

Section 4. - ADDITIONAL IEP INFORMATION
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Section 4. ADDITIONAL IEP INFORMATION

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

A. Adapted Physical Education (APE)

1. *All students referred for adapted physical education evaluation must have an identified disability.*
 - A. *The request for an adapted physical education first requires an evaluation be conducted. The evaluation request may have come from the DTAT upon initial referral or by 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 nondisabled students.*

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) (1) 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--
 - (i) Special education under §300.36;
 - (ii) Related services under §300.34; or
 - (iii) Supplementary aids and services under §§300.38 and 300.114(a)(2)(ii).
- (2) 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.
- (b) Each public agency must ensure that hearing aids worn in school by children with hearing impairments, including deafness, are functioning properly. (Authority: 20 U.S.C. 1412(a)(1), 1412(a)(12)(B)(i))

§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.

C. Auditory Impairment

§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

TAC §89.1050

- (b) For a child from birth through two years of age with visual and/or auditory impairments, an individualized family services plan (IFSP) meeting must be held in place of an ARD committee meeting in accordance with 34 CFR, §§303.340-303.346, and the memorandum of understanding between the Texas Education Agency (TEA) and Texas Interagency Council on Early Childhood Intervention. For students three years of age and older, DISD 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 DISD.

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, DISD 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.

D. Autism

TAC §89.1055.

- (e) For students with autism/pervasive developmental disorders, information about the following shall be considered and, when needed, addressed in the IEP:
- (1) extended educational programming;
 - (2) daily schedules reflecting minimal unstructured time;
 - (3) in-home training or viable alternatives;
 - (4) prioritized behavioral objectives;
 - (5) prevocational and vocational needs of students 12 years of age or older;
 - (6) parent training; and
 - (7) suitable staff-to-students ratio.

TAC §89.1055.

- (f) If the ARD committee determines that services are not needed in one or more of the areas specified in subsection (e)(1)-(7) of this section, the IEP must include a statement to that effect and the basis upon which the determination was made.

E. Deaf-Blindness ([see letter C. Auditory Impairment and letter X. Visual Impairment - for TSD/TSBVI see letter V.](#))

F. Extended School Year Services (ESY)

§300.106 Extended school year services.

(a) General.

- (1) Each public agency 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.

- (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 public agency;**
 - (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.**
(Authority: 20 U.S.C. 1412(a)(1))

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 (ESY Services)), then the IEP must also include goals and objectives for ESY services from the student's current IEP.

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), §300.309, and the provisions of this section. In determining the need for and in providing ESY services, DISD 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 shall demonstrate that in one or more critical areas addressed in the current individualized education program (IEP) 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 shall 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 shall 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, §300.344.
- (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 shall 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 shall 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 shall 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 six weeks of the school year, teachers will document students who have not, even after reteaching during the first six weeks, recouped those objectives. This regression will be reviewed by the teacher to determine whether the regression is severe and/or substantial. In addition, follow #3 after two more weeks of reteach.*
3. *The teacher will conduct an additional IEP review for these objectives at the end of eight weeks, again documenting students who have not recouped objectives after the additional two weeks of reteaching. This information is very important to determine appropriate ESY services/IEP recommendations.*
4. *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.*
5. *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.*
6. *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.*
7. *The IEP's 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)*

Additional ESY Considerations

For some students regression might be considered substantial even though recoupment does occur within the six to eight weeks. This is particularly true in critical skill areas such as health and safety. This must be an educational decision by the ARD/IEP committee, based on knowledge of the individual student's needs and current IEP goals and objectives.

- 1. ESY services are not automatic year after year. The need must be determined each year by the ARD/IEP committee.*
- 2. ESY services to be provided will be determined by the ARD/IEP committee for the individual student. Summer school is not synonymous with ESY services.*
- 3. Services are not to be provided simply for recreational reasons or because the student would benefit from them or gain new skills.*
- 4. The issue is whether the benefits accrued to the student during the school year on critical goals and objectives will be significantly jeopardized if the student is not provided an educational program during the summer months.*

G. Extracurricular Activities

§300.107 Nonacademic services.

The State must ensure the following:

- (a) Each public agency must take steps 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.

(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 Improvement Plan)

§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

- (g) All disciplinary actions regarding students with disabilities shall be determined in accordance with 34 CFR, §§300.121 and 300.519-300.529 (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).

If the student exhibits behavior that is interfering with learning or the learning of others, the ARD Committee will consider completing a Functional Behavior Assessment (FBA) and develop a Behavioral Intervention Plan (BIP). In addition, Social/Emotional Goals/Objectives would 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.

