

Section 4b. - ADDITIONAL IEP REQUIREMENTS

Table of Contents

Federal Regulations are in Black Bold print and also found in the Legal Framework

State Rules and Regs are in Regular Black Print and also found in the Legal Framework

Local Operating Procedures are in Blue Italic Print when needed to clarify implementation of the regulations.

I. Specific Areas to Address in the ARD/IEP:

- Accommodations – see Supplementary Aids and Services
- A. Adapted Physical Education (APE)
- B. Assistive Technology
- C. Deaf or Hard of Hearing
- D. Autism
- E. Deaf-Blindness
 - Early Childhood Special Education (find under letter O. formerly PPCD)
 - End of Course (find End-of-Course under letter S. STAAR)
- F. Extended School Year Services (ESY)
- G. Extracurricular Activities
- H. Functional Behavior Assessment (FBA) / Behavior Intervention Plan (BIP)
- I. Grading and Reporting
- Graduation (See Section 4a. VIII. F.)**
- J. Intensive Remediation
- K. Length of School Day
- L. LEP (Limited English Proficient)
- M. LRE (Least Restrictive Environment) (Placement – includes Daniel R.R.) (Access to General Curriculum)
- N. Physical Education (Fitnessgram).
- O. Early Childhood Special Education (ECSE)
- P. Prison
- Q. Reading Diagnosis (K-2) - Accelerated Instruction
- R. Regional Day School Program for the Deaf (RDSPD)
- S. STAAR and District-wide Assessments
 - *Trademark ® Notice STAAR® is a registered trademark TM of the Texas Education Agency (TEA)
- T. Accelerated Learning Committee/Accelerated Instruction Requirements
- U. Supplementary Aids and Services – Accommodations
- V. Tape or Video Recording
- W. TAKS (see S. STAAR)
- X. Texas School for the Deaf (TSD) and (TSBVI)
- Y. Transition Planning
- Z. Visual Impairment

II. Teacher Accessibility and Required Input

III. Special Education Teacher/Service Provider Responsibilities

- A. Initial
- B. Annual
- C. Brief/Revision ARD
- D. Transfer ARD

E. Standards-based IEP Development

IV. Parental Options for Student Retention

Section 4b. ADDITIONAL IEP INFORMATION

I. SPECIFIC AREAS TO ADDRESS IN THE ARD / IEP MEETING

A. Adapted Physical Education (APE)

§300.108 Physical education.

The TEA must ensure that public agencies in the State comply with the following:

- (a) General. Physical education services, specially designed if necessary, must be made available to every child with a disability receiving FAPE, unless the Tyler ISD enrolls children without disabilities and does not provide PE to children without disabilities in the same grades.
- (b) Regular physical education. Each child with a disability must be afforded the opportunity to participate in the regular physical education program available to nondisabled children unless--
 - (1) The child is enrolled full time in a separate facility; or
 - (2) The child needs specially designed physical education, as prescribed in the child's IEP.
- (c) Special physical education. If specially designed physical education is prescribed in a child's IEP, the public agency responsible for the education of that child must provide the services directly or make arrangements for those services to be provided through other public or private programs.
- (d) Education in separate facilities. The public agency responsible for the education of a child with a disability who is enrolled in a separate facility must ensure that the child receives appropriate physical education services in compliance with this section. (Authority: 20 U.S.C. 1412(a)(5)(A))

http://www.tahperd.org/web/Online/About_us/Adapted_Physical_Education.aspx

- 1. All students referred for an adapted physical education evaluation must have an identified disability.*
 - A. The request for adapted physical education first requires an evaluation be conducted. The evaluation request must be provided to the student's ARD/IEP committee.*
 - B. APE is provided upon consideration of a current evaluation and written report.*
- 2. If APE is provided, the goals and objectives will be approved by the ARD/IEP Committee.*
- 3. Parents will receive progress reports toward the APE goals/objectives in the same timeframe as determined by the ARD committee.*

B. Assistive Technology

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

(Authority: 20 U.S.C. 1401(1))

§300.6 Assistive technology service. Assistive technology service means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. The term includes--

- (a) The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;
- (b) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;
- (c) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
- (d) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
- (e) Training or technical assistance for a child with a disability or, if appropriate, that child's family; and

- (f) Training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of that child. (Authority: 20 U.S.C. 1401(2))

§300.105 Assistive technology; proper functioning of hearing aids.

- (a) Each public agency must ensure that assistive technology devices or assistive technology services, or both, as those terms are defined in §§300.5 and 300.6, respectively, are made available to a child with a disability if required as a part of the child's--
- (1) Special education under §300.39;
 - (2) Related services under §300.34; or
 - (3) Supplementary aids and services under §§300.42 and 300.114(a)(2)(ii).
- (b) On a case-by-case basis, the use of school-purchased assistive technology devices in a child's home or in other settings is required if the child's IEP Team determines that the child needs access to those devices in order to receive FAPE.

§300.324 Development, review, and revision of IEP

- (a) (2) **Consideration of special factors.** The IEP Team must--
- (v) Consider whether the child needs assistive technology devices and services.

Student use in a school setting of any assistive technology, including but not limited to 2 way listening/talking devices, GPS locators, etc., must be discussed at the IEP meeting. All variables to the use of such devices will be considered. Federal information privacy laws require consideration of other student's rights before any auditory device may be used in a school setting. Discussion of assistive technology needs of the student will be documented on district forms and filed by the educational diagnostician/LSSP in the student's special education eligibility folder.

Click link to review the Assistive Technology Region 4 ESC Leadership Function/Project which TEA supports.
<http://www.texasat.net/>

The decentralized function of TEA for assistive technology is assigned to Region 4 ESC. They provide statewide leadership through the Texas Assistive Technology Network (TATN). Online training modules are provided in a variety of areas including evaluation, reading, writing, etc.

C. Deaf or Hard of Hearing

§300.324 Development, review, and revision of IEP

- (a) (2) **Consideration of special factors.** The IEP Team must--
- (iv) Consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and
 - (v) Consider whether the child needs assistive technology devices and services.

Opportunities for direct communications with peers and professional personnel in the child's language and communication mode will be specifically addressed in the ARD/IEP Committee meeting. For a student who is deaf or hard of hearing, the ARD will consider assistive technology needs. Discussion of needs of the student in this area will be documented on district forms and filed by the education diagnostician/LSSP in the student's special education eligibility folder.

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.

TEC §29.301. Definitions. In this subchapter:

- (1) "Admission, review, and dismissal committee" means the committee required by State Board of Education rules to develop the individualized education program required by the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.) for any student needing special education.
- (2) "American Sign Language" means a complete, visual, and manual language with its own grammar and syntax.
- (3) "English" includes writing, reading, speech, speech reading, cued speech, and any English-based manual-visual method of communication.
- (4) "Unique communication mode" or "appropriate language mode" includes English and American Sign Language.

TEC § 29.302. Findings.

- (a) The legislature finds that it is essential for the well-being and growth of students who are deaf or hard of hearing that educational programs recognize the unique nature of deafness and the hard-of-hearing condition and ensure that all students who are deaf or hard of hearing have appropriate, ongoing, and fully accessible educational opportunities. Students who are deaf or hard of hearing may choose to use a variety of language modes and languages, including oral and manual-visual language. Students who are deaf may choose to communicate through the language of the deaf community, American Sign Language, or through any of a number of English-based manual-visual languages. Students who are hard of hearing may choose to use spoken and written English, including speech reading or lip reading, together with amplification instruments, such as hearing aids, cochlear implants, or assistive listening systems, to communicate with the hearing population. Students who are deaf or hard of hearing may choose to use a combination of oral or manual-visual language systems, including cued speech, manual signed systems, and American Sign Language, or may rely exclusively on the oral-aural language of their choice. Students who are deaf or hard of hearing also may use other technologies to enhance language learning.
- (b) The legislature recognizes that students who are deaf or hard of hearing should have the opportunity to develop proficiency in English, including oral or manual-visual methods of communication, and American Sign Language.

TEC §29.303. Unique Communication. Students who are deaf or hard of hearing must have an education in which their unique communication mode is respected, used, and developed to an appropriate level of proficiency. Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

TEC §29.305. Language Mode Peers.

If practicable and not in conflict with any admission, review, and dismissal committee recommendations, a student who is deaf or hard of hearing must have an education in the company of a sufficient number of peers using the same language mode and with whom the student can communicate directly. If practicable, the peers must be of the same or approximately the same age and ability. Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

TEC §29.306. Familial and Advocate Involvement. A student who is deaf or hard of hearing must have an education in which the student's parents or legal guardians and advocates for the student's parents or legal guardians are involved in determining the extent, content, and purpose of programs. Other individuals, including individuals who are deaf or hard of hearing, may be involved at the discretion of parents or legal guardians or the Tyler ISD.

TEC §29.307. Role Models. A student who is deaf or hard of hearing shall be given the opportunity to be exposed to deaf or hard-of-hearing role models.

TEC §29.308. Regional Programs. Regional programs for students who are deaf or hard of hearing shall meet the unique communication needs of students who can benefit from those programs. Appropriate funding for those programs shall be consistent with federal and state law, and money appropriated to school districts for educational programs and services for students who are deaf or hard of hearing may not be allocated or used for any other program or service.

TEC §29.310. Procedures and Materials for Assessment and Placement

- (a) Procedures and materials for assessment and placement of students who are deaf or hard of hearing shall be selected and administered so as not to be racially, culturally, or sexually discriminatory.
 - (b) A single assessment instrument may not be the sole criterion for determining the placement of a student.
 - (c) The procedures and materials for the assessment and placement of a student who is deaf or hard of hearing shall be in the student's preferred mode of communication. All other procedures and materials used with any student who is deaf or hard of hearing and who has limited English proficiency shall be in the student's preferred mode of communication.
- Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

TEC §29.311. Educational Programs.

- (a) Educational programs for students who are deaf or hard of hearing must be coordinated with other public and private agencies, including:
 - (1) agencies operating early childhood intervention programs;
 - (2) preschools;
 - (3) agencies operating child development programs;
 - (4) nonpublic, nonsectarian schools;
 - (5) agencies operating regional occupational centers and programs; and
 - (6) the Texas School for the Deaf.
- (b) As appropriate, the programs must also be coordinated with postsecondary and adult programs for persons who are deaf or hard of hearing.

TEC §29.312. Psychological Counseling Services. Appropriate psychological counseling services for a student who is deaf or hard of hearing shall be made available at the student's school site in the student's primary mode of communication. In the case of a student who is hard of hearing, appropriate auditory systems to enhance oral communication shall be used if required by the student's admission, review, and dismissal committee.

TEC §29.313. Evaluation of Programs. Each school district must provide continuous evaluation of the effectiveness of programs of the district for students who are deaf or hard of hearing. If practicable, evaluations shall follow program excellence indicators established by the TEA. Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

TEC §29.314. Transition into Regular Class.

In addition to satisfying requirements of the admission, review, and dismissal committee and to satisfying requirements under state and federal law for vocational training, the Tyler ISD shall develop and implement a transition plan for the transition of a student who is deaf or hard of hearing into a regular class program if the student is to be transferred from a special class or center or nonpublic, nonsectarian school into a regular class in a public school for any part of the school day. The transition plan must provide for activities:

- (1) to integrate the student into the regular education program and specify the nature of each activity and the time spent on the activity each day; and
- (2) to support the transition of the student from the special education program into the regular education program. Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

TEC §38.033. SCHOOL HEALTH AND RELATED SERVICES PROGRAM; ELIGIBILITY FOR AUDIOLOGY SERVICES.

- (a) A child is eligible to receive audiology services provided under the school health and related services program if the child:
 - (1) is 20 years of age or younger;
 - (2) has a disability or chronic medical condition;
 - (3) is eligible for Medicaid benefits; and
 - (4) has been prescribed the services under:
 - (A) an individualized education program created under the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.); or
 - (B) a plan created under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794).
- (b) The Health and Human Services Commission shall provide reimbursement to a provider under the school health and related services program for audiology services provided to a child who is eligible for the services under Subsection (a).

- (c) The executive commissioner of the Health and Human Services Commission, in consultation with the agency, shall adopt rules necessary to implement this section.

SECTION 2. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

TEC §29.316 LANGUAGE ACQUISITION.

(a) In this section:

- (1) "Center" means the Educational Resource Center on Deafness at the Texas School for the Deaf.
- (2) "Division" means the Division for Early Childhood Intervention Services of the Health and Human Services Commission.
- (3) "Language acquisition" includes expressive and receptive language acquisition and literacy development in English, American Sign Language, or both, or, if applicable, in another language primarily used by a child's parent or guardian, and is separate from any modality used to communicate in the applicable language or languages.

(b) The commissioner and the executive commissioner of the Health and Human Services Commission jointly shall ensure that the language acquisition of each child eight years of age or younger who is deaf or hard of hearing is regularly assessed using a tool or assessment determined to be valid and reliable as provided by Subsection (d).

(c) Not later than August 31 of each year, the agency, the division, and the center jointly shall prepare and post on the agency's, the division's, and the center's respective Internet websites a report on the language acquisition of children eight years of age or younger who are deaf or hard of hearing. The report must:

(1) include:

- (A) existing data reported in compliance with federal law regarding children with disabilities; and
- (B) information relating to the language acquisition of children who are deaf or hard of hearing and also have other disabilities;

(2) state for each child:

- (A) the instructional arrangement used with the child, as described by Section 42.151, including the time the child spends in a mainstream instructional arrangement;
- (B) the specific language acquisition services provided to the child, including:
 - (i) the time spent providing those services; and
 - (ii) a description of any hearing amplification used in the delivery of those services, including:
 - (a) the type of hearing amplification used;
 - (b) the period of time in which the child has had access to the hearing amplification; and
 - (c) the average amount of time the child uses the hearing amplification each day;
- (C) the tools or assessments used to assess the child's language acquisition and the results obtained;
- (D) the preferred unique communication mode used by the child at home; and
- (E) the child's age, race, and gender, the age at which the child was identified as being deaf or hard of hearing, and any other relevant demographic information the commissioner determines to likely be correlated with or have an impact on the child's language acquisition;

(3) compare progress in English literacy made by children who are deaf or hard of hearing to progress in that subject made by children of the same age who are not deaf or hard of hearing, by appropriate age range; and

(4) be redacted as necessary to comply with state and federal law regarding the confidentiality of student medical or educational information.

(d) The commissioner, the executive commissioner of the Health and Human Services Commission, and the center shall enter into a memorandum of understanding regarding:

- (1) the identification of experts in deaf education; and
- (2) the determination, in consultation with those experts, of the tools and assessments that are valid and reliable, in both content and administration, for use in assessing the language acquisition of children eight years of age or younger who are deaf or hard of hearing.

(e) The agency shall use existing collected data and data collected and transferred from the Department of State Health Services and the Health and Human Services Commission, as agreed upon in the memorandum of understanding, for the report under this section.

(f) The commissioner and the executive commissioner of the Health and Human Services Commission jointly shall adopt rules as necessary to implement this section, including rules for:

- (1) assigning each child eight years of age or younger who is deaf or hard of hearing a unique identification number for purposes of the report required under Subsection (c) and to enable the tracking of the child's language acquisition, and factors affecting the child's language acquisition, over time; and
- (2) implementing this section in a manner that complies with federal law regarding confidentiality of student medical or educational information, including the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Section 1320d et seq.) and the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g), and any state law relating to the privacy of student information.

SECTION 3.

