IDEA

Individuals with Disabilities Education Act

MANUAL

2016

A Guide for Parents and Students
About Special Education Services in Texas

IDEA

Revised and Updated August 2016

A JOINT PROJECT OF

The Arc
Texas

www.TheArcofTexas.org

Disability Rights
TEXAS

www.DRTx.org

This manual is not intended to and does not replace an attorney's advice or assistance based on your particular situation.

Disability Rights Texas

The mission of Disability Rights Texas is to advocate for, protect and advance the legal, human and service rights of people with disabilities.

2222 West Braker Lane
Austin, Texas 78758

Intake: 1-800-252-9108
Phone: 512-454-4816
Fax: 512-323-0902

www.DRTx.org

Disability Rights Texas maintains regional and satellite offices across the state. To find information about the regional office closest to you, go to www.DRTx.org or call 1-800-252-9108.

The Arc of Texas

The Arc of Texas promotes, protects, and advocates for the human rights and self-determination of Texans with intellectual and developmental disabilities.

8001 Centre Park Drive, Suite 100
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Toll-free: 1-800-252-9729
Phone: 512-454-6694
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www.thearcoftexas.org

The Arc of Texas has local affiliates located around the state. To find more information about the local affiliate closest to you, go to www.thearcoftexas.org or call 1-800-252-9729.

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IDEA

An Open Letter to Parents and Students

Dear Parents and Students:

In 1975, Congress passed Public Law 94-142, now called the Individuals with Disabilities Education Act (IDEA), to ensure all students with disabilities receive a free appropriate public education (FAPE).

In 1997, Congress passed amendments to IDEA, reminding us that:

> "Disability is a natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to society. Improving educational results for children with disabilities is an essential element of our national policy of ensuring equality of opportunity, full participation, independent living and economic self-sufficiency for individuals with disabilities."

In 2004, Congress again amended IDEA, and once more raised the bar for expectations of students with disabilities. In the Findings of IDEA, Congress stated:

> "Implementation of the IDEA has been impeded by low expectations and an insufficient focus on applying replicable research on proven methods of teaching and learning for children with disabilities. The education of children with disabilities can be made more effective by having high expectations for such children and ensuring their access to the general education curriculum in the regular classroom to the maximum extent possible in order to meet developmental goals and to the maximum extent possible the challenging expectations that have been established for all children and be prepared to lead productive and independent lives."

In the Purposes of IDEA, Congress stated: "The Purpose of IDEA is to prepare students for further education, employment and independent living."

This manual is designed to help you become familiar with the requirements of IDEA and Texas law so you can act as an equal partner in planning your child's education. You will learn, by using this manual and by working with school staff, how to plan an educational program that will lead to an independent and productive life for your child and yourself.

The IDEA Manual is based upon laws and policies in place at the time it was written. Laws and policies change frequently and are subject to various interpretations. Future changes in laws and policies may make some information in this manual outdated. This manual is not intended to and does not replace an attorney's advice or assistance based on your particular situation.

Sincerely,

Your friends at The Arc of Texas and Disability Rights Texas

IDEA

Words to Know

Educators sometimes use language that is difficult to understand. If, at any time, you see or hear words (like “assessment”) or acronyms (like “ESY”) that you do not understand, immediately ask school staff to explain them. As an equal partner in planning, you must understand all the information you receive in writing or hear in a meeting so you can decide what is best for your child.

Some words commonly used in educational planning are:

Accommodations
Accommodations are adjustments made in how a student with a disability is taught or tested. Accommodations do not change what the student is taught or what he is expected to know. Common examples of accommodations are: highlighted textbooks, extensions of time for a student who writes slowly, or seating close to the teacher. Assistive technology is a common accommodation.

Throughout this manual, the use of “he” and “she” will be alternated.

Adult Students
When a student with a disability reaches age 18 and becomes an adult under state law, the rights that the parent had under IDEA automatically transfer to the student. The student may exercise these rights under IDEA on her or his own or with the assistance or support of another adult. A parent may still be able to assist the student in making educational decisions if the student agrees to the help unless the parent has been appointed as the guardian of the student. If the student has the ability to make educational decisions, he or she could voluntarily enter into a Supported Decision-Making Agreement with the parent which would enable the parent to assist but not make educational decisions. The student may also sign a power of attorney giving the parents the right to make educational decisions for the student.

Alternative Education Programs (AEPs)
AEPs are disciplinary programs operated by school districts for students who have committed a range of offenses specified in state law and/or in the district’s Student Code of Conduct. AEPs operated by the school district are Disciplinary Alternative Education Programs (DAEPs). AEPs operated by the juvenile justice system are called Juvenile Justice Alternative Education Programs (JJAEPs). Students with disabilities who are in DAEPs or JJAEPs are still entitled to special education services.

Admission, Review and Dismissal (ARD) Committee
In Texas, ARD Committee is the name for the group made up of a student’s parents and school staff that meets at least annually to decide whether or not the student has an eligible disability and what special education and related services will be provided. Its major responsibility is the development of the Individual Education Program (IEP) for students receiving special education. In Texas, the meetings of these committees are called “ARD meetings.”

Assessment
Assessments are tests given to all students in the state to evaluate learning. The most common statewide assessment in Texas is the State of Texas Assessment of Academic Readiness (STAAR), previously known as the Texas Assessment of Knowledge and Skills (TAKS). Students receiving special education take the same state and district-wide assessments given to all students, unless their ARD committee

determines a particular test is not appropriate. In that situation, the student's ARD committee will determine whether the student will take STAAR accommodated or alternate.

Assistive Technology
An assistive technology device is any item, piece of equipment or product used to increase, maintain or improve the functioning of a student with a disability. Assistive technology devices for students with disabilities include those used for seating and positioning, mobility, augmentative communication, computer access and instruction, environmental control, adaptive toys and games, visual and listening aids, and self-care. Assistive technology services, including training, assist students with disabilities in the selection, acquisition or use of an assistive technology device. An assistive technology evaluation will determine if an assistive technology device and/or service is necessary to ensure the student will benefit from special education services.