I. Grading and Reporting

TEC §28.0212. 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 DISD 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;**

Each student receiving special education instruction has an individual education program (IEP) which addresses the student's educational needs, educational goals and objectives.

1. *The special education teacher will utilize a lesson plan which reflects the Goals as stated on the IEP and follows the TEKS. Grades should evolve from the Goals with supporting documentation of how the grade was determined.*
2. *Numerical grades will be recorded for each subject area in a grade book. Recommended minimum mastery level on an IEP objective should be 70%, as a grade of 70 is required for passing for nondisabled students. If 70% is too high for mastery, the appropriateness of the goal should be reconsidered.*
3. *Care should be taken to ensure that goals are written at a level which continues to challenge the student's abilities. This may necessitate accommodations in curriculum, methods, pacing, materials, criteria, etc.*
4. *If the student with disabilities fails to meet the expectations addressed in the IEP, the responsible teacher will review the IEP for appropriateness of goals/objectives, instructional levels, materials, and methods. The teacher must document on the IEP the efforts made to try to help the student achieve success.*
5. *If a student with disabilities should not be 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 help the student achieve success.*
6. *An ARD/IEP committee will meet if the student is not attending school to discuss the appropriateness of the IEP, need for additional testing, and pursuit of compulsory attendance, if appropriate.*
7. *The grading of a special education student in a general education classroom is based upon the ARD/IEP committee recommendations for, if any, accommodations of TEKS and other 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 information concerning the student's achievement levels, learning style, and behavioral needs;*
 - c. *offering assistance to the general education teacher on a scheduled basis, as recommended by the ARD/IEP committee; and*
 - d. *documenting contacts with the general education teacher.*
8. *On occasion, the ARD/IEP committee will recommend that a specific subject be taught in a combination general education/special education instructional arrangement. The special education student's grade, in this situation, may be determined proportionately by the general and special education teachers who provide the instruction, as determined by the ARD/IEP committee.*
9. *Unless the ARD/IEP committee designates otherwise,*
 - a. *when a student is enrolled in the homebound program, the general classroom teacher will be responsible for grading all assignments and recording grades on the report card and permanent record for all subject areas.*
 - b. *the progress of children enrolled in PPCD will be based upon advancement toward mastery of IEP goals and objectives. Report cards will be issued to PPCD children on the same schedule as non-disabled students on their campus.*

J. Intensive Remediation

TEC §28.0213. Intensive Program of Instruction.

- (a) DISD 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) DISD 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) DISD 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. LEP (Limited English Proficient)

§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;**
 - (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;**

TAC §89.1230. Eligible Students with Disabilities.

- (a) DISD will implement assessment procedures which differentiate between language proficiency and handicapping conditions in accordance with Subchapter AA of this chapter (relating to Special Education Services), and shall establish placement procedures which ensure that placement in a bilingual education or English as a second language program is not refused solely because the student has a disability.

(See also Home Language Survey and LPAC in section 1-Referral and assessment in Section 2-FIE)

Limited English Proficient (LEP) Students with Disabilities

For all LEP (Limited English Proficient) Students:

- A. The LPAC report, must have been completed within the past year for each Annual ARD 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.*

L. 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.

(Authority: 20 U.S.C. 1412(a)(5))

§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 §300.38 (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.

(Authority: 20 U.S.C. 1412(a)(5))

§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, unless the parent agrees otherwise;

- (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.
(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--
- (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)}

1. *Can education in the general classroom, with the use of supplementary aids and services be achieved satisfactorily for the student?*
 - a. *Has DISD taken steps to accommodate the student with disabilities in the general classroom?*
 - (1) *Did the district provide supplementary aids and services?*
 - (2) *Did the district provide accommodations?*
 - b. *Are the services provided sufficient?*
 - (1) *the district does not have to provide every conceivable supplementary aid or service.*
 - (2) *IDEA (Individuals with Disabilities Education Act) does not require general education teachers to devote all or most of their time to one student with a disability.*
 - (3) *IDEA does not require that general education teachers modify the general education program beyond recognition.*
 - (4) *General education teachers are not required to modify the general education curriculum to the extent that the student with disabilities is not required to learn any of the skills normally taught in general education.*
 - c. *Will the student receive an educational benefit from general education?*
 - (1) *Can the student grasp the TEKS curriculum elements of the general education curriculum?*
 - (2) *Consider and document the nature and severity of the student's disability in relation to receiving educational benefit from general education.*
 - d. *Examine the student's overall educational experience in the mainstreamed environment balancing the benefits of general and special education for each individual student.*
 - e. *What effect does the presence of the student with disabilities' have on the general classroom environment and thus on the education that the other students are receiving.*
 - (1) *Discuss and document any disruptions in the classroom.*
 - (2) *Does the student require so much of the teacher's attention that the teacher will have to ignore the other students' needs in order to attend the student with disabilities.*

2. *If education in a general classroom cannot be achieved satisfactorily, determine whether the student has been mainstreamed to the maximum extent appropriate for that student.*
 - a. *Determine if all academic and non-academic classes in general education with nondisabled peers has been considered or tried.*
 - b. *Determine if mainstreaming for lunch, recess, or other times has been considered.*

M. Physical Education

§300.108 Physical education.