- (b) Not later than December 1, 2019, the commissioner of education, the executive commissioner of the Health and Human Services Commission, and the center jointly shall determine the tools and assessments that are valid and reliable for use in assessing the language acquisition of children eight years of age or younger who are deaf or hard of hearing as required under Section 29.316(d), Education Code, as added by this Act.

SECTION 4. The Texas Education Agency and the Health and Human Services Commission are required to implement Section 29.316, Education Code, as added by this Act, only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the agency and commission may, but are not required to, implement Section 29.316, Education Code, as added by this Act, using other appropriations available for the purpose.

SECTION 1. Section 392.002, Government Code, is amended by adding Subsection (b-1) to read as follows:

- (b-1) In addition to the terms and phrases listed in Subsection (a), the legislature and the Texas Legislative Council are directed to avoid using in any new statute or resolution "hearing impaired," "auditory impairment," and "speech impaired" in reference to a deaf or hard of hearing person, and the legislature and the Texas Legislative Council are directed to replace, when enacting or revising a statute or resolution, those phrases with "deaf" or "hard of hearing," as appropriate.

D. Autism

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

- (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.

Click link to review the Region 13 ESC Autism Statewide Leadership Function/Project which TEA supports.

<http://www.txautism.net/evaluations>

Additional resources available from the Texas Statewide Leadership for Autism Training:

<http://www.txautism.net/index.html>

Methodologies

Educational programming methodologies are not the responsibility of the ARD/IEP Committee. Appropriate instructional strategies and accommodations recommended by the ARD/IEP committee will be documented in the ARD/IEP. Special Education classroom teachers will have appropriate training. Students with autism may benefit from applied behavioral analysis methodologies which is a systematic approach to the assessment and evaluation of observable behavior, and the application of interventions that alter behavior. Data collection and analysis of progress is a key component in all special education classes in Tyler ISD.

The following description of behavioral interventions/techniques is not an exhaustive one, but rather an overview of the most widespread techniques across the behavioral models.

Target Behaviors : *All behavioral programs are based on the reinforcement of target behaviors.*

Therefore, the identification of reinforcers is one of the most important components of any applied behavioral analysis program. Slow progress and problem behavior are often caused by a failure to identify reinforcers and/or the small number of reinforcers delivered during a training session.

Positive Reinforcement : *Positive reinforcement is one of the basic concepts underlying all applied behavioral analysis models. Positive reinforcement has been used to establish numerous behaviors in the area of self-care, language and communication, academic performance, vocational skills, as well as health, and safety.*

Extinction : *Extinction is the other basic concept underlying all behavioral analysis models. Extinction is defined as stopping the reinforcement (or escape) contingency for a previously reinforced response. Extinction results in a decrease in the frequency of the target response. Extinction is often combined with reinforcement. Then, it is called differential reinforcement—the reinforcement of a target response selected for acquisition and the extinction of another response.*

Shaping and Chaining : *Shaping is a special type of differential reinforcement, which involves (a) successive instances of reinforcement of responses that more and more closely resemble the desired response and (b) extinction of responses that are further away from the terminal target response.*

Chaining consists of teaching a sequence of responses before the reinforcer is delivered. The desired behavior is broken down into small, teachable steps.

Prompting and Fading: Prompts are techniques for establishing behaviors or bringing behaviors under the appropriate stimulus control. The prompt (a verbal, visual, or tactile stimulus) increases the probability of the correct response.

Discrete-Trial Training: DTT model advocates an intensive treatment (40 hours per week) that establishes skills in the context of a structured environment controlled by the teacher, with a large amount of trials, and with reinforcers that are not specific to the on-going activity.

Naturalistic Treatments: Natural Environment Training model or NET (without addressing the differences among these approaches). The common premise is that the target behaviors should be taught in the child's environment, in a conversational or play context, with interspersed trials, and reinforcers specific to the child's current interest.

TEC §25.087 Amended by HB 192, 2009, adds §25.087(b-3)

Summary : School districts are currently required to excuse certain temporary absences for appointments with health care professionals. New Subsection (b-3) specifies that such absences include the temporary absence of a student diagnosed with autism spectrum disorder for an appointment with a health care practitioner, as described by §1355.015(b), Insurance Code, to receive a generally recognized service for persons with autism spectrum disorder, including applied behavioral analysis, speech therapy, and occupational therapy. The text of §1355.015(b), Insurance Code, is available at:

<http://www.statutes.legis.state.tx.us/SOTWDocs/IN/word/IN.1355.doc>

The Tyler ISD will request information from the parent in order to document the request for an excused absence does meet the requirements. The following must be documented:

- a. specific service(s) student is receiving;*
- b. credentials of the health care practitioner;*
- c. verification of attendance with the health care practitioner.*

When a student attends services related to the diagnosis of AU, Tyler ISD will request that the parent provide documentation from the service provider to determine if the absence meets state requirements.

The following must be included in the documentation:

- 1. specific service(s) student is receiving;*
- 2. credentials of the health care practitioner;*
- 3. verification of attendance with the health care practitioner.*

E. Deaf-Blindness (See C. Deaf or Hard of Hearing and Z. Visual Impairment - also for TSD/TSBVI see letter X.)

F. Extended School Year Services (ESY)

§300.106 Extended school year services.

(a) General.

- (1) The Tyler ISD must ensure that extended school year services are available as necessary to provide FAPE, consistent with paragraph (a)(2) of this section.**
 - (2) Extended school year services must be provided only if a child's IEP team determines, on an individual basis, in accordance with §§300.320 through 300.324, that the services are necessary for the provision of FAPE to the child. (§§300.320 Definition of IEP, .321 IEP Team, .322 Parent Participation, .323 when IEPs must be in effect, .324 Development of IEP)**
 - (3) In implementing the requirements of this section, a public agency may not--**
 - (i) Limit extended school year services to particular categories of disability; or**
 - (ii) Unilaterally limit the type, amount, or duration of those services.**
- (b) Definition.** As used in this section, the term extended school year services means special education and related services that--
- (1) Are provided to a child with a disability--**

- (i) Beyond the normal school year of the Tyler ISD;**
 - (ii) In accordance with the child's IEP; and**
 - (iii) At no cost to the parents of the child; and**
- (2) Meet the standards of the SEA.**

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

- (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.

TAC §89.1065. Extended School Year Services (ESY Services).

Extended school year (ESY) services are defined as individualized instructional programs beyond the regular school year for eligible students with disabilities.

- (1) The need for ESY services must be determined on an individual student basis by the admission, review, and dismissal (ARD) committee in accordance with 34 Code of Federal Regulations (CFR), §300.106, and the provisions of this section. In determining the need for and in providing ESY services, the Tyler ISD may not:
 - (A) limit ESY services to particular categories of disability; or
 - (B) unilaterally limit the type, amount, or duration of ESY services.
- (2) The need for ESY services must be documented from formal and/or informal evaluations provided by the district or the parents. The documentation must demonstrate that in one or more critical areas addressed in the current individualized education program (IEP) goals and objectives, the student has exhibited, or reasonably may be expected to exhibit, severe or substantial regression that cannot be recouped within a reasonable period of time. Severe or substantial regression means that the student has been, or will be, unable to maintain one or more acquired critical skills in the absence of ESY services.
- (3) The reasonable period of time for recoupment of acquired critical skills must be determined on the basis of needs identified in each student's IEP. If the loss of acquired critical skills would be particularly severe or substantial, or if such loss results, or reasonably may be expected to result, in immediate physical harm to the student or to others, ESY services may be justified without consideration of the period of time for recoupment of such skills. In any case, the period of time for recoupment must not exceed eight weeks.
- (4) A skill is critical when the loss of that skill results, or is reasonably expected to result, in any of the following occurrences during the first eight weeks of the next regular school year:
 - (A) placement in a more restrictive instructional arrangement;
 - (B) significant loss of acquired skills necessary for the student to appropriately progress in the general curriculum;
 - (C) significant loss of self-sufficiency in self-help skill areas as evidenced by an increase in the number of direct service staff and/or amount of time required to provide special education or related services;
 - (D) loss of access to community-based independent living skills instruction or an independent living environment provided by noneducational sources as a result of regression in skills; or
 - (E) loss of access to on-the-job training or productive employment as a result of regression in skills.
- (5) If the district does not propose ESY services for discussion at the annual review of a student's IEP, the parent may request that the ARD committee discuss ESY services pursuant to 34 CFR, §300.321.
- (6) If a student for whom ESY services were considered and rejected loses critical skills because of the decision not to provide ESY services, and if those skills are not regained after the reasonable period of time for recoupment, the ARD committee must reconsider the current IEP if the student's loss of critical skills interferes with the implementation of the student's IEP.
- (7) For students enrolling in a district during the school year, information obtained from the prior school district as well as information collected during the current year may be used to determine the need for ESY services.
- (8) The provision of ESY services is limited to the educational needs of the student and must not supplant or limit the responsibility of other public agencies to continue to provide care and treatment services pursuant to policy or practice, even when those services are similar to, or the same as, the services addressed in the student's IEP. No student will be denied ESY services because the student receives care and treatment services under the auspices of other agencies.

- (9) Districts are not eligible for reimbursement for ESY services provided to students for reasons other than those set forth in this section.

The following guidelines will be used to assist in identifying students who may need ESY services:

- 1. At the beginning of each school year, teachers will identify students who have experienced regression on specific IEP objectives by comparing the IEP reviews of the last six weeks of the previous school year with the student's mastery of those IEP objectives at the beginning of the school year, reteaching as necessary to recoup skills. This process applies to:*
 - a. students who did not receive ESY services, and*
 - b. students who did receive ESY services.*
- 2. After the IEP review at the end of the first eight weeks of the school year, teachers will document students who have not, even after reteaching during the first eight weeks, recouped those objectives. This regression will be reviewed by the teacher to determine whether the regression is severe and/or substantial.*
- 3. Throughout the school year, after holiday breaks, etc., keep documentation (student work, anecdotal records, charting, etc.) on any student experiencing regression on critical IEP skills that you will be recommending ESY services. Report information you feel pertinent to your supervisor.*
- 4. The ARD/IEP committee will consider the need for ESY services for:*
 - a. students who appear to have experienced severe and/or substantial regression - recoupment problems during this data gathering,*
 - b. other students referred by school personnel on an individual basis for consideration for ESY services, and*
 - c. students referred by parents or guardians for ESY services consideration.*
- 5. The ARD/IEP committee will determine the appropriate IEP goals and objectives from the current IEP and amount of services needed to prevent severe/substantial regression.*
- 6. The IEPs of students receiving ESY services will be reviewed at the beginning of the fall term to determine whether ESY services provided were appropriate to prevent regression, or if progress was made. (Follow steps 1 - 5 above)*
- 7. For students who transfer into the Tyler ISD in the spring semester and data is not provided, attempts will be made to contact the student's teacher from the sending district to obtain documentation of regression. The FIE will be one source of data and the student's teacher will begin documentation. An IEP meeting will be convened if ESY should need to be discussed. For ECI students new to the district, the staff will use all existing data to analyze regression recoupment of the goals and objectives on the IEP or the IFSP.*

Additional ESY Considerations

Also see TEA website: <https://tea.texas.gov/academics/special-student-populations/special-education/programs-and-services/extended-school-year>

TAC §89.1011(d). Full Individual and Initial Evaluation. 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.

G. Extracurricular Activities

§300.107 Nonacademic services.

The State must ensure the following:

- (a) Each public agency must take steps, including the provision of supplementary aids and services determined appropriate and necessary by the child's IEP Team, to provide nonacademic and extracurricular services and activities in the manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities.**

- (b) Nonacademic and extracurricular services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the public agency, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the public agency and assistance in making outside employment available.
(Authority: 20 U.S.C. 1412(a)(1))

§300.117 Nonacademic settings.

In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in §300.107, each public agency must ensure that each child with a disability participates with nondisabled children in those services and activities to the maximum extent appropriate to the needs of that child. The Tyler ISD must ensure that each child with a disability has the supplementary aids and services determined by the child's IEP Team to be appropriate and necessary for the child to participate in nonacademic settings. (Authority: 20 U.S.C. 1412(a)(5))

§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--
- (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 nondisabled children in the activities described in this section;

TEC §. 33.081. Extracurricular Activities.

- (e) Suspension of a student with a disability that significantly interferes with the student's ability to meet regular academic standards must be based on the student's failure to meet the requirements of the student's individualized education program. The determination of whether a disability significantly interferes with a student's ability to meet regular academic standards must be made by the student's admission, review, and dismissal committee. For purposes of this subsection, "student with a disability" means a student who is eligible for a district's special education program under Section 29.003(b).
- (f) A student suspended under this section may practice or rehearse with other students for an extracurricular activity but may not participate in a competition or other public performance.

H. FBA (Functional Behavior Assessment) / BIP (Behavior Intervention Plan)

(see also Section 2-FIE and Section 6-Discipline)

§300.324 Development, review, and revision of IEP

- (a) (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.

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

- (k) All disciplinary actions regarding students with disabilities must be determined in accordance with 34 CFR, §§300.101(a) and 300.530-300.536 (relating to disciplinary actions and procedures), the TEC, Chapter 37, Subchapter A (Alternative Settings for Behavior Management), and §89.1053 of this title (relating to Procedures for Use of Restraint and Time-Out).

TEC §29.005

- (g) The committee may determine that a behavior improvement plan or a behavioral intervention plan is appropriate for a student for whom the committee has developed an individualized education program. If the committee makes that determination, the behavior improvement plan or the behavioral intervention plan shall be included as part of the student's individualized education program and provided to each teacher with responsibility for educating the student.
- (h) If a behavior improvement plan or a behavioral intervention plan is included as part of a student's individualized education program under Subsection (g), the committee shall review the plan at least annually and more frequently if appropriate to address:
 - (1) changes in a student's circumstances that may impact the student's behavior, such as:
 - (A) the placement of the student in a different educational setting;
 - (B) an increase or persistence in disciplinary actions taken regarding the student for similar types of behavioral incidents;
 - (C) a pattern of unexcused absences; or
 - (D) an unauthorized unsupervised departure from an educational setting; or
 - (2) the safety of the student or others.

TAC §89.1055 Content of the IEP

- (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.

Addressing the continuum of behavioral needs: Student special education needs will be addressed in the Least Restrictive Environment appropriate for each individual as determined by the ARD/IEP Committee. Social/Emotional Goals/Objectives would be a consideration. If the student exhibits behavior that is interfering with learning or the learning of others, the ARD/IEP Committee will consider completing a Functional Behavior Assessment (FBA) and develop a Behavioral Intervention Plan (BIP) if needed. In addition, Social/Emotional Goals/Objectives may be appropriate. For more information see Section 2-FIE for development of the FBA and also Section 6 of this document for more information on Discipline.

Click link to review the Region 4 ESC Behavior Support Initiative Statewide Function which TEA supports.
<http://www.txbehaviorsupport.org/>

I. Grading and Reporting

TEC §28.0214. Finality of Grade.

- (a) An examination or course grade issued by a classroom teacher is final and may not be changed unless the grade is arbitrary, erroneous, or not consistent with the Tyler ISD grading policy applicable to the grade, as determined by the board of trustees of the school district in which the teacher is employed.
- (b) A determination by a school district board of trustees under Subsection (a) is not subject to appeal. This subsection does not prohibit an appeal related to a student's eligibility to participate in extracurricular activities under Section 33.081.

§300.320 Definition of individualized education program.

