

# Dumas Independent School District

## Local Operating Guidelines for Special Education

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## Purpose of Local Operating Guidelines

The special education programs in the Dumas Independent School District operate under local board policies. These operating guidelines (“Guidelines”) have been developed to clarify and support local district policy, State Board of Education and Commissioner’s Rules for Special Education Services, and 34 Code of Federal Regulations (Individuals with Disabilities Act) IDEA – Part 300. None of the guidelines modify the intent and/or meaning of those required by the IDEA, and in the event of conflict between these Guidelines and the IDEA, the IDEA shall trump the Guidelines. .

These Guidelines have been designed to ensure an appropriate education for all students with disabilities while placing the least possible time and paperwork burden on school staff. As needs emerge or deficiencies in current procedures become apparent, changes will be made. District personnel are invited to review and evaluate all procedures and to help in the ongoing development of special education services. Changes may be made to these Guidelines at any time, with or without notice.

Throughout this manual the reference to “DUMAS ISD,” “the district” and “DISD” refer to the Dumas Independent School District and these Guidelines.

Topics within these Guidelines can be referenced online through DISD’s legal framework.

<http://framework.esc18.net/display/Webforms/LandingPage.aspx?FID=161&DT=G&LID=en>

*You will need to enter the county district number to access DISD’s framework. Our number is 171-901.*

### Definitions:

ARD:	Admission, Review & Dismissed
BIP:	Behavior Intervention Plan
ECI:	Early Childhood Intervention
FAPE:	Free Appropriate Public Education
FBA:	Functional Behavioral Assessment
FERPA:	Family Educational Rights & Privacy Act
IAES:	Interim Alternative Educational Setting
IDEA:	Individuals With Disabilities Education Act
IEP:	Individualized Education Program
TEA:	Texas Education Agency

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**Child Find**

All children with disabilities residing in the state, who are in need of special education and related services, including children with disabilities attending private schools, must be identified, located, and evaluated. This process is called *Child Find*.

The District shall ensure that all children residing within the District who have disabilities, regardless of the severity of their disabilities, and who are in need of special education and related services are identified, located, and evaluated. This requirement applies to:

1. Homeless children;
2. Children who are wards of the state;
3. Children attending private schools;
4. Highly mobile children (including migrant children); and
5. Children who are suspected of being in need of special education but who are advancing from grade to grade.

Children with disabilities who are eligible for special education are those students who have reached their third birthday and have not reached their twenty-second birthday on September 1 of the current school year, except as noted. Educational disabilities include:

- orthopedic impairment
- other health impairment
- auditory impairment (ages 0 - 21 years)
- visual impairment (ages 0 - 21 years)
- deaf-blind (ages 0 - 21 years)
- intellectual disability
- emotionally disturbed
- specific learning disability
- speech impairment
- autism
- multiple disabilities
- traumatic brain injury

The child identification process will include procedures for locating the following: children who are not in school, those who are in school but are not receiving special education services, those who are receiving some but not all needed special education services, those enrolled in private school including home schooled, those who are homeless or are wards of the State.

The term "special education" means specially-designed instruction, at no cost to the parents, to meet the unique needs of the child with a disability, including instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and instruction in physical education.

The district encourages promotion of collaboration and cooperation with the Education Service Center and other state, regional, and local agencies, especially with all ECI services, as well as in-district departments,

to actively locate and identify children with disabilities in order to afford them a full educational opportunity. The district further ensures compliance with confidentiality requirements in Federal and State law in the collection and use of data in its Child Find system.

## Parents

### The term “parent” means:

- A biological or adoptive parent of a child;
- A foster parent of a child who meets established requirements, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent;
- A guardian generally authorized to act as the child’s parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State);
- An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child’s welfare; or
- An individual assigned to be a surrogate parent in accordance with §300.519 of the 34 CFR.

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

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

Training of a foster parent must occur no later than 90 calendar days after the assignment. Contact the Director of Special Services if you need to arrange training for a foster parent.

### Appointment of a Surrogate Parent

Dumas ISD will make reasonable efforts to appoint a surrogate parent not more than 30 days after there is a determination the child needs a surrogate parent, unless the judge overseeing the child’s care appoints the surrogate.

Unless appointed by the judge overseeing the child’s care, Dumas ISD will appoint a surrogate parent whenever:

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

The surrogate parent cannot be:

- An employee of the Texas Education Agency;
- An employee of Dumas ISD;
- An employee of any other agency that is involved in the education or care of the child; or
- A person with a personal or professional interest that conflicts with the interest of the child the surrogate parent represents. Such conflict of interest includes:
  - Appointment would result in monetary gain for the individual acting as a surrogate parent or for the agency/facility employing that individual
  - Appointment would impact staffing decisions and/or costs incurred by the individual or the agency/facility.

Dumas ISD requires appointed surrogate parents to:

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

The district may select a person who is an employee of a nonpublic agency that only provides non-educational care for the child.

### **Training for Foster Parents and Surrogate Parents**

The training program will include the following components:

- The identification of a student with a disability;
- The collection of evaluation and re-evaluation data relating to a student with a disability;
- The ARD committee process;
- The development of an individualized education program and for a student who is at least 16 years of age (or who will turn 16 prior to the next annual review), an individual transition plan;
- The determination of the least restrictive environment;
- The implementation of the IEP;
- Available procedural rights and safeguards available under Federal and State law; and
- The sources that the surrogate parent may contact to obtain assistance in understanding the provisions of Federal and State laws, rules and regulations relating to students with disabilities.

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

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

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

The district shall give preferential consideration to a foster parent of a child with a disability when assigning a surrogate parent to the child.

If the district denies a foster parent the right to serve as a surrogate parent, the district will provide the foster parent with a written notice of such denial within seven calendar days after the date the decision was made.

*Procedures when appointing a surrogate parent:*

1. *Notify the Special Services office of a need for a Surrogate Parent*

*\*All court documentation will need to be provided*

2. *Special services personnel will provide a Surrogate Parenting Log to the Surrogate Parent*

## **The Adult Student**

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

When a child with a disability reaches 18 years of age (except for a child who has been determined to be incompetent under State law):

- All rights under the IDEA transfer from the parent to the adult student; Except that the district must provide any notice required under the IDEA to both the adult student and the parents; and
- All rights under FERPA transfer from the parent to the adult student; Except that consent is not required to disclose information to the parent of an adult student if the student is a dependent student or another (when consent is not required to disclose information) exception applies.

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

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

Dumas ISD will notify the adult student, and the parents, of the transfer of rights, including a statement:

- Parental rights have transferred to the adult student; and
- Contact information for the parties to use in obtaining additional information.

The notification of the transfer of rights does not need a prior written notice.

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

Following the transfer of rights, Dumas ISD will provide any notices required by IDEA to both the adult student and the parents; however, the prior written notice of an ARD Committee meeting does not constitute an invitation to, or create a right for, the parent to attend the meeting. Additionally, prior written notice given to an adult student and parent does not create a right for the parent to consent or participate in the proposal or refusal to which the notice relates.

The adult student or Dumas ISD may invite individuals who have knowledge or special expertise regarding the adult student, including the parent, to be a member of the ARD committee.

### **Incarcerated Students**

All rights accorded to parents under IDEA, including the right to receive notice, transfer to children who are incarcerated in an adult or juvenile Federal, State, or local correctional institution, unless the parent or other individual has been granted guardianship of the child under the Texas Probate Code.

Notice of the transfer of parental rights to the incarcerated student must be given to the parent and the incarcerated student.

### **Early Childhood Intervention (ECI)**

#### **Referral Process Age 0-3**

The ECI Program Coordinator will provide DISD with referrals for children served in ECI. These referrals are made after the parent has agreed for ECI to release information to DISD. DISD will accept and assign the referral to the appropriate assessment personnel. ECI will invite special education personnel to a face-to-face meeting approximately 90 days before the child's third birthday.

DISD will hold an ARD meeting to ensure services are provided beginning on the child's 3rd birthday, if eligible for special education under IDEA B.

#### **Referral Process Age 0-3 (not currently enrolled in ECI)**

The referral of a student for possible special education services is a part of the overall general education referral or screening system of the district. All referrals from children ages 0-3 are initiated at the student's home campus.

When a student is referred to special education for a possible comprehensive individual assessment (CIA), the campus principal will notify the Special Education Director who will be responsible for contacting the appropriate diagnostician or speech therapist. The diagnostician or speech therapist must:

- Obtain appropriate consent for assessment; and
- Schedule and complete the necessary assessment; and
- Schedule and conduct the ARD.

The referral packet must be completed and returned to the appropriate diagnostician or speech pathologist within ten school days from the initiation of the referral process.



## Referral and Evaluation Process

Referral of students for a full and individual initial evaluation for possible special education services shall be a part of the District's overall general education referral or screening system. Any of the following may initiate a request for an initial evaluation: parent, TEA, another state agency, or the District may initiate a request for an initial evaluation.

Before referral, students experiencing difficulty in the general classroom should be considered for all support services available to all students. If a student continues to experience difficulty in the general classroom after the provision of interventions, District personnel must refer the student for a full and individual initial evaluation.

If a parent or legal guardian makes a written request to the District's director of special education services or to a District administrative employee for a full individual and initial evaluation of a student, the District shall, not later than the 15th school day after the date the District receives the request:

- Provide an opportunity for the parent or legal guardian to give written consent for the evaluation; or
- Refuse to provide the evaluation and provide the parent or legal guardian with notice of procedural safeguards under 20 U.S.C. Section 1415(b).

If the district determines the evaluation is not needed, the district will provide the parent with a written notice explaining why the child will not be evaluated. This written notice will include a statement informing the parent of his or her rights if the parent disagrees with the district. Additionally, the notice must inform the parent how to obtain a copy of the *Notice of Procedural Safeguards - Rights of Parents of Students with Disabilities*.

Refer to the Campus Administration for the process utilized in the Response to Intervention (RtI) system.

## Initial Evaluations

DISD shall conduct a full and individual initial evaluation before the initial provision of special education and related services. The initial evaluation must consist of procedures to determine whether a child is a child with a disability; and the educational needs of such child. The "initiation date" of the referral is defined as the date the parent returns the signed Consent for Evaluation to the school. The evaluation person(s) complete(s) the full and individual evaluation and a written report. The initial evaluation report must be completed within 45 school days from the date the written consent was received by the school; unless, the parent of the child repeatedly fails or refuses to produce the child for the evaluation, the child is absent 3 or more days, the evaluation is requested between 35 and 45 days from the last day of the school year, or the child transfers into the district when an evaluation is pending and the district complies with the transfer students guidelines.

The District shall ensure that evaluations of children who transfer from one district to another in the same academic year are coordinated with the children's prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of evaluations.

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

### **Reevaluations**

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

- If the district determines the educational or related needs, including improved academic achievement and functional performance, of the child warrant reevaluation;
- If a reevaluation is requested by the child's parents or teachers; or
- Before determining the child is no longer a child with a disability.

Reevaluations must occur more than once a year, unless the parent and the district agree otherwise. Reevaluations must occur at least once every three years, unless the parent and the district agree that a reevaluation is unnecessary.

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

The REED must be conducted by the admission, review, and dismissal (ARD) committee members and other qualified professionals, as appropriate. The ARD committee members may conduct its review without a meeting.

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

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

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

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

The district must administer such assessments and other evaluation measures as may be needed to produce the data identified by the REED according to the evaluation guidelines.

- The district must provide Prior Written Notice, as appropriate; and
- The district must secure consent, as appropriate.

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

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

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

Reevaluations of those students receiving direct services from the Regional Program for the Deaf (REPD) will be the responsibility of REPD personnel.

The results of any reevaluations are addressed by the child's ARD committee in reviewing and, as appropriate, revising the child's IEP. Consideration of the reevaluation data may occur at the student's next scheduled annual review ARD committee meeting or earlier if immediate changes in the child's IEP are recommended. However, every attempt should be made to consider the reevaluation data at the same time as the student's annual review ARD.

A reevaluation is not required (but a Summary of Performance is required) before the termination of a child's eligibility due to:

- Graduation from secondary school with a regular diploma; or
- Exceeding the age eligibility for a free appropriate public education under State law.

### **Group of Qualified Professionals**

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

- An educational diagnostician;
- Other appropriately certified or licensed practitioner with experience and training in the area of the disability; or
- A licensed or certified professional for a specific eligibility category as specified in the applicable specific eligibility category guidelines.

### **Evaluation Procedures**

In conducting the evaluation, the district must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information, including information provided by the parent assisting in determining:

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

In conducting the evaluation, the district must:

- Use multiple sources to measure and assess to determine whether a student is a child with a disability or determining an appropriate educational program for the child; and
- Use technically sound instruments that assess the relative contribution of cognitive and behavioral factors, in addition to physical or development factors.

DUMAS ISD will ensure assessments and other evaluation materials used to assess a child under this framework:

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

The child is assessed in all areas of suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities. For a child with limited English proficiency, the district will differentiate between language proficiency and disability.

### **Independent Educational Evaluation (IEE)**

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

- IEE means an evaluation conducted by a qualified examiner who is not employed by the district.

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

- Information about where an IEE may be obtained; and
- The district's criteria for an IEE.

### **IEE at Public Expense**

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

- Public expense means the district either pays for the full cost of the evaluation or ensures the evaluation is otherwise provided at no cost to the parent consistent with the provisions of IDEA regarding the use of IDEA Part B Formula funds.

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

### **Conditions**

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

- File a due process complaint to request a hearing to show its evaluation is appropriate; or
- Ensure an IEE is provided at public expense, unless the district demonstrates in a due process hearing the evaluation obtained by the parent does not meet district criteria.

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

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

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

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

### **District Criteria**

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

- The same as the criteria the district uses when it initiates an evaluation, to the extent those criteria are consistent with parent's right to an IEE, including:
  - The location of the evaluation; and
  - The qualifications of the examiner.

Except for the district criteria, the district may not impose conditions or timelines related to obtaining an IEE at public expense.

### **Results of IEE**

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

- Must be considered by the district, if it meets the district's criteria, in any decision made with respect to the provision of FAPE to the child; and
- May be presented by any party as evidence at a due process regarding the child.

### **Other Considerations for an IEE**

- If the district has not conducted an evaluation, the parent does not have a right to an independent evaluation at public expense. The results of a parent-initiated IEE will be considered by the district, but such consideration does not make the district liable for reimbursement for the IEE.
- If a parent requests an IEE, the parent must schedule an appointment with the Director of Special Services to discuss requirements and arrangements for the IEE.

- Evaluators must provide proof of expertise in the area of evaluation techniques and interpretation in the area of dispute. Additionally, the evaluator must have current certification or license in the area of suspected disability and/or educational need.
- Evaluators must agree to follow TEA guidelines in completing the evaluation. The evaluation should be designed to address whether or not the child has a disability as set forth in Federal and State law and to assess specific areas of educational need.
- Evaluators must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information, including information provided by the parent and the school and should not use any single measure or assessment as the sole criterion for determining if the child is a child with a disability.
- Assessment instruments, materials and techniques must be:
  - Selected and administered so as not to be discriminatory on a racial, cultural or gender basis;
  - Provided and administered in the language and form most likely to yield accurate information on what the child knows and can do academically, developmentally and functionally;
  - Used for purposes for which the assessments or measures are valid and reliable; and
  - Administered in accordance with any instructions provided by the producer of the assessment instruments.
- The evaluator must provide an original typed or computer-generated evaluation report within 30 calendar days from the date the district mails a written authorization to the evaluator and no later than 5 days prior to the ARD committee meeting. Protocols must be available for review. The report must include an original signature and title of all persons participating in the evaluation. The report must comply with all requirements of State and Federal regulations.
- Reimbursement/payment will be made directly to the evaluator upon receipt of an evaluation report which meets of all of the district's and TEA's criteria. Parents obtaining an IEE without following the district's procedures will risk non-payment.
- The district will not pay unreasonably excessive fees. An unreasonably excessive fee is one that is 25% or more above the prevailing fees in the area (as established by Medicaid/Medicare Service Provider Manual) by professionals who are qualified to conduct specific tests and unique circumstances of the child. This determination will be made by the Director of Special Services.
- Whenever an IEE is at public expense, the criteria under which the IEE is obtained, including the location of the examination and the qualifications of the examiner, must be the same as the criteria which the district uses when it initiates an evaluation. The evaluator must be located within a 150 mile radius of the district. This will allow the evaluator access to the public school for observation of the student and access to ARD meetings.
- Parents will be allowed the opportunity to demonstrate to the Director of Special Services that unique circumstances justify an IEE that does not fall within the district's criteria.