The State 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.
- (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 paragraphs (a) and (c) of this section.
(Authority: 20 U.S.C. 1412(a)(5)(A))

N. Preschool Program for Children with Disabilities

§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))

§300.323 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 5 – Instructional Arrangements

O. 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 300.112 (relating to LRE), do not apply with respect to the modifications described in paragraph (c)(1) of this section.

(Authority: 20 U.S.C. 1412(a)(1), 1412(a)(12)(A)(i), 1414(d)(3),(4)(B), and(7); and 1414(e))

P. 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) DISD 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. DISD 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 DISD'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) DISD 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.

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

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

In accordance with the Texas Education Code (TEC), §§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 (SBOE). Any student who has a hearing impairment which severely impairs processing linguistic information through hearing, even with recommended amplification, and which adversely affects educational performance shall be eligible for consideration for the Regional Day School Program for the Deaf, subject to the admission, review, and dismissal (ARD) committee recommendations.

R. Student Success Initiative (SSI)

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 www.tea.state.tx.us

The ARD committee serves as the GPC for students receiving special education services.

TAKS - SSI Requirements for Students Served By Special Education Who Take TAKS

Enrolled Grade 3 Students Who Take TAKS Reading

Based on the ARD committee decision, some Grade 3 students who are instructed in the Grade 3 reading TEKS will take TAKS. The flowchart for Grade 3 TAKS reading on page 8 outlines how the SSI grade advancement requirements affect all students who take the Grade 3 TAKS reading test, including students served by special education.

Enrolled Grade 5 Students Who Take TAKS Reading

Based on the ARD committee decision, some Grade 5 students who are instructed in the Grade 5 reading TEKS will take TAKS. The flowchart for Grade 5 TAKS reading on page 9 outlines how the SSI grade advancement requirements affect all students who take the Grade 5 TAKS reading test, including students served by special education.

Enrolled Grade 5 Students Who Take TAKS Mathematics

Based on the ARD committee decision, some Grade 5 students who are instructed in the Grade 5 mathematics TEKS will take TAKS. The flowchart for Grade 5 TAKS mathematics on page 10 outlines how the SSI grade advancement requirements affect all students who take the Grade 5 TAKS mathematics test, including students served by special education.

- The ARD committee makes assessment and instructional decisions for students receiving special education services, including those who take TAKS. If a student has not met the passing standard after two TAKS testing opportunities, the ARD committee will meet to prescribe accelerated instruction for that student and to determine if the student will take TAKS or an alternate assessment for the third testing opportunity. If a student has not met the passing standard after three testing opportunities, the ARD committee will determine whether the student will be promoted or retained. The ARD committee decision regarding promotion does not have to be unanimous but must follow the general rules governing ARD committee decision-making as set forth in 19 TAC §89.1050.

SDAA-II - SSI Requirements for Students Served By Special Education Who Take SDAA II

Enrolled Grade 3 Students Who Take SDAA II Reading

Based on the ARD committee decision, some Grade 3 students will be assessed with an SDAA II reading test. The flowchart for Grade 3 reading on page 32 outlines how the SSI grade advancement requirements affect students served by special education, including students who take SDAA II reading at Instructional Levels K, 1, 2, or 3.

Enrolled Grade 5 Students Who Take SDAA II Reading

Based on the ARD committee decision, some Grade 5 students will be assessed with an SDAA II reading test. The flowchart for Grade 5 reading on page 33 outlines how the SSI grade advancement requirements affect students served by special education, including students who take SDAA II reading at Instructional Levels K, 1, 2, 3, 4, or 5.

Enrolled Grade 5 Students Who Take SDAA II Mathematics

Based on the ARD committee decision, some Grade 5 students will be assessed with an SDAA II mathematics test. The flowchart for Grade 5 mathematics on page 34 outlines how the SSI grade advancement requirements affect students served by special education, including students who take SDAA II mathematics at Instructional Levels K, 1, 2, 3, 4, or 5.

All students who take TAKS or SDAA II must be given 3 opportunities to meet the SSI grade advancement requirements. Because SDAA II is administered only once, districts must provide two additional testing opportunities, as needed, using a TEKS-based assessment. TEKS-based assessments may be formal or informal assessments designed to assist the ARD committee in determining whether the student is likely to perform successfully in the next grade.