Behavior Intervention Plan (BIP)
A Behavior Intervention Plan, which is part of the IEP, identifies supports and services that develop appropriate behaviors and reduce inappropriate behaviors. A BIP is created with the help of a functional behavioral assessment, performed by qualified school staff, such as a board certified behavior analyst.

Due Process Hearing
If there is a dispute between parents and the school over special education for a child, the parents may ask for an independent hearing to demonstrate that the decisions of the school were wrong. The due process hearing is conducted in your community by a hearing officer appointed by the Texas Education Agency. Details about the hearing process are described in the notice of procedural safeguards.

Early Intervening Services
IDEA allows schools to use up to 15 percent of IDEA funds for support services for students not identified as having a disability, but who need additional academic and behavioral supports to succeed in a general education classroom.

Early Childhood Intervention (ECI)
ECI is a statewide program for children from birth to age three who have developmental delays. ECI must make services available for every eligible child. Early intervention programs are required by Part C of IDEA.

Education Service Centers (ESCs)
Education Service Centers are located in each of 20 geographic regions covering the state. Their main function is to provide training and technical assistance to the school districts located in their region. ESCs must also include parents in some of their training.

Extended School Year (ESY)
ESY refers to education services provided in the summer (or over a holiday break) to some students with disabilities who require them as a part of their free appropriate public education. ESY services are to be provided in accordance with the IEP and at no cost to the parents.

Free Appropriate Public Education (FAPE)
Special education and/or related services designed to meet the individual needs of each student at no cost to the parents, guaranteed to all students with disabilities by the Individuals with Disabilities Education Act (IDEA).

Functional Behavioral Assessment (FBA)
Functional behavioral assessment is a problem-solving process for addressing student problem behavior. It relies on a variety of assessments, techniques and strategies to identify the purposes of specific behavior and to help ARD committees select interventions to directly address the problem behavior. FBAs can be used, as appropriate, throughout the process of developing, reviewing and, if necessary, revising a student's IEP.

Individuals With Disabilities Education Act (IDEA)
IDEA is the federal law requiring school districts to provide students with disabilities with a free appropriate public education.

Individual Education Program (IEP)
IEP is the written plan that details the special education and related services that must be provided to each student who receives special education. Parents and school personnel should work together to write the IEP at the ARD meeting. It must be reviewed and revised, if needed, at least every year.

IEP Facilitation
IEP Facilitation is used to assist the committee in writing the IEP in a process and format that ensures all members of the committee are respected, participate and are heard. The state can provide an independent facilitator for the ARD meeting in some situations.

Least Restrictive Environment (LRE)
The term used in IDEA to refer to a student's right to be educated to the maximum extent appropriate with students who do not have disabilities and as close to home as possible.

Manifestation Determination Review (MDR)
MDR is a review of the relationship between a student's disability and behavior that is the subject of disciplinary action.

Modifications
Modifications, unlike accommodations, change the level of instruction provided or tested. Modifications create a different standard for the student receiving them. The most common modifications are those made to the general education curriculum for a student with a cognitive disability. Curriculum modifications should be in the student's IEP.

Orientation and Mobility Services
Orientation and mobility services assist a student with a visual impairment to navigate her or his environment, including the school campus and community. Services are based on an orientation and mobility evaluation, which is typically conducted by a certified orientation and mobility specialist.

The Department of Education's Office for Civil Rights (OCR)
OCR is the federal agency that enforces Section 504 of the Rehabilitation Act and the Americans with Disabilities Act in public schools, including charter schools.

Parent
The definition of parent in IDEA includes: biological, adoptive or foster parents; guardians (unless the child is a ward of the state); individuals acting in the place of natural or adoptive parents, such as grandparents, stepparents other relatives with whom the child lives; individuals responsible for the child's welfare; and assigned surrogates.

Positive Behavior Intervention and Supports (PBIS)
PBIS is a proactive systems approach for creating and maintaining safe and effective learning environments in schools and ensuring that all students have the social and emotional skills needed to ensure their success in school and beyond.

Pre-Employment Transition Services
Pre-employment transition services are training and services provided by the vocational rehabilitation program operated by the Texas Workforce Commission to compliment transition services provided by schools to help students with disabilities be better prepared for future learning and employment after high school.

Preschool Program for Children with Disabilities (PPCD)
PPCDs are public school services for children between the ages of 3 and 5 who qualify for special education services. Students ages 3 to 5 can receive special education services and support in settings such as a regular preschool in the community, a Head Start program or a pre-kindergarten class. Options for 3-year-olds and 4-year-olds cannot be limited to PPCD classrooms containing only students with disabilities.

Prior Written Notice
Prior written notice is a required document that the school must provide to parents whenever the school proposes a change, or refuses a parents' request, affecting a student with a disability's identification, evaluation, placement or receipt of special education.

Procedural Safeguards
Procedural safeguards are the collection of rights given to parents of children with disabilities under the IDEA. Procedural safeguards are rights that parents can enforce to ensure their participation in the process as well as to raise complaints about the provision or denial of special education services.

Response to Intervention (RTI)
RTI is a process for providing increasingly intensive high quality instruction to students with learning problems and struggles in a general education classroom.

Scientifically Based Instruction
These are instructional and curriculum practices based on sound methodology and supported by credible research. One component of scientifically based instruction is that the research has been "peer reviewed." Requirements for scientifically based instruction are in IDEA.

Section 504
Section 504 is the common name for the federal law that prohibits discrimination against students with disabilities. Section 504 (of the Rehabilitation Act of 1973) applies to any agency, including a school district, which receives federal money.

Standards-Based IEP
All students are required to have enrolled, grade-level, standards-based, measurable, annual IEP goals. Standards-based goals are aligned to enrolled grade-level Texas Essential Knowledge and Skills (TEKS), the general curriculum in Texas. IEP goals should reflect and link directly to specific grade-level TEKS for all students, including students who are taking alternate assessments. For more information on standards-based IEPs, go to the Region 20 Education Service Center, Access to the General Curriculum (AGC) Statewide Leadership website at http://portal.esc20.net/portal/page/portal/esc20public/SpecialEducation/AGCHome/AGCStatewideLeadership.