### Evaluations for Emotional Disturbance

Initial evaluations of students suspected of having an emotional disturbance are done by a multidisciplinary team which includes, at least: a school psychologist, the educational diagnostician, the student's parent(s), the campus Administration and the student's teacher(s). Each member of this multidisciplinary team has specific responsibilities for completing the evaluation. The campus Administration and teacher are responsible for:

- Ensuring the parent is aware of the nature of the referral and has provided informed consent for the evaluation activities; and
- Completing questionnaires or other evaluation instruments related to the teacher's observations of the student's school performance and behaviors.

The parent's responsibilities include providing requested information regarding their child's performance, behaviors, and interpersonal relationships in the home and community settings.

The educational diagnostician is responsible for:

- Conducting the necessary individual evaluation of cognitive and academic skills;
- Distributing questionnaires or other evaluation instruments related specifically to the diagnosis of emotional disturbance as requested by the psychologist; and
- Providing the resulting evaluation data to the psychologist.

The school psychologist is responsible for:

- Furnishing the questionnaires or other evaluation instruments which are directly related to the diagnosis of emotional disturbance to the diagnostician;
- Doing observation(s) and meeting with the parents of the student as appropriate and necessary for diagnostic purposes;
- Analyzing the evaluation data;
- Completing a written report addressing the student's eligibility for special education services as emotionally disturbed; and
- Furnishing the written report to the district.

**ADHD:**

Sometimes during the course of evaluating a student for an emotional disturbance, the evaluation data may suggest an evaluation for ADHD appears warranted. In this instance, the psychologist notifies the campus diagnostician of the need to proceed with an outside referral to a physician (see later section on referrals to outside sources).

*Procedures for a student in which the FIE determines ADHD characteristics:*

- 1) Once psychological assessment indicates possible ADHD, the diagnostician obtains signature and physician information from parent on the Consent for Disclosure of Confidential Information.*
- 2) The diagnostician contacts the student's medical doctor to discuss findings and have OHI eligibility form completed.*

- 3) *Multiple attempts (minimum of three) to obtain eligibility from the medical doctor should be well documented and complete before ARD date.*
- 4) *Attempts to obtain eligibility include contacts with doctor's office, sending the form with parent to have the parent obtain the eligibility, and/or taking the parent and child to the physician.*
- 5) *If the eligibility is not received by the ARD date and this is the only eligibility concern, then assessment personnel may conclude the ARD meeting as a "DNQ" (does not qualify). If there are other eligibilities, then the ARD meeting will continue as necessary. Behavior interventions or other necessary accommodations/modifications should be considered in relation to the documented classroom behaviors.*
- 6) *If the ARD is concluded as a "DNQ", then special education personnel may exit the room and the 504 committee meeting should convene.*

## Categories of Eligibility

All determinations relating to eligibility shall be made in accordance with Federal and State law. The information below is intended to help the district, parents and students in eligibility determinations. When a student is initially diagnosed with a disability by a physician or mental health professional, the district's diagnostician will generally offer to meet with the student's parent(s) prior to the ARD committee meeting.

### Emotional Disturbance

Emotional disturbance includes schizophrenia.

ED does not include social maladjustment, unless the child also has an emotional disturbance under the other criteria listed below.

A child may be considered to be a child with an emotional disturbance if:

- The child exhibits one or more of the following characteristics:
  - An inability to learn that cannot be explained by intellectual, sensory, or health factors;
  - An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
  - Inappropriate types of behavior or feelings under normal circumstance;
  - A general pervasive mood of unhappiness or depression; or
  - A tendency to develop physical symptoms or fears associated with personal or school problems.
- The characteristic(s) is/are exhibited by the child:
  - Over a long period of time; and
  - To a marked degree;
- The emotional disturbance adversely affects the child's educational performance; and
- By reason of the emotional disturbance, the child needs special education and related services.

Specific recommendations for behavioral supports and interventions must be made.

### Specific Learning Disability



A student referred for an evaluation of a suspected learning disability is evaluated by a multidisciplinary team consisting of an educational diagnostician, the student's parent(s) and teacher(s), the school nurse and others who have knowledge that relates to the student's abilities, strengths and weaknesses. The evaluation generally involves the diagnostician administering individual intelligence and achievement tests for comparison of the student's cognitive ability and present levels of academic performance. The diagnostician also gathers other evaluation data from other members of the multidisciplinary team as a part of the diagnostic process.

### **Participation in Response to Intervention (RtI) Process:**

RtI is high-quality instruction or tiered intervention strategies matched to individual student needs that have been demonstrated through scientific research and practice which result in high learning rates for most students.

If the child has participated in a process that assesses the child's response to scientific, research-based intervention, the documentation of the specific learning disability determination of eligibility must contain a statement of:

- The instructional strategies used and the student-centered data collected; and
- The documentation that the child's parents were notified about:
  - The State's policies regarding the amount and nature of student performance data collected and the general education services provided;
  - Strategies for increasing the child's rate of learning; and
  - The parents' right to request an evaluation.

### **Observation**

The district must ensure the child is observed in the child's learning environment (including the regular classroom setting) to document the child's academic performance and behavior in the areas of difficulty.

In determining whether a child has a specific learning disability, the group must decide to either:

- Use information from an observation in routine classroom instruction and monitoring of the child's performance done before the child was referred for an evaluation; or
- Have at least one member of the group conduct an observation of the child's academic performance in the regular classroom after the child has been referred for an evaluation and consent is obtained from the parent.

For a child less than school age or out of school, a group member must observe the child in an environment appropriate for a child of that age.

The documentation of the determination of learning disabled eligibility must contain a statement of:

- The relevant behavior, if any, noted during the observation of the child; and
- The relationship of that behavior to the child's academic functioning.

## Criteria

A child may be considered to be a child with a specific learning disability if:

- The child does not achieve adequately for the child’s age or to meet State-approved grade-level standards, in one or more of the following areas:
  - Oral expression;
  - Listening comprehension;
  - Written expression;
  - Basic reading skill;
  - Reading fluency skills;
  - Reading comprehension;
  - Mathematics calculation;
  - Mathematics problem solving;
- The child’s lack of adequate achievement is indicated by performance on multiple measures:
  - Such as:
    - In-class tests;
    - Grade average over time (e.g., six weeks, semester);
    - Norm- or criterion-referenced tests;
    - Statewide assessments; or
    - A process based on the child’s response to scientific, research-based intervention;
- The child does not make sufficient progress under the additional criteria of a RtI model, or the child meets the additional criteria under a pattern of strengths and weaknesses model;
- The child’s lack of adequate achievement is not primarily the result of exclusionary factors;
- The child’s lack of adequate achievement is not due to a determinant factor;
- The child has a learning disability which means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia; and
- By reason of the specific learning disability, the child needs special education and related services.

## RtI Model

When using a process based on the child’s response to intervention to determine a learning disability, including:

- Repeated, curriculum-based assessments of achievement;
- At reasonable intervals, and
- Reflecting student progress during classroom instruction.

A finding that the child meets the criteria for a learning disability must include a determination that:

- The child does not make sufficient progress to meet age or State-approved grade-level standards when provided a process based on the child’s response to scientific, research-based intervention:
  - As indicated by the child’s performance relative to the performance of the child’s peers.

### **Pattern of Strengths and Weaknesses Model**

When applying the State’s pattern of strengths and weaknesses model, finding the child meets the criteria for a specific learning disability must include a determination the child:

- Exhibits a pattern of strengths and weakness in:
  - Performance;
  - Achievement; or
  - Both;
- Relative to:
  - Age;
  - State-approved grade-level standards; or
  - Intellectual development;
- As indicated by significant variance among specific areas of cognitive function:
  - Such as:
    - Working memory and verbal comprehension; or
    - Between specific areas of cognitive function and academic achievement; and
- The pattern is relevant to the identification of a specific learning disability using appropriate assessment instruments.

### **Exclusionary Factors**

The documentation of the determination of a learning disability must contain a statement of the determination of the group concerning the effects on the child’s achievement level of:

- A visual, hearing, or motor disability;
- Intellectual Disability (Mental retardation);
- Emotional disturbance;
- Cultural factors;
- Environmental or economic disadvantage; or
- Limited English proficiency.

**The group must determine that its findings are not primarily the result of:**

- A visual, hearing, or motor disability;

- Intellectual Disability (Mental retardation);
- Emotional disturbance;
- Cultural factors;
- Environmental or economic disadvantage; or
- Limited English proficiency.

### **Determinant Factor**

To ensure underachievement in a child suspected of having a learning disability is not due to lack of appropriate instruction in reading or mathematics, the group must consider, as part of the evaluation described in the evaluation procedures:

- Data demonstrating that prior to, or as a part of, the referral process, the child was provided with instruction which was:
  - - Delivered by qualified personnel;
    - Within regular education settings;
    - Appropriate in the area of reading; and/or
    - Appropriate in the area of mathematics;
- Data-based documentation of repeated assessments of achievement:
  - At reasonable intervals;
  - Reflecting formal evaluation of student progress during instruction; and
  - Which was provided to the child's parents.

Data-based documentation of repeated assessments may include, but is not limited to:

- RtI progress monitoring results;
- In-class tests on grade-level curriculum; or
- Other regularly administered assessments.

Intervals are considered reasonable if consistent with the assessment requirements of a student's specific instructional program.

### **Conclusion**

The documentation of the determination of learning disability must contain a statement of:

- Whether the child has a learning disability;
- The basis for making the determination, including an assurance the determination has been made in accordance with evaluation procedures; and
- The educationally relevant medical findings, if any.

If the report does not reflect a group member's conclusion, the group member must submit a separate statement presenting the member's conclusion.

The determination of eligibility must be made by the ARD committee.

### **Autism/Pervasive Developmental Disorders (PDD)**

A student suspected of having Autism or Pervasive Developmental Disorder is evaluated by a multidisciplinary team which includes at least one individual from each of the following groups: a licensed physician, or psychiatrist, or school psychologist, or a nationally certified school psychologist, or a psychologist licensed or certified by the Texas State Board of Examiners of Psychologists with training in school psychology and experience or training in the diagnosis of autism; a certified speech and hearing therapist, or a certified speech and language therapist, or a licensed speech language pathologist; and an educational diagnostician or other student evaluation specialist licensed or certified to assess disturbances in the areas defined in this subsection. The team's written evaluation report shall include specific recommendation for behavior management.

A child may be considered to be a child with autism if:

- The child has a developmental disability significantly affecting:
  - Verbal communication;
  - Nonverbal communication; and
  - Social interaction;
- The autism adversely affects the child's educational performance; and
- By reason of the autism, the child needs special education and related services.

Children with pervasive developmental disorders are included under the disability category of autism.

A child may not be considered to be a child with autism if the child's educational performance is adversely affected primarily because the child has an emotional disturbance.

### **Intellectual Disability (formerly known as Mental Retardation)**

A student with intellectual disability is one who has been determined to meet the criteria for mental retardation as stated in Federal regulations. In meeting the criteria, a student with intellectual disability is one who:

- Has been determined to have significantly subaverage intellectual functioning as measured by a standardized, individually administered test of cognitive ability in which the overall test score is at least two standard deviations below the mean, when taking into consideration the standard error of measurement of the test; and
- Concurrently exhibits deficits in at least two of the following areas of adaptive behavior:
  - Communication,
  - Self-care,
  - Home living,
  - Social/interpersonal skills,
  - Use of community resources,
  - Self-direction,
  - Functional academic skills,
  - Work,
  - Leisure,
  - Health, and

- Safety
- The child's deficits are manifested during the developmental period; and
- By reason of the intellectual disability, the child needs special education and related services.

### Speech or Language Impairment

The multidisciplinary team that collects or reviews evaluation data in connection with the determination of a student's eligibility based on a speech impairment must include a certified speech and hearing therapist, a certified speech and language therapist, or a licensed speech/language pathologist.

A child may be determined to be a child with a speech or language impairment:

- The child has a communication disorder:
  - Such as stuttering, impaired articulation, a language impairment, or voice impairment;
- The speech or language impairment adversely affects the child's educational performance; and
- By reason of the speech or language impairment, the child needs special education and related services.

Eligibility is determined by the ARD committee.

### Deaf- Blindness

A student with deaf-blindness is one who has been determined to meet the criteria for deaf-blindness as stated in Federal regulations. A child may be determined to be a child with deaf-blindness if:

- The child meets the eligibility criteria for:
  - Auditory impairment and visual impairment; or
  - The child meets the eligibility criteria for a student with a visual impairment and has a suspected hearing loss that cannot be demonstrated conclusively, but a speech/language therapist, a certified speech and language therapist, or a licensed speech language pathologist indicates there is no speech at an age when speech would normally be expected; or
- The child has documented:
  - Hearing and visual losses that, if considered individually, may not meet the requirements for auditory impairment or visual impairment, but the combination of such losses adversely affects the student's educational performance; or
  - Has a documented medical diagnosis of a progressive medical condition that will result in concomitant hearing and visual losses that, without special education intervention, will adversely affect the student's educational performance; and
- The combination of auditory and visual impairments causes such severe communication and other developmental and education needs that they cannot be accommodated in special education programs solely for children with deafness or children with blindness; and
- By reason of the deaf-blindness, the child needs special education and related services.

For a child from birth through two years of age with Visual and/or Hearing Impairments, an individualized family service plan (IFSP) meeting must be held in place of an ARD committee meeting.

### **Auditory Impairment**

A student with an auditory impairment is one who has been determined to meet the criteria for deafness as stated in Federal regulations, or for hearing impairment as stated in Federal regulations. The evaluation data reviewed by the multidisciplinary team in connection with the determination of a student's eligibility must include but not limited to:

- An otologist to perform an otological examination; or
- A licensed medical doctor, with documentation that an otologist is not reasonably available; and
- A licensed audiologist to perform an audiological evaluation

The evaluation data shall include a description of the implications of the hearing loss for the student's hearing in a variety of circumstances with or without recommended amplification.

A child may be considered to be a child with auditory impairment if:

- The auditory impairment adversely affects the child's educational performance;
- By reason of the auditory impairment, the child needs special education and related services; and
- The child has deafness meaning a hearing impairment so severe the child is impaired in processing linguistic information through hearing:
  - With amplification; or
  - Without amplification; or
- The child has a hearing impairment not included in the definition of deafness that is:
  - A permanent impairment of hearing; or
  - Fluctuating impairment of hearing.

### **Communication Needs**

The group must determine the child's potential for communication through a variety of means, including through:

- Oral (spoken) means;
- Aural (hearing) means;
- Finger spelling; or
- Sign language.

If the ARD committee determines that the child meets eligibility criteria as a child with an auditory impairment, when developing an individualized education program for the child, the ARD committee must consider the special factors specific to children who are deaf or hard of hearing.

For a child from birth through two years of age with Auditory Impairment, an individualized family service plan (IFSP) meeting must be held in place of an ARD committee meeting.