If the first testing opportunity is provided before the SDAA II administration, and the student performs satisfactorily on a TEKS-based formal or informal assessment, the student meets the SSI requirements but still takes SDAA II as required in the student's IEP. School personnel, in their responsibility for student progress monitoring of the IEP, may review test results and determine whether the student has performed satisfactorily. If the student does not perform satisfactorily, accelerated instruction must be provided, and the student takes SDAA II as the second testing opportunity.

SDAA II measures student academic progress over time; it does not have a state-mandated passing standard. For a Grade 3 or Grade 5 student to perform satisfactorily on the SDAA II reading and/or mathematics test(s), the student should perform at the level of progress determined by the student's ARD committee. When the test results are received, a Grade 3 or Grade 5 student who took SDAA II and who performed as anticipated will have satisfied the requirements for grade advancement under the SSI.

If a student has not met ARD expectations after two testing opportunities, the ARD committee, functioning as a GPC, must meet to determine accelerated instruction and the third assessment option (a TEKS-based formal or informal assessment). If a student does not meet expectations on the third testing opportunity, the GPC (ARD) committee must meet to make placement decisions and determine an accelerated instruction plan for the following school year. The GPC (ARD) committee decision regarding promotion does not have to be unanimous but must follow the general rules governing ARD committee decision-making as set forth in 19 TAC §89.1050.

LDAA - Students Served By Special Education Who Take an LDAA

Enrolled Grade 3 Students Who Take an LDAA in Reading

Based on the ARD committee decision, some Grade 3 students will be assessed with an LDAA for reading. Students who take an LDAA in reading are not subject to the SSI requirements, and their grade placement is not affected.

Enrolled Grade 5 Students Who Take an LDAA in Reading

Based on the ARD committee decision, some Grade 5 students will be assessed with an LDAA for reading. Students who take an LDAA in reading are not subject to the SSI requirements for that subject area.

Enrolled Grade 5 Students Who Take an LDAA in Mathematics

Based on the ARD committee decision, some Grade 5 students will be assessed with an LDAA for mathematics. Students who take an LDAA in mathematics are not subject to the SSI requirements for that subject area.

Clarification of SSI Test Options for Students Receiving Special Education Services

A TEKS-based formal or informal assessment is used to meet the multiple testing requirements under the SSI for a student who takes SDAA II. For the purposes of the SSI, an LDAA is different from a TEKS based formal or informal assessment that can serve this multiple-testing requirement.

The alternate assessment to TAKS (from the state-approved list) is allowed as an option for students who have not met the passing standard on the first two TAKS testing opportunities. This alternate assessment must be included as an option in local policy and approved by the GPC before it is administered. Because this assessment is an alternate to TAKS, it would not be appropriate for students who take SDAA II or an LDAA.

TEC § 28.0211. Satisfactory Performance on Assessment, Instruments Required; Accelerated Instruction

- (a) Except as provided by Subsection (b) or (e), a student may not be promoted to:
 - (1) the fourth grade program to which the student would otherwise be assigned if the student does not perform satisfactorily on the third grade reading assessment instrument under Section 39.023;
 - (2) the sixth grade program to which the student would otherwise be assigned if the student does not perform satisfactorily on the fifth grade mathematics and reading assessment instruments under Section 39.023; or
 - (3) the ninth grade program to which the student would otherwise be assigned if the student does not perform satisfactorily on the eighth grade mathematics and reading assessment instruments under Section 39.023.
- (b) DISD shall provide to a student who initially fails to perform satisfactorily on an assessment instrument specified under Subsection (a) at least two additional opportunities to take the assessment instrument. A school district may administer an alternate assessment instrument to a student who has failed an assessment instrument specified under Subsection (a) on the previous two opportunities. Notwithstanding any other provision of this section, a student may be promoted if the student performs at grade level on an alternate assessment instrument under this subsection that is appropriate for the student's grade level and approved by the commissioner.
- (c) Each time a student fails to perform satisfactorily on an assessment instrument specified under Subsection (a), the school district in which the student attends school shall provide to the student accelerated instruction in the applicable subject area, including reading instruction for a student who fails to perform satisfactorily on a reading assessment instrument. After a student fails to perform satisfactorily on an assessment instrument a second time, a grade placement committee shall be established to prescribe the accelerated instruction the district shall provide to the student before the student is administered the assessment instrument the third time. The grade placement committee shall be composed of the principal or the principal's designee, the student's parent or guardian, and the teacher of the subject of an assessment instrument on which the student failed to perform satisfactorily. The district shall notify the parent or guardian of the time and place for convening the grade placement committee and the purpose of the committee. An accelerated instruction group administered by DISD under this section may not have a ratio of more than 10 students for each teacher.