Supplementary Aids and Services
These are the terms used in IDEA to describe those aids, services and other supports provided in regular education classes, extracurricular activities and/or non-academic settings that enable a student with a disability to be educated with students who do not have disabilities. Schools must try supplementary aids and services before recommending removal of a student with a disability from a setting with nondisabled peers.

Ten-Day Recess
If the parents disagree with the discussion and proposals of the Admission, Review and Dismissal Committee, the parents may request that the meeting stop and take a break for 10 school days to collect more information and develop other ideas and plans upon which the parents and school can agree upon for the education of the student with a disability. Under Texas law, this break is called a ten-day recess of the committee meeting. If the parents and school agree, the break may last longer than 10 school days if it would be helpful.

Texas Education Agency (TEA)
The state agency ultimately responsible for making sure every student with a disability receives a free appropriate public education.

Texas Essential Knowledge and Skills (TEKS) Curriculum
TEKS is the state-mandated curriculum for each grade level in Texas public schools. TEKS should be considered the “general education curriculum” referenced in IDEA. Parents should request (or download) a copy of TEKS for their child’s age-appropriate grade level to use in developing their IEP.

Transition Services
Transition serivces are services identified in the student’s IEP that will help prepare the student for future learning, employment and life after high school. In Texas, transition planning starts no later than the student’s 14th birthday.

Universal Design
Universal design is a way of designing products and services so they can be used by people with the widest possible range of abilities.

Laws, Rules and Regulations

In order to become an equal partner in planning your child's educational program, you need to know about the laws, rules and regulations that affect special education for students with disabilities.

Federal Law
In 1975, Congress first passed a federal law to ensure that local schools served the educational needs of students with disabilities. The law that was originally passed was called the Education for All Handicapped Children Act. That first law has been updated several times over the years. In 1990 Congress renamed the law the Individuals with Disabilities Education Act (IDEA). The most recent version of IDEA was passed by Congress in 2004 as the Individuals with Disabilities Education Improvement Act (IDEIA).

We will use the commonly referred-to name and acronym throughout this manual — the Individuals with Disabilities Education Act, or IDEA.

IDEA guarantees every eligible student a "free appropriate public education," sometimes called FAPE. Though some provisions have changed, IDEA's basic requirements remain the same. The law says schools must:

- Find and identify students who have a disability
- Involve parents in decision making
- Evaluate (test) students in a nondiscriminatory way
- Develop an individual education program (IEP) for each eligible student that includes measurable annual goals, including academic and functional goals designed to enable the child to be involved and make progress in the general education curriculum
- Provide special instruction, related services, and supplementary aids and services based on peer-reviewed research to the extent practicable
- Provide services in the least restrictive environment
- Maintain education records/files
- Provide processes for resolving parent complaints and grievances

Federal Regulations
In addition to the federal law, the U.S. Department of Education is required to provide states with federal regulations that help define the meaning of the law. These regulations provide guidance to states on how to interpret the law and how to implement it in schools. The last set of comprehensive federal regulations became effective in October 2006; since 2006 there have been some limited amendments to the federal rules.

Information in this manual is based on both the IDEA 2004 federal law and regulations.

State Special Education Rules and Regulations
As part of their responsibilities required by IDEA, every state has to issue state rules that provide guidance on IDEA implementation in the state. At a minimum, state rules

must provide all of the protections contained in the federal IDEA. The state rules explain how Texas will carry out IDEA and how school districts are to provide special education services.

Special Education Rules and Regulations Side-by-Side
This document, produced by the Texas Education Agency, can help parents understand the special education process. It combines federal laws and regulations, state laws and rules (Commissioner of Education and State Board of Education rules). Because of its format, this document often is referred to as the "TEA Side-by-Side." You may request a copy from:

Texas Education Agency
Division of Federal and State Education Policy
1701 North Congress Avenue
Austin, Texas 78701
512-463-9414

You can navigate to this document online as follows:

1) Go to TEA.Texas.gov and click on "Curriculum and Instructional Materials"

2) Click on "Special Education" and then "Programs and Services"

3) Click on "Special Education Rules and Regulations"

Or click on this link: http://tea.texas.gov/index2.aspx?id=2147497444

The Texas Education Agency produces two other documents about the rights of parents: the Notice of Procedural Safeguards and the ARD Guide. These must be given to every parent of a child receiving special education services. TEA contracts with Region 18 Education Service Center to maintain a website that includes The Legal Framework for the Child Centered Process. These can all be found on the ESC18 website at framework.esc18.net/display/Webforms/LandingPage.aspx?DT=G&LID=en

Another source of information for parents about state and federal laws and regulations is Texas Project First. Created by parents, for parents, this website is a project of the Texas Education Agency and is committed to providing accurate and consistent information to parents and families of students with disabilities. You can find it online at the TEA website and at www.texasprojectfirst.org.

Section 504
Section 504 of the Rehabilitation Act of 1973 (29 U.S.C.A. Section 794) is a civil rights law that prohibits discrimination on the basis of disability. Under Section 504 no program or activity receiving federal money can discriminate against any qualified person with a disability. These regulations apply to all schools, including private schools, which receive or benefit from federal funds. Each school district is required to have a 504 officer. You can get more information on Section 504 from:

U.S. Office for Civil Rights, Dallas Office
1999 Bryan St. Suite 1620
Dallas, Texas 75201
(214) 661-9600
Website: www.ed.gov/OCR
E-mail: OCR.Dallas@ed.gov

Some students who do not qualify for special education services under IDEA get services under Section 504, which requires that all students have an equal opportunity to participate in activities and services at school, including school clubs, athletic programs, social activities, transportation, health and counseling services, and vocational programs. If you think your child might be eligible for services under Sec. 504 rather than under IDEA, ask to talk to your school district's 504 officer.

Americans With Disabilities Act (ADA)
The ADA is a federal law that gives people with disabilities, including students, protections like those provided to people on the basis of race, sex and national origin. All public schools and many private schools must comply with the ADA, which bans discrimination based on disability in the areas of public accommodations, state and local government services, employment, transportation, and telecommunications. For more information, go to www.usdoj.gov/crt/ada/adahom1.htm.