## Multiple Disabilities

A student with multiple disabilities is one who has been determined to meet the criteria for multiple disabilities as stated in Federal regulations. In meeting the criteria, the child may be considered to be a child with multiple disabilities if:

- The child has two or more impairments occurring simultaneously, such as:
  - Intellectual disabilities-blindness; and
  - Intellectual disabilities-orthopedic impairment;
- The student's disability is expected to continue indefinitely; and
- The disabilities severely impair performance in two or more of the following areas:
  - Psychomotor skills;
  - Self-care skills;
  - Communication;
  - Social and emotional development; or
  - Cognition.
- The combination of disabilities causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments; and
- By reason of the multiple disabilities, the child needs special education and related services.

Multiple disabilities does not include deaf-blindness.

Students who have more than one of the disabilities defined in this section but who do not meet the criteria listed previously shall not be classified or reported as having multiple disabilities.

## Orthopedic Impairment

A student with an orthopedic impairment is one who has been determined to meet the criteria for orthopedic impairment as stated in Federal regulations. The multidisciplinary team collects or reviews evaluation data in connection with the determination of a student's eligibility based on an orthopedic impairment must include a licensed physician.

A child may be considered to be a child with an orthopedic impairment if:

- The child has been determined to have a severe orthopedic impairment.
- The severe orthopedic impairment adversely affects a child's educational performance; and
- By reason of the severe orthopedic impairment, the child needs special education and related services.

The term orthopedic impairment includes:

- Impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures);
- Impairments caused by a congenital anomaly; and
- Impairments caused by disease (e.g., poliomyelitis, bone tuberculosis)

## Other Health Impairment (OHI)

A student with other health impairment is one who has been determined to meet the criteria for other health impairment due to chronic or acute health problems such as:



- asthma
- attention deficit disorder or attention deficit hyperactivity disorder
- diabetes
- epilepsy
- a heart condition
- hemophilia
- lead poisoning
- leukemia
- nephritis
- rheumatic fever
- sickle cell anemia, and
- Tourette's syndrome

The multidisciplinary team that collects or reviews evaluation data in connection with the determination of a student's eligibility based on other health impairment must include a licensed physician.

The health problems manifest themselves as:

- Limited strength;
- Limited vitality; or
- Limited alertness;
  - Including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment;

The other health impairment adversely affects a child's educational performance; and by reason of the other health impairment, the child needs special education and related services.

### **Traumatic Brain Injury (TBI)**

A student with a traumatic brain injury is one who has been determined to meet the criteria for traumatic brain injury as stated in Federal regulations. The multidisciplinary team collects or reviews evaluation data in connection with the determination of a student's eligibility based on a traumatic brain injury must include a licensed physician.

A child may be considered to be a child with a traumatic brain injury if:

- The child has an acquired injury to the brain caused by an external physical force;
- The injury results in total or partial functional disability or psychosocial impairment, or both;
- Applies to both open or closed head injuries resulting in impairments in one or more areas:
  - Cognition;
  - Language;
  - Memory;
  - Attention;
  - Reasoning;
  - Abstract thinking;
  - Judgment;
  - Problem-solving;

- Sensory, perceptual, and motor abilities;
- Psychosocial behavior;
- Physical functions;
- Information processing; and
- Speech.
- The traumatic brain injury adversely affects the child's educational performance; and
- By reason of the traumatic brain injury, the child needs special education and related services.

TBI is not:

- Congenital;
- Degenerative; or
- Induced by birth trauma.

### Visual Impairment (VI)

A student with a visual impairment is one who has been determined to meet the criteria for visual impairment as stated in Federal regulations. The visual loss should be stated in exact measures of visual field and corrected visual acuity at a distance and at close range in each eye in a report by a licensed ophthalmologist or optometrist. The report should also include prognosis whenever possible. If exact measures cannot be obtained, the eye specialist must so state and provide best estimates. A student with a visual impairment is one who:

- Has been determined by a licensed ophthalmologist or optometrist:
  - To have no vision or to have a serious visual loss after correction; or
  - To have a progressive medical condition that will result in no vision or a serious visual loss after correction.
- Has been determined by the following evaluations to have a need for special services:
  - A functional vision evaluation by a professional certified in the education of students with visual impairments or a certified orientation and mobility instructor. The evaluation must include the performance of tasks in a variety of environments requiring the use of both near and distance vision and recommendations concerning the need for a clinical low vision evaluation and an orientation and mobility evaluation; and
  - A learning media assessment by a professional certified in the education of students with visual impairments. The learning media assessment must include recommendations concerning which specific visual, tactual, and/or auditory learning media are appropriate for the student and whether or not there is a need for ongoing evaluation in this area.
- A student with a visual impairment is functionally blind if, based on the preceding evaluations; the student will use tactual media (which includes Braille) as a primary tool for learning to be able to communicate in both reading and writing at the same level of proficiency as other students of comparable ability.

For a child from birth through two years of age with Visual Impairments, an individualized family service plan (IFSP) meeting must be held in place of an ARD committee meeting.

### **Noncategorical Early Childhood**

The child may be considered to be a child with noncategorical early childhood disability if:

- The child is between the ages of three to five; and
- The child meets the specific eligibility criteria for:
  - Intellectual Disability;
  - Emotional Disturbance;
  - Specific Learning Disability; or
  - Autism

### **Prior Written Notice**

#### **Situations When Required**

The district must provide prior written notice to the parent when required by law, including when it:

- Proposes or refuses to initiate or change the identification of the child;
- Proposes or refuses to initiate or change the evaluation of the child;
- Proposes or refuses to initiate or change the educational placement of the child;
- Proposes or refuses to initiate or change the provision of a free appropriate public education (FAPE) to the child;
- Ceases the provision of special education and related services due to the parent's revocation of consent for services; or
- Proposes to convene an ARD committee meeting as part of the invitation to the ARD meeting; or
- Implements an individualized education program (IEP) with which the parent or adult student disagrees, pursuant to reaching closure and consensus procedures.

The district must invite the parents and adult student to participate as members of the admission, review, and dismissal (ARD) committee by providing prior written notice.

The district must provide prior written notice regardless of whether the parent agreed to the change or requested the change.

#### **Timeline and Manner**

The district must provide the parents prior written notice at least five school days (unless the parents agree otherwise) before the district proposes to (or refuses to) initiate or change the identification, evaluation, or educational placement of the child with a disability or the provision of FAPE to the child.

The district must also provide prior written notice:

- In language understandable to the general public and in the native language of the parents or other mode of communication used by the parents, unless it is clearly not feasible to do so;
- By an electronic mail (e-mail) communication, if the parent elects to receive notices through e-mail; and
- Of an ARD committee meeting early enough to ensure the parent will have an opportunity to attend in compliance with the guidelines for parent participation.

If the prior written notice is in response to a parent's revocation of consent for services, the district must provide prior written notice before ceasing the provision of special education and related services to the child.

### **Required Contents**

Prior written notice must include:

- A description of the action proposed or refused by the district;
- An explanation of why the district proposes or refuses to take the action;
- A description of each evaluation procedure, assessment, record, or report the district used as a basis for the proposed or refused action;
- A description of other options considered by the ARD committee and the reasons why those options were rejected;
- A description of other factors that are relevant to the district's proposal or refusal;
- Sources for parents to contact to obtain assistance understanding the provisions of the Individuals with Disabilities Act (IDEA) Part B;
- A statement that the parents of a child with a disability have protection through procedural safeguards; and
- The means by which a copy of the procedural safeguards can be obtained if this is not an initial referral for evaluation.

### **Additional Content Requirements for a Proposal to Evaluate**

If the district is proposing to conduct a full and individual evaluation, the prior written notice must also include:

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

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

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

- Purpose, time, and location of the meeting;
- Who will be attending the meeting;

- Information relating to ARD committee membership of other individuals who have knowledge or special expertise about the child; and
- Information relating to the participation of the Part C (ECI) service coordinator or other representatives of the Part C system at the initial ARD committee meeting for a child previously served under Part C.

### Additional Content Requirements when the ARD Committee will Consider 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 ARD committee:
  - A purpose of the meeting will be the consideration of the postsecondary goals and transition services for the child, in accordance with the guidelines for transition services;
  - The district will invite the student; and
  - Any other agency will be invited to send a representative in accordance with the guidelines for consent.

## Consent

### Consent for Initial Evaluation

The district must obtain informed consent from the parent before conducting an initial evaluation.

If a parent makes a written request to DISD's director of special education services or to a campus administrative employee for an initial evaluation, the district will, not later than the 15th school day after the date of receiving the request:

- Provide an opportunity for the parent to give written consent for the evaluation; or
- Refuse to provide the evaluation and provide prior written notice and the procedural safeguards

When a child is suspected of having a specific learning disability, the district must promptly request parental consent for an initial evaluation:

- If, prior to a referral, the child has not made adequate progress after an appropriate period of time when provided instruction under a [Response to Intervention \(RTI\)](#) model; and
- Whenever a child is referred for an evaluation.

Parental consent for initial evaluation does not constitute consent for services.

### Actions that Do Not Constitute Evaluation

The following actions do not constitute evaluation:

- Screening to determine strategies for curriculum implementation;

- Conducting a Review of Existing Evaluation Data (REED) as part of an initial evaluation or a reevaluation; and
- Administering a test or other evaluation that is administered to all children.

### **Elements of Consent for an Initial Evaluation**

The district must make reasonable efforts to obtain informed consent.

The district must obtain informed consent from the parent before conducting an initial evaluation, which means:

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

### **Information and Consent for certain psychological examinations or tests**

On request of the child's parent, before obtaining the parent's consent for the administration of any psychological examination or test to the child that is included as part of the evaluation of the child's need for special education, the district must provide the child's parent the name and type of the examination or test, and an explanation of how the examination or test will be used to develop an appropriate IEP for the child:

- If the district determines an additional examination or test is required for the evaluation of a child's need for special education after obtaining consent from the child's parent, the district must provide the information regarding the additional test, including the name of the test and an explanation of its use in developing an appropriate IEP to the child's parent and must obtain additional consent for the examination or test.
  - The time required for the district to provide information and seek additional consent may not be counted toward the 45 school day timeline for completion of an initial evaluation; and
  - If a parent does not give consent to the additional examination or test within 20 calendar days after the date the district provided to the parent the required information about the test and its use, the parent's consent is considered denied.

### **When, Despite Reasonable Efforts, Consent is not obtained for the Initial Evaluation of the Child who is Home Schooled or Private Schooled.**

The district must make reasonable efforts to obtain informed consent for an initial evaluation.

If the parent of the child who is home schooled or placed in a private school at parental expense does not provide consent for the initial evaluation or fails to respond to the district's request for consent for evaluation, the district:

- May not pursue the initial evaluation by utilizing the [procedural safeguards](#), including the mediation or due process hearing procedures, in order to obtain agreement or a ruling that the evaluation may be conducted; and
- Is not required to consider the child as eligible for services under the proportionate share funding for parentally placed private school child and private schools frameworks.

### **When, Despite Reasonable Efforts, Consent is Not Obtained for the Initial Evaluation when the Child is a Ward of the State**

If the child is a ward of the State and is not residing with the child's parent, the district is not required to obtain informed consent from the parent if:

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

### **When, Despite Reasonable Efforts, Consent is not obtained for the Initial Evaluation of the child who is enrolled in or seeking to be enrolled in Public School**

The district must make reasonable efforts to obtain informed consent for an initial evaluation. If the parent fails to respond or does not provide consent for an initial evaluation:

- The district may, but is not required to, pursue the initial evaluation of the child by utilizing the procedural safeguards (including the mediation or the due process procedures) in order to obtain agreement or a ruling that the evaluation may be conducted;
- The district does not violate its child find and full and individual evaluation obligations if it declines to pursue the evaluation.

## **Consent for Services**

### **Elements of Consent**

The district must make reasonable efforts to obtain informed consent.

The district must obtain informed consent from the parent before initially providing special education and related services to the child, which means:

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

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

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

- May not use the procedural safeguards (including the mediation or the due process procedures) in order to obtain agreement or a ruling that services may be provided to the child;
- Will not be considered to be in violation of the requirement to make available FAPE to the child for the failure to provide the child with the special education and related services for which the district requests consent; and
- Is not required to convene an ARD meeting or develop an IEP for the child for the special education and related services for which the district requests such consent.

### **Revocation of Consent by Parents**

Parents have the right to revoke consent for the continued provision of special education and related services to their child at any time after the initial provision of special education and related services. The parent's revocation of consent must be in writing. Once the district receives the written revocation, the district must honor the revocation. Before the district discontinues services, the parent must be provided with prior written notice the services will cease. The written notice must be given five days before the district discontinues services.

Once services have been revoked, the district is not required to convene an ARD committee meeting to develop an IEP for the child for further provision of services. The child will be considered a general education student. The district will no longer be required to provide accommodations that were previously included in the child's IEP, nor will the district be considered to be in violation of the IDEA requirement to provide a FAPE for the child. Additionally, the child is not entitled to protections under IDEA relating to discipline once consent is revoked. High school students may have to retake courses if they previously received credit for a course based on a modified curriculum.



The district may not use the mediation process or request a due process hearing to override the revocation of consent.

The district is not required to amend the child’s education records to remove any references to the child having received special education and related services in the past.

**When a parent revokes consent for services, the Director of Special Services is to be notified so a “Ready, Willing, and Able” letter may be issued to the parent.**

### Consent for Reevaluation

#### Elements of Consent

The district must make reasonable efforts to obtain informed consent.

The district must obtain informed consent from the parent prior to conducting any reevaluation of child with a disability, which means:

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

#### Information and Consent for Certain Psychological Examinations or Tests

Refer to the guidelines for initial consent for psychological examinations or tests.

#### When, Despite Reasonable Efforts, Consent is Not Obtained

If the parent of a child who is homeschooled or placed in a private school at parental expense does not provide consent for the reevaluation or fails to respond to the district’s request for consent for reevaluation, the district:

- May not pursue the reevaluation of the child by utilizing the procedural safeguards (including the mediation or the due process procedures) in order to obtain agreement or a ruling that the evaluation may be conducted; and
- Is not required to consider the child as eligible for services under the proportionate share funding for parentally-placed private school guidelines.

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

- The district has taken reasonable measures to obtain such consent; and

- The parent failed to respond.

If the parent refuses to consent to the reevaluation:

- The district may, but is not required to, pursue the reevaluation by using the procedural safeguards (including the mediation or due process procedures) in order to obtain agreement or a ruling that the evaluation may be conducted; and
- The district does not violate its obligations under child find or the procedures for evaluation if it declines to pursue the reevaluation.

Consent must be obtained for reevaluation, but the 60 day timeline for completed FIE is not in effect. Date for completed reevaluation should be determined by the ARD committee and clearly stated in the ARD document.

## Summary of Performance

A summary of performance is required for:

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

The summary of performance must consider, as appropriate:

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

The summary of performance must contain:

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

A summary of performance must be provided and included as part of a full and individual evaluation for children who graduate due to having successfully completed an IEP and have met the criteria for graduation under an IEP.