- (d) In addition to providing accelerated instruction to a student under Subsection (c), the district shall notify the student's parent or guardian of:
 - (1) the student's failure to perform satisfactorily on the assessment instrument;
 - (2) the accelerated instruction program to which the student is assigned; and
 - (3) the possibility that the student might be retained at the same grade level for the next school year.
- (e) A student who, after at least three attempts, fails to perform satisfactorily on an assessment instrument specified under Subsection (a) shall be retained at the same grade level for the next school year in accordance with Subsection (a). The student's parent or guardian may appeal the student's retention by submitting a request to the grade placement committee established under Subsection (c). DISD shall give the parent or guardian written notice of the opportunity to appeal. The grade placement committee may decide in favor of a student's promotion only if the committee concludes, using standards adopted by the board of trustees, that if promoted and given accelerated instruction, the student is likely to perform at grade level. A student may not be promoted on the basis of the grade placement committee's decision unless that decision is unanimous. The commissioner by rule shall establish a time line for making the placement determination. This subsection does not create a property interest in promotion. The decision of the grade placement committee is final and may not be appealed.
- (f) DISD shall provide to a student who, after three attempts, has failed to perform satisfactorily on an assessment instrument specified under Subsection (a) accelerated instruction during the next school year as prescribed by an educational plan developed for the student by the student's grade placement committee established under Subsection (c). The district shall provide that accelerated instruction regardless of whether the student has been promoted or retained. The educational plan must be designed to enable the student to perform at the appropriate grade level by the conclusion of the school year. During the school year, the student shall be monitored to ensure that the student is progressing in accordance with the plan. The district shall administer to the student the assessment instrument for the grade level in which the student is placed at the time the district regularly administers the assessment instruments for that school year.
- (g) This section does not preclude the retention at a grade level, in accordance with state law or DISD policy, of a student who performs satisfactorily on an assessment instrument specified under Subsection (a).
- (h) In each instance under this section in which a school district is specifically required to provide notice to a parent or guardian of a student, DISD shall make a good faith effort to ensure that such notice is provided either in person or by regular mail and that the notice is clear and easy to understand and is written in English or the parent or guardian's native language.
- (i) The admission, review, and dismissal committee of a student who participates in a district's special education program under Subchapter 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) shall determine:
 - (1) the manner in which the student will participate in an accelerated instruction program under this section; and
 - (2) whether the student will be promoted or retained under this section.
- (j) A school district or open-enrollment charter school shall provide students required to attend accelerated programs under this section with transportation to those programs if the programs occur outside of regular school hours.
- (k) The commissioner shall adopt rules as necessary to implement this section, including rules concerning when school districts shall administer assessment instruments required under this section and which administration of the assessment instruments will be used for purposes of Section 39.051.
- (l) The commissioner shall issue a report to the legislature not later than December 1, 2000, that reviews the enrollment of students in accelerated instruction and the quality and availability of accelerated instruction programs, including accelerated instruction-related teacher professional development programs.

- (m) The commissioner shall certify, not later than July 1 of each school year or as soon as practicable thereafter, whether sufficient funds have been appropriated statewide for the purposes of this section. A determination by the commissioner is final and may not be appealed. For purposes of certification, the commissioner may not consider Foundation School Program funds. This section may be implemented only if the commissioner certifies that sufficient funds have been appropriated during a school year for administering the accelerated instruction programs specified under this section.

Text of subsection (n) effective until **January 1, 2008**

- (n) This section applies to the assessment instrument administered to students in:
- (1) the third grade beginning with the 2002-2003 school year;
 - (2) the fifth grade beginning with the 2004-2005 school year; and
 - (3) the eighth grade beginning with the 2007-2008 school year.

Text of subsection (o) effective until **January 1, 2008**

(o) Subsection (n) and this subsection expire January 1, 2008.

Added by Acts 1999, 76th Leg., ch. 396, § 2.12, eff. Sept. 1, 1999.

TAC §101.2001. Policy.

TAC §101.2003. Grade Advancement Testing Requirements.

TAC §101.2005. Test Administration and Schedule.

TAC §101.2007. Role of Grade Placement Committee.

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.