Every Student Succeeds Act (ESSA)
ESSA is the most recent federal legislation to amend and update the Elementary and Secondary Education Act of 1965 (ESEA). The ESEA is the primary federal education law that empowers the U.S. Department of Education to influence public education across the nation. The ESEA has been amended and revised many times over the decades with the most recent changes being made by the ESSA. The ESSA includes provisions to benefit students with disabilities, both directly and indirectly. For more information on ESSA, visit www.ed.gov.

The Family Education Rights and Privacy Act (FERPA)
FERPA is a federal statute that ensures that parents have access to their children's educational records and protects the privacy rights of parents and children by limiting access to these records without parental consent. The law covers access to educational records, the rights of parents to inspect and review records, record amendments and the destruction of records. FERPA applies to all agencies and institutions that receive federal funds, including elementary and secondary schools.

FERPA gives parents certain rights with respect to their children's education records. Parents have the right to inspect and review student education records maintained by the school. Schools are not usually required to provide copies of records and may charge a fee for copies.

Parents have the right to request that a school correct records which they believe to be inaccurate or misleading. If the school decides not to amend the records, a parent has the right to a formal hearing on the issue. If the school still decides not to amend the record, a parent may place a statement within the record explaining why she believes the information is incorrect.

Generally, schools must have written permission from the parent to release any information from a student's education record. However, FERPA allows schools to disclose records, without consent, to the following parties or under certain conditions, including:

- School officials with a legitimate educational interest
- Other schools to which a student is transferring
- Specified officials for audit or evaluation purposes

- To comply with a judicial order or lawfully issued subpoena
- Appropriate officials in cases of health and safety emergencies
- State and local authorities, within a juvenile justice system, pursuant to specific state law

Additionally, schools may disclose “directory” information, such as a student’s name, address and telephone number, without consent. However, schools must tell parents about directory information and allow parents to request that the school not disclose directory information about them.

For additional information, go to www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html.

Or you may contact:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue SW
Washington, D.C. 20202-5920

Education Records

Your child's educational records and your own records are very important. You and school officials will rely on many kinds of records to plan and evaluate your child's program. The records may include:

- Teacher notes
- Progress reports
- Report cards
- Achievement tests
- Discipline reports
- Evaluations and reports done by the school district
- Reports from medical doctors
- Individual Education Programs (IEPs) and Behavior Intervention Plan (BIPs)
- Admission, Review and Dismissal (ARD) committee meeting reports
- Graduation plan
- Summary of performance

Form 1, on page 18, is a sample of how to keep a Parent's Notebook.

Keeping Your Own Parent Notebook
You probably have copies of many of the records listed above. If not, request copies of at least the most recent Full and Individual Initial Evaluation (FIIE), IEP and ARD reports. Begin keeping records of conversations, phone calls, e-mails and other meetings together with copies of your child's past education records in a notebook. Having these records together and organized will help you make sure your child receives the services he needs, enable you to monitor his progress, and be an informed partner in developing the IEP.

For each conversation or meeting, write down the date and time of your conversation, the persons with whom you talked and the issues discussed. Follow up important phone calls with a letter, noting the date and time of the phone call and summarizing the conversation. In addition, create a file to save all school related e-mails.

Keep copies of all letters and reports you receive and send. You may want to record meetings (especially ARD committee meetings) so you have a complete record of what happened. See www.wrightslaw.com for additional guidance on how to organize your child's records.

Form 2, on page 19, is a sample letter for requesting your child's records from the school.

How to Get Records
As a parent, you have a right to see and have a copy of all of the records about your child's education program. These may include copies of Full and Individual Initial Evaluations, IEPs, medical records, behavioral records and others. You also have the right to see the school's records about discipline, grades, progress reports and other activities that are part of the education program, as well as any records made by a private physician or other private professional (if these records become part of the school's education records).

To see your child's education records, first write a letter to the principal of his school. Ask for the list of all the different kinds of education records the school keeps or uses to educate your child and where records are kept. Then write a letter identifying which records you want to review.

Within 45 days, the school must arrange for you to see the records or give you copies. If an ARD meeting or due process hearing is scheduled in fewer than 45 days, the school must let you see the records before the meeting or hearing. The school can charge you for copies, but many schools provide the copies at no cost.

If you have trouble understanding anything in the records, ask for an explanation. The school must respond to your reasonable requests for explanations of the records. You may take all the time you need to review and understand the records thoroughly. The school district cannot limit the amount of time you need to understand the records.

Confidentiality of Records
As noted above in the section regarding FERPA, student's records are private. School districts, with some exceptions, must get parental consent before showing the records to anyone not involved in the student's education. The school should have a list of the names and positions of school employees who can see your child's records without your consent.

Getting Records Changed
If you think something written in the education records is wrong or misleading or violates your child's rights, ask school officials to change it. Within a reasonable time, they must decide whether they will make the change.

Form 3, on page 20, is a sample letter requesting a change in your child's records.

If school officials refuse to make the requested change, they must tell you they have refused and let you know about your right to a hearing. This hearing is different from the due process hearing mentioned elsewhere in this manual. If the hearing shows the records are wrong, school officials must change the records and let you know in writing what changes they made. If the hearing shows the school district does not have to change the records, they must allow you to add your own statement to the records explaining why you disagree or why you think the statements are unfair. The school district must keep your statement within the records. Whenever the school district shows the records to other people, they must also show your statement.

FORM 1

FORM 1:
How to Keep a Parent Notebook

Keep an accurate record of important meetings, phone conversations, e-mails and letters about your child in a notebook.

EXAMPLE

Where and When (Date/Time/Location):

January 4, 2016
3 p.m.
ARD committee meeting at Pittman Elementary School

Who:

- Mr. Langley, principal of Pittman
- Mrs. McMillan, special education director of (name of school district)
- Mr. Lloyd, Johnny's teacher at Pittman
- Ms. York, physical therapist
- Johnny Jones
- Mr. and Mrs. Jones

What We Talked About:

An IEP was developed for Johnny (see IEP in file). Johnny will continue in his current placement in the 5th grade at the Pittman School, but he will no longer receive physical therapy. As parents, we disagreed and thought Johnny should continue to receive physical therapy. The school members of the ARD committee refused to agree to physical therapy because they did not have enough therapists and Johnny was a low priority for physical therapy.