## ARD Committee Meeting (Admission, Review, and Dismissal)

### ARD Committee Membership

The ARD Committee shall be composed of:

- The parents of the child with a disability;
- At least one regular education teacher of the child (if the child is, or may be, participating in the regular education environment):
  - Who has responsibility for implementing part of the child's IEP; and
  - To the extent appropriate, participates in the development, review and revision of the IEP, including the determination of appropriate positive behavioral interventions and supports and other strategies for the child and supplementary aids and services, program modifications and supports for school personnel.
- At least one special education teacher of the child, or where appropriate, at least one special education provider of the child (e.g., speech pathologist, physical therapist, occupational therapist, etc.):
  - This person must be appropriately certified or licensed.
- A campus administrator:
  - Who is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
  - Who is knowledgeable about the general education curriculum; and
  - Who is knowledgeable about the availability of the district's resources.
- A person who is certified or licensed to interpret the instructional implications of evaluation results.
- Other individuals who have knowledge or special expertise regarding the child, at the discretion of the district or the parent:
  - Including related services personnel as appropriate; and

- In the case of a child who was previously served under the ECI program, at the request of the parent, by invitation to the initial ARD meeting, the ECI service coordinator or other representatives of ECI to assist with the smooth transition of services.
- Including to the extent appropriate, with consent for disclosure of confidential information, a representative of any participating agency likely to be responsible for providing or paying for transition services;
- The child, whenever appropriate.
  - The child should attend when transition services are to be discussed.
  - The child must attend when the transfer of rights to the adult student are to be discussed.
- A teacher who is certified in the education of children with auditory impairments when the child has a suspected or documented auditory impairment including deaf-blindness.
- A teacher who is certified in the education of children with visual impairments when the child has a suspected or documented visual impairment including deaf-blindness.
- A member of the language proficiency assessment committee (LPAC) when determining participation in state and district-wide assessments for a child with limited English proficiency, to address the child's language needs.
- A representative from career and technology education (CATE), preferably the teacher, when considering initial or continued placement of a student in CATE.

NOTE: When appropriate, one person may fulfill two or more roles in an ARD committee meeting.

### **Attendance and Excusal**

The attendance and excusal procedures do not have to be followed for the following ARD committee members:

- The parent;
- The child;
- Other individuals who have knowledge or special expertise regarding the child who attend at the discretion of the parent or the district.

The parents may still give the school permission to conduct an ARD without them being present. Such permission shall be recorded in the minutes of the ARD committee meeting. The district should request that such permission be put in writing.

A required member of the ARD committee is not required to attend an ARD meeting, in whole or in part, if the parent and the district agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.

### **Excusal Process for an ARD Member who is not required to attend:**

- If the diagnostician and/or speech therapist determine member of the ARD committee is not required to attend the committee meeting as permitted above, he/she will contact the appropriate campus administrator to receive permission to excuse the member from attendance.

- When scheduling the ARD meeting with the parent, the diagnostician will inform the parent that the ARD committee member will not be present because the member's area of the curriculum or related services will not be modified or discussed in the meeting.
- If the parent agrees with the excusal, the name of the person excused, the reason for the excusal, and the parent's and district's agreement to the excusal shall be documented in the minutes of the ARD committee meeting. If the parent should rescind permission for the excusal at the time of the meeting, and previously excused member cannot attend, the meeting shall be rescheduled.
- The administrative representative and diagnostician and/or speech pathologist may not be excused. (Note: The Speech pathologist does not have to be present at the ARD when the student's primary disability is not speech and no new speech/language evaluation will be presented if the parent agrees in writing to the excusal and the speech pathologist has provided written comments regarding the student's needs and progress for consideration by the committee.)
- A student's general education teacher may not be excused from an ARD meeting for a speech only student.

#### **Excusal Process for ARD Member who is required to Attend:**

An ARD committee member may be excused from attending a meeting, in whole or in part, when the meeting involves a modification to, or discussion of the member's area of curriculum or related services, if the parent, **in writing**, and the district consent to the excusal; and the member submits, in writing to the parent and the ARD committee, input into the development of the IEP prior to the meeting.

- The ARD committee member requesting an excusal from the meeting shall contact the diagnostician. The diagnostician will notify the campus principal of the request. The campus principal will determine if the excusal will be allowed. **The principal may not delegate this decision.**
- The administrative representative and diagnostician and/or speech therapist may not be excused using this process.

#### **Parent Participation in ARD**

Dumas ISD will make every effort to ensure a child's parent is present at an ARD committee meeting or is afforded the opportunity to participate including:

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

A meeting does not include informal or unscheduled conversations involving district personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of services. Also, a meeting does not include preparatory activities that district personnel engage in to develop a proposal or preparatory activities to develop a response to a parent proposal that will be discussed at a later meeting.

If neither parent can attend the ARD meeting, the district will use other methods to ensure parent participation, such as:

- Individual telephone calls.

- Conference calls.
- Video conferences.

The district may conduct an ARD meeting without a parent in attendance, if the district is unable to convince the parent to attend. The district must keep a record of its attempts to arrange a mutually agreed on time and place. Acceptable records are:

- Detailed records of telephone calls made or attempted and the results of those calls.
- Copies of correspondence sent to the parents and any responses received (including e-mails).
- Detailed records of visits made to the parent's home or place of employment and the results of those visits.

The district will take action to ensure the parent understands the proceedings of the ARD committee meeting by:

- Providing an interpreter for parents with deafness.
- Providing an interpreter for parents whose native language is other than English.

The district will give the parent a copy of the child's IEP at no cost. If the child's parent is unable to speak English, the district will:

- Provide the parent with a written and/or audiotaped copy of the child's IEP translated into Spanish if Spanish is the parent's native language.
- If the parent's native language is a language other than Spanish, the district will make a good faith effort to provide the parent with a written or audiotaped copy of the child's IEP translated into the parent's native language.

*Procedures for securing parent participation:*

- 1) *Print out a written notice. If possible, schedule with parent by phone before mailing notice.*
- 2) *Mail the notice to all appropriate parent at least 8 calendar days prior to meeting unless documentation of parent agreeing to an earlier meeting.*
- 3) *Provide second notice by phone or in writing if no documentation of parent response within 3 days of meeting. On the school copy of the original notice, document all contacts and/or attempted contacts with detailed information related to phone calls and results of phone calls, visits to parent's home or work and results of those visits, or emails and responses to the emails.*
- 4) *If no response to first or second notice, third notice will be by phone or email.*

*Detailed logs of phone calls and results of those phone calls, in addition to copies of written notices (including emails) will be included with the ARD document.*

### **Initial Meeting**

The ARD committee must meet to develop an IEP within 30 days of a determination of eligibility. As soon as possible following the development of the IEP, the district must ensure special education and related services are made available to the child in accordance with the child's IEP.

### **Annual ARD Meeting**

- The ARD committee must review the child's IEP periodically, but not less frequently than annually, to determine whether the annual goals are being achieved.
- The ARD committee must determine the child's placement at least annually.

- The IEP must be in effect at the beginning of each school year.
- To the extent possible, the district encourages the consolidation of the reevaluation meeting with the annual meeting.

### **IEP Process**

In developing the IEP, the ARD Committee must consider:

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

### **Development**

- Benchmark tests, along with other formal testing should be used to facilitate the development of an IEP.
- Set an expectation of the student making at least one year's growth.

### **Documentation and Review**

- Formal updating of student progress on the goals and objectives in the student's official eligibility folder shall be completed by the special education teacher or related service provider at the following times:
  - At the end of each grading period and the beginning of the second semester;
  - Before the annual ARD meeting to enable the ARD committee to have an accurate understanding of the student's current status on the IEP and current progress; and
  - Any time the student leaves the school to attend a private school, home school, homebound, AEP, another campus in the district, or another campus in another district.
- Each teacher or related service provider will review and document the student's progress toward meeting IEP objectives for which they have responsibility on their classroom copy of the goals and objectives before sending out progress reports and/or report cards. If a student has not received passing grades on a progress report or report card and the parent or teacher has reason to believe the failures are due to an inappropriate IEP or placement, the campus diagnostician will be contacted to schedule an ARD meeting.
- Teachers shall maintain documentation they are modifying educational programs of students receiving special education services as specified in the student's IEPs.
- Teachers must know what accommodations and modifications they are implementing and must document their efforts (e.g., lesson plans, accommodation sheets, samples of modified tests, or other performance evaluation measures.)
- Teachers are required to accommodate and/or modify the general education program as determined by the ARD committee.

### **Diagnostician or Speech Pathologist's Role**

Prior to a student's ARD meeting, the campus diagnostician or speech pathologist (if a diagnostician is not involved) will provide each teacher (general and/or special education) with a form where the teacher must:

- List and/or document the present competencies and progress of the student
- List and/or document any accommodations/modifications currently being provided to the student
- Share any information which they feel will assist an ARD committee in making ARD decisions

The information contained on the form discussed above will be reviewed and considered by the ARD committee.

The diagnostician/speech therapist for each campus shall also ensure that special education teacher designated to a student with disabilities:

- Receives relevant sections of the student's current IEP
- Be informed of specific responsibilities related to implementing the IEP, such as
  - goals
  - benchmarks
  - objectives
  - behavior plans
  - needed accommodations / adaptations
  - needed modifications
  - or other educational, behavioral, or health supports needed for the student

The above information will be:

- Sent to special education teachers before services begin in an electronic or hard copy (paper) format
- Documented as to when the special education teacher received the information (the campus diagnostician/speech pathologist will keep this documentation)
- Kept by each special education teacher with a cover sheet reminder of the need for confidentiality
- Only shared with others who have a need to know (substitute teachers and/or teacher assistants)

The special education teacher will ensure all other teachers serving the student with disabilities:

- Receives relevant sections of the student's current IEP
- Be informed of specific responsibilities related to implementing the IEP, such as
  - goals
  - benchmarks
  - objectives
  - behavior plans
  - needed accommodations / adaptations
  - needed modifications
  - or other educational, behavioral, or health supports needed for the student
- Signs documentation of receipt of the current IEP accommodations/modifications.

## **Annual Goals**



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

- Designed to meet the child's needs which result from the child's disability to enable the child to be involved in and to make progress in the general education curriculum;
- Designed to meet each of the child's other educational needs which result from the child's disability; and
- For a child who takes a modified state assessment, based on the academic content standards for the grade in which the child is enrolled.

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

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

The ARD committee must provide a description of:

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

### **Revising the IEP**

Except when accomplished through an IEP amendment without a meeting, the ARD committee must revise the IEP as appropriate. Circumstances that trigger the revision of the IEP include the need to address:

- Any lack of expected progress toward the annual goals and in the general education curriculum;
- The results of any reevaluation;
- Information about the child provided to, or by, the parents, during the review of existing evaluation data;
- The child's anticipated needs;
- Any other matters;
- The failure of a participating agency to provide transition services described in the IEP;
- For a child who graduated and received a diploma pursuant to an IEP, upon the request of the child or parent to resume services, as long as the child meet age eligibility requirements.

### **ARD Meeting at the Request of the Parent**

A parent may request an ARD committee meeting at any mutually agreeable time to address specific concerns about his or her child's special education services. The district will respond to the parent's request either by:

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

Campus or district-wide personnel should inform parents of the functions of the ARD committee and the circumstances or types of problems for which requesting an ARD committee meeting

would be appropriate. Parents should be directed to appropriate campus personnel for resolution of problems that are not appropriately addressed through ARD committee meetings.

### **ARD Meeting at the Request of the General Education Teacher**

A general education teacher may request a review of a student's IEP in which they serve. The request shall be:

- Requested, in writing, to the diagnostician by the general education teacher;
- Scheduled, by the diagnostician, in a timely manner following all notice policies/procedures and rights of parents of students with disabilities and/or adult students.

### **Determination of Eligibility**

When the full and individual evaluation is completed, the ARD committee must determine:

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

If it is determined, through an appropriate evaluation, a child has a qualifying disability, but only needs a related service and not special education, the child is not considered a child with a disability under IDEA.

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

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

The district will provide a copy of the evaluation report and the documentation of determination of eligibility to the parent.

### **Present Levels of Performance**

The ARD committee must provide a statement of the child's present levels of academic achievement and a statement of child's present levels of functional performance. The present levels statement must include:

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

### **State and District-Wide Assessments**

In general, all students with disabilities are included in all general State and district-wide assessment programs, including those assessments described under ESEA, with appropriate accommodations and alternate assessments where necessary and as indicated in their respective IEPs.

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

- The statement must be consistent with the accommodation guidelines the State or the district has developed for the provision of appropriate accommodations.

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

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

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

If the district administers an early reading assessment as part of the Texas Reading Initiative, the ARD committee must follow the procedures outlined under District-wide Assessments. (Note: Only State developed accommodations may be used.)

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

The ARD committee must follow the procedures outlined under District-Wide Assessments.

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

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

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

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

- The ARD committee in conjunction with the student's LPAC must:
  - Provide a statement of why the child cannot participate in the regular assessment;
  - Determine an appropriate assessment instrument for indicating limited English proficiency;
  - Provide a statement of why the particular alternate assessment selected is appropriate for the child; and
  - Designate the grade level and scores for indicating limited English proficiency.

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

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

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

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

- The ARD committee in conjunction with the LPAC must:
  - Provide a statement of why the child cannot participate in the regular assessment;
  - Determine an appropriate assessment instrument for exit from a bilingual education or ESL program;
  - Provide a statement of why the particular assessment selected is appropriate for the child; and
  - Determine the performance standard on the assessment instrument required for exit.

**STAAR (State Assessment)**

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

A personal graduation plan must be developed for any middle school, junior high, or high school child who does not perform satisfactorily on a State-wide assessment.

**STAAR Alt (State Assessment)**

The State has developed an alternate assessment to assess students with the most significant cognitive disabilities based on alternate achievement standards.

The district must inform parents of students selected to be assessed with an alternate assessment that their child's achievement will be measured based on alternate achievement standards.

Students receiving special education services who have the most significant cognitive disabilities and are unable to participate in the other State-wide assessments even with substantial accommodations and/or modifications will be assessed with an alternate assessment, if the State's participation requirements are met.

If the ARD committee determines the student must take an alternate assessment, they must provide a statement of:

- Why the student cannot participate in the regular assessment with or without allowable accommodations; and
- Why an alternate assessment is appropriate for the student, including the following criteria have been met:
  - The student requires supports to access the general curriculum that may include assistance involving communication, response style, physical access, or daily living skills;
  - The student requires direct, intensive, individualized instruction in a variety of settings to accomplish the acquisition, maintenance and generalization of skills;
  - The child accesses and participates in the grade-level TEKS through activities focusing on prerequisite skills;
  - The child demonstrates knowledge and skills routinely in class by methods other than paper-and-pencil tasks; and
  - The child demonstrates performance objectives that may include real-life applications of the grade-level TEKS as appropriate to the child's abilities and needs.

A personal graduation plan must be developed for any middle school, junior high, or high school child who does not perform satisfactorily on a State-wide assessment.

**Transition Services**

Appropriate transition planning under state law must begin not later than when the child reaches 14 years of age.

Beginning not later than the first IEP to be in effect when the student turns 14, or younger if determined appropriate by the ARD committee, and updated annually thereafter, the ARD committee must address transition services as part of the IEP.

“Transition services” means a coordinated set of activities for a student with a disability:

- Designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the student with a disability to facilitate the student’s movement from school to post-school activities, including:
  - Post-secondary education;
  - Vocational education;
  - Integrated employment (including supported employment);
  - Continuing and adult education;
  - Adult services;
  - Independent living; or
  - Community participation; and
- Based on the individual student’s needs, taking into account the student’s strengths, preferences, and interests; and includes:
  - Instruction;
  - Related services;
  - Community experiences;
  - The development of employment and other post-school adult living objectives; and
  - If appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.

If the student does not attend the ARD committee meeting where transition services are discussed, the district must take other steps to ensure the student’s preferences and interests are considered.

### **Career and Technology Education (CTE)**

The district must ensure that the child has access to CTE.

When determining placement in a CTE classroom, the ARD committee will consider a child's graduation plan, the content of the IEP, including the consideration of transition services, and classroom supports.

### **Development of Post-secondary Goals**

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

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

### **Development of a Coordinated Set of Activities**

Transition services may be special education, if provided as specially designed instruction, or a related service, if required to assist the student with a disability to benefit from special education. If the ARD committee determines that the child is unable to participate in physical activity due to a disability or illness, the child will be allowed to substitute one credit in English language arts,

mathematics, science, social studies, or one academic elective credit for the physical education credit required for graduation.