TEC § 39.023. Adoption and Administration of Instruments

- (a) The agency shall adopt or develop appropriate criterion-referenced assessment instruments designed to assess essential knowledge and skills in reading, writing, mathematics, social studies, and science. All students, except students assessed under Subsection (b) or (l) or exempted under Section 39.027, shall be assessed in:
- (1) mathematics, annually in grades three through seven without the aid of technology and in grades eight through 11 with the aid of technology on any assessment instruments that include algebra;
 - (2) reading, annually in grades three through nine;
 - (3) writing, including spelling and grammar, in grades four and seven;
 - (4) English language arts, in grade 10;
 - (5) social studies, in grades eight and 10;
 - (6) science, in grades five, eight, and 10; and
 - (7) any other subject and grade required by federal law.
- (b) The agency shall develop or adopt appropriate criterion-referenced assessment instruments to be administered to each student in a special education program under Subchapter A, Chapter 29, who receives modified instruction in the essential knowledge and skills identified under Section 28.002 for the assessed subject but for whom an assessment instrument adopted under Subsection (a), even with allowable modifications, would not provide an appropriate measure of student achievement, as determined by the student's admission, review, and dismissal committee. The assessment instruments required under this subsection must assess essential knowledge and skills and growth in the subjects of reading, mathematics, and writing. A student's admission, review, and dismissal committee shall determine whether any allowable modification is necessary in administering to the student an assessment instrument required under this subsection. The assessment instruments required under

this subsection shall be administered on the same schedule as the assessment instruments administered under Subsection (a).

- (1) The State Board of Education shall adopt rules for the administration of the assessment instruments adopted under Subsection (a) in Spanish to students in grades three through six who are of limited English proficiency, as defined by Section 29.052, whose primary language is Spanish, and who are not otherwise exempt from the administration of an assessment instrument under Section 39.027(a)(3) or (4). Each student of limited English proficiency whose primary language is Spanish, other than a student to whom Subsection (b) applies, may be assessed using assessment instruments in Spanish under this subsection for up to three years or assessment instruments in English under Subsection (a). The language proficiency assessment committee established under Section 29.063 shall determine which students are administered assessment instruments in Spanish under this subsection.

S. Supplementary Aids and Services - Accommodations

§300.41 Supplementary aids and services. Supplementary aids and services means aids, services, and other supports that are provided in regular education classes or other education-related settings to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with §§300.112 through 300.116. (Authority: 20 U.S.C. 1401(33))

§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;

T. Tape Recording

DISD, 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 will be kept confidential and located with the eligibility folder.

TEC §29.005.

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

U. TAKS, SDAA-II, LDAA or District-wide Assessments

§300.160 Participation in assessments.

- (a) **General.** The State must ensure that all children with disabilities are included in all general State and districtwide assessment programs, including assessments described in section 1111 of the ESEA, 20

U.S.C. 6311, with appropriate accommodations and alternate assessments, if necessary, and as indicated in their respective IEPs.

- (b) **Accommodation guidelines.** The State (or, in the case of a districtwide assessment, the LEA) must develop guidelines for the provision of appropriate accommodations.

DISD will follow the TEA manual for allowable accommodations on state testing and the ARD/IEP committee will specifically detail accommodations that the student needs throughout the school year to implement the IEP.

- (c) **Alternate assessments.**

- (1) The State (or, in the case of a districtwide assessment, the LEA) must develop and implement alternate assessments and guidelines for the participation of children with disabilities in those alternate assessments for those children who cannot participate in regular assessments under paragraph (a) of this section with accommodations as indicated in their respective IEPs.
- (2) The alternate assessments and guidelines under paragraph (c)(1) of this section must provide for alternate assessments that in the case of assessments of student academic progress--
 - (i) Are aligned with the State's challenging academic content standards and challenging student academic achievement standards; and
 - (ii) If the State has adopted alternate achievement standards permitted under the regulations promulgated to carry out section 1111(b)(1) of the ESEA, measure the achievement of children with disabilities against those standards.
- (3) The State must conduct the alternate assessments described in this section.

- (d) **Reports.** The SEA (or, in the case of a districtwide assessment, the LEA) must make available to the public, and report to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children, the following:

- (1) The number of children with disabilities participating in regular assessments, and the number of those children who were provided accommodations in order to participate in those assessments.
- (2) The number of those children with disabilities participating in alternate assessments described in paragraph (c)(2)(i) of this section.
- (3) The number of those children with disabilities participating in alternate assessments described in paragraph (c)(2)(ii) of this section.
- (4) The performance results of children with disabilities on regular assessments and on alternate assessments if--
 - (i) The number of those 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, compared with the achievement of all children, including children with disabilities, on those assessments.

- (e) **Universal design.** The SEA (or, in the case of a districtwide assessment, the 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))

TAC §89.1055.

- (b) The IEP must include a statement of any individual allowable accommodations in the administration of assessment instruments developed in accordance with Texas Education Code (TEC), §39.023(a)-(c), or district-wide assessments of student achievement that are needed in order for the student to participate in the assessment. If the ARD committee determines that the student will not participate in a particular state- or district-wide assessment of student achievement (or part of an assessment), the IEP must include a statement of:

- (1) why that assessment is not appropriate for the child; and
- (2) how the child will be assessed using a locally developed alternate assessment.