Important Documents:

IEP
ARD committee meeting report
Recording of ARD committee meeting

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FORM 2: Letter Requesting Records From School

(Be sure to keep a copy for yourself.)

EXAMPLE

Date

Name of principal
Name of school
Address of school

Dear (name of principal):

I am the parent of (name of student), a student at your school. Please inform me in writing of the types and locations of all education records collected, maintained or used for (name of student) by the school district. Please tell me where all these records are kept and whom I should contact so I can look at them. After looking at the list, I will let you know which records I wish to review.

Thank you for your help. I look forward to hearing from you soon.

Sincerely,

Your name
Your address
Your telephone number
Your e-mail address (optional)

FORM 3

FORM 3: Letter Requesting a Change in Your Child's Records

(Be sure to keep a copy for yourself.)

EXAMPLE

Date

Name of principal
Name of school
Address of school

Dear (name of principal):

I am the parent of (name of student), a student at your school. There is a statement in (name of student's) (name of record, e.g., "physical therapy evaluation performed by Mrs. Small on October 5, 2015") that I believe is (examples: misleading, inaccurate, in violation of my child's rights) because (give reasons).

I request that you change (student's name) records so they will no longer be (example: misleading, inaccurate, in violation of my child's rights). Please let me know if you will change my child's record or if it will be necessary to have a hearing to decide if the record should be changed. If it is decided that the record will not be changed, I plan to add my own statement about the record to my child's permanent record.

Thank you for your help. I look forward to hearing from you soon.

Sincerely,

Your name
Your address
Your telephone number
Your e-mail address (optional)

IDEA

A Parent's Guide to the Special Education Process

Overview of the Steps Involved

Step 1: Referral
Is your child suspected of having a disability? If so, a parent, teacher or other professional involved in the education of the student may refer the student to special education. The school will gather information to decide if the student should be evaluated (tested) for special education eligibility. A child's participation in programs such as response to intervention (RtI) and comprehensive early intervening services (CEIS) may not be used to stop a referral.

Step 2: Notice of Rights and Consent for Services
At the referral process, and at other significant decision-making times after the referral, the district must provide you with written information (called "notice"), telling you about the actions the school wants to take, or is refusing to take, regarding your child's education and your rights.

If the school does not think your child needs to be evaluated for special education, officials must send you written notice that tells you why they made that decision and what you can do if you disagree. If the school does want to evaluate your child, officials must give you written notice of your rights (procedural safeguards notice) and get your written consent.

The evaluation process will not begin until you have consented in writing. If you do not consent to testing, the district may ask for mediation or a due process hearing to try and obtain your consent. However, they are not required to make any additional efforts to get you to consent to an evaluation. Not later than the 15th school day following receipt of a written request for a FIIE, the school must give a parent the opportunity to provide written consent for the evaluation or refuse to conduct the evaluation. If the school does refuse to conduct the requested evaluation, it must provide parents a notice of their procedural safeguards that explains their rights under the law.

Step 3: Full and Individual Initial Evaluation
If the referral process indicates that a student may need special education and related services, the school must, after obtaining the parent's consent, do a full and individual initial evaluation (testing) to determine if the student has a disability and needs special education services. The amount of time the school may have to complete the evaluation process varies based on the time of year it obtains the signed consent from the parent.

When the evaluation is completed, the school will contact you to schedule an ARD meeting.

Step 4: The ARD Meeting
The Admission, Review and Dismissal (ARD) committee meets at least once a year to develop your child's IEP. You are a member of your child's ARD committee. The first ARD meeting must be held no more than 30 days after completion of the initial evaluation. The committee will determine whether the evaluation shows a need for special education. If the parents disagree with the discussion and determination of the ARD committee, the parents may request that the meeting stop and take a break for 10 school days to collect more information and reconsider. You may ask for additional evaluations (testing) if you believe the school missed some needs of your child.

If the ARD committee determines that your child has a disability and needs special education services, you will be asked to give your written consent for the school to provide special education. The consent you gave to have your child evaluated is not also consent for services.

The ARD committee will then develop your child's individual education program (the IEP). As long as your child receives special education, there will be an ARD meeting held at least once a year. There can be more ARD meetings during the year, if needed. Some changes can be made in the IEP without an ARD meeting if both the parent and the school agree to the changes. If a parent is concerned about the meeting being run in a positive and fair manner, you can ask the school for a trained facilitator to attend and assist the ARD committee in conducting the meeting and writing the IEP.

Step 5: The IEP
The Individual Education Program (IEP) is a written plan, designed for just one student. It is an agreement between the school and parents on how the student will be educated. The IEP must be reviewed at least annually. The most important function of the ARD committee is the development of the IEP. Your participation and input is important. Remember, you know your child better than anyone else.

You will be asked to sign the IEP, showing that you agree with the IEP developed by the ARD committee. Before signing that you agree, read it again to be sure you understand what services your child will receive and when. Also, be sure to get a copy for yourself. If you disagree with the IEP, you have the right to do so and to write a statement saying what part of the IEP makes you unhappy.

Step 6: After the Meeting
Read all progress reports and other notes sent home during the year. Schedule parent-teacher conferences as needed. Request additional ARD meetings, if needed. Please be aware that while you may request another ARD meeting, the school may refuse but must tell you in writing if doing so.

Step 1: Referral

Students who may need special education come to the attention of school officials in a number of ways. For example, if parents take a child to school for the first time and tell school officials that he has unique needs because of a disability, the parent has referred the child to be considered for special education. If a student is already in school and the teacher thinks he may have special needs because of a disability and asks the school to consider him for special education services, the teacher has referred the student.

Most referrals occur when a teacher or parent thinks a student is not making adequate progress in school. A student should not be referred for special education if he has not first been provided good instruction and interventions in the subject areas in which he is having difficulty. If a teacher or other person in the school says your child needs special education, ask first to see the information (data) they are relying on to make that recommendation. Also, find out more about what alternatives, including more intensive instruction or interventions by highly qualified personnel, have been tried. The information gathered during the referral process is to determine whether the school will test a student to see if he has a disability and needs special education services.