If the ARD committee determines the child is unable to participate in language-other-than-English courses:

- The child will be permitted to substitute for those credits two credits in English language arts, mathematics, science, or social studies or two credits in CTE, technology applications, or other academic electives; and
- A credit allowed to be substituted may not also be used by the child to satisfy a graduation credit requirement other than credit for completion of a language other than English.

The ARD committee must consider the following issues in the development of the IEP and, if appropriate, integrate into the IEP:

- Appropriate child involvement in the child's transition to life outside the public school system;
- If the child is younger than 18 years of age, appropriate parental involvement in the child's transition;
- If the child is at least 18 years of age, appropriate parental involvement in the child's transition, if the parent is invited to participate by the adult student or the LEA;
- Any postsecondary education options;
- A functional vocational evaluation
- Employment goals and objectives;
- If the child is at least 18 years of age, the availability of age-appropriate instructional environments
- Independent living goals and objectives; and
- Appropriate circumstances for referring the child or the child's parents to a governmental agency for services.

If a participating agency fails to provide the transition services describe in the IEP:

- Identify alternative strategies to meet the transition objectives set out in the IEP.

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

Beginning not later than 1 year before the child reaches the age of 18, the ARD committee must provide a statement the child has been informed of the child's rights under the Individuals with Disabilities Education Act (IDEA), if any, will transfer to the child on reaching the age of 18.

### **Transition and Employment Guide**

DISD must:

- Post the transition and employment guide on the district's website; and
- Provide written information and, if necessary, assistance to a parent regarding how to access the electronic version of the guide at:
  - The first meeting of the child's ARD committee at which transition is discussed; or

- The first ARD committee meeting that occurs after the date the guide becomes available, if a child has already had an ARD committee meeting discussing transition.

### Special Factors

#### Behavior

When a child's behavior impedes the child's learning or that of others, the ARD committee must consider:

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

If the ARD committee determines that a behavior improvement plan or the behavioral intervention plan (BIP) is appropriate for the child, the plan must be:

- Included as part of the child's IEP;
- Provided to each teacher with responsibility for educating the child; and
- Provide to other school personnel, as appropriate, and as needed to implement the EIP (eg., counselors or administrators).

#### Communication

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

#### Limited English Proficiency (LEP)

For identification of a child with a disability and before entry into a bilingual education or ESL program, the ARD committee in conjunction with the LPAC must:

- Review all pertinent information including the results of the appropriate assessment instrument identified in accordance with State and district-wide guidelines for indicating a student as LEP;
- Designate the language proficiency level of the child and determine whether the child has met the score criteria determined in accordance with State and district guidelines for identification of the child as LEP;
- Designate the level of academic achievement of the child and determine whether the child has met that level as determined by State and district guidelines for identification of the child as LEP;
- Designate, subject to parental approval, the initial instructional placement of the LEP child who is a child with a disability in a bilingual or ESL program; and
- Facilitate the participation of the LEP child who is a child with a disability in other special programs for which the child is eligible and provided by the district.

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

- Consider the language needs of the child as such needs relate to the child's IEP.

The child may be exited from a bilingual education or ESL program at the end of the school year in which the child received special language services from a bilingual education or ESL program. To exit a child with a disability from a bilingual education or ESL program, the ARD committee in conjunction with the LPAC must:

- Review the results of the appropriate assessment instrument identified in accordance with State and district guidelines for a bilingual or ESL program.
- Determine that the child will be able to participate equally in an all-English instructional program that does not provide special language services from the bilingual or ESL program.
- Determine that the child has met the performance standard established in accordance with state and district wide assessments for exit of the child from a bilingual or ESL program; and

*Prior to ARD meeting, the diagnostician or speech pathologist should contact the campus LPAC coordinator to get copies of the most recent LPAC meeting minutes for discussion during ARD meeting.*

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

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

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

The district must ensure that the child who is deaf or hard of hearing has an education in which the child's unique communication mode is respected, used, and developed to an appropriate level of proficiency.

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

### **Blind or Visually Impaired**

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

- Provide for reading and writing instruction in Braille and the use of Braille; or
- Determine that instruction in Braille or the use of Braille is not appropriate.

Before placing a child with a visual impairment in a classroom setting, or within a reasonable period of time after placement (as required for the child to succeed in classroom setting and derive lasting, practical benefits from education in the district), the district committee must provide

- Evaluation of the impairment; and
- Instruction in an expanded core curriculum, which is required for the child to succeed in classroom settings and derive lasting, practical benefits from the education by the LEA, including instruction in:
  - Compensatory skills; such as Braille and concept development, and other skills needed to access the rest of the curriculum;
  - Orientation and mobility;



- Social interaction skills;
- Career planning;
- Assistive technology; including optical devices;
- Independent living skills;
- Recreation and leisure enjoyment;
- Self-determination; and
- Sensory efficiency.

### **Assistive Technology**

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

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

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

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

### *Assistive Technology Referral Procedures*

1. *Referral may come as part of an evaluation or as a recommendation of an ARD committee.*
2. *Referral is made when a student needs AT to improve, remediate or compensate for deficits in educational performance.*
3. *The case manager (SLP or Diag) will assist with the evaluation which uses a variety of observation checklists and interviews to determine needs of the student and consults with any outside professional resources in order to meet the student’s needs.*
4. *If needed, the case manager will present the findings of the evaluations to the Special Services Director to review before taking the findings to the ARD committee.*

### **Autism**

If a student has autism, the strategies below must be considered by the ARD committee, based on peer-reviewed research-based educational programming practices to the extent practicable. When needed, the ARD committee must address the strategies in the IEP.

The strategies to be addressed are as follows:

- Social skills supports and strategies based on social skills assessment/curriculum provided across settings:
  - For example, trained peer facilitators (e.g., circle of friends), video modeling, social stories, and role playing;
- Positive behavior support strategies based on relevant information:
  - For example, antecedent manipulation, replacement behaviors, reinforcement strategies, and data-based decisions; and a BIP developed from a functional behavioral assessment (FBA) using current data related to target behaviors and addressing behavioral programming across home, school, and community-based settings;
- In-home and community-based training or viable alternatives assist the child with acquisition of social/behavioral skills:
  - For example, strategies facilitate maintenance and generalization of such skills from home to school, school to home, home to community, and school to community;
- Suitable staff-to-child ratio appropriate to identified activities and as needed to achieve social/behavioral progress based on the child's developmental and learning level (acquisition, fluency, maintenance, generalization) encourages work towards individual independence:
  - As determined by, for example, adaptive behavior evaluation results; behavioral accommodation needs across settings; and transitions within the school day;
- Daily schedules reflecting minimal unstructured time and active engagement in learning activities:
  - For example, lunch, snack, and recess periods provide flexibility within routines; adapt to individual skill levels; and assist with schedule changes, such as changes involving substitute teachers and pep rallies;
- Communication interventions, including language forms and functions which enhance effective communication across settings:
  - For example, augmentative, incidental, and naturalistic teaching;
- Extended education programming:
  - For example, extended day and/or extended school year services that consider the duration of programs/settings based on assessment of behavior, social skills, communication, academics, and self-help skills;
- Teaching strategies based on peer reviewed research-based practices for children with autism spectrum disorder:
  - For example, those associated with discrete-trial training; visual supports, applied behavior analysis, structured learning, augmentative communication, or social skills training;
- Beginning at any age, consistent with transition services, futures planning for integrated living, work, community, and educational environments that considers skills necessary to function in current and post-secondary environments;

- Parent/family training and support, provided by qualified personnel with experience in autism spectrum disorders:
  - For example, provides a family with skills necessary for a child to succeed in the home/community setting;
  - For example, includes information regarding resources:
    - For example, parent support groups, workshops, videos, conferences, and materials designed to increase parent knowledge of specific teaching/management techniques related to the child’s curriculum;
  - For example, facilitates parental carryover of in-home training:
    - For example, strategies for behavior management and developing structured home environments and/or communication training so parents are active participants in promoting the continuity of interventions across all settings; and
- Professional educator/staff support:
  - For example, training provided to personnel who work with the child to assure the correct implementation of techniques and strategies described in the IEP.

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

### **Least Restrictive Environment (LRE)**

Dumas ISD ensures to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities are educated with children who are not disabled.

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

Dumas ISD ensures each child with a disability may participate with nondisabled children in nonacademic and extracurricular services to the maximum extent appropriate to the needs of the child.

### **Preschool-Aged Children**

Dumas ISD must provide a free appropriate public education in the LRE to preschool-aged children.

### **Factors for Consideration**

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

- Whether the district provided supplementary aids and services;
- Whether the district modified the regular education program:
  - A child with a disability may not be removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum;
- Whether the efforts to modify and supplement regular education were sufficient:
  - The district need not provide every conceivable supplementary aid or service to assist the child;

- The Individuals with Disabilities Education Act does not require regular education instructors to devote all or most of their time to one disabled child or to modify the regular education program beyond recognition;
- Whether the child will receive an educational benefit from regular education (including nonacademic benefit);
- The child's overall education experience in the mainstreamed environment, balancing the benefits of regular and special education for the individual child:
  - For example, a child may be able to absorb only a minimal amount of the regular education program, but may benefit enormously from the language models that his or her nondisabled peers provide (in such a case, the benefit the child receives from mainstreaming may tip the balance in favor of mainstreaming); and
- The effect the disabled child's presence has on the regular classroom, and thus, on the education the other children are receiving.

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

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

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

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

### **Placement Determination**

The ARD committee must determine the child's placement. The ARD committee's placement decision must be based on the child's IEP. Additionally, the ARD committee must provide an explanation of the extent, if any, to which the child will participate with nondisabled children:

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

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

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

### **Placement Away from Home Campus**

When a student needs a special program that is not offered on the student's home campus, the ARD committee:

- Gives consideration to the student's needs and attending the campus with the appropriate program that is closest to the child's home as required by Federal law.

A parent or guardian wanting their child to attend a campus other than the child's home campus, must follow the procedures outlined in Dumas ISD – FDB (Local) regarding transfers between schools.

### **Instructional Arrangements**

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

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

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

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

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

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

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

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

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

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

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

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

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

- List the services which the district is unable to provide and which the facility will provide;
- Establish criteria and estimated timelines for the child’s return to the district;
- Verify residential placement is needed;
- Verify the placement is the LRE for the child;
- Follow the requirements for supplementary aids and services, special education and related services when selecting the facility;
- Follow the requirements for the use of funds for contract services including residential placements; and
- Comply with any other Federal or State requirements.

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

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

- List those services in the child’s IEP which the TSBVI or the TSD can appropriately provide.
- Include in the child’s IEP the criteria and estimated time lines for returning the child to the district; and
- Determine whether it is necessary for the safety of the child:
  - For an adult to accompany the child when transporting the child at the beginning and end of the term for regularly scheduled school holidays when children are expected to leave the residential campus; and
  - If the child must be accompanied, designate the adult to accompany the child.

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

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

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

Supplementary aids and services, special education, and related services must be based on peer-reviewed research to the extent practicable.

**Supplementary Aids and Services**

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

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

**Special Education**

The ARD committee must determine needed special education services:

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

**Related Services**

The ARD committee must determine needed related services:

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

**Program Modifications and Supports for School Personnel**

The ARD committee must determine needed program modifications or supports for school personnel to provide to enable the child to:

- Advance appropriately toward attaining the annual goals;
- Be involved in and make progress in the general education curriculum, and be afforded an equal opportunity to participate in extracurricular and other nonacademic activities including, to the maximum extent appropriate, in nonacademic settings and services such as:
  - Meals;
  - Recess periods;
  - Counseling services;
  - Athletics;
  - Transportation;
  - Health services;
  - Recreational activities;
  - Special interest groups or clubs sponsored by the district;
  - Referrals to other agencies; or
  - Employment of children, including both employment by the district and assistance in making outside employment available; and
- Be educated and participate with other children with disabilities and nondisabled children.

**Intensive Program of Instruction**

For a child with a disability who did not perform satisfactorily on the state assessment:

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

For a child who did not perform satisfactorily on an end-of-course assessment instrument for secondary-level courses in Algebra I, biology, English I (combined reading/writing), English II (combined reading/writing), United States history:

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

**Accelerated Instruction under the Texas Literacy Initiative**

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

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

### **Student Success Initiative (5<sup>th</sup> and 8<sup>th</sup> grade)**

For a child in the fifth grade and 8<sup>th</sup> grade, each time the child fails to perform satisfactorily on the reading or mathematics state assessment:

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

For students served by special education, the ARD committee functions as the GPC and determines the plan for acceleration; therefore, all legal requirements for any ARD meeting must be in place.

### **Initiation, Frequency and Duration**

The ARD committee must provide:

- The projected date for the beginning of the services and modifications;
- The anticipated frequency of those services and modifications;
- The anticipated duration of those services and modifications.

The ARD committee must determine the appropriate length of school day and specify the length of school day in the IEP.

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

### **Location**

The ARD committee must determine the anticipated location (site) of those services and modifications:

- The location must be as close as possible to the child's home;
- Unless the IEP requires some other arrangement, the child is educated at the campus he or she would attend if not disabled; and
- The provision requires the IEP to specify the location is primarily administrative.

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

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



transportation services provided by the district in accordance with other laws for the child receiving special education services).

If the ARD committee has determined a residential facility is the least restrictive environment:

- The ARD committee must document the appropriateness of the particular residential facility selected by the district including;
  - The appropriateness of the facility for the individual child;
  - The facility meets minimum standards for health and safety;
  - The educational program provided at the residential facility is appropriate; and
- The district must make an initial and an annual on-site visit to verify the residential facility can, and will provide the services listed in the child's IEP which the facility has agreed to provide to the child.

The district shall ensure a continuum of services is available to meet the needs of eligible children with disabilities:

- Pre-School Program for Children with Disabilities (PPCD) for pre-school age students whom direct classroom instruction is needed.
  - Morningside Elementary
- Resource Classes for students who need pull out services and mainstream instruction has not been successful
  - Available on each DUMAS ISD campus
- Behavioral Classes for students who need a structured behavioral and academic program.
  - Dumas High School
  - Dumas Junior High School
  - Hillcrest Elementary
- Life Skills Classes for students who need functional skills and developmentally appropriate coping skills
  - Dumas High School
  - Dumas Junior High School
  - Dumas Intermediate School
  - Morningside Elementary

All placements will be the determination of the ARD committee after reviewing documentation to indicate intervention strategies and placements have been ineffective. A complete Least Restrictive Environment analysis should be documented in the ARD paperwork.

### **Behavioral Classrooms**

Before a student can be referred to a behavioral classroom, all resources are to be utilized on the home campus. The alternatives which should be tried include:

1. Intervention strategies with parental involvement
2. Development of a structured Behavior Improvement Plan

The district's behavioral classrooms provide an individualized program for students as identified through special education who, because of emotional/behavioral and/or social maladjustment, are unable to function successfully in the regular classroom. Teaching students to control their behaviors and handle life situations appropriately so they may return to the least restrictive

environment as quickly as possible is the ultimate goal. Students placed in the behavioral classrooms are on an individualized academic and behavior management program which may include a reward system, behavioral checklist, and a positive reinforcement system. The student is supervised by the teacher and/or full-time aide at all times. An individual trained in Crisis Prevention Intervention will be available for crisis intervention. Individual and/or group counseling may be provided. When the staff and/or ARD committee determines the student is ready for trial integration into other classes, a time-line will be established. The number of classes selected for trial integration will be determined on an individual basis by the ARD committee. These classes may include both regular and other types of special education classes. Prior to the student's return to the home campus, a transition plan may be put into effect by the ARD committee.

