 for not more than two courses.

IX. MUTUAL AGREEMENT / 10 DAY RECESS / FACILITATION

TEC §29.019. INDIVIDUALIZED EDUCATION PROGRAM FACILITATION.

- (a) The agency shall provide information to parents regarding individualized education program facilitation as an alternative dispute resolution method that may be used to avoid a potential dispute between a school district and a parent of a student with a disability. A district that chooses to use individualized education program facilitation shall provide information to parents regarding individualized education program facilitation. The information:
- (1) must be included with other information provided to the parent of a student with a disability, although it may be provided as a separate document; and
 - (2) may be provided in a written or electronic format.
- (b) Information provided by the agency under this section must indicate that individualized education program facilitation is an alternative dispute resolution method that some districts may choose to provide.
- (c) If a school district chooses to offer individualized education program facilitation as an alternative dispute resolution method:
- (1) the district may determine whether to use independent contractors, district employees, or other qualified individuals as facilitators;
 - (2) the information provided by the district under this section must include a description of any applicable procedures for requesting the facilitation; and
 - (3) the facilitation must be provided at no cost to a parent.
- (d) The use of any alternative dispute resolution method, including individualized education program facilitation, must be voluntary on the part of the participants, and the use or availability of any such method may not in any manner be used to deny or delay the right to pursue a special education complaint, mediation, or due process hearing in accordance with federal law.
- (e) Nothing in this section prohibits a school district from using individualized education program facilitation as the district's preferred method of conducting initial and annual admission, review, and dismissal committee meetings.
- (f) The commissioner shall adopt rules necessary to implement this section.

TEC §29.020. INDIVIDUALIZED EDUCATION PROGRAM FACILITATION PROJECT.

- (a) The agency shall develop rules in accordance with this section applicable to the administration of a state individualized education program facilitation project. The program shall include the provision of an independent individualized education program facilitator to facilitate an admission, review, and dismissal committee meeting with parties who are in a dispute about decisions relating to the provision of a free appropriate public education to a student with a disability. Facilitation implemented under the project must comply with rules developed under this subsection.
 - (b) The rules must include:
 - (1) a definition of independent individualized education program facilitation;
 - (2) forms and procedures for requesting, conducting, and evaluating independent individualized education program facilitation;
 - (3) training, knowledge, experience, and performance requirements for independent facilitators; and
 - (4) conditions required to be met in order for the agency to provide individualized education program facilitation at no cost to the parties.
 - (c) If the commissioner determines that adequate funding is available, the commissioner may authorize the use of federal funds to implement the individualized education program facilitation project in accordance with this section.
 - (d) The commissioner shall adopt rules necessary to implement this section..
- SECTION 2. This Act applies beginning with the 2014-2015 school year.

TAC §89.1196. Individualized Education Program Facilitation.

- (a) For the purpose of this section and Texas Education Code, §29.019, individualized education program (IEP) facilitation refers to a method of alternative dispute resolution that involves the use of a trained facilitator to assist an admission, review, and dismissal (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 public education agencies are not required to offer IEP facilitation as an alternative dispute resolution method, the Texas Education Agency (TEA) encourages the use of IEP facilitation as described in this section.
- (b) A public education agency is not prohibited from incorporating elements of IEP facilitation into ARD committee meetings that are conducted without the assistance of a facilitator as described in this section. For example, a public education agency 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.
- (c) A public education agency that chooses to offer IEP facilitation under this section may determine whether to 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 public education agency.
- (d) A public education agency that chooses to offer IEP facilitation under this section must ensure that:
 - (1) participation is voluntary on the part of the parties;
 - (2) the facilitation is provided at no cost to parents; and
 - (3) the process is not used to deny or delay the right to pursue a special education complaint, mediation, or a due process hearing in accordance with Part B of the Individuals with Disabilities Education Act (IDEA) and this division.
- (e) A public education agency that chooses to offer IEP facilitation under this section must develop written policies and procedures that include:
 - (1) the procedures for requesting facilitation;
 - (2) facilitator qualifications, including whether facilitators are independent contractors, employees, or other qualified individuals;
 - (3) the process for assigning a facilitator;
 - (4) the continuing education requirements for facilitators; and
 - (5) a method for evaluating the effectiveness of the facilitation services and the individual facilitators.
- (f) A public education agency that chooses to offer IEP facilitation under this section must provide parents with information about the process, including a description of the procedures for requesting IEP facilitation and

information related to facilitator qualifications. This information must be included when a copy of the procedural safeguards notice under 34 Code of Federal Regulations (CFR), §300.504 is provided to parents, although this information may be provided as a separate document and may be provided in a written or electronic format.