If you, as the parent, are the one making the referral, be sure to put it in writing. Not later than the 15th school day following receipt of a request for a FIIE, the school must give a parent the opportunity to provide written consent for the evaluation or refuse to conduct the evaluation. If the school does refuse to conduct the requested evaluation, it must provide parents a notice of their procedural safeguards that explains their rights under the law.

The deadline the school must meet for conducting observations and testing depends on the time of the school year when you sign consent for the initial evaluation. For most of the school year, the school has 45 school days to conduct and complete the full and individual initial evaluation once it gets written permission from the parent. However, in the spring semester the deadline changes depending on how close to the end of the school year the parent returns written consent. If a parent provides the school with written consent for the evaluation less than 45 school days, but at least 35 school days before the last instructional day of the school year, the evaluation must be completed and the FIIE report provided to the parent by June 30th. Then in the following school year, not later than 15 school days into the fall semester, the ARD committee must meet to review the FIIE report and decide eligibility for special education and write the IEP - if the student is eligible for special education.

Frequently Asked Questions

What if the school says my child is receiving Response to Intervention (RTI) services and asks me to wait for the results before I request an evaluation for special education services?

RTI is a regular education program and can be provided for any student who is struggling and may need intervention to ensure he is successful. RTI can be described as high-quality instruction and researched-based, tiered intervention strategies based on an individual student's needs. RTI involves frequent monitoring

of student progress for making results-based academic or behavioral decisions. RTI generally has three tiers with more intense and personalized interventions provided at each tier.

If your child is receiving intensive instruction under “Response to Intervention” services, you still have the right to request a special education evaluation. Federal regulations allow you to request an evaluation at any time. The provision of RTI alone is not a valid reason to deny an evaluation.

If the school agrees that your child may be eligible for special education services, the school must evaluate your child. A full individual evaluation for special education services can be done at the same time a student is receiving services under a Response to Intervention program. The results of an RTI process may be one component of the information reviewed as part of the evaluation and does not replace the need for a comprehensive evaluation. A school must use a variety of assessment tools and strategies and cannot rely on any single procedure as the sole criterion for determining eligibility for special education and related services. If the school denies your request for an evaluation, the school must provide written notice. You can challenge this decision by requesting mediation or a due process hearing.

What happens if I want to give the school a chance to implement RTI before I request an evaluation for special education services?

If an RTI model is implemented prior to a request for an evaluation, the school may be able to complete the evaluation process more quickly due to the amount of data previously collected on the child’s achievement, including observation data. If your child has been receiving RTI services and is not making adequate progress you may want to go ahead and request the full initial evaluation. The school can continue to provide RTI services while it is conducting the evaluation.

The school also has an obligation under Child Find to identify, locate and evaluate all children with disabilities who are in need of special education and related services in the district. It would generally not be acceptable for the school to wait several months to conduct an evaluation or to seek parental consent for an initial evaluation if officials suspect your child has a disability and needs special education services.

Step 2: Notice of Rights and Consent for Services

IDEA says the school district must give parents notice of their rights and must make sure they understand them.

Procedural Safeguards Notice
When a student is first referred for special education, the school district must give parents written information about their rights and options for resolving disputes. Texas schools use a document developed by the Texas Education Agency called "Notice of Procedural Safeguards: Rights of Parents of Children with Disabilities." The school district must give you this notice in the language you usually speak at home. If you cannot read or write, the school must give you the information orally, as a recording, in Braille or in any other way that you can understand. The school officials must keep written records to show they gave you this notice. If you do not understand the meaning of the document, they must explain it to you.

Once the student begins receiving special education, the Notice of Procedural Safeguards must only be given to parents once a year, unless the parent requests an evaluation or files for a due process hearing. However, a parent can request another copy of the procedural safeguards notice at any time. The Texas Education Agency also has the Notice of Procedural Safeguards on its website.

In addition to the required Notice of Procedural Safeguards, the Texas Education Agency has developed a document called "Parent's Guide to the Admission, Review, and Dismissal Process." A parent whose child is new to special education services should receive the guide at the same time as the Procedural Safeguards Notice.

Other Types of Notice
In addition to notice of your rights described above, IDEA also says the school must give you more specific notice about some actions. The school must give you specific notice, in writing, if they want to:

- Decide whether your child has a disability, or change her disability category
- Conduct an evaluation
- Change the current IEP
- Change the placement
- Change how your child is provided a "free appropriate public education" (FAPE)

If you, as the parent, request changes in any of the above areas, and the school refuses to make those changes, the school must provide you with written notice in response to your request.

Written notice about actions the district proposes or refuses to make MUST include the following:

- The action the school wants to take or is refusing to take
- Why the school wants or refuses to take that action
- Descriptions of any evaluations, tests, reports and other information supporting the school's position
- Sources for parents to contact for assistance in understanding what the law says
- Information about the parent's rights and how the parent can get another copy of the procedural safeguards notice
- What other options the school considered and why those options were rejected
- A description of any other factors relevant to the school's decision

If you receive notice from the school that does not contain the above components, ask the district to provide you with another letter containing all the required information. You need this information to participate as an equal partner in the decision-making process.

Consent to Provide Services
If your child has not previously received special education services, you must give consent for the proposed special education services before the school district begins to provide services. If you do not provide the initial consent for services, your child will not receive the proposed special education services and will remain in general education.

For students who are already in special education, consent is not required again. If you disagree with proposed changes in the services that your child receives, you need to go through the dispute resolution process to resolve your disagreement. (See page 74.)

You may withdraw your consent for the special education services the school is providing to your child any time after giving consent for special education services. When consent is withdrawn, it is for all special education and related services specified in your child's IEP.

Revocation of Consent for Services
Parents may unilaterally withdraw their consent for a school district to provide special education and related services. If you revoke consent for services, the school district must cease providing special education and related services to your child.

The federal rules require that a parent's revocation of consent for services must be in writing. When you revoke consent for special education and related services in writing, the school district may not continue to provide special education services to your child. However, before discontinuing services, the district must provide you with prior written notice. After you revoke consent for services, the school district is not required to amend your child's educational records to remove references to the student having received special education services.