§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.

ARD/IEP Committee

*The decision to test or exempt students with disabilities from state or district wide assessments should be made by the ARD/IEP committee. This decision should be based upon whether or not the student has received instruction in content areas covered in the test. The decision should **not** be based upon the fact that the student may score lower than other students in the class. The eligibility of each student with a disability to take all or a portion of the TAKS basic skills assessment instrument and/or the exit level assessment instrument will be addressed in the student's IEP. The ARD/IEP committee will determine appropriate assessment on an individual basis. Assessments may include TAKS, State-Developed Alternative Assessment (SDAA - II), Reading Proficiency Tests in English (RPTE) the Texas Primary Reading Inventory (TPRI), or other locally assigned alternate assessment. **The ARD/IEP committee must review annually the previous ARD/IEP recommendations to determine if the student took the appropriate assessment and discuss progress.***

1. TAKS – Texas Assessment of Knowledge and Skills

Take TAKS (without accommodations):

If a student with disabilities received instruction in content areas covered in the test and records indicate the student has the ability to master the test competencies, the ARD/IEP Committee should recommend the student take TAKS.

Take TAKS (with accommodations):

If a student with disabilities received instruction in content areas covered in the test, and school records indicate the student's ability to master competencies covered in the test but has consistently required accommodations of general classroom procedures, the student may receive accommodations on the test. Decisions to use a particular accommodation will be made on an individual basis by the ARD/IEP committee and will take into consideration the needs of the student and whether the student routinely receives the accommodation in classroom instruction. The TAKS accommodations required will be listed in the ARD/IEP committee report. Allowable accommodations are found in the TAKS 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.

EXEMPT FROM EXIT LEVEL ASSESSMENT:

Students may also be exempted from the Exit Level assessment if, even with allowable accommodations, the assessment would not provide an appropriate measure of the student's achievement. The ARD committee will determine how the student will be assessed.

2. SDAA – State Developed Alternate Assessment -II

Take SDAA-II:

Based on ARD Committee decisions, this assessment option is available to students who:

- receive special education support and services,

- are enrolled in Grades 3 – 10,
- are receiving instruction in the Texas Essential Knowledge and Skills (TEKS), state-mandated curriculum.

A student should take the SDAA-II if he or she receives TEKS instruction on grade level with accommodations that would invalidate TAKS, or receives TEKS instruction below grade level with no accommodations that would invalidate the SDAA-II. The ARD/IEP committee will determine:

- accommodations for the SDAA-II that are routinely used in instruction based on the student's disability. These accommodations must be documented in the IEP.
- determine level of performance considered to be satisfactory

Non-allowable accommodations are listed in the Coordinator Manual and include:

- the test administrator may not provide any direct or indirect assistance or reinforcement that identifies or aids in the identification of the correct response to an item.
- test questions, answer choices, and the writing prompt may not be rephrased or clarified,
- the number of answer choices for an item may not be reduced.

A student may take TAKS for one subject and the SDAA-II for another subject, depending on the ARD/IEP committee decision. For a student taking any SDAA-II the ARD/IEP committee will specify:

- a. why the TAKS assessment is not appropriate even with allowable accommodations,
- b. must list the SDAA-II (by subject area) to be used for the student,
- c. list the current functioning level which is to be assessed
- d. list the level of performance considered to be satisfactory
- e. list any allowable accommodations currently specified in the IEP that will not invalidate the test,
- f. the results must be documented and placed in the student eligibility folder for review at the next annual ARD/IEP committee meeting.

3. LDAA – Locally Developed Alternate Assessment

Take LDAA:

A student should take a locally assigned alternate assessment if the student is not receiving TEKS instruction at any grade level or is receiving TEKS instruction but with accommodations that would invalidate the SDAA-II.

The ARD/IEP committee will specify:

- a. why the TAKS or SDAA-II is not appropriate even with allowable accommodations, (ex. Because the student's IEP does not include instruction in TEKS at any grade level) (EXIT LEVEL ONLY: the assessment instrument, even with allowable modifications would not provide an appropriate measure of the students achievement)
- b. must list the alternate assessment (by subject area) to be used for the student,
- c. list the current functioning level which is to be assessed
- d. list the level of performance considered to be satisfactory
- e. list any allowable accommodations currently specified in the IEP that will not invalidate the test,
- f. the results must be documented and placed in the student eligibility folder for review at the next

See also Intensive Remediation and Student Success Initiative.