### **Reaching Closure and Consensus**

#### **Reaching Closure**

The ARD committee documentation must include:

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

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

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

#### **Reaching Consensus**

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

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

- Provide the parent with prior written notice
- Offer the parents or adult student who disagrees a single opportunity to have the committee recess for a period of time not to exceed ten school days:
  - Except when the student's presence on the campus presents a danger of physical harm to the student or others or when the student has committed an expellable offense or an offense which may lead to a placement in an alternative education program;
- Provide a written statement of the basis for the disagreement;
- Offer the members who disagree the opportunity to write their own statements; and
- When the parent accepts the offer to reconvene, determine by mutual agreement prior to the recess, the date, time, and place for continuing the ARD committee meeting.

During a recess, the ARD committee members must:

- Consider alternatives;
- Gather additional data;

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

When the ARD committee cannot reach mutual agreement (after the ten-day recess or when the parent refuses the ten-day recess) the district must:

- Provide the parent with prior written notice; and
- Implement the IEP which it has determined to be appropriate for the child.

### **IEP Amendment Process**

#### **IEP Amendment Without a Meeting**

After the annual ARD meeting, changes to the IEP may be made either:

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

Eligibility determinations, changes of placement, and manifestation determination reviews may not be conducted through an amendment.

#### **Amendment Process**

The district will use the amendment process for the following when agreed to by the district and the student's parent or by the adult student:

- Additions/deletions of instructional accommodations.
- Additions/deletions of accommodations for state assessments.
- Routine schedule changes not affecting the student's LRE.
- Changes in related services, but not for the removal of a related service or the addition of a related service.
- Other situations as deemed appropriate and approved in advance by the Director of Special Services.

The district will not use the amendment process for the following:

- Dismissal from special education.
- Dismissal from a related service.
- Changes that will place the student in a more restrictive environment.
- To request additional evaluations.

The following steps will be used to make an amendment to the IEP:

- District personnel wishing to amend the IEP will contact the diagnostician to discuss the proposed amendment and provide appropriate information and/or documentation to support the amendment.
- If the requested change to the IEP is appropriate for the amendment process, the diagnostician will contact the appropriate campus administrator to obtain his/her agreement to contact the parent regarding the proposed change to the IEP. (If the proposed change is not specifically allowed or disallowed by this procedure, the diagnostician will contact the Director to obtain permission to pursue the proposed amendment with the appropriate campus administrator.)

- The diagnostician, working with the district personnel who initiated the proposed change, will contact the parent either by phone or in a face-to-face meeting (this is the preferred method of the district) to explain the proposed amendment and provide the necessary information to justify the change. When initial contact is made with the parent regarding the proposed change, the parent shall be informed he/she may request the entire ARD Committee consider the proposed change.
- If the parent agrees to change the IEP using the amendment process, the IEP changes should be documented on the appropriate form. If the changes were not made in a face-to-face meeting, a good faith and documented effort to obtain the parent's signature on the amendment should be made.
- The parent will be given a copy of the IEP amendment form and shall also be informed they may have a complete copy of the student's IEP with amendments, if they so desire.
- The parents or adult student will be provided a copy of procedural safeguards.
- The IEP amendments should be given to the appropriate personnel, once the appropriate campus administrator has signed the form.
- The IEP amendment form should be filed in the student's eligibility folder with the current IEP that was amended.

Parents may also initiate the IEP amendment process. A parent wanting to amend the student's IEP should contact the diagnostician to discuss the proposed change. If it is determined the amendment is allowable under this procedure, the diagnostician will discuss the proposed changes with the appropriate school personnel. After those discussions, the diagnostician will need to obtain agreement from the appropriate campus administrator so the amendment can be implemented.

## **Graduation**

Graduation from high school with a regular high school diploma:

- Requires compliance with the regulations and procedures for the summary of performance; and
- Constitutes a change of placement requiring compliance with the regulations and procedures for prior written notice.

## **Recommended or Distinguished Achievement High School**

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

- The child has satisfactorily completed the State's or the district's (whichever is greater) required standards in the TEKS and credit requirements for graduation (under the recommended or distinguished achievement high school program curriculum requirements) applicable to children in general education; and
- The child performs satisfactorily on the required state assessments.

If the admission, review, and dismissal (ARD) committee determines that the child is unable to participate in physical activity due to a disability or illness, the student may be allowed to substitute one credit in

English language arts, mathematics, science, social studies, or one academic elective credit for the physical education credit required for graduation.

Graduation with a regular high school diploma under the recommended or distinguished achievement high school programs terminates the child's eligibility for special education services and entitlement to the benefits of the Foundation School Program.

### **Minimum High School Program**

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

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

If the ARD committee determines that the child is unable to participate in physical activity due to a disability or illness, the student may be allowed to substitute one credit in English language arts, mathematics, science, social studies, or one academic elective credit for the physical education credit required for graduation.

Graduation with a regular high school diploma under the minimum high school program terminates the child's eligibility for special education services and entitlement to the benefits of the Foundation School Program.

### **Graduation Due to Successful Completion of the IEP**

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

- A full and individual evaluation must be provided and included as part of the summary of performance;
- The ARD committee must determine the child has successfully completed the child's IEP;
- The ARD committee must determine the child has successfully completed the State's or district's (whichever is greater) minimum credit requirements for children with disabilities;
- The ARD committee must determine the child has successfully completed the State's or district's minimum curriculum requirements to the extent possible with modifications/substitutions only when it is determined necessary by the ARD committee for the child to receive an appropriate education; and
- The ARD committee must determine the child has successfully completed one of the following conditions consistent with the child's IEP:
  - Full-time employment, based on the child's abilities and local employment opportunities, in addition to sufficient self-help skills to maintain the employment without direct and ongoing educational support of the district;

- Access to services which are not within the legal responsibility of the district, or employment or educational options for which the child has been prepared by the academic program; or
- Demonstrated mastery of specific employability skills and self-help skills which do not require direct ongoing educational support of the district.
- The child participates in the required state assessments.

If the ARD committee determines that the child is unable to participate in physical activity due to a disability or illness, the student may be allowed to substitute one credit in English language arts, mathematics, science, social studies, or one academic elective credit for the physical education credit required for graduation.

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

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

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

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

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

Graduation with a regular high school diploma due to completion of the IEP and no longer meeting age eligibility requirements terminates the child's eligibility for special education services and entitlement to the benefits of the Foundation School Program.

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

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

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

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

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

### **Personal Graduation Plan**

A child's IEP may be used as the child's personal graduation plan.

A personal graduation plan must be developed for any middle school, junior high, or high school child who:

- Does not perform satisfactorily on State-wide assessment; or

- Is not likely to receive a high school diploma before the fifth school year following the child’s enrollment in grade 9, as determined by the district.

A personal graduation plan must address participation of the parent:

- Including consideration of the parent’s educational expectations for the child.

A personal graduation plan must include:

- Educational goals for the child;
- Diagnostic information;
- Appropriate monitoring and intervention;
- Other evaluation strategies; and
- An intensive program of instruction.

A personal graduation plan must provide innovative methods to promote the child’s advancement, including:

- Flexible scheduling;
- Alternate learning environments;
- On-line instruction; and
- Other interventions that are proven to accelerate the learning process and have been scientifically validated to improve learning and cognitive ability.

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

“Extended school year services” (ESY) means special education and related services:

- Are provided to a child with a disability:
  - Beyond the normal school year of the district;
  - In accordance with the child’s IEP; and
  - At no cost to the parents of the child; and
- Meet the standards of the Texas Education Agency.

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

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

ESY services are not intended to introduce or teach new skills.

### **Limitations**

In determining the need for and in providing ESY services, the district may not:

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

### **Determination of Need**

The need for ESY services must be determined on an individual basis by the ARD committee:

- The district must ensure ESY services are available as necessary to provide free appropriate public education; and

- ESY services must be provided only if the child’s ARD committee determines, on an individual basis, the services are necessary for the provision of FAPE.

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

### Data to Make the Decision

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

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

### Regression in Critical Areas

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

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

### Recoupment of Acquired Skills

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

- If the loss of acquired critical skills would be particularly severe or substantial, or if such loss results, or reasonably may be expected to result, in immediate physical harm to the child or to others, ESY services may be justified without consideration of the period of time for recoupment of such skills. In any case, the period of time for recoupment must not exceed eight weeks.

### Goals and Objectives

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



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

## **Special Consents**

### **Consent to Access Public Benefits**

The district may use the Medicaid or other public benefits or insurance programs in which a child participates to provide or pay for services required under IDEA, as permitted under the public benefits or insurance program, except as provided in these guidelines.

Prior to accessing a child's or parents public benefits or insurance for the first time, and after providing notification to the child's parents consistent with this framework, the LEA must obtain written parental consent that is signed and dated and that specifies:

- The personally identifiable information that may be disclosed (e.g., records or information about services that may be provided to the child);
- The purpose of the disclosure (e.g., billing for services under IDEA Part B);
- The agency to which the disclosure may be made (e.g., Medicaid); and
- That the parent understands and agrees that the LEA may access the parent's or child's public benefits or insurance to pay for service under the IDEA Part B.

### **Elements of Consent**

The district must obtain initial consent from the parent when accessing public benefits or an insurance program is sought and subsequently provide annual notification, which means:

- The parent has been fully informed of all information relevant to the district's use of public benefits or insurance in his or her native language or other mode of communication, including:
  - The district may not require parents to sign up for or enroll in public benefits or insurance programs in order for their child to receive FAPE;
  - The district may not require parents to incur an out-of-pocket expense such as the payment of a deductible or co-pay amount incurred in filing a claim;
  - The district may not use a child's benefits under a public benefits or insurance program if use would decrease available lifetime coverage or any other insured benefit;
  - The district may not use a child's benefits under a public benefits or insurance program if use would result in the family paying for services that would otherwise be covered by the public benefits or insurance program and that are required for the child outside of the time the child is in school;
  - The district may not use a child's benefits under a public benefits or insurance program if use would increase premiums or lead to the discontinuation of benefits or insurance; and
  - The district may not use a child's benefits under a public benefits or insurance program if use would risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures.

- The parent must be informed that the parents’ refusal to allow access to public benefits or an insurance program in which the child participates does not relieve the district of its responsibility to ensure all required services are provided at no cost to the parents;
- The consent describes the activity of the district accessing public benefits or an insurance program;
- The consent lists the records (if any) that will be released and to whom;
- The parent understands and agrees in writing to the district accessing the public benefits or insurance program in which the child participates;
- The parent understands the granting of consent is voluntary on the part of the parent and may be revoked at any time; and
- The parent understands if they revoke consent, revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).

### Questions regarding Insurance or Public Benefits

Questions regarding insurance or public benefits should be directed to a diagnostician or the Director of Special Services.

### Consent to Access Private Insurance

Dumas ISD does not routinely seek to access private insurance. Any exceptions to this practice require the approval of the Director of Special Services.

### Consent to Transfer Assistive Technology Devices

“Transfer” means the process by which the district has purchased an assistive technology device may sell, lease, or loan the device for the continuing use of a student with a disability who is changing the school of attendance in the district or leaving the district.

The assistive technology device may be transferred to:

- The school or district in which the student enrolls;
- A state agency, including the Texas Rehabilitation Commission and the Texas Department of Mental Health and Mental Retardation, that provides services to the student following the student’s graduation from high school; or
- The student’s parents or the student if the student has the legal capacity to enter into a contract.

If the transfer is a sale, the district must, through a Uniform Transfer Agreement that incorporates the standards of the State. Informed consent obtained from a parent relating to the transfer of an assistive technology device must include:

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

**When Despite Reasonable Efforts, Consent is not obtained**

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

- The district has taken reasonable measures to obtain that consent; and
- The parent failed to respond.

Any transfer of assistive technology devices requires the approval of the Director of Special Services.

**Consent for Disclosure of Confidential Information**

**When Prior Consent is required to disclose Information**

“Disclosure” means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records to any party, by any means, including oral, written, or electronic means.

The district must obtain informed consent from the parent before personally identifiable information is disclosed to parties except when consent is not required to disclose information, including:

- To officials of agencies providing or paying for transition services;
- If a child is enrolled, or is going to enroll in a private school that is not located in the district of the parent’s residence, between district officials where the private school is located and district officials of the parent’s residence; and
- When disclosure is permitted or required under the Family Education Rights and Privacy Act, Federal or State law, or local policy.

**Elements of Consent**

Parental consent means:

- The parent has been fully informed of all information relevant to the disclosure of confidential information in his or her native language or other mode of communication, including by:
  - Specifying the records being disclosed;
  - Stating the purpose of the disclosure; and
  - Identifying the party or class of parties to whom the disclosure may be made;
- The parent understands and agrees in writing to the district disclosing the confidential information;
- The consent is signed and dated;
- The parent understands granting of consent is voluntary and may be revoked at any time; and
- The parent understands if the parent revokes consent, revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before consent was revoked).

## **Transfer Students**

### **Transmittal of Records**

To facilitate the transition for a child with a disability:

- Dumas ISD must take reasonable steps to promptly obtain the child's record from the previous district in which the child was enrolled, including:
  - The IEP and supporting documents; and
  - Any other records relating to the provision of special education or related services to the child;
- Dumas ISD must take reasonable steps to promptly respond to such request from the student's new district.

### **When an Evaluation is Pending**

Assessments of children with disabilities who transfer from one district to another district in the same academic year must be coordinated, as necessary and as expeditiously as possible, to ensure prompt completing of full evaluations.

The 45-school day evaluation timeframe for initial evaluations does not apply if:

- A child enrolls in a school served by the district after the timeframe has begun and prior to a determination by the child's previous district as to whether the child is a child with a disability;
- The parent and the district agree to a specific time when the evaluation will be completed; and
- The district is making sufficient progress to ensure a prompt completion of the evaluation.

### **IEP for a Child with a Disability Who Transfers Within the State**

The district must verify that the child with a disability:

- Transferred districts within the same academic year; and
- Had an IEP in effect.

The district must provide such child with FAPE:

- Including services comparable to those described in the previously held IEP;
- In consultation with the parents; and
- Until such time as the district:
  - Adopts the child's previously-developed IEP; or
  - Develops, adopts and implements a new IEP.

### **IEP for a Child with a Disability Who Transfers from Outside the State**

The district must verify the child with a disability:

- Transferred districts within the same academic year; and
- Had an IEP in effect in another state.

The district must (in consultation with the parents) provide such child with a FAPE, including services comparable to those describe in the previously developed IEP;

- Until such time as the district:
  - Conducts an evaluation, if determined necessary by the district; and
  - Develops, adopts and implements a new IEP, if appropriate.

The timeline for these requirements shall be 30 days from the date the student is verified as being eligible for special education services.

## **Incarcerated Students**

### **Limitations to FAPE**

The obligation to make a FAPE available to all children with disabilities does not apply to children aged 18 through 21 who, in the last educational placement prior to incarceration in an adult correctional facility:

- Were not actually identified as being a child with a disability; and
- Did not have an IEP.

The obligation to make a FAPE available to children with disabilities aged 18 through 21 does apply to children who:

- Had been identified as a child with a disability and had received services in accordance with an IEP, but who left school prior to their incarceration; or
- Did not have an IEP in their last educational setting, but who had actually been identified as a child with a disability.

### **Children in Adult Prisons**

For children with disabilities who are convicted as adults and incarcerated in adult prisons:

- The requirements of State and district-wide assessments do not apply;
- The requirements of transition services do not apply if the student will be released from prison after he or she is no longer eligible under the IDEA based on consideration of:
  - The sentence; and
  - Eligibility for early release; and
- If the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated, the student's ARD committee may modify the child's IEP or placement notwithstanding the least restrictive environment and IEP content requirements of the IDEA.

### **Transfer of Parental Rights**

All rights accorded to parents under IDEA, including the right to receive notice, transfer to children who are incarcerated in an adult or juvenile Federal, State, or local correctional institution, unless the parent or other individual has been granted guardianship of the child under the Texas Probate Code.

Notice of the transfer of parental rights to the incarcerated student must be given to the parent and the incarcerated student (does not require prior written notice).