- (g) A facilitator under this section must not be a member of the student's ARD committee, must not have any decision-making authority over the committee, and must remain impartial to the topics under discussion. The facilitator must assist with the overall organization and conduct of the ARD committee meeting by:
 - (1) assisting the committee in establishing an agenda and setting the time allotted for the meeting;
 - (2) assisting the committee in establishing a set of guidelines for the meeting;
 - (3) guiding the discussion and keeping the focus on developing a mutually agreed upon IEP for the student;
 - (4) ensuring that each committee member has an opportunity to speak and be heard;
 - (5) helping to resolve disagreements that arise; and
 - (6) helping to keep the ARD committee on task and within the time allotted for the meeting.
- (h) Promptly after being assigned to facilitate an ARD committee meeting, or within a timeline established under the public education agency's procedures, the facilitator must contact the parents and public education agency representative to clarify the issues, gather necessary information, and explain the IEP facilitation process.
- (i) A public education agency that chooses to offer IEP facilitation under this section must ensure that facilitators protect the confidentiality of personally identifiable information about the student and comply with the requirements in the Family Educational Rights and Privacy Act regulations, 34 CFR, Part 99, relating to the disclosure and redisclosure of personally identifiable information from a student's education record.
- (j) The TEA will develop information regarding IEP facilitation as an alternative dispute resolution method, and such information will be available upon request from the TEA and on the TEA website.

For additional TEA Guidance and to obtain Facilitation Request Forms go to:

https://www.esc20.net/apps/pages/index.jsp?uREC_ID=1668407&type=d&pREC_ID=1819063

TAC §89.1050 The Admission, Review, and Dismissal (ARD) Committee.

- (g) All members of the ARD committee must have the opportunity to participate in a collaborative manner in developing the IEP. A decision of the ARD committee concerning required elements of the IEP must be made by mutual agreement if possible. The ARD committee may agree to an annual IEP or an IEP of shorter duration.
 - (1) When mutual agreement about all required elements of the IEP is not achieved, the parent who disagrees must be offered a single opportunity to recess and reconvene the ARD committee meeting. The period of time for reconvening the ARD committee meeting must not exceed ten school days, unless the parties mutually agree otherwise. The ARD committee must schedule the reconvened meeting at a mutually agreed upon time and place. The opportunity to recess and reconvene is not required when the student's presence on the campus presents a danger of physical harm to the student or others or when the student has committed an expellable offense or an offense that [which] may lead to a placement in a disciplinary alternative education program. The requirements of this subsection do not prohibit the ARD committee from recessing an ARD committee meeting for reasons other than the failure to reach mutual agreement about all required elements of an IEP.

If the parent brings an attorney to the ARD meeting without prior notice to the school district, the Administrator must recess the ARD until such time as the school's attorney can also attend. It is critical that the district document the student services that will continue until the ARD is reconvened. During the recess involve the Special Education Director or Coordinator to consider alternative resolutions to propose to the parent other than involvement of attorneys.

- (2) During the recess, the ARD committee members must consider alternatives, gather additional data, prepare further documentation, and/or obtain additional resource persons who may assist in enabling the ARD committee to reach mutual agreement. *Determine if training staff in facilitation is needed in order to reach mutual agreement. The administrator working with the staff will analyze all possible options, pros/cons and prepare to present the data.*
 - a) *It is important to facilitate understanding of common objectives that benefit and assist the student.*
 - b) *Beginning with assessment/evaluation at the beginning of the ARD/IEP, present IEP areas in small segments and determine agreement at each step. Listen and keep the focus on the student!*
 - c) *In areas of disagreement, determine if agreement can be reached for a trial period of even a short segment of time such as 6 weeks or 2-3 months then return to a review ARD/IEP meeting.*

d) In decision making consider at all times the student needs.