- (a) (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;**

TEC §28.0216 - District Grading Policy

Requires that school districts adopt a grading policy before the start of each school year. The school district policy:

- (1) must require a classroom teacher to assign a grade that reflects the student's relative mastery of an assignment;

- (2) may not require a classroom teacher to assign a minimum grade for an assignment without regard for the student's quality of work; and
- (3) may allow a student a reasonable opportunity to make up or redo a class assignment or examination for which the student received a failing grade.

Each student receiving special education instruction has an individual education program (IEP) which addresses the student's educational needs, goals and objectives. The district grading policy will be followed and discussed during the ARD/IEP meeting.

- 1. The special education resource and self-contained teachers will utilize a lesson plan which reflects the TEKS based on the IEP and Standards Based Goals. Supporting documentation of student grades should be available.*
- 2. Care should be taken to ensure that goals are challenging and based on student academic achievement and functional performance. The IEP may include accommodations in curriculum, methods, pacing and materials, as determined appropriate by the ARD committee.*
- 3. If the student with disabilities fails to make progress on the IEP, the responsible teacher will review the IEP for appropriateness of goals/objectives, instructional materials and methods. The teacher must document the efforts made to try to help the student achieve success.*
 - a. If a student with disabilities is not progressing toward mastery of the goal by the annual ARD, the ARD/IEP committee must convene to discuss the student's needs and make recommendations to assist the student.*
 - b. An ARD/IEP committee will meet if the student is not attending school (i.e., absences or tardies) to discuss the appropriateness of the IEP, need for additional testing, and pursuit of compulsory attendance, if appropriate.*
- 4. The grading of a special education student in a general education classroom is based upon the district grading policy and the ARD/IEP committee recommends accommodations of pacing, methods, and materials needed. When accommodations have been recommended by the ARD/IEP committee, the special education teacher is responsible for:*
 - a. informing the general education teacher of the recommended accommodations;*
 - b. providing other information concerning the student's achievement and functioning levels, learning style and behavioral needs;*
 - c. collaborating with the general education teacher on a scheduled basis, as recommended by the ARD/IEP committee.*
- 5. Unless the ARD/IEP committee designates otherwise,*
 - a. when a special education student is enrolled in the homebound program, the teacher of record will be responsible for grading all assignments and recording grades on the report card and permanent record for all subject areas. IEP Progress Reports will be updated by the student's special education case manager.*

J. Intensive Remediation

TEC §28.0213. Intensive Program of Instruction.

- (a) The Tyler ISD shall offer an intensive program of instruction to a student who does not perform satisfactorily on an assessment instrument administered under Subchapter B, Chapter 39.
- (b) The Tyler ISD shall design the intensive program of instruction described by Subsection (a) to:
 - (1) enable the student to:
 - (A) to the extent practicable, perform at the student's grade level at the conclusion of the next regular school term; or
 - (B) attain a standard of annual growth specified by the school district and reported by the district to the TEA; and
 - (2) if applicable, carry out the purposes of Section 28.0211.
- (c) The Tyler ISD shall use funds appropriated by the legislature for an intensive program of instruction to plan and implement intensive instruction and other activities aimed at helping a student satisfy state and local high school graduation requirements. The commissioner shall distribute funds to districts that implement a program under this section based on the number of students identified by the district who:
 - (1) do not perform satisfactorily on an assessment instrument administered under Subchapter B, Chapter 39;
 - or

- (2) are not likely to receive a high school diploma before the fifth school year following the student's enrollment in grade nine, as determined by the district.
- (d) A school district's determination of the appropriateness of a program for a student under this section is final and does not create a cause of action.
- (e) For a student in a special education program under Subchapter A, Chapter 29, who does not perform satisfactorily on an assessment instrument administered under Section 39.023(a), (b), or (c), the student's admission, review, and dismissal committee shall design the program to:
 - (1) enable the student to attain a standard of annual growth on the basis of the student's individualized education program; and
 - (2) if applicable, carry out the purposes of Section 28.0211.

K. Length of School Day

TAC §89.1075. General Program Requirements and Local District Procedures.

- (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.
Any variation in the length of school day will be thoroughly documented in the IEP and the specific plan for returning the student to a normal school day (the same as nondisabled peers) will be developed in the ARD meeting.

L. LEP (Limited English Proficient) – ELL (English Learners)

<https://tea.texas.gov/academics/special-student-populations/english-learner-support/bilingual-and-english-as-a-second-language-education-programs>

§300.324 Development, review, and revision of IEP

- (a) (2) **Consideration of special factors. The IEP Team must--**
 - (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;**

TEC §101.1007. Assessment Provisions for Graduation.

- (a) Although an English language learner (ELL) shall not be exempt from taking an end-of-course assessment for reasons associated with limited English proficiency or inadequate schooling outside the United States, special provisions under subsection (b) of this section shall apply to an ELL enrolled in an English I or II course or an English for Speakers of Other Languages (ESOL) I or II course if the ELL:
 - (1) has been enrolled in U.S. schools for three school years or less or qualifies as an unschooled asylee or refugee enrolled in U.S. schools for five school years or less; and
 - (2) the student has not yet demonstrated English language proficiency in reading as determined by the assessment under §101.1003 of this title (relating to English Language Proficiency Assessments).
- (b) Concerning the applicable English I assessment in which the student is enrolled, an ELL who meets the eligibility criteria in subsection (a) of this section shall not be required to retake the assessment each time it is administered if the student passes the course but fails to achieve the passing standard on the assessment.

TEC §101.1005. Assessments of Achievement in Academic Content Areas and Courses.

- (a) The language proficiency assessment committee (LPAC) shall select the appropriate assessment option for each English language learner (ELL) in accordance with this subchapter. For each ELL who receives special education services, the student's admission, review, and dismissal (ARD) committee in conjunction with the student's LPAC shall select the appropriate assessments. The LPAC shall document the decisions and justifications in the student's permanent record file, and the ARD committee shall document the decisions and justifications in the student's individualized education program. Assessment decisions shall be made on an individual student basis and in accordance with administrative procedures established by the Texas Education Agency (TEA).
- (b) Except as provided by subsection (c) of this section an ELL shall participate in the Grades 3-8 and end-of-course assessments as required by the Texas Education Code (TEC), §39.023(c). Except as specified in paragraphs (1)-(3) of this subsection, an ELL shall be administered the general form of the English-version state assessment.

- (1) A Spanish-speaking ELL in Grades 3-5 may be administered the state's Spanish-version assessment if an assessment in Spanish will provide the most appropriate measure of the student's academic progress.
 - (2) An ELL in Grade 3 or higher may be administered the linguistically accommodated English version of the state's mathematics, science, or social studies assessment if:
 - (A) a Spanish-version assessment does not exist or is not the most appropriate measure of the student's academic progress;
 - (B) the student has not yet demonstrated English language proficiency in reading as determined by the assessment under §101.1003 of this title (relating to English Language Proficiency Assessments); and
 - (C) the student has been enrolled in U.S. schools for three school years or less or qualifies as an unschooled asylee or refugee enrolled in U.S. schools for five school years or less.
 - (3) In certain cases, an ELL who receives special education services may, as a result of his or her particular disabling condition, qualify to be administered an alternative assessment instrument based on alternative achievement standards.
- (c) In accordance with the TEC, §39.027(a-1), an unschooled asylee or refugee who meets the criteria of paragraphs (1)-(3) of this subsection shall be granted an exemption from an administration of an assessment instrument under the TEC, §39.023(a), (b), or (l). This exemption will only apply during the school year an unschooled asylee or refugee is first enrolled in a US public school. An unschooled asylee or refugee is a student who:
- (1) enrolled in a U.S. school as an asylee as defined by 45 Code of Federal Regulations §400.41 or a refugee as defined by 8 United States Code §1101;
 - (2) has a Form I-94 Arrival/Departure record, or a successor document, issued by the United States Citizenship and Immigration Services that is stamped with "Asylee," "Refugee," or "Asylum"; and
 - (3) as a result of inadequate schooling outside the United States, lacks the necessary foundation in the essential knowledge and skills of the curriculum prescribed under the TEC, §28.002, as determined by the LPAC.
- (d) For purposes of LPAC determinations in subsection (c) of this section, inadequate schooling outside the United States is defined as little or no formal schooling outside the United States such that the asylee or refugee lacked basic literacy in his or her primary language upon enrollment in school in the United States.
- (e) The LPAC shall, in conjunction with the ARD committee if the ELL is receiving special education services under the TEC, Chapter 29, Subchapter A, determine and document any allowable testing accommodations for assessments under this section in accordance with administrative procedures established by the TEA.
- (f) An ELL whose parent or guardian has declined the services required by the TEC, Chapter 29, Subchapter B, is not eligible for special assessment, accommodation, or accountability provisions made available to ELLs on the basis of limited English proficiency.
- (g) School districts may administer the assessment of academic skills in Spanish to a student who is not identified as limited English proficient but who participates in a bilingual program if the LPAC determines the assessment in Spanish to be the most appropriate measure of the student's academic progress.
- (h) Policies for including the academic performance of an ELL in state and federal accountability measures, which will take into account the second language acquisition developmental needs of this student population, shall be delineated in the official TEA publications required by Chapter 97 of this title (relating to Planning and Accountability).

TAC §89.1230. Eligible Students with Disabilities.

- (a) School districts shall implement assessment procedures that differentiate between language proficiency and ~~disabling~~ ~~handicapping~~ conditions in accordance with Subchapter AA of this chapter (relating to Commissioner's Rules Concerning Special Education Services) and shall establish placement procedures that ensure that placement in a bilingual education or English as a second language program is not refused solely because the student has a disability.
- (b) ~~Language proficiency assessment~~ ~~[Admission, review, and dismissal]~~ committee members shall meet in conjunction with ~~admission, review, and dismissal~~ ~~[language proficiency assessment]~~ committee members to review ~~and provide recommendations with regard to~~ the educational needs of each English ~~[language]~~ learner who qualifies for services in the special education program.

(See also Home Language Survey/LPAC in Sect. 1-Referral and in Sect. 2-FIE) To view all English language learner (ELL) resources, visit the [ELL webpage](#), [LPAC Resources](#), [ARD](#) and [LPAC Collaboration](#).

TAC §89.1226 Testing and Classification of Students, Beginning with School Year 2019-2020

- (l) For English learners who are also eligible for special education services, the standardized process for English learner program exit is followed in accordance with applicable provisions of subsection (i) of this section. However, annual meetings to review student progress and make recommendations for program exit must be made in all instances by the language proficiency assessment committee in conjunction with the ARD committee in accordance with §89.1230(b) of this title (relating to Eligible Students with Disabilities). Additionally, the language proficiency committee in conjunction with the ARD committee shall implement assessment procedures that differentiate between language proficiency and disabling conditions in accordance with §89.1230(a) of this title.
- (m) For an English learner with significant cognitive disabilities, the language proficiency assessment committee in conjunction with the ARD committee may determine that the state's English language proficiency assessment for exit is not appropriate because of the nature of the student's disabling condition. In these cases, the language proficiency assessment committee in conjunction with the ARD committee may recommend that the student take the state's alternate English language proficiency assessment and shall determine an appropriate performance standard requirement for exit by language domain under subsection (i)(1) of this section;

For the full text, see <http://ritter.tea.state.tx.us/rules/tac/chapter089/ch089bb.html>

The Executive Director of Student Support and the Bilingual Director will work closely together to ensure that campus staff has training and materials needed to make decisions in the ARD/IEP Committee. The LPAC and ARD/IEP will follow recommendations from the TEA website documents including the [STAAR Decision-Making Guide for LPACs](#) and the [TAKS Decision-Making Guide for LPACs](#).

Because of the transition to the new State of Texas Assessments of Academic Readiness (STAAR) assessment program, the TAKS program for this school year includes only:

- *exit level TAKS and TAKS (Accommodated).*

Provisions for ELLs Receiving Special Education Services. When an ELL receives special education services, the student's ARD committee is required to work in conjunction with the student's LPAC to ensure that issues related to both the student's particular disability and English language proficiency level are carefully considered when assessment decisions are made. If the student is not eligible for an exit level LEP postponement, the STAAR requirements for the student are the same as for other students receiving special education services. LPACs must maintain documentation of all TEA student assessment and accommodation decisions in the student's permanent record file, and the ARD committee must document the information in the student's IEP.

Note that factors related to how much English the student knows (language proficiency in English) must not be used in determining the appropriateness of an assessment. The selection of the appropriate type of assessment is related to the student's disabling condition, not acquisition of English as a second language.

Decisions regarding exemptions of certain qualifying ELL students will be made following the state criteria.
<http://tea.texas.gov/student.assessment/ell/lpac/> or

Limited English Proficient (LEP) Students with Disabilities

For all LEP (Limited English Proficient) Students:

- A. The LPAC report, as well as the ILP, must have been completed within the past year for each Annual ARD/IEP to review.*
- B. The ARD/IEP committee will determine placement based on current assessment and IEP Goals and Objectives needed.*
- C. The ARD/IEP committee will include the LPAC representative and will ensure that placement in a bilingual education or English as a second language program, if appropriate, is not refused solely because the student has a disability.*

Additional LPAC guidance on TEA website will be followed: <http://www.tea.state.tx.us/index2.aspx?id=2147496923> or <http://www.tea.state.tx.us/student.assessment/ell/lpac/>

To fulfill state requirements, the LPAC must:

- Follow procedures in manual (suggest using form on TEA website to document LPAC meeting minutes: STAAR immigrant status, school year of enrollment in U.S., TELPAS reading rating, STAAR assessment decision.)
- monitor student progress and determine appropriate instructional interventions
- make decisions on individual student basis
- function as a committee
- document decisions, instructional interventions for exempted students, and reason for exemption in student's permanent record file

Role of LPAC and ARD/IEP

The members of the ARD/IEP and the LPAC will pool expertise related to special education and second language acquisition to collaborate making assessment and accommodation decisions with an LPAC member participating in the ARD to:

- evaluate student needs
- determine and implement testing requirements
- Supporting documentation must be kept in student's permanent record file (for LPAC) and student's IEP (for ARD/IEP committee).

1. Use the TEA manual **LPAC Decision-Making Guides** in conjunction with TEA - ARD/IEP Committee Decision-Making Process for the Texas. Determine appropriate **assessment type** using decision-making criteria in ARD manual. These criteria are disability-related, not related to second language acquisition.
2. Once assessment type is identified, consider the following ELL provisions, as applicable, in accordance with LPAC manual decision-making criteria:
 - Spanish-version testing in grades 3–5
 - LEP exemptions in grades 3–10 and LAT provisions in designated grades and subjects
 - Exit level LEP postponements

When the ELL provisions do not apply, the assessment requirements are the same as for other students receiving special education services.
3. Review the section in current LPAC manual carefully to be clear on how to fulfill special education and ELL assessment requirements for ELLs receiving special education services.
 - Exemption criteria that reference TEKS or TAKS/STAAR should be interpreted in accordance with student's IEP and whether student meets TAKS/STAAR, (Accommodated), or TAKS participation criteria
 - ELLs served by special education who meet TAKS/STAAR or TAKS (Accommodated) participation requirements in ARD manual and qualify for LAT take LAT administrations of TAKS/STAAR
 - In rare cases, the ARD committee in conjunction with the LPAC may determine that it is not appropriate for an ELL receiving special education services to participate in a TELPAS assessment for reasons associated with the student's particular disability.
4. Decisions must be made on an individual basis.
5. The decision is indicated as "ARD/IEP Decision" in student's TELPAS record.