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

TEC §30.004. Information Concerning Programs.

- (a) DISD 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).

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, §§1401, 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 district cannot appropriately provide in a local program and 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, §§1401 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

W. Transition Planning

DISD will continue to follow the Texas Education Agency requirements (which exceed the new IDEA 2004 regulations) for Transition Planning until such time as TEA rules are modified.

§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.

§300.320 Definition of individualized education program

(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.

§300.42 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))

§300.324 (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.

- (g) In accordance with 34 CFR §300.29, §300.344, and §300.347, for each student with a disability, beginning at age 14 (prior to the date on which a student turns 14 years of age) or younger, if determined appropriate by the ARD committee, the following issues must be considered in the development of the IEP, and, if appropriate, integrated into 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.

TEC §29.011. Transition Planning.

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, 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.

X. 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 shall be written procedures as required in the Texas Education Code (TEC), §30.002(c)(10).

TAC §89.1050

- (b) For a child from birth through two years of age with visual and/or auditory impairments, an individualized family services plan (IFSP) meeting must be held in place of an ARD committee meeting in accordance with 34 CFR, §§303.340-303.346, and the memorandum of understanding between the Texas Education Agency (TEA) and Texas Interagency Council on Early Childhood Intervention. For students three years of age and older, DISD must develop an IEP.

TAC §89.1055.

- (d) For students with visual impairments, from birth through 21 years of age, the IEP or individualized family services plan (IFSP) shall also meet the requirements of TEC, §30.002(e).

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

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

TEC §30.002. Education for Children with Visual Impairments.

- (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 orientation and mobility training, instruction in braille or use of large print, other training to compensate for serious visual loss, access to special media and special tools, appliances, aids, or devices commonly used by individuals with serious visual impairments; 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 training required under Subsection (c)(4).
- (f) In the development of the individualized education program for a functionally blind student, proficiency in braille reading and writing is presumed to be essential for the student's satisfactory educational progress. Each functionally blind student is entitled to braille reading and writing instruction that is sufficient to enable the student to communicate with the same level of proficiency as other students of comparable ability who are at the same grade level. Braille instruction may be used in combination with other special education services appropriate to the student's educational needs. The assessment of each functionally blind student for the purpose of developing the student's individualized education program must include documentation of the student's strengths and weaknesses in braille skills. Each person assisting in the development of a functionally blind student's individualized education program shall receive information describing the benefits of braille instruction. Each functionally blind student's individualized education program must specify the appropriate learning medium based on the assessment report and ensure that instruction in braille will be provided by a teacher certified to teach students with visual impairments. For purposes of this subsection, the agency shall determine the criteria for a student to be classified as functionally blind.
- (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.

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

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

II. GENERAL EDUCATION TEACHER INPUT

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

- (c) DISD shall have procedures to ensure that each teacher involved in a student's instruction has the opportunity to provide input and request assistance regarding the implementation of the student's IEP. These procedures must include a method for a student's regular or special education teachers to submit requests for further consideration of the student's IEP or its implementation. In response to this request, the district's procedures shall include a method for the district to determine whether further consideration is necessary and whether this consideration will be informal or will require an ARD committee meeting. If the district determines that an ARD committee meeting is necessary, the student's current regular and special education teachers shall have an opportunity to provide input. DISD shall also 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.

§300.323 When IEPs must be in effect.

- (d) **Accessibility of child's IEP to teachers and others.** Each public agency must ensure that the child's IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation.

§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).

§300.324 Development, review, and revision of IEP

(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 (a)(3) of this section, participate in the review and revision of the IEP of the child.

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 may 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 input 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 ways 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 that 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 may submit 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 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 special education teacher, or may determine an ARD/IEP meeting is necessary to address the issues.*

III. SPECIAL EDUCATION TEACHER/SERVICE PROVIDER RESPONSIBILITIES

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, selecting a minimum of one goal and two objectives for each subject or developmental area anticipated; (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 off grade level state assessment)*
2. *complete the IEP by writing in any individualized items needed:*
 - a. *complete header information marking DRAFT IEP,*
 - 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 is 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

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.*
 - a. *in addition to presenting the new draft IEP goals and objectives,*
 - b. *submit the original IEP with progress documentation marked on the IEP, and*
 - c. *follow #1 through # 6 in A. above.*
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.*
 - a. *There should be some objectives that have been added/deleted/revise on the new IEP.*
 - b. *If there are no changes, the ARD/IEP committee should have written justification or the lack of revision and lack of a new IEP generated.*
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. *Also, progress on the IEP is documented in the same timely manner as other non-disabled students and reported to parents.*

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 special education teacher will be responsible for attending any temporary ARD 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 TAKS testing as appropriate.