## **Discipline**

### **Authority of School Personnel**

#### **Authority of School Personnel to Remove for Less than 10 Consecutive School Days**

School personnel may remove a child with a disability who violates the student code of conduct from his or her current placement to an appropriate interim alternative educational setting (IAES), another setting, or suspension, for not more than 10 consecutive school days to the extent those alternatives are applied to children without disabilities.

School personnel may remove a child with a disability who violates the student code of conduct from his or her current placement for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct as long as those removals do not constitute a change of placement.

#### **Authority of School Personnel to Remove for More than 10 Consecutive School Days**

School personnel may apply the relevant disciplinary procedures that would be applied to children without disabilities in the same manner and for the same duration as the procedures that would be applied to children without disabilities, if:

- In the manifestation determination review, the behavior that gave rise to the violation of the code of conduct is determined not to be a manifestation of the child's disability;
- Notification of change of placement is given to the parents; and
- Services during periods of removal are provided.

After discipline has been determined, a manifestation determination ARD should be scheduled and held to address questions of linkage to the disability of the student.

School personnel must provide the parents of the child removed to a disciplinary alternative education program with written notice of the school's obligation to provide the child with an opportunity to complete coursework required for graduation that:

- Includes information regarding all methods available for completing the coursework; and
- States that the methods available for completing the coursework are available at no cost to the child.

School personnel may remove a student to an IAES without regard to whether the behavior is determined to be a manifestation of the child's disability, if:

- There are *special circumstances*; and
- The removal is for not more than 45 school days.

#### **Referral to Law Enforcement and Courts**

Nothing prohibits the district from reporting a crime committed by the child with a disability to appropriate authorities or prevents state law enforcement and judicial authorities from exercising their responsibilities with regard to the application of federal and state law to crimes committed by the child with a disability.

The district, when reporting a crime committed by the child with a disability, must ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the district reports the crime only to the extent permitted under the Family Educational Rights and Privacy Act.

If the child with a disability commits a school offense identified in TEC 37.144 and fails to comply with or complete graduated sanctions for the offense, or if the school district has not elected to adopt a system of graduated sanctions for such offenses, the school may file a complaint against the child with a criminal court.

A complaint alleging the commission of a school offense must include a statement of whether the child is eligible for or receives special education.

#### **Limitations on General Authority**

A child with a disability may not be disciplined for bullying, harassment, or making hit lists until an ARD committee meeting has been held to review the conduct.

### **Change of Placement**

School personnel must consider any unique circumstances on a case-by-case basis when determining whether a change in placement is appropriate for a child with a disability who violates the student code of conduct.

A change of placement occurs if:

- The removal is for more than 10 consecutive school days; or
- The child has been subjected to a series of removals that constitutes a pattern.

### **Pattern**

The child has been subjected to a series of removals that constitutes a pattern when:

- The series of removals total more than 10 school days in a school year;
- The child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and
- Additional factors to be considered are:
  - The length of each removal;
  - The total amount of time the child has been removed; and
  - The proximity of the removals to one another.
  -

### **Decision**

The district's determination is subject to review through due process and judicial proceedings.

The district determines, on a case-by-case basis, whether a pattern of removals constitutes a change of placement.

### **Notification**

On the date on which the decision is made to make a removal that constitutes a change of placement, the district must:

- Notify the parents of that decision; and
- Provide the parents the procedural safeguards notice.

### **Manifestation Determination**

A manifestation determination must be made within 10 school days of any decision to make a change of placement of a child with a disability because of a violation of the student code of conduct.

### **Membership and Meeting**

The manifestation determination must be made by the ARD committee with the following members:

- The district representative;
- The parent; and
- The relevant members of the child's ARD committee;
  - As determined by the parent and the district.

### **Information**

The ARD committee must review all relevant information in the student's file, including:

- The child's IEP;
- Any teacher observations; and
- Any relevant information provided by the parents.

### Determination

The conduct is a manifestation of the child's disability if the ARD committee determines that:

- The conduct was caused by, or had a direct and substantial relationship to, the child's disability; or
- The conduct in question was the direct result of the district's failure to implement the IEP.

If the committee determines that the conduct is a manifestation of the child's disability, the district must comply with the when behavior is a manifestation framework.

If the committee determines that the conduct is not a manifestation of the child's disability, the district must comply with the when behavior is NOT a manifestation framework.

### When Behavior is a Manifestation

If the ARD committee determines the conduct was the direct result of the failure of the district to implement the IEP, the district must take immediate steps to remedy those deficiencies.

If the ARD committee determines the conduct was a manifestation of the child's disability, the ARD committee **must** either:

- Conduct a functional behavioral assessment (FBA):
  - Unless the district had conducted a FBA before the behavior that resulted in the change of placement occurred; and
  - Implement a behavioral intervention plan (BIP) for the child; or
- If a BIP has already been developed:
  - Review the BIP; and
  - Modify it, as necessary, to address the behavior.

If the ARD committee determines the conduct was a manifestation of the child's disability, the ARD committee **must** also:

- Return the child to the placement from which the child was removed:
  - Except as provided in special circumstances;
  - Unless the parent and the district agree to a change of placement as part of the modification of the BIP.

### When Behavior is Not a Manifestation

For a disciplinary change in placement that would exceed 10 consecutive school days, if the ARD committee determines the conduct was **not** a manifestation of the child's disability:

- School personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities.
- Services must be provided during the removal.

### Services during Periods of Removal

#### Removals for Less than 10 Cumulative Days



The district is only required to provide services during periods of removal to a child with a disability who has been removed from his or her current placement for 10 school days or less in that school year, if it provides services to a child without disabilities who is similarly removed.

### **Removals for More than 10 Cumulative Days that are Not a Change in Placement**

The district ***must*** conduct a change of placement analysis and comply with the guidelines regarding change of placement.

After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, if the current removal is not for more than 10 consecutive school days and is not a change of placement:

- School personnel, in consultation with at least one of the child’s teachers, determine the extent to which services are needed for FAPE:
  - To enable the child to continue to participate in the general education curriculum, although in another setting;
  - To enable the child to progress toward meeting the goals set out in the child’s IEP; and
- Services may be provided in an IAES.

### **Removals that are a Change of Placement**

The district ***must*** comply with guidelines regarding manifestation determination.

When the behavior is not a manifestation of the child’s disability, or when a child with a disability is removed from the child’s current placement due to special circumstances, the ARD committee must determine:

- Educational services for FAPE which may be provided in an IAES:
  - To enable the child to continue to participate in the general education curriculum, although in another setting;
  - To enable the child to progress toward meeting the goals set out in the child’s IEP;
- As appropriate, a functional behavioral assessment;
- Behavioral intervention services and modifications, designed to address the behavior that violated the student code of conduct so this behavior does not recur; and
- The IAES.

### **Special Circumstances**

Special circumstances exist if the child:

- Carries a weapon to or possesses a weapon at school, on school premises, or at a school function under the jurisdiction of TEA or the district:
  - The term “dangerous weapon” means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2½ inches in length;
- Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of TEA or the district:
  - Controlled substance means a drug or other substance identified under schedules I, II, III, IV, or V;

- Illegal drug means a controlled substance; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under or provision of Federal law; or
- Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of TEA or the district:
  - The term “serious bodily injury” means bodily injury which involves a substantial risk of death; extreme physical pain; protracted and obvious disfigurement; or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

If special circumstances exist, the district may remove a child with a disability under the special circumstances provisions of guideline regarding the authority of school personnel.

### **Restraint and Time-out**

It is the policy of the State of Texas and the district to treat all students with dignity and respect, including students with disabilities who receive special education services.

Any behavior management technique and/or discipline management practice must be implemented in such a way as to protect the health and safety of the student and others. No discipline management practice may be calculated to inflict injury, cause harm, demean, or deprive the student of basic human necessities.

### **Applicability**

This framework generally applies to all school employees, volunteers, or independent contractors. This framework also applies to a peace officer only if the peace officer:

- Is employed or commissioned by a school district; or
- Provides, as a school resource officer, a regular police presence on a school district campus under a memorandum of understanding between the district and a local law enforcement agency.

### **Confinement**

A student with a disability must not be confined in a locked box, locked closet or other specially designed locked space as either a discipline management practice or a behavior management technique.

This section does not prevent a student’s locked confinement in an emergency situation while awaiting the arrival of law enforcement personnel if:

- The student possesses a weapon; and
- The confinement is necessary to prevent the student from causing bodily harm to the student or another person.

### **Restraint**

“Restraint” means the use of physical force or a mechanical device to significantly restrict the free movement of all or a portion of the student’s body.

“Emergency” means a situation in which a student’s behavior poses a threat of:

- Imminent, serious physical harm to the student or others; or
- Imminent, serious property destruction.

A school employee, volunteer or independent contractor may use restraint only in an “*emergency*” and with the following limitations:

- Restraint must be limited to the use of such reasonable force as is necessary to address the emergency;
- Restraint must be discontinued at the point at which the emergency no longer exists;
- Restraint must be implemented in such a way as to protect the health and safety of the student and others; and
- Restraint must not deprive the student of basic human necessities.

Training for school employees, volunteers, or independent contractors must be provided according to the following requirements:

- A core team of personnel on each campus must be trained in the use of restraint. The team must include a campus administrator or designee and any general or special education personnel likely to use restraint;
- Personnel called upon to use restraint in an emergency and who have not received prior training must receive training within 30 school days following the use of restraint;
- Training on use of restraint must include prevention and de-escalation techniques and provide alternatives to the use of restraint; and
- All trained personnel must receive instruction in current professionally accepted practices and standards regarding behavior management and the use of restraint.

The following documentation requirements must be met in a case in which restraint is used by school employees, volunteers, or independent contractors:

- On the day restraint is utilized, the campus administrator or designee must be notified verbally or in writing regarding the use of restraint;
- On the day restraint is utilized, a good faith effort must be made to verbally notify the parent(s) regarding the use of restraint;
- Written notification of the use of restraint must be placed in the mail or otherwise provided to the parent within one school day of the use of restraint;
- Written documentation regarding the use of restraint must be placed in the student’s special education eligibility folder in a timely manner so the information is available to the ARD committee when it considers the impact of the student’s behavior on the student’s learning and/or the creation or revision of a BIP; and
- Written notification to the parent(s) and documentation to the student’s special education eligibility folder must include the following:
  - Name of the student;
  - Name of the staff member(s) administering the restraint;
  - Date of the restraint and the time the restraint began and ended;
  - Location of the restraint;
  - Nature of the restraint;
  - A description of the activity in which the student was engaged immediately preceding the use of the restraint;
  - The behavior that prompted the restraint;
  - The efforts made to de-escalate the situation and alternatives to restraint that were attempted; and
  - Information documenting parent contact and notification.

Physical restraint does **not** include the use of:

- Physical contact or appropriately prescribed adaptive equipment to promote normative body positioning and/or physical functioning;
- Limited physical contact with a student to promote safety (e.g., holding a student's hand), prevent a potentially harmful act (e.g., running in the street), teach a skill, or provide comfort;
- Limited physical contact or appropriately prescribed adaptive equipment to prevent a student from engaging in ongoing, repetitive self-injurious behaviors; or
- Seat belts and other safety equipment used to secure students during transportation.

Cumulative data regarding the use of restraint **must** be reported through PEIMS (435 Record). A related discipline record should also be created for the incident (425 Record).

Dumas ISD's method of restraint is Crisis Prevention Institute (CPI) which is used when a staff member is required to physically restrain a student. This training will include the required Texas Behavior Support Initiative (TSSI) modules.

#### **Time-out**

"Time-out" means a behavior management technique in which, to provide a student with an opportunity to regain self-control, the student is separated from other students for a limited period in a setting:

- That is not locked; and
- From which the exit is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object.

A school employee, volunteer or independent contractor may use time-out with the following limitations:

- Physical force or threat of physical force must not be used to place a student in time-out;
- Time-out must only be used in conjunction with an array of positive behavior intervention strategies and techniques and must be included in the student's IEP and/or BIP if it is utilized on a recurrent basis to increase or decrease a targeted behavior; and
- Use of time-out must not be implemented in a fashion that precludes the ability of the student to be involved in and progress in the general curriculum and advance appropriately toward attaining the annual goals specified in the student's IEP.

Training for school employees, volunteers, or independent contractors must be provided according to the following requirements:

- General or special education personnel who implement time-out based on requirements established in a student's IEP and/or BIP must be trained in the use of time-out;
- Newly identified personnel called upon to implement time-out based on requirements established in a student's IEP and/or BIP must receive training in the use of time-out within 30 school days of being assigned the responsibility for implementing time-out;
- Training on the use of time-out must be provided as part of a program which addresses a full continuum of positive behavioral intervention strategies, and must address the impact of the time-out on the ability of the student to be involved in and progress in the general curriculum and advance appropriately toward attaining the annual goals specified in the student's IEP; and

- All trained personnel must receive instruction in current professionally accepted practices and standards regarding behavior management and the use of time-out.

Necessary documentation or data collection regarding the use of time-out, if any, must be addressed in the IEP or BIP. The ARD committee must use any collected data to judge the effectiveness of the intervention and provide a basis for making determinations regarding its continued use.

## **Records**

### **Confidentiality of Information**

The district must ensure the confidentiality of any personally identifiable data, information (including e-mails), and records collected or maintained by the district, including but not limited to:

- The student's name;
- The name of the student's parent or other family member;
- The address of the student or student's family;
- A personal identifier, such as the student's social security number or student number;
- A list of personal characteristics that would make the student's identity easily traceable; or
- Other information that would make the student's identity easily traceable.

The district must protect the confidentiality of personally identifiable information at the collection, storage, disclosure, and destruction stages.

### **Special Education Eligibility Folder**

The district must maintain an eligibility folder for each child receiving special education services, in addition to the child's cumulative record.

The eligibility folder must include, but is not limited to:

- Copies of referral data;
- Documentation of notices and consents;
- Evaluation reports and supporting data;
- ARD committee reports; and
- The student's IEP.

### **Record of Access**

The district must maintain a record of each request for access to and each disclosure of personally identifiable information from the education records of each student.

The district must maintain the record of access with the education records of the student as long as the records are maintained.

For each request or disclosure, the record of access must include:

- The name of the party who requested or received personally identifiable information from the education records;
- The legitimate interests the party had in requesting or obtaining the information (the purpose for which the party is authorized to use the records);
- The date access was given; and

- If the district discloses personally identifiable information from an education record authorized under the disclosure of information the record of access must include:
  - The names of the additional parties to which the receiving party may disclose the information on behalf of the district; and
  - The legitimate interests, as provided in “When consent is not required to disclose information” guideline, which each of the additional parties requesting or obtaining the information.

The following parties requesting or obtaining access do not have to be entered on the record of access:

- The parent or eligible student;
- A school official whom the agency or institution has determined to have a legitimate educational interest;
- A party with written consent from the parent or eligible student;
- A party seeking directory information; or
- A party seeking or receiving the records as directed by a federal grand jury or other law enforcement subpoena and the issuing court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed.

The record of access may be inspected by the following parties:

- The parent or eligible student;
- The school officials or his or her assistants who are responsible for the custody of the records; and
- For the purposes of auditing the recordkeeping procedures of the district:
  - School officials, including teachers within the district whom the district has determined to have legitimate educational interests; and
  - Authorized representatives of the Comptroller General of the United States, the Attorney General of the United States, the United States Secretary of Education, or State and district educational authorities.

### Annual Notification

Under FERPA and for the purposes of this guideline concerning the administration of records:

- “Parent” means a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian;
- “Eligible student” means a student who has reached 18 years of age or is attending an institution of postsecondary education; and
- “Student,” except otherwise specifically provided in FERPA and the administration of records guideline, means any individual who is or has been in attendance in the district regarding whom the district maintains education records.