TELPAS (Texas English Language Proficiency Assessment System) is designed to assess the progress that limited English proficient (LEP) students make in learning the English language. Proficiency level descriptors (PLDs) descriptors define four stages of second language acquisition called English language proficiency levels. The four proficiency levels are beginning , intermediate , advanced , and advanced high . To view all English language learner (ELL) resources, visit the ELL webpage. <http://www.tea.state.tx.us/student.assessment/ell/>

M. LRE (Least Restrictive Environment - Placement)

§300.114 LRE requirements.

(a)General.

- (1) Except as provided in §300.324(d)(2) (regarding children with disabilities in adult prisons), the State must have in effect policies and procedures to ensure that public agencies in the State meet the LRE requirements of this section and §§300.115 through 300.120.

(2) Each public agency must ensure that--

- (i) To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and
- (ii) Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(b) Additional requirement-State funding mechanism.

(1) General.

- (i) A State funding mechanism must not result in placements that violate the requirements of paragraph (a) of this section ; and
- (ii) A State must not use a funding mechanism by which the State distributes funds on the basis of the type of setting in which a child is served that will result in the failure to provide a child with a disability FAPE according to the unique needs of the child, as described in the child's IEP.

(2) Assurance. If the State does not have policies and procedures to ensure compliance with paragraph (b)(1) of this section, the State must provide the Secretary an assurance that the State will revise the funding mechanism as soon as feasible to ensure that the mechanism does not result in placements that violate that paragraph.

§300.115 Continuum of alternative placements. *(see also Section 5)*

(a) Each public agency must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.

(b) The continuum required in paragraph (a) of this section must--

- (1) Include the alternative placements listed in the definition of special education under §300.39 (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and
- (2) Make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement.

§300.116 Placements.

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

(a) The placement decision--

- (1) Is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and
- (2) Is made in conformity with the LRE provisions of this subpart, including §§300.114 through 300.118;

(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) Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled;

(d) In selecting the LRE, consideration is given to any potential harmful effect on the child or on the quality of services that he or she needs; and

(e) A child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum. *(regular = public schools K-12th)*

§300.117 Nonacademic settings; §300.118 Children in public or private institutions;

§300.119 Technical assistance and training – SEA

Click link to review the Region 20 ESC "Access General Curriculum (AGC)" Statewide Leadership Project which TEA supports. http://www.esc20.net/default.aspx?name=ci_se.agc.Home

Tyler ISD will consider the general education classroom first when determining the least restrictive environment for a student receiving special education services. Whenever a student is removed from the general education setting, the ARD/IEP committee will discuss why the removal is in the best interest of the student.

The student will be educated in a school as close to the student's home school as possible, unless the services identified in the child's IEP require a different location. The Tyler ISD makes available a full continuum of alternative placement options that maximize opportunities for students with disabilities to be educated with nondisabled peers to the maximum extent appropriate. If a student's IEP requires services that are not available at the school closest to the home, the student may be placed in another school that can offer the services that are included in the IEP and necessary for the student to receive FAPE. If needed to benefit from special education, transportation as a related service will be provided at no cost to the parent to the location where the IEP services will be provided.

§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 nondisabled children); or**
- (ii) For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;**

§300.110 Program options.

The State must ensure that each public agency takes steps to ensure that its children with disabilities have available to them the variety of educational programs and services available to nondisabled children in the area served by the agency, including art, music, industrial arts, consumer and homemaking education, and vocational education. (Authority: 20 U.S.C. 1412(a)(2), 1413(a)(1))

L.R.E. Questions the A.R.D. Committee may Discuss:

The following are points for discussion and documentation as an ARD/IEP committee determines the appropriateness of the Least Restrictive Environment for a student with disabilities. {based on Daniel R.R. v. State Board of Education, 874 F.2d 1036(5th Cir. 1989)}

Placement decisions are made on a case by case basis depending on each child's unique educational needs and circumstances, rather than by the child's category of disability, and must be based on the child's IEP. If a child has behavioral problems that are so disruptive in a regular classroom that the education of other children is significantly impaired the needs of the child with a disability generally cannot be met in that regular environment. However, before making that determination, the ARD/IEP Committee must ensure that consideration has been given to the full range of supplementary aids and services that could be provided to the child in the regular educational environment to accommodate the unique needs of the child with a disability. Students with disabilities will have access to curriculum based on the TEKS in the least restrictive environment appropriate to meet their unique needs.

N. Physical Education

§300.108 Physical education.

The TEA must ensure that public agencies in the State comply with the following:

- (a) General.** Physical education services, specially designed if necessary, must be made available to every child with a disability receiving FAPE, unless the Tyler ISD enrolls children without disabilities and does not provide PE to children without disabilities in the same grades.
- (b) Regular physical education.** Each child with a disability must be afforded the opportunity to participate in the regular physical education program available to nondisabled children unless--
 - (1) The child is enrolled full time in a separate facility; or**

- (2) The child needs specially designed physical education, as prescribed in the child's IEP.
- (c) **Special physical education.** If specially designed physical education is prescribed in a child's IEP, the public agency responsible for the education of that child must provide the services directly or make arrangements for those services to be provided through other public or private programs.
- (d) **Education in separate facilities.** The public agency responsible for the education of a child with a disability who is enrolled in a separate facility must ensure that the child receives appropriate physical education services in compliance with this section.
- (Authority: 20 U.S.C. 1412(a)(5)(A))

State-wide Fitness Assessment: During the 80th Legislative Session, Senate Bill 530 was passed, which requires a statewide fitness assessment for all students in grades 3 to 12 starting in the 2007-2008 school year. The TEA identified [FITNESSGRAM](#) as the assessment tool to be used by all districts throughout the state. The law allows a school district to determine if a student is unable to participate. Most districts are following the IEP for students with disabilities to determine necessary exemptions.

TAC §103.1003, Student Physical Activity Requirements and Exemptions

TEC §28.002, Required Curriculum, as amended by Senate Bill 530, 80th Texas Legislature, 2007 (excerpts)

- (d) The physical education curriculum required under Subsection (a)(2)(C) must be sequential, developmentally appropriate, and designed, implemented, and evaluated to enable students to develop the motor, self-management, and other skills, knowledge, attitudes, and confidence necessary to participate in physical activity throughout life. Each school district shall establish specific objectives and goals the district intends to accomplish through the physical education curriculum. In identifying the essential knowledge and skills of physical education, the State Board of Education shall ensure that the curriculum:
- (1) emphasizes the knowledge and skills capable of being used during a lifetime of regular physical activity;
 - (2) is consistent with national physical education standards for:
 - (A) the information that students should learn about physical activity; and
 - (B) the physical activities that students should be able to perform;
 - (3) requires that, on a weekly basis, at least 50 percent of the physical education class be used for actual student physical activity and that the activity be, to the extent practicable, at a moderate or vigorous level;
 - (4) offers students an opportunity to choose among many types of physical activity in which to participate;
 - (5) offers students both cooperative and competitive games;
 - (6) meets the needs of students of all physical ability levels, including students who have a [disability,] chronic health problem, disability, including a student who is a person with a disability described under Section 29.003(b) or criteria developed by the agency in accordance with that section, or other special need that precludes the student from participating in regular physical education instruction but who might be able to participate in physical education that is suitably adapted and, if applicable, included in the student's individualized education program;
 - (7) takes into account the effect that gender and cultural differences might have on the degree of student interest in physical activity or on the types of physical activity in which a student is interested;
 - (8) teaches self-management and movement skills;
 - (9) teaches cooperation, fair play, and responsible participation in physical activity;
 - (10) promotes student participation in physical activity outside of school; and
 - (11) allows physical education classes to be an enjoyable experience for students.

Section 2. This Act applies beginning with the 2015-2016 school year.

Exemptions for Students with Disabilities: Statutory References (28.002)(d)(6)

<http://framework.esc18.net/display/Webforms/ESC18-FW-Citation.aspx?ID=4511>

The Texas Education Code (TEC) permits an exemption for students with disabilities from participating in the physical fitness assessment, as indicated in the code below:

TEC §38.101. ASSESSMENT REQUIRED.

- (a) Except as provided by Subsection (b), a school district annually shall assess the physical fitness of students enrolled in grades 3 through 12.
- (b) A school district is not required to assess a student for whom, as a result of disability or other condition identified by commissioner rule, the assessment instrument adopted under Section 38.102 is inappropriate.
<http://www.statutes.legis.state.tx.us/SOTWDocs/ED/htm/ED.38.htm>

A “student with a disability” may be able to participate like any other student or with modifications and/or adaptations. A student receiving special education services should not be restricted from participating in the assessment based solely on the student’s eligibility for special education services. Only students who meet the “restricted” definition as provided in the Texas Administrative Code (TAC) must be temporarily and/or permanently restricted from participation.

TAC §74.31. Health Classifications for Physical Education.

For physical education, a district must classify each student, on the basis of health, into one of the following categories.

- (1) Unrestricted (not limited in activities).
- (2) Restricted (excludes the more vigorous activities).
 - (A) Permanent. A member of the healing arts licensed to practice in Texas must provide the school written documentation concerning the nature of the impairment and the expectations for physical activity for the student.
 - (B) Temporary. The student may be restricted from physical activity of the physical education class. A member of the healing arts licensed to practice in Texas must provide the school written documentation concerning the nature of the temporary impairment and the expected amount of time for recovery. During recovery time, the student must continue to learn the concepts of the lessons but may not actively participate in the skill demonstration.
- (3) Adapted and remedial (specific activities prescribed or prohibited, as directed by a member of the healing arts licensed to practice in Texas).

A health classification of restricted, adapted and remedial must be determined by a “member of the healing arts”, as defined in Chapter 104 of the Occupations Code:

TEC § 28.025

(b-11) Beginning with the 2014-15 school year, if the ARD committee determines that the child is unable to participate in physical activity due to a disability or illness, the child will be allowed to substitute one credit in English language arts, mathematics, science, social studies, or one academic elective credit for the physical education credit required for graduation.

O. Early Childhood Special Education (ECSE).

§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))
(§§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. Parental Consent)

§300.323 When IEPs must be in effect.

(b) IEP or IFSP for children aged three through five.

- (1) In the case of a child with a disability aged three through five (or, at the discretion of the SEA, a two-year-old child with a disability who will turn age three during the school year), the IEP Team must consider an IFSP that contains the IFSP content (including the natural environments statement) described in section 636(d) of the Act and its implementing regulations (including an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills for children with IFSPs under this section who are at least three years of age), and that is developed in accordance with the IEP procedures under this part. The IFSP may serve as the IEP of the child, if using the IFSP as the IEP is--
 - (i) Consistent with State policy; and
 - (ii) Agreed to by the agency and the child's parents.

- (2) In implementing the requirements of paragraph (b)(1) of this section, the public agency must--
- (i) Provide to the child's parents a detailed explanation of the differences between an IFSP and an IEP; and
 - (ii) If the parents choose an IFSP, obtain written informed consent from the parents.

See also Section 1 – Referral (for transition from ECI to ECSE)

See also Section 5 – Instructional Arrangements

P. Prison

§300.324 Development, review, and revision of IEP

(d) Children with disabilities in adult prisons.

- (1) Requirements that do not apply. The following requirements do not apply to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons:
 - (i) The requirements contained in §300.160 and §300.320(a)(6) (relating to participation of children with disabilities in general assessments).
 - (ii) The requirements in §300.320(b) (relating to transition planning and transition services), do not apply with respect to the children whose eligibility under Part B of the Act will end, because of their age, before they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release.
- (2) Modifications of IEP or placement.
 - (i) Subject to paragraph (c)(2)(ii) of this section, the IEP Team of a child with a disability who is convicted as an adult under State law and incarcerated in an adult prison may modify the child's IEP or placement if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.
 - (ii) The requirements of §§300.320 (relating to IEPs), and 300.114 (relating to LRE), do not apply with respect to the modifications described in paragraph (d)(2)(i) of this section.

Children with disabilities incarcerated in adult prisons are addressed by the district as follows:

- *ARD/IEP committees of this nature will be led by a district special education representative such as a supervisor, coordinator or director.*
- *The IEP may be modified if the state has determined a compelling reason exists to make the modifications due to safety concerns.*
- *Notice of transfer of rights at age 18 is required.*
- *Transition services may or may not apply depending on the length of the incarceration.*

Q. Reading (K – 2nd grade) – Accelerated Instruction

TEC §28.006. Reading Diagnosis.

- (a) The commissioner shall develop recommendations for school districts for:
 - (1) administering reading instruments to diagnose student reading development and comprehension;
 - (2) training educators in administering the reading instruments; and
 - (3) applying the results of the reading instruments to the instructional program.
- (b) The commissioner shall adopt a list of reading instruments that a school district may use to diagnose student reading development and comprehension. A district-level committee established under Subchapter F, Chapter 11, may adopt a list of reading instruments for use in the district in addition to the reading instruments on the commissioner's list. Each reading instrument adopted by the commissioner or a district-level committee must be based on scientific research concerning reading skills development and reading comprehension. A list of reading instruments adopted under this subsection must provide for diagnosing the reading development and comprehension of students participating in a program under Subchapter B, Chapter 29.
- (c) Each school district shall administer, at the kindergarten and first and second grade levels, a reading instrument on the list adopted by the commissioner or by the district-level committee. The district shall administer the reading instrument in accordance with the commissioner's recommendations under Subsection (a)(1).
- (g) The Tyler ISD shall notify the parent or guardian of each student in kindergarten or first or second grade who is determined, on the basis of reading instrument results, to be at risk for dyslexia or other reading difficulties. The Tyler ISD shall implement an accelerated reading instruction program that provides reading

instruction that addresses reading deficiencies to those students and shall determine the form, content, and timing of that program. The admission, review, and dismissal committee of a student who participates in Tyler ISD's special education program under Subchapter B, Chapter 29, and who does not perform satisfactorily on a reading instrument under this section shall determine the manner in which the student will participate in an accelerated reading instruction program under this subsection.

- (h) The Tyler ISD shall make a good faith effort to ensure that the notice required under this section is provided either in person or by regular mail and that the notice is clear and easy to understand and is written in English and in the parent or guardian's native language.

R. Regional Day School Program for the Deaf (RDSPD)

TAC §89.1080. Regional Day School Program for the Deaf.

In accordance with Texas Education Code, §§30.081-30.087, local school districts shall have access to regional day school programs for the deaf operated by school districts at sites previously established by the State Board of Education. Any student who is deaf or hard of hearing with a disability that severely impairs processing linguistic information through hearing, even with recommended amplification, and that adversely affects educational performance shall be eligible for consideration for the Regional Day School Program for the Deaf, subject to the admission, review, and dismissal committee recommendations.

S. STAAR – State of Texas Assessment of Academic Readiness

§300.160 Participation in assessments.