Parents should take this decision very seriously and consider all factors related to special education services before revoking consent for services. If you revoke your consent and the school stops providing services, the school is no longer required to convene an ARD meeting or develop an IEP for your child. Additionally, after consent for services is revoked, teachers are no longer required to provide modifications and/or accommodations for a student. Moreover, the school is not required to offer a student the discipline protections provided under IDEA. This means that school administrators have the right to suspend a student without the requirement of a manifestation determination. You should seek counsel and advice before making this decision and consider all possible resources and alternatives.

Note: If a student experiences academic difficulties after services have been discontinued, you may request that the school district again provide special education services, but the services that your child received under his previous IEP may not simply be reinstated. A parent has the right to request an evaluation to determine eligibility at any time, but the school will treat this request as a request for an initial evaluation. However, a completely new evaluation may not always be required because the school can consider existing information (such as previous assessments, teacher observations and parental input) to identify what additional data, if any, are needed to determine whether a student is a student with a disability and is eligible for services under IDEA.

FORM 4

FORM 4:
Letter Revoking Consent

(Be sure to keep a copy for yourself.)

EXAMPLE

Date

Name of principal
Name of school
Address of school

Dear (name of principal):

I am the parent of (name of student) a student at your school.

An ARD Committee has determined that (name) has a disability and is eligible to receive special education and related services, and I gave consent for these services. I am now revoking consent for my child to receive all special education and related services.

I understand the (name) School District will promptly provide me with a prior written notice explaining when my child's special education and related services will stop. Special education and related services will stop a reasonable time after I receive the notice.

I further understand by revoking consent for special education and related services for my child I am not waiving my right for my child to be evaluated in the future or for my child to receive special education and related services in the future. I understand any future request for evaluation will be treated as a request for an initial evaluation.

Thank you.

Sincerely,

Your name
Your address
Your telephone number
Your e-mail address (optional)

IDEA

Step 3: Full and Individual Initial Evaluation

If the referral process finds that a student may need special education services, the school must do a full and individual initial evaluation at no cost to the parent.

The Evaluation must answer both of these questions:

Does the student have a disability?

Does the student need special education and related services? (i.e., what are the student's educational needs resulting from the disability?)

The deadline the school must meet for conducting observations and testing depends on the time of the school year when you sign consent for the initial evaluation. For most of the school year, the school has 45 school days to do and complete the full and individual initial evaluation once it gets written permission from the parent. However, in the spring semester the deadline changes depending on how close to the end of the school year the parent returns written consent. If a parent provides the school with written consent for the evaluation less than 45 school days, but at least 35 school days before the last instructional day of the school year, the evaluation must be completed and the FIIE report provided to the parent by June 30th. Then in the following school year, not later than 15 school days into the fall semester, the ARD committee must meet to review the FIIE report and decide eligibility for special education and write the IEP - if the student is eligible for special education.

You should make a special effort to help with the evaluation in every way you can. This might mean answering questions, helping the school get medical or other records, and being sure your child understands and is ready for testing.

The parent's consent for an evaluation is not also consent for services or placement. You will be asked to provide consent for services after the evaluation.

The evaluation is a set of activities, not a single test. All evaluations must be done by a team of trained and knowledgeable professionals. The evaluation must cover all areas of suspected disability and be comprehensive enough to identify all the special education and related service needs of the student. The evaluation must gather relevant functional, developmental and academic information, including information provided by the parent. The school must ensure that the evaluation is administered in the language most likely to yield accurate information on what the child knows and can do academically, developmentally and functionally.

Under Texas law, you can ask the district to provide you with the names of any psychological tests they want to give your child, including an explanation of why they believe they need to give that test in order to develop your child's IEP.

Evaluation of Educational Needs
This part of the evaluation is to find out how well the student is doing in school compared with other students in the school district who are the same age or in the same grade. This part of the evaluation includes tests that measure his performance in areas like reading, mathematics and spelling. Testing procedures may need to be modified through the use of assistive technology so that the test accurately measures the student's knowledge.

The written report should tell you at least four things:

- Present levels of academic achievement and related developmental needs
- Any problems he has with school subjects and skills
- How he compares with other students of the same age and grade level in knowledge of the general education curriculum (TEKS)
- The reasons for the problems in school, including relevant cognitive and behavioral factors

If the report does not tell you all these things, ask the school district to give you that information.

A student cannot be determined to have a disability if his learning deficits are due to a lack of appropriate instruction in reading or math or because of limited English proficiency.

If your child needs assistive technology, advise the evaluation team before the process begins so that your child can be evaluated by a professional experienced with assistive technology evaluation. (See Words to Know page 8.)

Evaluation for Related and Other Special Services
The evaluation should also look at what additional services, or related services, are needed in order for the student to benefit from special education. The most common related services are occupational therapy, speech therapy, physical therapy, assistive technology, counseling and transportation. There are others. Under current federal law, a student cannot be found eligible for special education if he ONLY needs related services.

Other special service evaluations may include an orientation and mobility evaluation if the student has a visual impairment, a functional behavioral assessment if the student's behavior interferes with their learning, and an assistive technology evaluation if the student would benefit from the use of assistive technology. These evaluations should be part of the full and individual initial evaluation.

An evaluation for related services (except for transportation) should include specific recommendations for the type of services the student needs, how often he needs them, and the type of personnel who will provide the services. There also should be measurable annual goals for related services.

The IEP will also need to specify when the related services will begin, how frequently they will be provided, where they will be provided, and when they are expected to end.

The IEP should also specify whether your child will be getting "direct" (hands-on) services from the therapist or whether she will be getting only "consultative" services. In a consultative services model, the provider/therapist consults with the student's teachers on how they can better work with the student, but they do not work directly with the student.

Understanding the Evaluation Results
Once the district completes the evaluation reports, they must give you a copy. You have a right to inspect and review the results of all evaluations administered to your child before the ARD meeting. Be sure to get explanations of any terms or statements in the reports you do not understand. Study the reports until you are satisfied that they are accurate and complete. You need to understand the reports to take an active role in developing your child's IEP.