The district shall annually notify parents of students currently in attendance, or eligible students currently in attendance, of their rights under FERPA.

The annual notification must inform parents or eligible students they have the right to:

- Inspect and review the student’s education records;

- Seek amendment of the student’s education records that the parent or eligible student believes to be inaccurate, misleading, or otherwise in violation of the student’s privacy rights;
- Consent to disclosures of personally identifiable information contained in the student’s education records as provided in consent for disclosure of confidential information, except when consent is not required to disclose information; and
- File with the Family Policy Compliance Office a complaint concerning alleged failures by the district to comply with the requirements of FERPA.

The notice must include all of the following:

- The procedure for exercising the parent or eligible student access to education records;
- The procedure for amending education records; and
- A specification of criteria for determining who constitutes a school official and what constitutes a legitimate educational interest, if the district has a policy of disclosing education records without parental consent to school officials, including teachers, within the district or whom the district has determined to have legitimate educational interests.

The district must effectively provide annual notification to parents or eligible students who are disabled.

The district must effectively provide annual notification to parents who have a primary or home language other than English.

The district may provide annual notification by any means reasonably likely to inform the parents or eligible students of their rights.

#### **Parent or Eligible Student Access to Education Records**

The Notice of Procedural Safeguards must include information on the opportunity for the parents of a child with a disability to examine all records relating to such child.

#### **Education Records Defined**

Under FERPA and for the purposes of the administration of records guidelines:

A “record” is any information recorded in any way, including but not limited to hand writing, print, computer media, phone, video or audio tape, film, microfilm and microfiche.

The term “education records” means those records:

- Directly related to a student; and
- Maintained by the district or by a party acting for the district.

Records relating to an individual in attendance in the district who is employed as a result of his or her status as a student are education records.

The term “education records” does not include:

- Records kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record;
- Records of the law enforcement unit of the district;
- Records relating to an individual who is employed by the district that:
  - Are made and maintained in the normal course of business;
  - Relate exclusively to the individual in that individual’s capacity as an employee; and
  - Are not available for use for any other purpose;

- Records on a student who is 18 years of age or older, or is attending an institution of postsecondary education, that are:
  - Made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity;
  - Made, maintained, or used only in connection with treatment of the student; and
  - Disclosed only to individuals providing the treatment which does not include remedial educational activities or activities that are part of the program of instruction in the district; and
- Records that only contain information about an individual after he or she is no longer a student in the district.

### **List of Types and Locations of Information**

The district must provide parents or eligible students on request a list of the types and locations of education records collected, maintained, or used by the district.

### **Right to Inspect and Review Records**

The district must give full rights to either parent to inspect and review records relating to his or her child unless the district has been provided with evidence there is a court order, State statute, or legally binding document relating to such matters as guardianship, divorce, separation, or custody that specifically revokes these rights.

A parent or eligible student has the right to inspect and review any education records of the student that are collected, maintained, or used by the district, including:

- Attendance records;
- Test scores;
- Grades;
- Disciplinary records;
- Counseling records;
- Psychological records;
- Applications for admission;
- Health and immunization information;
- Teacher and counselor evaluations; and
- Reports of behavioral patterns.

The right to inspect and review education records includes:

- The right to a response from the district or institution to a reasonable request for explanations and interpretations of records;
- The right to request the district provide copies of the records in compliance with copies, including fees for copies;
- The right to have the treatment records of the student reviewed by a physician or other appropriate professional of the parent or eligible student's choice; and
- The rights to have a representative of the parent or eligible student inspect and review the records.

### **Timeline**



The district must comply with a request to inspect and review any education records relating to the student:

- Without unnecessary delay and within a reasonable period of time;
- Before any ARD committee meeting;
- Before a resolution session under the Notice of Procedural Safeguards;
- Before any due process hearing under the Notice of Procedural Safeguards;
- Not more than 45 days after the request is received.

### **Records on more than one Student**

If any education records include information on more than one student, the parents of those children have the right to:

- If possible (i.e., video tapes may not be able to be disclosed), inspect and review only the information relating to their child; or
- Be informed of that specific information.

### **Copies Including Fees for Copies**

If circumstances effectively prevent the parent or eligible student from exercising the right to inspect and review the student's education records, the district must:

- Provide the parent or eligible student with a copy of the records requested; or
- Make other arrangements for the parent or eligible student to inspect and review the requested records.

The district may charge a reasonable fee for a copy of an education record which is made for the parent or eligible student, unless the imposition of a fee effectively prevents exercising the right to inspect and review the student's education records.

The district must not charge a fee to search for or to retrieve the education records of a student.

When a disclosure of confidential records is made pursuant to consent for disclosure of confidential information:

- If a parent or eligible student so requests, the district must provide a copy of the records disclosed; and
- If the parent of a student who is not an eligible student as defined in the annual notification guideline so requests, the district must provide the student with a copy of the records disclosed.

When a disclosure of confidential information is made pursuant to the guideline concerning when consent is not required to disclose information, specifically the conditions that apply to disclosure of information to other educational agencies or institutions, the district must give parent or eligible student, upon request, a copy of the record that was disclosed.

### **When Consent is not Required to Disclose Information**

Consent for disclosure of confidential information is not required before personally identifiable information is released if:

- The disclosure is to officials of IDEA Part B participating agencies for purposes of meeting a requirement of IDEA Part B except as otherwise provided in these guidelines;
- The disclosure is to other school officials, including teachers, within the district who the district has determined to have legitimate educational interests including:

- Providing to each teacher who provides instruction to a child with disabilities the relevant sections of the child’s current IEP;
- Informing each teacher of specific responsibilities relating to implementing the IEP, such as goals and benchmarks, and of needed accommodations, modifications, and supports for the child; or
- Disclosing from the education records of a student appropriate information concerning disciplinary action taken against the student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community to teachers and school officials who have a legitimate educational interest in the behavior of the student;
- The disclosure is to officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll, is enrolled or is receiving services, subject to the conditions that apply to disclosure of information to other educational agencies or institutions;
- The disclosure is to authorized representatives listed in the conditions that apply to disclosure of information for Federal or State program purposes;
- The disclosure is in connection with financial aid for which the student has applied or which the student has received, if the information is necessary for such purposes as to:
  - Determine eligibility for the aid;
  - Determine the amount of the aid;
  - Determine the conditions for the aid; or
  - Enforce the terms and conditions of the aid;
- Unless further limited by State law, the disclosure is to State and local officials or authorities to whom this information is specifically allowed:
  - To be reported or disclosed pursuant to a State statute adopted before November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and the system’s ability to effectively serve the student whose records are released; or
  - To be reported or disclosed pursuant to conditions that apply to disclosure of information as permitted by State statute after November 19, 1974, concerning the juvenile justice system;
- The disclosure is to organizations conducting studies for, or on behalf of, educational agencies or institutions subject to the conditions that apply to disclosure of information to organizations conducting studies;
- The disclosure is to accrediting organizations to carry out their accrediting functions;
- The disclosure is the parent of a dependent student, as defined in section 152 of the Internal Revenue Code of 1986;
- The disclosure is to comply with a judicial order or lawfully issued subpoena subject to the conditions that apply to a judicial order or lawfully issued subpoena;
- The disclosure is to appropriate parties in connection with a health or safety emergency, if knowledge of the information is necessary to protect the health or safety of the student or other individuals;
- The disclosure is information the district has designated as “directory information,” in compliance with the guidelines for the disclosure of directory information;
- The disclosure is to the parent of a student who is not an eligible student or to the student;

- The disclosure is of certain information made in connection with disciplinary proceedings at an institution of postsecondary education; or
- The disclosure is of certain information given by an institution of postsecondary education to a parent of a student.

**Conditions that apply to disclosure of information to other educational agencies or institutions**

When disclosing an education record to officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll, is enrolled, or is receiving services, the district must:

- Make a reasonable attempt to notify the parent or eligible student at the last known address of the parent or eligible student, unless:
  - The disclosure is initiated by the parent or eligible student; or
  - The annual notification of the district includes a notice the district forwards education records to other agencies or institutions that have requested the records and in which the student seeks or intends to enroll;
- Give the parent or eligible student, upon request, a copy of the record that was disclosed; and
- Give the parent or eligible student, upon request, an opportunity for a hearing under the procedures for amending education records.

**Conditions that apply to disclosure of information for Federal or state program purposes**

The following officials may have access to education records in connection with an audit or evaluation of Federal or State supported education programs, or for the enforcement of or compliance with Federal legal requirements which relate to those programs:

- The Comptroller General of the United States;
- The Attorney General of the United States;
- The United States Secretary of Education; or
- State and local educational authorities.

Unless there has been consent for disclosure of confidential information or the collection of personally identifiable information is specifically authorized by Federal law, the information collected for disclosure for Federal or State program purposes must:

- Be protected in a manner that does not permit personal identification of individuals by anyone except the Comptroller General of the United States, the Attorney General of the United States, the United States Secretary of Education or State and local educational authorities; and
- Be destroyed when no longer needed for the purpose of audit or evaluation of Federal or State supported education programs, or for the enforcement of or compliance with Federal legal requirements which relate to those programs.

**Conditions that apply to disclosure of information as permitted by State statute after November 19, 1974 concerning the Juvenile Justice System**

If reporting or disclosure allowed by State statute concerns the juvenile justice system and the system's ability to effectively service, prior to adjudication, the student whose records are released, the district may disclose education records.

At the request of a juvenile service provider, a local educational agency must disclose to the juvenile service provider confidential information contained in the student's educational records if the student has been:

- Taken into custody by a law-enforcement officer or probation officer in connection with a proceeding in juvenile or family court; or
- Referred to a juvenile court for allegedly engaging in delinquent conduct or conduct indicating a need for supervision.

The officials and authorities to whom the records are disclosed must certify in writing to the district the information will not be disclosed to any other party, except as provided under State law, without the prior written consent of the parent of the student.

### **Conditions that apply to disclosure of information to organizations conducting studies**

Under FERPA and for the purposes of the Administration of Records guidelines, the term “organization” includes, but is not limited to, Federal, State and local agencies and independent organizations.

Information may be disclosed to organizations conducting studies for, or on behalf of, educational agencies or institutions to:

- Develop, validate, or administer predictive tests;
- Administer student aid programs; or
- Improve instruction.

The agency or institution may disclose information to organizations conducting studies only if:

- The study is conducted in a manner that does not permit personal identification of parents and students by individuals other than representatives of the organization; and
- The information is destroyed when no longer needed for the purposes for which the study was conducted.

If the Family Policy Compliance Office (FPCO) determines a third party outside the educational agency or institution to whom information is disclosed fails to destroy the information when no longer needed for the purposes for which the study was conducted, the district may not allow the third party access to personally identifiable information from education records for at least five years.

### **Conditions that apply to a judicial order or lawfully issued subpoena**

The district may disclose information to comply with a judicial order or lawfully issued subpoena only if the district makes a reasonable effort to notify the parent or eligible student of the order or subpoena in advance of compliance, so the parent or eligible student may seek protective action, unless the disclosure is in compliance with:

- A Federal grand jury subpoena and the court has ordered the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed; or
- Any other subpoena issued for a law enforcement purpose and the court or other issuing agency has ordered the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed.

If the district initiates legal action against a parent or student, the district may disclose to the court, without a court order or subpoena, the education records of the student that are relevant for the educational agency or institution to proceed with legal action as plaintiff.

If a parent or eligible student initiates legal action against the district, the district may disclose to the court, without a court order or subpoena, the student's education records that are relevant for the district to defend itself.

### **Conditions that apply to disclosure of information in health and safety emergencies**

An educational agency or institution may disclose personally identifiable information from an education record to appropriate parties, including parents or an eligible student, in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals.

Nothing shall prevent an educational agency or institution from:

- Including in the education records of a student appropriate information concerning disciplinary action taken against the student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community;
- Disclosing appropriate information concerning disciplinary action taken against the student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community, to teachers and school officials within the agency or institution who the agency or institution has determined have legitimate educational interests in the behavior of the student; or
- Disclosing appropriate information concerning disciplinary action taken against the student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community, to teachers and school officials in other schools who have been determined to have legitimate educational interests in the behavior of the student.

In making a determination regarding disclosing information in health and safety emergencies, an educational agency or institution may take into account the totality of the circumstances pertaining to a threat to the health or safety of a student or other individuals.

If the educational agency or institution determines that there is an articulable and significant threat to the health or safety of a student or other individuals, it may disclose information from education records to any person whose knowledge of the information is necessary to protect the health or safety of the student or other individuals.

If, based on the information available at the time of the determination of a health or safety emergency, there is a rational basis for the determination, the United States Department of Education will not substitute its judgment for that of the educational agency or institution in evaluating the circumstances and making its determination.

### **Destruction of Special Education Records**

Refer to the Special Education section of your Records Management Notebook.

### **Homebound**

#### **Special Education Homebound Services – (Students Currently in Special Education)**

A parent, doctor, or other professional can make a request for homebound services for a student currently in special education. The diagnostician will schedule an ARD meeting to determine

eligibility, IEPs and placement. (Note: The attending physician must anticipate the student will be absent for 20 consecutive school days because of the condition. Additionally, the attending physician must be licensed to practice medicine in the United States.)

When the ARD committee places a student on homebound, the homebound teacher assigned to the student contacts the parent to set up a schedule for the teacher to come to the home to instruct the student. Students on homebound will be given instruction in each subject approved by the ARD committee. Teachers will be allowed the latitude to make assignments and give grades according to ARD committee decisions and the health condition of the student.

When the physician determines a student may return to school, the diagnostician schedules an ARD to return the student to school.

### **Guidelines for ARD Committees Regarding Homebound Students**

- If at all possible all teachers need to be contacted prior to the ARD.
- If at all possible the student's counselor should attend the ARD.
- The ARD committee should determine whether the student can continue in all classes while on homebound. Modifications will be made if possible to maintain schedule.
- The ARD committee should discuss the modifications the student will need in order to be successful. If these modifications change the content and intent of the class, the ARD committee should consider the student's schedule of classes. Each class should be discussed separately because the student may be able to continue some classes, but not others. The ARD committee also needs to determine a time line for determining when the student would be moved from one class to another class, if the homebound teacher and classroom teacher believe the student is not going to be successful.
- Parents need to be informed of any schedule changes made due to homebound.
- The ARD committee should decide how the class work will be distributed to the student and exactly what will be required of the homebound teacher.
- Modifications should be listed separately for each class.
- Diagnosticians should let classroom teachers (if not present at the ARD) know how long the student is anticipated to be on homebound.

### **For Students Enrolled in Dual Credit Classes**

- The ARD committee should make it clear that determining the status of continued dual credit will be the responsibility of the parent and/or student by making direct contact with university/college personnel.

### **Guidelines for Students with Chronic Illness**

Guidelines for instructing students who have a chronic illness which the ARD committee has determined the student will attend school when able and will be provided four hours of homebound instruction for every five instructional days of class time missed:

- First Option: the student's teacher or teachers provides the services.
- Second Option: another teacher at the student's campus provides the service.
- Third Option: a district teacher who is willing to provide services.

**(These options are also used to provide services to homebound students who are not chronically ill.)**

When a classroom teacher is asked to work with a homebound student, the classroom teacher will:

- Be expected to contact and work with the student's assigned teachers.
- Provide instruction after school hours.

- Keep an accurate time card that will be sent to the Special Services Secretary at the end of each week.
- Keep an accurate log of the time spent instructing each student who is receiving homebound services and will send this log to the appropriate school personnel. (i.e.: counselor, Special Services Office, Peims Coordinator).

**Guidelines for Homebound Students and Languages Other Than English Classes**

The ARD committee will need to decide how the campus will provide instruction in languages other than English class. There may be times the ARD committee will need to discontinue these classes.

**Guidelines for General Education Homebound Services**

Refer to campus Administration or 504 paperwork.