- (a) **General.** A State must ensure that all children with disabilities are included in all general State and district-wide assessment programs, including assessments described under section 1111 of the ESEA, 20 U.S.C. 6311, with appropriate accommodations and alternate assessments, if necessary, as indicated in their respective IEPs.
- (b) **Accommodation guidelines.**
- (1) A State (or, in the case of a district-wide assessment, an LEA) must develop guidelines for the provision of appropriate accommodations.
 - (2) The State's (or, in the case of a district-wide assessment, the LEA's) guidelines must—
 - (i) Identify only those accommodations for each assessment that do not invalidate the score; and
 - (ii) Instruct IEP Teams to select, for each assessment, only those accommodations that do not invalidate the score.
- (c) **Alternate assessments.**
- (1) A State (or, in the case of a district-wide assessment, an LEA) must develop and implement alternate assessments and guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in regular assessments, even with accommodations, as indicated in their respective IEPs, as provided in paragraph (a) of this section.
 - (2) For assessing the academic progress of students with disabilities under Title I of the ESEA, the alternate assessments and guidelines in paragraph (c)(1) of this section must provide for alternate assessments that—
 - (i) Are aligned with the State's challenging academic content standards and challenging student academic achievement standards;
 - (ii) If the State has adopted alternate academic achievement standards permitted in 34 CFR 200.1(d), measure the achievement of children with the most significant cognitive disabilities against those standards; and
 - (iii) Except as provided in paragraph (c)(2)(ii) of this section, a State's alternate assessments, if any, must measure the achievement of children with disabilities against the State's grade-level academic achievement standards, consistent with 34 CFR 200.6(a)(2)(ii)(A).
 - (3) Consistent with 34 CFR 200.1(e), a State may not adopt modified academic achievement standards for any students with disabilities under section 602(3) of the Act.
- (d) **Explanation to IEP Teams.** A State (or in the case of a district-wide assessment, the LEA) must—
- (1) Provide to IEP teams a clear explanation of the differences between assessments based on grade-level academic achievement standards and those based on alternate academic achievement standards, including any effects of State and local policies on a student's education resulting from taking an alternate assessment aligned with alternate academic achievement standards, such as

how participation in such assessments may delay or otherwise affect the student from completing the requirements for a regular high school diploma; and

- (2) Not preclude a student with the most significant cognitive disabilities who takes an alternate assessment aligned with alternate academic achievement standards from attempting to complete the requirements for a regular high school diploma.
- (e) Inform parents. A State (or in the case of a district-wide assessment, a LEA) must ensure that parents of students selected to be assessed using an alternate assessment aligned with alternate academic achievement standards under the State's guidelines in paragraph (c)(1) of this section are informed, consistent with 34 CFR 200.2(e), that their child's achievement will be measured based on alternate academic achievement standards, and of how participation in such assessments may delay or otherwise affect the student from completing the requirements for a regular high school diploma.
- (f) Reports. An SEA (or, in the case of a district-wide assessment, an LEA) must make available to the public, and report to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children, the following:
 - (1) The number of children with disabilities participating in regular assessments, and the number of those children who were provided accommodations (that did not result in an invalid score) in order to participate in those assessments.
 - (2) The number of children with disabilities, if any, participating in alternate assessments based on grade level academic achievement standards in school years prior to 2017-2018.
 - (3) The number of children with disabilities, if any, participating in alternate assessments based on aligned with modified academic achievement standards in school years prior to 2016-2017.
 - (4) The number of children with disabilities who are students with the most significant cognitive disabilities participating in alternate assessments based on aligned with alternate academic achievement standards.
 - (5) Compared with the achievement of all children, including children with disabilities, the performance results of children with disabilities on regular assessments, alternate assessments based on grade-level academic achievement standards (prior to 2017-2018), alternate assessments based on modified academic achievement standards (prior to 2016-2017), and alternate assessments based on aligned with alternate academic achievement standards if—
 - (i) The number of children participating in those assessments is sufficient to yield statistically reliable information; and
 - (ii) Reporting that information will not reveal personally identifiable information about an individual student on those assessments.
- (g) Universal design. An SEA (or, in the case of a district-wide assessment, an LEA) must, to the extent possible, use universal design principles in developing and administering any assessments under this section. (Authority: 20 U.S.C. 1412(a)(16))

§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—
 - (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 §300.160; 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.

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

- (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.

http://tea.texas.gov/Student_Testing_and_Accountability/Testing/

End of Course: Assessed Curriculum, Blueprint and Released Test Questions

<http://tea.texas.gov/student.assessment/staar/>

TAC §101.3022. Assessment Requirements for Graduation. (See Section 4a. **VIII. F. Graduation**) or TAC §101.4002. STAAR End-of-Course Substitute Assessments. <http://ritter.tea.state.tx.us/rules/tac/chapter101/>

For ELL State Assessments, see Section L.

Staff Training

The Tyler ISD Student Support Executive Director and Coordinators will work closely with the district testing coordinator to ensure special education staff is provided continuous training with local campus staff.

The Tyler ISD will follow the TEA recommendations found online. Training of special education staff will be held annually. The Tyler ISD follows the most current Assessment Guidance available through the TEA Student Assessment Division for ARD Resource and Special Education Assessment information.

Allowable Accommodations from TEA:

Continuously updated information regarding accommodations can be found on the TEA website. <http://www.tea.state.tx.us/student.assessment/accommodations/staar-telpas/>

ARD/IEP Committee

It is important to emphasize that the instructional decisions made by the admission, review, and dismissal (ARD) committee and documented in the individualized education program (IEP) must always guide assessment decisions for students receiving special education services.

For students with disabilities working below their enrolled grade level, it is the responsibility of all of us—the state as well as the district, campuses, and classroom teachers—to work with parents and other members of the community to understand and provide the support these students need to reach their academic potential. All students have the right to be exposed to as much of an on-grade-level curriculum as possible.

The ARD/IEP committee must weigh the benefits of rigorous and challenging expectations given each student's individual strengths, needs, instruction, and accommodations. As always, the ARD/IEP committee should first consider administering the State of Texas Assessments of Academic Readiness (STAAR) when making assessment decisions.

www.tea.state.tx.us/student.assessment/special-ed/

<http://www.tea.state.tx.us/student.assessment/staar/> <http://tea.texas.gov/student.assessment/special-ed/staaralt/>

<http://www.tea.state.tx.us/student.assessment/special-ed/>

1. STAAR

TEC §39.023. ADOPTION AND ADMINISTRATION OF INSTRUMENTS

SECTION 2. Effective September 1, 2021

- (a) The agency shall adopt or develop appropriate criterion-referenced assessment instruments designed to assess essential knowledge and skills in reading, mathematics, social studies, and science. Except as provided by

Subsection (a-2), all students, other than students assessed under Subsection (b) or (l) or exempted under Section 39.027, shall be assessed in:

- (1) mathematics, annually in grades three through eight;
- (2) reading, annually in grades three through eight;
- (3) social studies, in grade eight;
- (4) science, in grades five and eight; and
- (5) any other subject and grade required by federal law.

Current information on STAAR assessments pertaining to students with disabilities may be found on the TEA website: <http://tea.texas.gov/student.assessment/special-ed/>

Allowable accommodations are found in the [Coordinator's Manuals](#) provided by the TEA. The accommodations listed in the manual will be followed as required by TEA and determined by the ARD/IEP committee for each individual student. The Coordinator's Manual also lists accommodations which are non-allowable on state assessment.

2. STAAR – Modified, TAKS-M. Eliminated after 2013-2014. Not Offered beginning the 2014-2015 school year.

3. STAAR - Alt. 2 *The Texas Education Agency (TEA) has developed the State of Texas Assessments of Academic Readiness Alternate (STAAR™ Alternate 2) to take the place of the STAAR Alt. STAAR Alternate 2 is designed for the purpose of assessing students in grades 3–8 and high school who have significant cognitive disabilities and are receiving special education services. For most current updates see: <http://www.tea.state.tx.us/student.assessment/special-ed/staaralt/essence/> and <http://tea.texas.gov/student.assessment/special-ed/staaralt/>*

The Texas Education Agency (TEA) has developed the State of Texas Assessments of Academic Readiness Alternate (STAAR™ Alternate) to take the place of the TAKS Alt. STAAR Alternate is designed for the purpose of assessing students in grades 3–8 and high school who have significant cognitive disabilities and are receiving special education services. STAAR Alternate beginning in 2011–2012. For most current updates see: <http://www.tea.state.tx.us/student.assessment/special-ed/staaralt/essence/> and <http://tea.texas.gov/student.assessment/special-ed/staaralt/>

§89.1226. Testing and Classification of Students, Beginning with School Year 2019-2020.

- (l) For English learners who are also eligible for special education services, the standardized process for English learner program exit is followed in accordance with applicable provisions of subsection (i) of this section. However, annual meetings to review student progress and make recommendations for program exit must be made in all instances by the language proficiency assessment committee in conjunction with the ARD committee in accordance with §89.1230(b) of this title (relating to Eligible Students with Disabilities). Additionally, the language proficiency committee in conjunction with the ARD committee shall implement assessment procedures that differentiate between language proficiency and disabling conditions in accordance with §89.1230(a) of this title.
- (m) For an English learner with significant cognitive disabilities, the language proficiency assessment committee in conjunction with the ARD committee may determine that the state's English language proficiency assessment for exit is not appropriate because of the nature of the student's disabling condition. In these cases, the language proficiency assessment committee in conjunction with the ARD committee may recommend that the student take the state's alternate English language proficiency assessment and shall determine an appropriate performance standard requirement for exit by language domain under subsection (i)(1) of this section;

For full text of TAC §89.1226 go to: <http://ritter.tea.state.tx.us/rules/tac/chapter089/ch089bb.html>

§101.6001. Texas Middle School Diagnostic Reading Assessment.

- (a) Each school district shall administer during the first six weeks of the school year the diagnostic reading instrument specified in subsection (c) of this section to each student in Grade 7 whose performance on the Grade 6 statewide reading assessment did not meet the passing standard. The admission, review, and dismissal committee or the Section 504 committee for each student who was administered an alternate form of the state assessment in reading may determine if the diagnostic assessment is appropriate for use with that student.

**REQUIRED EXPLANATION OF STATE /DISTRICT-WIDE TESTING
FOR THE IEP TEAM - INCLUDING PARENTS:**

In order to meet all of the requirements listed above regarding state and district-wide testing, the following questions must be addressed in the ARD/IEP meeting. If the ARD/IEP Team determines, based on analysis of current data, that the student cannot take the State or district-wide assessments, provide the following information:

Definitions Below:

Accountability: refers to an individual or group of individuals taking responsibility for the performance of students on achievement measures or other types of educational outcomes (e.g. dropout rates.)

Alternate Assessment: an assessment that is different from the one administered to most students. It is best viewed as the "process" for collecting information about what a student knows and can do. The majority of students participate in statewide assessments, some by using accommodations. Some students, however, are unable to take the test even with accommodation. For these students, a state must design an alternate way of determining their learning /learning progress. (Massanari, Carol B.,1999)

Alternate or modified academic achievement standards: a tailored/personalized measurement of a child's attainment or accomplishment of the standards for academic areas of reading, writing, math. This alternate or modified measurement is not the same as the TAKS/STAAR measurement used with the regular education majority of students.

Differences: While the majority of regular education students will be administered TAKS/STAAR assessment, the alternate or modified academic achievement standards will be based on the student's functional performance data gathered by the IEP Team and will be individualized at the student's functioning level and not at the assigned grade level.

Effects on the student's education resulting from taking an alternate assessment based on alternate academic achievement standards:

- *satisfactory performance on the regular TAKS/STAAR assessment will qualify the student for a regular high school diploma if all credits and other requirements are also met*
- *satisfactory performance on an alternate assessment will qualify the student for a regular high school diploma if all credits and other requirements are also met, however, the following implication should be discussed: taking an assessment other than TAKS limits the student's preparation for post secondary training above the Jr. college entry level.*

Accommodation that does not invalidate the test: an adjustment, change, or adaptation made to an assessment or the process of administering an assessment to students with special needs. This term generally refers to changes that do not significantly alter what the test measures. It results from a student need and it is not intended to give the student an unfair advantage. All accommodations must be identified in the student's IEP (CEC and the Learning Network 2000-2001).

Benchmarks: are statements of what all students should know and be able to do in a content area by the end of grade levels 4, 8, and 12.

Content Standards: are broad descriptions of knowledge and skills students should acquire in a particular subject area. The State of Texas content standards are known as the Texas Essential Knowledge and Skills

(TEKS) and can be found online at the TEA website.

Criterion-Referenced Test: a test that is designed to provide information on the specific knowledge or skills possessed by a student. Such tests are designed to measure the objectives of instruction, skill levels, or areas of knowledge. Their scores have meaning in terms of what the student knows and can do, rather than in their relation to the scores made by some comparison to a norm group (Tuckman, B, 1986).

Functional Tasks: skills used in everyday life or that prepare students for life after graduation. These skills include those required for personal maintenance and development, homemaking, and community life, work and career, recreational activities and travel within the community (Smith, D.D., 1998).

High Stakes Assessment: state and or district-wide tests that have important consequences for students, staff, or schools (CEC and the Learning Network 2000-2001).

Large Scale Assessments: these assessments show how students are performing against state standards or national norms, and to hold school districts accountable for student performance (CEC and the Learning Network 2000-2001).

Norm-referenced Test: a test designed to provide information on the performance of test takers relative to one another. It measures basic concepts and skills commonly taught in schools throughout the country. These tests are not designed as precise measures of any given curriculum or single instructional program. The results provide information that compares a student's achievement with that of a representative national sample. (Tuckman, B. 1986).

Performance-based Assessment: a task that enables a student to demonstrate abilities to meet objectives or standards (Campbell, Melenyzer, Nettles, and Wyman, 2000).

Rubric: a set of criteria and a scoring scale that is used to assess and evaluate students' work (Campbell, Melenyzer, Nettles, and Wyman, 2000).

Standardized Test : a type of test that is always administered and scored in the same way. These tests have norms reflecting a larger population (usually these are age or grade based norms reflecting the performance of children throughout the country on the same tests).

T. Accelerated Learning Committee/Accelerated Instruction Requirements

Excerpts below from: Grade Placement Committee Manual: for Grade Advancement Requirements of the SSI TEC §28.0211 and TAC §101 For continuous updated information, refer to the TEA website: <http://tea.texas.gov/student.assessment/ssi/>

TEC §28.0211. ACCELERATED LEARNING COMMITTEE; ACCELERATED INSTRUCTION; MODIFIED TEACHER ASSIGNMENT.

- (i) The admission, review, and dismissal committee of a student who participates in a district's special education program under Subchapter A [B], Chapter 29, and who does not perform satisfactorily on an assessment instrument specified under Subsection (a) and administered under Section 39.023(a) or (b) must meet to determine the manner in which the student will participate in an accelerated instruction program under this section.
- (i-1) At a meeting of the admission, review, and dismissal committee of a student under Subsection (i), the committee may promote the student to the next grade level if the committee concludes that the student has made sufficient progress in the measurable academic goals contained in the student's individualized education program developed under Section 29.005. A school district that promotes a student under this subsection is not required to provide an additional opportunity for the student to perform satisfactorily on the assessment instrument.
- (i-2) Not later than September 1 of each school year, a school district must notify the parent or person standing in parental relation to a student enrolled in the district's special education program under Subchapter A,

Chapter 29, of the options of the admission, review, and dismissal committee under Subsections (i) and (i-1) if the student does not perform satisfactorily on an assessment instrument.

TEC §39.024. Satisfactory Performance

- (a) Except as otherwise provided by this subsection, the State Board of Education shall determine the level of performance considered to be satisfactory on the assessment instruments. The admission, review, and dismissal committee of a student being assessed under Section 39.023(b) shall determine the level of performance considered to be satisfactory on the assessment instruments administered to that student in accordance with criteria established by agency rule.

The ARD/IEP committee will design an intensive program of instruction to enable the student, to the extent practicable, perform at the student's grade level at the conclusion of the next regular school term; or attain the state required standard of mastery.

<http://www.statutes.legis.state.tx.us/Docs/ED/htm/ED.28.htm>

TEC §28.021. STUDENT ADVANCEMENT.