- (3) If a recess is implemented as provided in paragraph (1) of this subsection and the ARD committee still cannot reach mutual agreement, the school district must implement the IEP that it has determined to be appropriate for the student.
- (4) When mutual agreement is not reached, a written statement of the basis for the disagreement must be included in the IEP. The parent who disagrees must be offered the opportunity to write his or her own statement of disagreement.

If the parent disagrees with any part of the IEP, the parent must be offered the opportunity to write their disagreement in the IEP. If the parent refuses to write their disagreement, the school district personnel must write in the IEP specifics of the parental disagreement to the best of their understanding.

- (h) Whenever a school district proposes or refuses to initiate or change the identification, evaluation, or educational placement of a student or the provision of a free appropriate public education to the student, the school district must provide prior written notice as required in 34 CFR, §300.503, including providing the notice in the parent's native language or other mode of communication. This notice must be provided to the parent at least five school days before the school district proposes or refuses the action unless the parent agrees to a shorter timeframe.

For requirements on Complaints, Notices and Consents see Section 7. Procedural Safeguards.

Parent Resource: <http://www.partnerstx.org/>

Parent Information Center: <https://www.spedtex.org/>

Parent resource: <http://www.spedtex.org>.

X. TRANSFERS / NEW TO DISTRICT

§300.304 Evaluation procedures.

(c) Other evaluation procedures.

- (5) Assessments of children with disabilities who transfer from one public agency to another public agency in the same academic year are coordinated with those children's prior and subsequent schools, as necessary and as expeditiously as possible, consistent with §300.301 (d)(2) and (e), to ensure prompt completion of full evaluations. *§300.301 (d)(2) and (e) found in FIE section.***

§300.323 When IEPs must be in effect.

- (a) General.** At the beginning of each school year, the public agency must have in effect, for each child with a disability within its jurisdiction, an IEP, as defined in §300.320.

- (b) IEP or IFSP for children aged three through five;**

- (c) Timeline; (d) Teacher Accessibility and Input; *(all found in this section 4 of this document)***

- (e) IEPs for children who transfer public agencies in the same state.**

If a child with a disability (who had an IEP that was in effect in a previous public agency in the same State) transfers to a new public agency in the same State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide FAPE to the child (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency either---

- (1) Adopts the child's IEP from the previous public agency; or**

- (2) Develops, adopts, and implements a new IEP that meets the applicable requirements in §§300.320 through 300.324.**

- (f) IEPs for children who transfer from another State.** If a child with a disability (who had an IEP that was in effect in a previous public agency in another State) transfers to a public agency in a new State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide the child with FAPE (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency--

- (1) Conducts an evaluation pursuant to §§300.304 through 300.306 (if determined to be necessary by the new public agency); and**

- (2) Develops, adopts, and implements a new IEP, if appropriate, that meets the applicable requirements in §§300.320 through 300.324.**

- (g) Transmittal of records.** To facilitate the transition for a child described in paragraphs (e) and (f) of this section --

- (1) The new public agency in which the child enrolls must take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous public agency in which the child was enrolled, pursuant to 34 CFR 99.31(a)(2); and**

- (2) The previous public agency in which the child was enrolled must take reasonable steps to promptly respond to the request from the new public agency. *For all of 34 CFR 99.31 FERPA see: <http://www2.ed.gov/policy/gen/reg/ferpa/index.html>***

TEC §25.007. Transferring Students (records).

- (b) In recognition of the challenges faced by students in substitute care, the agency shall assist the transition of substitute students from one school to another by:**

- (1) ensuring that school records for a student in substitute care are transferred to the student's new school not later than the 10th working day after the date the student begins enrollment at the school;**

- (2) developing systems to ease transition of a student in substitute care during the first two weeks of enrollment at a new school;**

- (3) (see Section 7. Procedural Safeguards for additional information)**

TAC §89.1050 The Admission, Review, and Dismissal (ARD) Committee.