<http://www.statutes.legis.state.tx.us/Docs/ED/htm/ED.28.htm#28.021>

TEC § 39.023. Adoption and Administration of Instruments

<http://www.statutes.legis.state.tx.us/Docs/ED/htm/ED.39.htm>

U. Supplementary Aids and Services - Accommodations

§300.42 Supplementary aids and services. Supplementary aids and services means aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with §§300.114 through 300.116.

Accommodations

The ARD/IEP Committee will make appropriate recommendations for individual students receiving special education services. In making recommendations, the Tyler ISD staff will follow the TEA guidelines located in the online Accommodations Triangle available on the TEA Student Assessment website.

** Specific pages in the manual provide information on accommodations by assessment and accommodations category. Information in italics indicates that an Accommodation Request Form is required.*

** Student Assessment will provide information to districts regarding the provision of adequate objective evidence when submitting an Accommodation Request Form (ARF).*

<http://tea.texas.gov/student.assessment/accommodations/>

§300.320 Definition of individualized education program.

- (a) (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 nondisabled children in the activities described in this section;

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 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.

<https://www.region10.org/programs/scientifically-based-research/overview/>

V. Tape or Video Recording

TEC §29.005.

(d) If the child's parent is unable to speak English, the Tyler ISD 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.

The Tyler ISD, the parent, or the adult student may audio-record the ARD/IEP committee meeting. All participants in the meeting will be informed that such a recording is being made. If a parent or adult student notifies the ARD/IEP committee that they will record the meeting, the district should also record the meeting and put a reference to the audio-tape in the student's special education eligibility folder. The audio tape is archived or will be kept confidential and located with the eligibility folder

TEC §26.009. Consent Required for Certain Activities. (video taping)

(a) An employee of Tyler ISD must obtain the written consent of a child's parent before the employee may:

- (1) conduct a psychological examination, test, or treatment, unless the examination, test, or treatment is required under Section 38.004 or state or federal law regarding requirements for special education; or
- (2) make or authorize the making of a videotape of a child or record or authorize the recording of a child's voice.

(b) An employee of Tyler ISD is not required to obtain the consent of a child's parent before the employee may make a videotape of a child or authorize the recording of a child's voice if the videotape or voice recording is to be used only for:

- (1) purposes of safety, including the maintenance of order and discipline in common areas of the school or on school buses;
- (2) a purpose related to a cocurricular or extracurricular activity;
- (3) a purpose related to regular classroom instruction; or
- (4) media coverage of the school.

W. TAKS – see STAAR

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

TEC §30.004. Information Concerning Programs.

(a) The Tyler ISD shall provide each parent or other person having lawful control of a student with written information about:

- (1) the availability of programs offered by state institutions for which the district's students may be eligible;
- (2) the eligibility requirements and admission conditions imposed by each of those state institutions; and
- (3) the rights of students in regard to admission to those state institutions and in regard to appeal of admission decisions.

(b) The State Board of Education shall adopt rules prescribing the form and content of information required by Subsection (a).

The MOU for AI and/or Visual Impairments is found on the TEA website: <http://tea.texas.gov/index2.aspx?id=2147494979>

The MOU for AI and/or Visual Impairments is found on the TEA website: <http://tea.texas.gov/index2.aspx?id=2147498410> DARS - Department of Assistive and Rehabilitative Services agency assists Blind or Visually

Impaired individuals and their families and offers an ECI-Early Childhood Intervention Program for families with children birth to three, with disabilities and developmental delays.

<https://hhs.texas.gov/services/disability/early-childhood-intervention-services>

TAC §89.1085. Referral for the Texas School for the Blind and Visually Impaired and the Texas School for the Deaf Services.

- (a) A student's admission, review, and dismissal (ARD) committee may place the student at the Texas School for the Blind and Visually Impaired (TSBVI) or the Texas School for the Deaf (TSD) in accordance with the provisions of 34 Code of Federal Regulations (CFR), Part 300, the Texas Education Code (TEC), including, specifically, §§30.021, 30.051, and 30.057, and the applicable rules of this subchapter.
- (b) In the event that a student is placed by his or her ARD committee at either the TSBVI or the TSD, the student's "resident school district," as defined in subsection (e) of this section, shall be responsible for assuring that a free appropriate public education (FAPE) is provided to the student at the TSBVI or the TSD, as applicable, in accordance with the Individuals with Disabilities Education Act (IDEA), 20 United States Code (USC), §§1400 et seq., 34 CFR, Part 300, state statutes, and rules of the State Board of Education (SBOE) and the commissioner of education. If representatives of the resident school district and representatives of the TSBVI or the TSD disagree, as members of a student's ARD committee, with respect to a recommendation by one or more members of the student's ARD committee that the student be evaluated for placement, initially placed, or continued to be placed at the TSBVI or TSD, as applicable, the representatives of the resident school district and the TSBVI or TSD, as applicable, may seek resolution through the mediation procedures adopted by the Texas Education Agency or through any due process hearing to which the resident school district or the TSBVI or the TSD are entitled under the IDEA, 20 USC, §§1400, et seq.
- (c) When a student's ARD committee places the student at the TSBVI or the TSD, the student's resident school district shall comply with the following requirements.
 - (1) For each student, the resident school district shall list those services in the student's individualized education program (IEP) which the TSBVI or the TSD can appropriately provide.
 - (2) The district may make an on-site visit to verify that the TSBVI or the TSD can and will offer the services listed in the individual student's IEP and to ensure that the school offers an appropriate educational program for the student.
 - (3) For each student, the resident school district shall include in the student's IEP the criteria and estimated time lines for returning the student to the resident school district.
- (d) In addition to the provisions of subsections (a)-(c) of this section, and as provided in TEC, §30.057, the TSD shall provide services in accordance with TEC, §30.051, to any eligible student with a disability for whom the TSD is an appropriate placement if the student has been referred for admission by the student's parent or legal guardian, a person with legal authority to act in place of the parent or legal guardian, or the student, if the student is age 18 or older, at any time during the school year if the referring person chooses the TSD as the appropriate placement for the student rather than placement in the student's resident school district or regional program determined by the student's ARD committee. For students placed at the TSD pursuant to this subsection, the TSD shall be responsible for assuring that a FAPE is provided to the student at the TSD, in accordance with IDEA, 20 USC, §§1400, et seq., 34 CFR, Part 300, state statutes, and rules of the SBOE and the commissioner of education.
- (e) For purposes of this section and §89.1090 of this title (relating to Transportation of Students Placed in a Residential Setting, Including the Texas School for the Blind and Visually Impaired and the Texas School for the Deaf), the "resident school district" is the school district in which the student would be enrolled under TEC, §25.001, if the student were not placed at the TSBVI or the TSD.

TAC §89.1090. Transportation of Students Placed in a Residential Setting, Including the Texas School for the Blind and Visually Impaired and the Texas School for the Deaf.

See Related Services Section for Transportation

Y. Transition Planning

§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) ---
 - (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;
- (b) **Transition services.** 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, and updated annually, thereafter, the IEP must include--
- (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 child in reaching those goals.
 - (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) (For §300.320 in its entirety, please see Section 4a.)

TEC § 29.0111. Beginning of Transition Planning. Appropriate state transition planning under the procedure adopted under Section 29.011 must begin for a student not later than when the student reaches 14 years of age. *The special education case manager or teacher or VAC or Transition Specialist or Educational Diagnostician or ARD Facilitator will meet with the student at least annually to complete the following activities prior to the ARD/IEP meeting.*

- *Assist student to determine strengths, interests, preferences for future career goals,*
- *Discuss with student coordinated set of activities necessary to further goals including the minimum, recommended, distinguished graduation/career plan, CTE electives, etc.*
- *Determine if Transition Assessments are completed or additional needed,*
 - *Transition Assessments may be formal or informal. Formal assessments may include those purchased by the district: Career Cruising, Kuder, MECA, Adaptive Behavior Assessment, etc. or include ONet Profiler, OASIS Aptitude Survey, ASVAB, etc.*
 - *Informal assessments used include but are not limited to: situational or observational assessments, structured interviews, questionnaires, environmental analysis, work sample task analysis, portfolios, inventories and personal planning with student and family.*
- *Assist student to articulate his/her postsecondary goals based on identifying strengths, interest, career research, etc.*
- *Assist student to prepare for sharing his/her postsecondary goals in the ARD/IEP meeting. (not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the ARD/IEP Team)*

For information on the Functional Vocational Evaluation – see Section 2.

§300.43 Transition services.

- (a) **Transition services** means a coordinated set of activities for a child with a disability that--
- (1) Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;
 - (2) Is based on the individual child's needs, taking into account the child's strengths, preferences and interests; and includes--

- (i) Instruction;
 - (ii) Related services;
 - (iii) Community experiences;
 - (iv) The development of employment and other post-school adult living objectives; and
 - (v) If appropriate, acquisition of daily living skills and functional vocational evaluation.
- (b) **Transition services** for children with disabilities may be special education, if provided as specially designed instruction, or a related service, if required to assist a child with a disability to benefit from special education. (Authority: 20 U.S.C. 1401(34))

§300.321 IEP Team

(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 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.

The transition coordinator will provide a print out of special education students for the educational diagnostician/VAC /case manager to note who will be turning 18 years old and their birth date. Provide "Rights" document and obtain signature of adult student to document transfer of rights.

§300.322 Parent Participation

(b) Information provided to parents.

- (1) The notice required for the IEP meeting 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).
- (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.

§300.324 (c) Failure to meet transition objectives.

- (1) **Participating agency failure.** If a participating agency, other than the public agency, fails to provide the transition services described in the IEP in accordance with §300.320(b), the public agency must reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the child set out in the IEP.
- (2) **Construction.** Nothing in this part relieves any participating agency, including a State vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to children with disabilities who meet the eligibility criteria of that agency.

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

- (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 the following issues in the IEP:
- (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.

House Bill 3 Article 5. Transition; Conflict of Law (2019)

- (c) Section 28.025, TEC, as amended by this Act, and Section 28.0256, Education Code, as added by this Act, apply beginning with students enrolled at the 12th grade level during the 2021-2022 school year. Last Amended: 86th Leg., eff. June 12, 2019 Entered: Sept. 10, 2019

TEC §28.0256. Financial Aid Application Requirement for High School Graduation.

- (a) Before graduating from high school, each student must complete and submit a free application for federal student aid (FAFSA) or a Texas application for state financial aid (TASFA), except as otherwise provided by Subsection (b).
- (b) A student is not required to comply with Subsection (a) if:
- (1) the student's parent or other person standing in parental relation submits a signed form indicating that the parent or other person authorizes the student to decline to complete and submit the financial aid application;
 - (2) the student signs and submits the form described by Subdivision (1) on the student's own behalf if the student is 18 years of age or older or the student's disabilities of minority have been removed for general purposes under Chapter 31, Family Code; or
 - (3) a school counselor authorizes the student to decline to complete and submit the financial aid application for good cause, as determined by the school counselor.
- (c) A school district or open-enrollment charter school shall adopt a form to be used for purposes of Subsection (b). The form must:
- (1) be approved by the agency;
 - (2) provide the student or the student's parent or other person standing in parental relation, as applicable, the opportunity to decline to complete and submit a financial aid application, as provided by Subsection (b); and
 - (3) be made available in English, Spanish, and any other language spoken by a majority of the students enrolled in a bilingual education or special language program under Subchapter B, Chapter 29, in the district or school.
- (d) If a school counselor notifies a school district whether a student has complied with this section for purposes of determining whether the student meets high school graduation requirements under Section 28.025, the school counselor may only indicate whether the student has complied with this section and may not indicate the manner in which the student complied, except as necessary for the district or school to comply with rules adopted under Subsection (e)(2). A school counselor may not indicate that a student has not complied with this section if the school district or open-enrollment charter school fails to provide the form adopted under Subsection (c) to the student or the student's parent or other person standing in parental relation to the student.

Last Amended: 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 2.014, eff. June 12, 2019. Entered: July 17, 2019

TEC §29.011. Transition Planning.

- (a) The commissioner shall by rule adopt procedures for compliance with federal requirements relating to transition services for students who are enrolled in special education programs under this subchapter. The

procedures must specify the manner in which a student's admission, review, and dismissal committee must consider, and if appropriate, address the following issues in the student's individualized education program:

- (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, involvement in the student's transition by the student's parents and other persons invited to participate by:
 - (A) the student's parents; or
 - (B) the school district in which the student is enrolled;
 - (3) if the student is at least 18 years of age involvement in the student's transition and future by the student's parents and other persons, if the parent or other person:
 - (A) is invited to participate by the student or the school district in which the student is enrolled; or
 - (B) has the student's consent to participate pursuant to a supported decision-making agreement under Chapter 1357, Estates Code;
 - (4) appropriate postsecondary education options, including preparation for postsecondary-level coursework;
 - (5) an appropriate functional vocational evaluation;
 - (6) appropriate employment goals and objectives;
 - (7) if the student is at least 18 years of age, the availability of age-appropriate instructional environments, including community settings or environments that prepare the student for postsecondary education or training, competitive integrated employment, or independent living, in coordination with the student's transition goals and objectives;
 - (8) appropriate independent living goals and objectives
 - (9) appropriate circumstances for facilitating a referral of a student or the student's parents to a governmental agency for services or public benefits, including a referral to a governmental agency to place the student on a waiting list for public benefits available to the student, such as a waiver program established under Section 1915(c), Social Security Act (42 U.S.C. Section 1396n(c)); and
 - (10) the use of availability of appropriate:
 - (A) supplementary aids, services, curricula, and other opportunities to assist the student in developing decision-making skills; and
 - (B) supports and services to foster the student's independence and self-determination, including a supported decision-making agreement under Chapter 1357, Estates Code.
- (a-1) A student's admission, review, and dismissal committee shall annually review the issues described by Subsection (a) and, if necessary, update the portions of the student's individualized education program that address those issues.
- (a-2) The commissioner shall develop and post on the agency's Internet website a list of services and public benefits for which referral may be appropriate under Subsection (a)(9).
- (b) The commissioner shall require each school district or shared services arrangement to designate at least one employee to serve as the district's or shared services arrangement's designee on transition and employment services for students enrolled in special education programs under this subchapter. The commissioner shall develop minimum training guidelines for a district's or shared services arrangement's designee. An individual designated under this subsection must provide information and resources about effective transition planning and services, including each issue described by Subsection (a), and interagency coordination to ensure that local school staff communicate and collaborate with:
- (1) students enrolled in special education programs under this subchapter and the parents of those students; and
 - (2) as appropriate, local and regional staff of the:
 - (A) Health and Human Services Commission;
 - (B) Texas Workforce Commission;
 - (C) Department of State Health Services; and
 - (D) Department of Family and Protective Services.
- (c) The commissioner shall review and, if necessary, update the minimum training guidelines developed under Subsection (b) at least once every four years. In reviewing and updating the guidelines, the commissioner shall solicit input from stakeholders.

Sections 29.011, Education Code, as amended by this Act, apply beginning with the 2018-2019 school year.

Sec. 29.0112. TRANSITION AND EMPLOYMENT GUIDE.

- (a) The agency, with assistance from the Health and Human Services Commission, shall develop a transition and employment guide for students enrolled in special education programs and their parents to provide

information on statewide services and programs that assist in the transition to life outside the public school system. The agency may contract with a private entity to prepare the guide.

- (b) The transition and employment guide must be written in plain language and contain information specific to this state regarding:
 - (1) transition services;
 - (2) employment and supported employment services;
 - (3) social security programs;
 - (4) community and long-term services and support, including the option to place the student on a waiting list with a governmental agency for public benefits available to the student, such as a waiver program established under Section 1915(c), Social Security Act (42 U.S.C. Section 1396n(c));
 - (5) postsecondary educational programs and services;
 - (6) information sharing with health and human services agencies and providers;
 - (7) guardianship and alternatives to guardianship, including a supported decision-making agreement under Chapter 1357, Estates Code;
 - (8) self-advocacy, person-directed planning, and self-determination; and
 - (9) contact information for all relevant state agencies.
- (c) The transition and employment guide must be produced in an electronic format and posted on the agency's website in a manner that permits the guide to be easily identified and accessed.
- (d) The agency must update the transition and employment guide posted on the agency's website at least once every two years.
- (e) A school district shall:
 - (1) post the transition and employment guide on the district's website if the district maintains a website;
 - (2) provide written information and, if necessary, assistance to a student or parent regarding how to access the electronic version of the guide at:
 - (A) the first meeting of the student's admission, review, and dismissal committee at which transition is discussed; and
 - (B) the first committee meeting at which transition is discussed that occurs after the date on which the guide is updated; and
 - (3) on request, provide a printed copy of the guide to a student or parent.

Sections 29.0112, Education Code, as amended by this Act, apply beginning with the 2018-2019 school year.

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 LEA 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 §1357.003. Supported Decision Making Agreement Act.

PURPOSE: The purpose of this chapter is to recognize a less restrictive alternative to guardianship for adults with disabilities who need assistance with decisions regarding daily living but who are not considered incapacitated persons for purposes of establishing a guardianship under this title. (For full text click link.)

<http://www.statutes.legis.state.tx.us/Docs/ES/htm/ES.1357.htm>

Parents will be made aware of the [Alternatives to Guardianship](#) rules and sample form provided by §1357.056 at the ARD meeting to explain the student will be reaching "Age of Majority."

*For specific requirements for **SPP Indicator 13 and 14** see Section 8. Administration.*

New MOU dated 8-31-2017, Effective 9-1-2017: <https://tea.texas.gov/index2.aspx?id=2147496883>

In 2019, the Texas Legislature passed Senate Bill 1017 which requires the Texas Higher Education Coordinating Board (THECB) to create an advisory council on postsecondary education for persons with intellectual and developmental disabilities (IDD). The advisory council is tasked with developing educational outreach materials to raise awareness in Texas of postsecondary education opportunities. The appropriate staff will be watchful for information and opportunities to share with our students and their parents.

In 2019, the Texas Legislature passed Senate Bill 2038 which amended the Labor Code to read: Sec. 352.060. REPORT REGARDING OCCUPATIONAL SKILLS TRAINING FOR INDIVIDUALS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES.

(a) The commission shall prepare a report that identifies:

- (1) potential funding sources for occupational skills training programs for individuals with intellectual and developmental disabilities; and
- (2) specific occupations in high-demand industries in this state for which a postsecondary certification, occupational license, or other workforce credential is required and that may be appropriate for individuals with intellectual and developmental disabilities.

(b) Not later than November 1, 2020, the commission shall:

- (1) publish the report in a prominent location on the commission's Internet website; and
- (2) submit a copy of the report to each legislative standing committee with jurisdiction over workforce development or vocational rehabilitative services.

(c) This section expires September 1, 2021.

Z. Visual Impairment

§300.324 Development, review, and revision of IEP

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

- (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;**

TAC §89.1075. General Program Requirements and Local District Procedures.

(b) For school districts providing special education services to students with visual impairments, there must be written procedures as required in the Texas Education Code (TEC), §30.002(c)(10).

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 and 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. For students three years of age and older, school districts must develop an IEP.

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

- (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).

TEC §30.002. Education for Children with Visual Impairments.

(a - b) TEA responsibility for a Statewide Plan

SECTION 1. Subsections (b), (c), and (e), Section 30.002, Education Code, are amended to read as follows:

(b) The agency shall:

- (1) develop standards and guidelines for all special education services for children with visual impairments that it is authorized to provide or support under this code;
- (2) supervise regional education service centers and other entities in assisting school districts in serving children with visual impairments more effectively;
- (3) develop and administer special education services for students with both serious visual and auditory impairments;
- (4) evaluate special education services provided for children with visual impairments by school districts and approve or disapprove;
- (5) maintain an effective liaison between special education programs provided for children with visual impairments by school districts and related initiatives of the Department of Assistive and Rehabilitative Services Division for Blind Services, the Department of State Health Services Mental Services Health and Substance Abuse Division, the Texas School for the Blind and Visually Impaired, and other related programs, agencies, or facilities as appropriate.

(c) The comprehensive statewide plan for the education of children with visual impairments must:

- (1) adequately provide for comprehensive diagnosis and evaluation of each school-age child with a serious visual impairment;
- (2) include the procedures, format, and content of the individualized education program for each child with a visual impairment;
- (3) emphasize providing educational services to children with visual impairments in their home communities whenever possible;
- (4) include methods to ensure that children with visual impairments receiving special education services in school districts receive, before being placed in a classroom setting or within a reasonable time after placement:
 - (A) evaluation of the impairment; and
 - (B) instruction in an expanded core curriculum, which is required for students with visual impairments to succeed in classroom settings and to derive lasting, practical benefits from the education provided by school districts, including instruction in:
 - (i) compensatory skills, such as braille and concept development, and other skills needed to access the rest of the curriculum;
 - (ii) orientation and mobility;
 - (iii) social interaction skills;
 - (iv) career planning;
 - (v) assistive technology, including optical devices;
 - (vi) independent living skills;
 - (vii) recreation and leisure enjoyment;
 - (viii) self-determination; and
 - (ix) sensory efficiency
- (5) provide for flexibility on the part of school districts to meet the special needs of children with visual impairments through:
 - (A) specialty staff and resources provided by the district;
 - (B) contractual arrangements with other qualified public or private agencies;

- (C) supportive assistance from regional education service centers or adjacent school districts;
- (D) short-term or long-term services through the Texas School for the Blind and Visually Impaired or related facilities or programs; or
- (E) other instructional and service arrangements approved by the agency;
- (6) include a statewide admission, review, and dismissal process;
- (7) provide for effective interaction between the visually impaired child's classroom setting and the child's home environment, including providing for parental training and counseling either by school district staff or by representatives of other organizations directly involved in the development and implementation of the individualized education program for the child;
- (8) require the continuing education and professional development of school district staff providing special education services to children with visual impairments;
- (9) provide for adequate monitoring and precise evaluation of special education services provided to children with visual impairments through school districts; and
- (10) require that school districts providing special education services to children with visual impairments develop procedures for assuring that staff assigned to work with the children have prompt and effective access directly to resources available through:
 - (A) cooperating agencies in the area;
 - (B) the Texas School for the Blind and Visually Impaired;
 - (C) the Central Media Depository for specialized instructional materials and aids made specifically for use by students with visual impairments;
 - (D) sheltered workshops participating in the state program of purchases of blind-made goods and services; and
 - (E) related sources.
- (c-1) To implement Subsection (c)(1) and to determine a child's eligibility for a school district's special education program on the basis of a visual impairment, the full individual and initial evaluation of the student required by Section 29.004 must, in accordance with commissioner rule:
 - (1) include an orientation and mobility evaluation conducted:
 - (A) by a person who is appropriately certified as an orientation and mobility specialist, as determined under commissioner rule; and
 - (B) in a variety of lighting conditions and in a variety of settings, including in the student's home, school, and community and in settings unfamiliar to the student; and
 - (2) provide for a person who is appropriately certified as an orientation and mobility specialist to participate, as part of a multidisciplinary team, in evaluating data on which the determination of the child's eligibility is based.
- (c-2) The scope of any reevaluation by a school district of a student who has been determined, after the full individual and initial evaluation, to be eligible for the district's special education program on the basis of a visual impairment shall be determined, in accordance with 34 C.F.R. Sections 300.122 and 300.303 through 300.311, by a multidisciplinary team that includes, as provided by commissioner rule, a person described by Subsection (c-1)(1)(A).
- (d) In developing, administering, and coordinating the statewide plan, the agency shall encourage the use of all pertinent resources, whether those resources exist in special education programs or in closely related programs operated by other public or private agencies, through encouraging the development of shared services arrangement working relationships and by assisting in the development of contractual arrangements between school districts and other organizations. The agency shall discourage interagency competition, overlap, and duplication in the development of specialized resources and the delivery of services.
- (e) Each eligible blind or visually impaired student is entitled to receive educational programs according to an individualized education program that:
 - (1) is developed in accordance with federal and state requirements for providing special education services;
 - (2) is developed by a committee composed as required by federal law;
 - (3) reflects that the student has been provided a detailed explanation of the various service resources available to the student in the community and throughout the state;
 - (4) provides a detailed description of the arrangements made to provide the student with the evaluation and instruction required under Subsection (c)(4); and
 - (5) sets forth the plans and arrangements made for contacts with and continuing services to the student beyond regular school hours to ensure the student learns the skills and receives the instruction required under Subsection (c)(4)(B).

SECTION 2. Subsection (e), Section 30.002, Education Code, as amended by this Act, applies beginning with the 2013-2014 school year.

(f) In the development of the individualized education program for student with a visual impairment, proficiency in reading and writing is a significant indicator of the student's satisfactory educational progress. The individualized education program for a student with a visual impairment must include instruction in braille and the use of braille unless the student's admission, review, and dismissal committee determines and documents that braille is not an appropriate literacy medium for the student. The committee's determination must be based on an evaluation of the student's appropriate literacy media and literacy skills and the student's current and future instructional needs. Braille instruction:

(1) may be used in combination with other special education services appropriate to the student's educational needs; and

(2) shall be provided by a teacher certified to teach students with visual impairments.

(f-1) Each person assisting in the development of the individualized education program for a student with a visual impairment shall receive information describing the benefits of braille instruction.

SECTION 2. This Act applies beginning with the 2019-2020 school year.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2019.

(g) To facilitate implementation of this section, the commissioner shall develop a system to distribute from the foundation school fund to school districts or regional education service centers a special supplemental allowance for each student with a visual impairment and for each student with a serious visual disability and another medically diagnosed disability of a significantly limiting nature who is receiving special education services through any approved program. The supplemental allowance may be spent only for special services uniquely required by the nature of the student's disabilities and may not be used in lieu of educational funds otherwise available under this code or through state or local appropriations.

Vision Services

The purpose of vision services is to provide consultation or direct instruction in compensatory vision skills, based on the student's Functional Vision Evaluation/Learning Media Assessment, for students from birth through 22 years with a visual impairment. Students with impaired vision are provided the recommended appropriate learning media, which may include regular textbooks, large print books, brailled books, audio media, and materials from American Printing House for the Blind (APH). Students meeting eligibility requirements are registered with TEA as Visually Impaired or Deaf-Blind on the annual VI registration. Students evaluated and determined eligible will receive Orientation & Mobility (O & M) instruction as a related service. Expanded Core Curriculum (ECC) will also be provided.

<https://hhs.texas.gov/services/disability/blind-visually-impaired>

II. TEACHER ACCESSIBILITY AND INPUT

§300.323 When IEPs must be in effect.

- (d) **Accessibility of child's IEP to teachers and others.** Each public agency must ensure that-
- (1) The child's IEP is accessible to each regular education teacher, special education teacher, related services provider, and other service provider who is responsible for its implementation; and
 - (2) Each teacher and provider described in paragraph (d)(1) of this section is informed of –
 - (i) His or her specific responsibilities related to implementing the child's IEP; and
 - (ii) The specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

§300.324 Development, review, and revision of IEP

- (a) (3) **Requirement with respect to regular education teacher.** A regular education teacher of a child with a disability, as a member of the IEP Team, must, to the extent appropriate, participate in the development of the IEP of the child, including the determination of--
- (i) Appropriate positive behavioral interventions and supports and other strategies for the child; and
 - (ii) Supplementary aids and services, program modifications, and support for school personnel consistent with §300.320(a)(4).
- (b) **Review and revision of IEPs.**
- (2) **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 §300.324(a)(3) of this section, participate in the review and revision of the IEP of the child.

TEC § 29.001. Statewide Plan. The TEA shall develop and implement a statewide plan with programmatic content that includes procedures designed to:

- (11) ensure that each district develops a process to be used by a teacher who instructs a student with a disability in a regular classroom setting:
 - (A) to request a review of the student's individualized education program;
 - (B) to provide input in the development of the student's individualized education program;
 - (C) that provides for a timely district response to the teacher's request; and
 - (d) that provides for notification to the student's parent or legal guardian of that response.

§89.1075.General Program Requirements and Local District Procedures.

- (a) Each school district must maintain an eligibility folder for each student receiving special education services, in addition to the student's cumulative record. The eligibility folder must include, but need not be limited to: copies of referral data; documentation of notices and consents; evaluation reports and supporting data; admission, review, and dismissal (ARD) committee reports; and the student's individualized education programs (IEPs).
- (b) For school districts providing special education services to students with visual impairments, there must be written procedures as required in the Texas Education Code (TEC), §30.002(c)(10).
- (c) Each school district must ensure that each teacher who provides instruction to a student with disabilities:
 - (1) has access to relevant sections of the student's current IEP;
 - (2) is informed of the teacher's specific responsibilities related to implementation of the IEP, such as goals and objectives, and of needed accommodations, modifications, and supports for the student; and
 - (3) has an opportunity to request assistance regarding implementation of the student's IEP.
- (d) Each school district must develop a process to be used by a teacher who instructs a student with a disability in a regular classroom setting:
 - (1) to request a review of the student's IEP;
 - (2) to provide input in the development of the student's IEP;
 - (3)that provides for a timely district response to the teacher's request; and
 - (4)that provides for notification to the student's parent or legal guardian of that response.

- (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.