- (j) A school district must comply with the following for a student who is newly enrolled in the school district.**

- (1) When a student transfers to a new school district within the state in the same school year and the parents verify that the student was receiving special education services in the previous school district or the previous school district verifies in writing or by telephone that the student was receiving special education services, the new school district must meet the requirements of 34 CFR, §300.323(e), regarding the provision of special education services. The timeline for completing the requirements outlined in 34 CFR, §300.323(e)(1) or (2), is 30 school days from the date the student is verified as being a student eligible for special education services.
- (2) When a student transfers from a school district in another state in the same school year and the parents verify that the student was receiving special education services in the previous school district or the previous school district verifies in writing or by telephone that the student was receiving special education services, the new school district must meet the requirements of 34 CFR, §300.323(f), regarding the provision of special education services. If the new school district determines that an evaluation is necessary, the evaluation is considered a full individual and initial evaluation and must be completed within the timelines established by §89.1011(c) and (e) of this title. The timeline for completing the requirements in 34 CFR, §300.323(f)(2), if appropriate, is 30 calendar days from the date of the completion of the evaluation report. If the school district determines that an evaluation is not necessary, the timeline for completing the requirements outlined in 34 CFR, §300.323(f)(2), is 30 school days from the date the student is verified as being a student eligible for special education services.
- (3) In accordance with TEC, §25.002, and 34 CFR, §300.323(g), the school district in which the student was previously enrolled must furnish the new school district with a copy of the student's records, including the student's special education records, not later than the 10th working day after the date a request for the information is received by the previous school district.
- (4) A student with a disability who has an IEP in place from a previous in-or out-of -state school district and who enrolls in a new school district during the summer is not considered a transfer student for the purposes of this subsection or for 34 CFR §300.323(e) or (f). For these students the new school district must implement the IEP from the previous school district in full on the first day of class of the new school year or must convene an ARD committee meeting during the summer to revise the student's IEP for implementation on the first day of class of the new school year.

For all of 34 CFR 99.31 FERPA see: <http://www2.ed.gov/policy/gen/reg/ferpa/index.html>

TEC §25.002 requires the previous LEA to transmit the student's current IEP through the Texas Records Exchange (TREx) system within 10 working days from receiving the request. The 30-day timeline referenced above in 19 TAC §89.1050(f)(4), applies to the rest of a student's eligibility record requested by a new LEA.

The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C., §1232g, does not require the student's current and previous school districts to obtain parental consent before requesting or sending the student's special education records if the disclosure is conducted in accordance with 34 CFR, §99.31(a) (2) and §99.34.

(FERPA)

For more information on TEC §25.002 Requirements for Enrollment in a Public School see: www.statutes.legis.state.tx.us/Docs/ED/htm/ED.25.htm#25.002

Transfers/New to the District

When a student enrolls on a campus and a school employee (clerk, teacher, administrator, etc) is informed the student is receiving special education services in the previous district.

- The individual receiving the information notifies the special education staff on the campus.*
- Special education staff will verify the student received services by: a) phone call with previous district; b) IEP provided by parent; c) Review of current FIE.*

The special education staff will also:

- Attempt to obtain a Consent for Disclosure of Confidential Information.*
- Mail or fax signed consent to the previous district as soon as possible. Parent consent when requesting records from another Texas school district is not required but should be attempted.*
- Schedule the transfer ARD Committee meeting the day of enrollment or day after the student's enrollment (if at all possible). The parent may waive the right to five school days prior written notice of the ARD Committee meeting and the ARD may be held immediately or within the 5 days. Otherwise, the temporary placement*

ARD cannot be held within 5 school days of the written notice. Services will be provided which are as close as possible to the services in the previous district until such time as the district can gather more data / information.

- In determining comparable services consider the following: amount of special education service minutes, amount of time in general education, IEP goals and any other factors in the IEP which will support this decision.*
- Contact the campus lead diagnostician as soon as possible for a consultation. If the student has ADHD, ED, or AU, consult with an LSSP to determine if the evaluation meets federal and state legal requirements.*
- Depending upon the date of the last evaluation the temporary placement ARD meeting may discuss conducting a REED.*

A temporary placement ARD committee will determine needed evaluation data and the evaluation will be completed in adherence with evaluation timelines within the legal framework. The ARD Committee determines that the IEP objectives of the student can be met on the home campus and agrees on temporary placement for 30 school days. If an evaluation is pending in the previous district, coordination will occur to ensure timely completion.