Opportunity for General Education Teachers to Request Assistance:

The immediate person for support to the general education teacher is the campus special education teacher. Special educators are in a collaborative role to problem solve any difficulties the special education student may be having in the general class. The ARD/IEP form designates a person responsible for coordination of monitoring the student and this is typically assigned to the special education teacher. Special Education teacher responsibilities to ensure participation of the general education teacher include:

- A. sending a memo/form to inform the teachers of your planning period and request some time to discuss the special education students in their room,*
- B. providing relevant sections of the student's current IEP, such as goals and objectives, accommodations, and adaptations to all teachers that provide instruction to a student with disabilities,*
- C. offering conferences before or after school to discuss the current or proposed IEP of specific students... conferences may be used to discuss grading, homework; clarify student abilities and needs based on evaluation; discuss test accommodations for the teacher to use; or to suggest a behavioral strategy that may work for the student or review the behavioral intervention plan, if appropriate; etc.*

Opportunity to Provide Input to the ARD committee:

*The general education teacher will have information regarding the special education teacher's conference time and should use this time or after school conferences as one means to provide input regarding the student's IEP. General education and special education teachers may collaborate; however, the special education teacher **MUST** send out the ARD/IEP committee teacher's PLAAFP input form or staffing form to all the student's teachers prior to:*

- A. an initial ARD/IEP committee meeting,*
- B. an ARD/IEP meeting to consider existing evaluation data / reevaluation,*
- C. annual review ARD/IEP meeting, or*
- D. an ARD/IEP meeting considering other areas such as behavior, failures, etc..*

Process for Submitting Requests for Further Consideration of Student's IEP - General Education Teacher:

- A. There may be instances when the general educator does not agree with the decision of the ARD/IEP committee. There could be several reasons why this might occur; however, it is the responsibility of special educators first and foremost to support and assist the general education teacher in understanding the student's disability and IEP. When a general education teacher does not agree, the special education teacher should:*

- 1. make an appointment with the general education teacher to discuss the general education teacher's concern;*
- 2. listen carefully to each issue raised by the general education teacher, be sure he/she has a clear understanding of the student's educational competencies and needs. Often the general education teacher with a concern is not present in the ARD/IEP committee meeting and has not seen the evaluation information and may not understand the student's strengths and weaknesses.*
- 3. collaboratively brainstorm possible solutions and alternatives which could be used, being careful to pay close attention to the ARD/IEP committee decisions on placement, accommodations, etc. Areas for support include pacing, methods, materials, etc.*
- 4. keep notes of the issues and solutions to be tried and the person responsible for trying each solution, and the timeline;*
- 5. set the next date and time to get together to discuss any progress toward the general education teachers concern after he/she has implemented the solutions from the meeting. The special education teacher should always follow-up. Possible ways special education could support the general education teacher are listed above. Don't hesitate to offer specific suggestions as ways to help the teacher.*

**Progress should be noted and concerns resolved no more than two weeks from your first meeting date.*

- B. Involvement of the Principal: If steps above do not improve the situation, the Principal or Assistant Principal should be notified (if they have not already been involved). The following steps should be followed if a solution did not occur:*

- 1. The special education teacher should inform the administrator of the steps taken above.*

2. The administrator will determine any further resources to involve in resolving the situation. The diagnostician, coordinator, or special education director may be included in problem solving.
3. The administrator may call a meeting with the parties involved or may offer suggestions to the general education teacher, or may determine an ARD/IEP meeting is necessary to address the issues.
4. At any time during the process above, an ARD/IEP committee meeting may be requested by the Principal if determined necessary.

Process for Submitting Requests for Further Consideration of Student's IEP - Special Education Teacher:

- A. Involvement of the Principal: If the special education teacher determines appropriate, he or she submits requests for further consideration of the student's IEP to the Principal or Assistant Principal.
- B. The following steps should be followed if a solution did not occur:
 1. The special education teacher should inform the administrator of the considerations regarding the IEP.
 2. The administrator will determine any further resources to involve in resolving the situation. The diagnostician, coordinator, or executive director may be included in problem solving.
 3. The administrator may call a meeting with the parties involved or may offer suggestions to the special education teacher, or may determine an ARD/IEP meeting is necessary to address the issues.

III. SPECIAL EDUCATION TEACHER/SERVICE PROVIDER RESPONSIBILITIES

The special education teacher is responsible for development of appropriate goals and objectives as well as ongoing progress monitoring and documentation. Additional guidance information on standards-based IEP goals and objectives can be located on the TEA website.

The draft IEP goals and objectives proposed should be sent home one week prior to the ARD/IEP meeting. This is not to be confused with a “draft IEP” document.

The Tyler ISD staff will come to the ARD/IEP meeting with data and prepared to discuss findings and preliminary recommendations for the IEP. This preparation may or may not include a complete “draft IEP”. If the staff prepared a “draft IEP”, the staff will make it perfectly clear to the parents at the outset of the meeting that the services proposed are preliminary recommendations for review and discussion with the parents. If there is a draft developed, the parents will also have been provided a copy of the “draft IEP” in advance of the ARD/IEP meeting in order to review and prepare questions.

A. Initial ARD/IEP Meeting.

The special education teacher responsibilities in the IEP process are to:

- 1. complete the draft IEP measurable annual goals, based on appropriate evaluation of present levels of performance, benchmark testing, previous state testing, etc., (remember the general education teacher(s) to the extent appropriate, should participate in the development, review, and revision of the student's IEP), (objectives are required only if student is taking an alternative state assessment)*
- 2. complete the **draft** IEP goals and objectives by writing in any individualized items needed:*
 - a. complete header information marking DRAFT IEP GOALS and OBJECTIVES,*
 - b. complete proposed evaluation procedures, and criteria.*
- 3. send draft IEP goals/objectives to the parent at least one week prior to ARD/IEP meeting;*
- 4. write the date the IEP goals and objectives are accepted by ARD/IEP committee on the IEP during the ARD.*
- 5. make copies of the accepted IEP goals and objectives.*
 - a. One copy is to be filed in the student eligibility folder with the completed ARD/IEP forms, and*
 - b. additional copies of the approved IEP will be distributed to the parent and as needed (i.e., general education teacher copy, etc.).*
 - (1) ensure that each teacher who provides instruction to a student with disabilities receives relevant sections of the student's current IEP and that each teacher be informed of specific responsibilities related to implementing the IEP, such as goals and benchmarks, and of needed accommodations, modifications, and supports for the child;*
 - (2) obtain signed documentation from the general education teachers that they have received relevant sections of the student's IEP, such as goals and benchmarks, and of needed accommodations, and supports for the child for the list of special education students they instruct, and*
 - c. assist general education teachers who are involved in the student's instruction to maintain documentation that they are modifying and/or accommodating educational programs of students as specified in the ARD/IEP.*
- 6. The special education teacher's copy is used to document progress in the same timely manner as students on your campus who are nondisabled. (ex. every 6 weeks).*

B. Annual

The following apply for each annual ARD/IEP committee meeting:

1. *Each student's individual educational program (IEP) will be reviewed within 12 months to determine the student's progress, the student's continued need for special education and related services, and the need for modifying the plan. The ARD/IEP committee may schedule an earlier review date if needed for review, modification, failure, etc.*
2. *At the annual review, the current IEP objectives will be reviewed and documented on the IEP prior to the development and acceptance of a new IEP.*
3. *IEP's will also be reviewed and documented at the beginning of the year and after breaks in the program for regression/recoupment information necessary to discuss the need for ESY.*
4. *Progress on the IEP is documented in the same timely manner as other non-disabled students and reported to parents.*
5. *A copy of the progress report should be filed in the student's special education record to document the report.*

C. Brief/Revision ARD

Recommendations for changes in the individual educational program (IEP), including changes in the student's placement, will be made to the ARD/IEP committee until further guidance from the TEA. Revisions in the student's IEP which need ARD/IEP committee action may include, but not be limited to:

1. *any lack of expected progress toward the annual goals and in the general curriculum, if appropriate,*
2. *the results of any reevaluation conducted ,*
3. *information about the student provided to, or by, the parents,*
4. *the student's anticipated needs, or*
5. *other matters including but not limited to:*
 - a. *when a student with disabilities fails;*
 - b. *assigning a student to a classroom to receive instruction in a different curriculum area (i.e. reading comprehension, math calculation, etc.) than was designated by the last ARD/IEP committee;*
 - c. *any addition or deletion of a related service;*
 - d. *adding new objectives when all of the goals and objectives have been met;*
 - e. *any change in schedule which would change the instructional arrangement, or for high school students-the graduation plan;*
 - f. *when the teacher feels the IEP is not appropriate to the student's need.*

All disciplinary actions regarding student with disabilities will be in accordance with federal requirements and TEC Chapter 37, Subchapter A. The ARD/IEP committee will determine the instructional and related services to be provided during the time of expulsion. The student's IEP will include goals and objectives designed to assist in returning the student to school and preventing significant regression.

D. Transfer ARD

The TISD holds temporary placement meetings not ARDs. The special education teacher will be responsible for attending any temporary meetings as necessary and working with the campus diagnostician/appraisal staff to plan the draft IEP for the temporary transfer student. Assist in obtaining records from the previous district and conducting any benchmark or released STAAR testing as appropriate.

For specifics on Transfer ARDs, see Section **4a.X**.

E. Standards-based IEP Development

http://www.esc20.net/default.aspx?name=ci_se.agc.OnlineTraining

A standards-based IEP is a process in which the ARD/IEP team has incorporated state content standards in its development of goals aligned with, and chosen to facilitate the student's achievement of, state grade-level academic standards. Many professionals and family members view standards-based IEPs as a best practice to create high expectations for students with disabilities. Many of the questions below are the responsibility of the student's special education teacher(s) in collaboration with the general education teachers.

Steps to Creating a Standards-based IEP

(These steps are adapted from the ESC 20 Progress in the General Curriculum Project Materials)

Step 1: Consider the grade-level content standards for the grade in which the student is enrolled or would be enrolled based on age.

- *What is the intent of the content standard?*
- *What is the content standard saying that the student must know and be able to do?*

Step 2: Examine classroom and student data to determine where the student is functioning in relation to the grade-level standards.

- *Has the student been taught content aligned with grade-level standards?*
- *Has the student been provided appropriate instructional scaffolding to attain grade-level expectations?*
- *Were the lessons and teaching materials used to teach the student aligned with state grade-level standards?*
- *Was the instruction evidence-based?*

Step 3: Develop the present level of academic achievement and functional performance.

Describe the individual strengths and needs of the student in relation to accessing and mastering the general curriculum. Information should be obtained from general education teachers, parents, and any other service providers.

- *What do we know about the student's response to academic instruction (e.g., progress monitoring data)?*
- *What programs, accommodations (i.e., classroom and testing) and/or interventions have been successful with the student?*
- *What have we learned from previous IEPs and student data that can inform decision making?*
- *Are there assessment data (i.e., state, district and/or classroom) that can provide useful information for making decisions about the student's strengths and needs (e.g., patterns in the data)?*

Consider the factors related to the student's disability and how they affect how the student learns and demonstrates what he or she knows.

- *How does the student's disability affect participation and progress in the general curriculum?*
- *What supports does the student need to learn the knowledge and attain the skills to progress in the general curriculum?*
- *Is the student on track to achieve grade-level proficiency?*

Step 4: Develop measurable annual goals aligned with grade-level academic content standards.

- *What are the student's needs as identified in the present level of performance?*
- *Does the goal have a specific timeframe?*
- *What can the student reasonably be expected to accomplish in one school year?*
- *Are the conditions for meeting the goal addressed?*
- *How will the outcome of the goal be measured? Be specific/concrete using measures such as 7 of 10 trials for mastery.*

Step 5: Assess and report the student's progress throughout the year.

- *How does the student demonstrate what he/she knows on classroom, district and state assessments?*
- *Are a variety of assessments used to measure progress?*
- *How will progress be reported to parents?*

Step 6: Identify specially designed instruction including accommodations and/or modifications needed to access and progress in the general education curriculum.

- *What allowable accommodations are needed to enable the student to access the knowledge in the general education curriculum?*
- *What accommodations have been used with the student and were they effective?*
- *Has the complexity of the material changed in such a way that the content has been modified?*

Step 7: Determine the most appropriate assessment option.

- *What types of assessments are offered for the grade level? STAAR, etc.*

- *What types of responses do different assessments require?*
- *What are the administrative conditions of the assessment? (i.e., setting, delivery of instructions, time allotted, etc.)*
- *What accommodations are allowed on the assessment(s)?*
- *Are the accommodations approved for the assessment also used in the classroom? They must be or they cannot be allowed on the state assessment.*
- *Has the student received standards-based, grade-level instruction?*
- *Was the instruction evidence based?*
- *What is the student's instructional level?*
- *How different is the student's instructional level from the level of typical peers?*
- *Can the student make progress toward grade-level standards in the same timeframe as typical peers? (If no, consider modified academic achievement standards)*
- *What can be learned from the student's previous state assessment results?*
- *Can the student demonstrate what he/she knows on the assessment option under consideration?*

(See http://nasdse.org/DesktopModules/DNNspot-Store/ProductFiles/36_a7f577f4-20c9-40bf-be79-54fb510f754f.pdf)

IV. PARENTAL OPTIONS FOR STUDENT RETENTION

TEC §28.02124. Parental Option For Student Retention

- (a) Subject to Subsection (c), a parent or guardian may elect for a student to:
- (1) repeat prekindergarten;
 - (2) enroll in prekindergarten, if the student would have been eligible to enroll in prekindergarten during the previous school year under Section 29.153(b) and the student has not yet enrolled in kindergarten;
 - (3) repeat kindergarten;
 - (4) enroll in kindergarten, if the student would have been eligible to enroll in kindergarten in the previous school year and has not yet enrolled in first grade; or
 - (5) for grades one through three, repeat the grade in which the student was enrolled during the previous school year.
- (a-1) Subject to Subsections (a-3) and (c), a parent or guardian may elect for a student to:
- (1) for grades four through eight, repeat the grade the student was enrolled in during the previous school year; and
 - (2) for courses taken for high school credit, repeat any course in which the student was enrolled in during the previous school year.
- (a-2) A parent or guardian may make an election under Subsection (a-1)(1) or (2), or both.
- (a-3) A parent or guardian may not elect for a student to repeat a course under Subsection (a-1)(2) if the school district or open-enrollment charter school determines the student has met all of the requirements for graduation.
- (a-4) Subsections (a-1), (a-2), (a-3), and this subsection apply for students who repeat courses from the 2020-2021 school year during the 2021-2022 school year and for students who otherwise enroll during the 2021-2022 school year. Subsections (a-1), (a-2), (a-3), and this subsection expire September 1, 2022.
- (b) An election made by a parent or guardian under this section shall be made in writing to a school district or open-enrollment charter school, as applicable.
- (c) If a school district or an open-enrollment charter school disagrees with an election authorized under this section, the school district or open-enrollment charter school must convene a retention committee and meet with the parent or guardian to discuss retention. A meeting under this subsection shall be conducted in person unless an alternative means is agreeable to the parent or guardian. A student may not be retained for a grade or retake a course under this section if the parent or guardian does not meet with the retention committee.
- (d) A retention committee established under Subsection (c) shall be composed of:
- (1) the principal or the principal's designee;
 - (2) the student's parent or guardian;
 - (3) the teacher who taught the grade or course for which the parent wants the student retained or repeated; and
 - (4) additional teachers at the discretion of the principal, if the student will potentially repeat multiple courses.
- (e) A retention committee established under Subsection (c) shall:
- (1) discuss the merits of and concerns with advancement and retention; and
 - (2) review and consider the student's grade in each subject or course, the results of any formative or summative assessments administered to the student, and any other available academic information to determine the student's academic readiness for the next grade or a given course.
- (f) If established under Subsection (c), after the parent or guardian has participated in a retention committee meeting, the parent or guardian shall decide whether the student should be retained or retake a grade or course. The school district or open-enrollment school must abide by the decision of the parent or guardian.
- (g) A student who receives a passing grade or who earns credit for a high school course shall retain a school district's or open-enrollment charter school's original assignment of a grade or award of credit when a student is retained under this section, unless the school district or open-enrollment charter school adopts a policy to a different effect.
- (h) Except as provided by this section or other law, retention of a student pursuant to a parent's or guardian's election under this section shall be considered the same as retention of a student by a school district or open-enrollment charter school.

- (i) The rights of a parent or guardian under this section transfer to a student if the student is 18 years of age or older or has had the disabilities of a minor removed, unless the student is under a form of guardianship imposed by law or court order that continues after the student turns 18 years of age.
- (j) The commissioner may adopt rules to implement this section.

Added by Acts 2021, 87th Leg., R.S., Ch. 887 (S.B. 1697), Sec. 4, eff. June 16, 2021.

The district will follow all guidelines for parental options for student retention per §28.02124. The ARD committee may meet to discuss the results of the retention committee decision and review the need for any changes to the student's IEP prior to the beginning of the school year or semester in which the student will be repeating the same grade or high school course.