If the Temporary ARD Committee determines that the IEP objectives of the student cannot be met on the home campus and the student will need placement on a different campus, the student will temporarily continue to receive services on the home campus. The campus special education staff will contact the appropriate special education administrator. An ARD will be scheduled to include appropriate staff from the possible receiving campus to discuss appropriate placement options for the least restrictive environment.

The Special Education administrator is responsible for contacting the campus principal annually to ensure appropriate office clerks have received training on all child find procedures including transfer students.

The same procedure will be followed should the student be transferring from another state. However, it may not be possible to obtain records from the previous school. In this case, use documentation provided by the family. All other procedures will be followed.

XI. PRIVATE NONPUBLIC SCHOOL PROVISIONS *(see Section 5. Instructional Arrangements)*

§300.2 Applicability of this part to State and local agencies.

- (c) **Private schools and facilities.** Each public agency in the State is responsible for ensuring that the rights and protections under Part B of the Act are given to children with disabilities--
- (1) Referred to or placed in private schools and facilities by the public agency; or
 - (2) Placed in private schools by their parents under the provisions of §300.148

§300.118 Children in public or private institutions.

Except as provided in §300.149(d) (regarding agency responsibility for general supervision for some individuals in adult prisons), an SEA must ensure that §300.114 is effectively implemented, including, if necessary, making arrangements with public and private institutions (such as a memorandum of agreement or special implementation procedures). (Authority: 20 U.S.C. 1412(a)(5)) *(§300.114 is LRE)*

A. Placed by the District

§300.325 Private school placements by public agencies.

(a) Developing IEPs.

- (1) Before the public agency places a child with a disability in, or refers a child to, a private school or facility, the public agency must initiate and conduct a meeting to develop an IEP for the child in accordance with §§300.320 and 300.324 *(§300.320 is Definition of IEP and §300.324 is Development of IEP)*
- (2) The public agency must ensure that a representative of the private school or facility attends the meeting. If the representative cannot attend, the public agency must use other methods to ensure participation by the private school or facility, including individual or conference telephone calls.

(b) Reviewing and revising IEPs.

- (1) After a child with a disability enters a private school or facility, any meetings to review and revise the child's IEP may be initiated and conducted by the private school or facility at the discretion of the public agency.
- (2) If the private school or facility initiates and conducts these meetings, the public agency must ensure that the parents and an agency representative--
 - (i) Are involved in any decision about the child's IEP; and
 - (ii) Agree to any proposed changes in the IEP before those changes are implemented.

- (c) **Responsibility.** Even if a private school or facility implements a child's IEP, responsibility for compliance with this part remains with the public agency and the SEA. (Authority: 20 U.S.C. 1412(a)(10)(B))

For all other Federal regulations regarding parentally placed private school children, please go to Section 5, Instructional Arrangements. You will find §§300.130 - 300.144.

Placed by District: *The district special education department has followed all requirements to ensure the private facility is appropriate and the private school administration and appropriate staff are involved and participating in the ARD/IEP process. All Notices, Consents and district ARD/IEP forms for documentation of the process will be completed.*

B. Placed by the Parent

§300.37 Services plan. Services plan means a written statement that describes the special education and related services the public agency will provide to a parentally-placed child with a disability enrolled in a private school who has been designated to receive services, including the location of the services and any transportation necessary, consistent with §300.132, and is developed and implemented in accordance with §§300.137 through 300.139. (Authority: 20 U.S.C. 1412(a)(10)(A))

§89.1075. General Program Requirements and Local District Procedures.

- (g) School districts that contract for services from non-public day schools must do so in accordance with 34 Code of Federal Regulations, §300.147, and procedures developed by the TEA.

TAC §89.1096. Provision of Services for Students Placed by their Parents in Private Schools or Facilities.

- (a) Except as specifically provided in this section, in accordance with 34 Code of Federal Regulations (CFR), §300.137, no eligible student who has been placed by his or her parent(s) in a private school or facility has an individual right to receive some or all of the special education and related services that the student would receive if he or she were enrolled in a public school district. Except as specifically set forth in this section, a school district's obligations with respect to students placed by their parents in private schools are governed by 34 CFR, §§300.130-300.144.
 - (1) For purposes of subsections (a) and (d) of this section only, private school is defined as a private elementary or secondary school, including any pre-school, religious school, and institutional day or residential school, that:
 - (A) as required by 34 CFR, §300.13 and §300.130, is a nonprofit entity that meets the definition of nonprofit in 34 CFR, §77.1; and
 - (B) provides elementary or secondary education that incorporates an adopted curriculum designed to meet basic educational goals, including scope and sequence of courses, and formal review and documentation of student progress.
 - (2) A home school must meet the requirements of paragraph (1)(B) of this subsection, but not paragraph (1)(A) of this subsection, to be considered a private school for purposes of subsections (a) and (d) of this section.
- (b) When a student with a disability who has been placed by his or her parents directly in a private school or facility is referred to the local school district, the local district shall convene an admission, review, and dismissal (ARD) committee meeting to determine whether the district can offer the student a free appropriate public education (FAPE). If the district determines that it can offer a FAPE to the student, the district is not responsible for providing educational services to the student, except as provided in 34 CFR, §§300.130-300.144, or subsection (e) of this section, until such time as the parents choose to enroll the student in public school full time.
- (c) Parents of an eligible student ages 3 or 4 shall have the right to "dual enroll" their student in both the public school and the private school beginning on the student's third birthday and continuing until the end of the school year in which the student turns five or until the student is eligible to attend a district's public school kindergarten program, whichever comes first, subject to paragraphs (1)-(3) of this subsection. The public school district where a student resides is responsible for providing special education and related services to a student whose parents choose dual enrollment.
 - (1) The student's ARD committee shall develop an individualized education program (IEP) designed to provide the student with a FAPE in the least restrictive environment appropriate for the student.
 - (2) From the IEP, the parent and the district shall determine which special education and/or related services will be provided to the student and the location where those services will be provided, based on the requirements concerning placement in the least restrictive environment set forth in 34 CFR, §§300.114-300.120, and the policies and procedures of the district.
 - (3) For students served under the provisions of this subsection, the school district shall be responsible for the employment and supervision of the personnel providing the service, providing the needed instructional materials, and maintaining pupil accounting records. Materials and services provided shall be consistent with those provided for students enrolled only in the public school and shall remain the property of the school district.
- (d) Parents of an eligible student ages 3 or 4 who decline dual enrollment for their student may request a services plan as described in 34 CFR, §§300.130-300.144. The public school district where the private school is located is responsible for the development of a services plan, if the student is designated to receive services under 34 CFR, §300.132.
- (e) The school district shall provide special transportation with federal funds only when the ARD committee determines that the condition of the student warrants the service in order for the student to receive the special education and related services (if any) set forth in the IEP.
- (f) Complaints regarding the implementation of the components of the student's IEP that have been selected by the parent and the district under subsection (c) of this section may be filed with the Texas Education Agency under the procedures in 34 CFR, §§300.151-300.153. Additionally, parents may request mediation as outlined in 34 CFR, §300.506. The procedures in 34 CFR, §§300.300, 300.504, 300.507, 300.508, and 300.510-300.518 (relating to due process hearings) do not apply to complaints regarding the implementation

of the components of the student's IEP that have been selected by the parent and the district under subsection (c).

For the TEA "Guidance on Parentally-Placed Private School Children with Disabilities" and "Frequently Asked Questions Proportionate Share/State Guidance on 89.1096 Private Schools," please see the website:
https://tea.texas.gov/sites/default/files/Parentally%20Placed%20Frequently%20Asked%20Questions_2018%20%282%29.pdf

*For the TEA “Guidance on Parentally-placed Private School Children with Disabilities” and
“Frequently Asked Questions [Proportionate Share]State Guidance on 89.1096 Private Schools” please see
the website:<http://portals.tea.state.tx.us/index2.aspx?id=2147492070>*

XII. RESIDENTIAL PLACEMENTS *(see also Section 5 Instructional Arrangements and Section 8 for Residential Facilities MOU))*

§300.104 Residential placement.

If placement in a public or private residential program is necessary to provide special education and related services to a child with a disability, the program, including non-medical care and room and board, must be at no cost to the parents of the child. (Authority: 20 U.S.C. 1412(a)(1), 1412(a)(10)(B))

See TEA website for PowerPoint on Residential Facilities if needed.

<http://tea.texas.gov/pmi/SPEDRFmonitoring/>