To help you understand the tests and what they mean:

- Meet with the person at the school who did the tests or someone who can explain them to you.
- Talk to other parents.
- Ask a professional who is not employed by the school to help you understand the tests, or tell you if more or different tests should be done. Note: One good internet resource is www.Wrightslaw.com. At this site you can find helpful articles about tests and measurements.
- Get information about the suspected disability from a parent organization, an Education Service Center, or on the Internet.

The evaluation report will show whether a student's behavior is a problem at school. If so, the report should include recommendations on how to help the student so he can learn and get along with others. These recommendations must be considered as the ARD committee develops the IEP.

A good evaluation is an important step in the process of providing a student with an appropriate education. If some area of need was not assessed or is incomplete, you can ask for a full evaluation. Once the evaluation is completed, the school must include you in determining whether your child is eligible for services under IDEA. In Texas, that determination is made by an ARD committee, which includes you. If your child is eligible, you and other members of the ARD committee will use the written report of the evaluation to decide what kinds of support he needs from special education. The district also must get your written consent before it can begin providing special education and related services.

Definitions of these categories can be found in TEA's "Special Education Rules and Regulations." (See Laws, Rules and Regulations on page 12.)

Is the Student Eligible for Special Education Under IDEA?

An ARD committee will meet to determine if a student is eligible to receive special education services under IDEA. The ARD committee will determine if the individual initial evaluation shows that a student has a disability that meets one or more of the following disability categories as defined in state law and TEA Commissioner Rules and that the student needs special education and related services, In Texas, the disability categories include the following:

- Orthopedic Impairment (OI)
- Other Health Impairment (OHI) – includes students with ADD or AD/HD, and Tourette syndrome
- Auditory Impairment (AI) – includes students who are deaf or hard of hearing
- Visual Impairment (VI) – includes students who are blind or visually impaired
- Deaf-Blindness (D-B)
- Intellectual Disability (ID) (previously called Mental Retardation)
- Emotional Disturbance (ED)
- Learning Disability (LD)
- Speech Impairment (SI)
- Autism (AU) – includes Autism Spectrum Disorder (ASD)
- Multiple Disabilities (MD)

- Traumatic Brain Injury (TBI)
- Non-Categorical – for students ages 3 to 5 who may have an intellectual disability, emotional disturbance, learning disability or autism. (This is a disability category only in Texas. Its intent is to prevent inaccurately assigning a very young child to one of these four disability categories.) Use of this category is optional.

If the ARD committee determines that the student is not eligible for special education under IDEA, a student with a disability may be eligible for services under Section 504 of the Rehabilitation Act.

Who Is Eligible for Which Programs?

Newborn to 3 Years
Early Childhood Intervention (ECI) funded programs provide services around the state for infants and toddlers (newborn to 3 years) with developmental delays and their families. ECI does evaluations at no cost to determine eligibility and need for ECI services.

If services are needed, an Individualized Family Service Plan (IFSP) is developed with the family. Services are provided on a sliding fee scale, but no child or family will be refused services due to inability to pay.

Currently, ECI eligibility ends on the child's third birthday. Children who are likely to need special education services will be referred to the local school district prior to their third birthday so that the evaluation process and ARD meeting to determine eligibility and special education services will be completed and services will begin on their third birthday without delay or a gap in services.

The ECI program, with parent consent, is required to: initiate a transition conference with the parents, the school district and the ECI program for children between 9 months and 90 days before the child's third birthday; make the referral of the child to the school district at least 90 days prior to the child's third birthday; and send the child's IFSP and assessment information to the school district. The school must invite the ECI representative to the initial ARD meeting upon the request of the parent.

As of September 1, 2016, the Texas Health and Human Services Commission (HHSC) is the state lead agency to administer ECI. Previously, the Department of Assistive and Rehabilitative Services (DARS) operated ECI at the state level. During the transition period that ECI moves from DARS to HHSC more information on ECI services can be found at: http://www.dars.state.tx.us/ecis/publications/EnglishHandbook.pdf.

Ages 3 Through 21
Services are provided by local school districts for eligible students who are 3 years old or who have not reached their 22nd birthday on September 1 of the current school year.

The school district must begin serving your child on his third birthday. If the school did not receive the referral in time to have the evaluation completed by his birthday, they can still deliver special education services while your child completes the evaluation process. If your child turns age 3 during the summer, you will want to make sure that the evaluation and ARD meeting are completed before the end of the school year so

you will know if your child is eligible for special education services. If you were not able to complete the evaluation or ARD meeting prior to the end of the school year, generally you will have to wait until the start of school to complete the process to determine eligibility and services. If you suspect that your child may need extended year services (see Words to Know) the school must complete the evaluation process and conduct an ARD meeting to determine the child's eligibility and need for extended year services during the summer.

What Are Parents' Rights During Evaluation?

In the full and individual evaluation process, you have the right to:

- Be given written notice before the school evaluates or refuses to evaluate your child
- Be given information about the abilities, skills and knowledge to be evaluated
- Give, or not give, your consent before the evaluation or reevaluation of your child
- Be given a description and explanation of the procedures, tests (with examples) records or reports to be used in the evaluation
- Review and understand all evaluation records before the ARD committee meeting
- Have the results of all evaluations considered at the ARD meeting, including any independent evaluations parents get from professionals who do not work for the school
- Be assured tests and other evaluation materials will be in the language most likely to yield accurate information on what your child knows and can do academically, developmentally and functionally
- Be assured no single procedure (such as an IQ test) will be used as the sole basis for determining your child's eligibility for special education services
- Present a written complaint to the Texas Education Agency if you feel a federal or state rule concerning the evaluation process is not being followed
- Request mediation or a due process hearing if agreement on evaluation procedures or results cannot be reached
- Be given a copy of the evaluation report, including information used to determine eligibility for special education

What Are Students' Rights During Evaluation?

In the full and individual evaluation process, a student has a right to be:

- Evaluated in all areas related to the suspected disability
- Tested with instruments that are valid and reliable
- Tested in a way that is not racially or culturally discriminatory
- Tested by qualified, trained and knowledgeable personnel
- Evaluated in her 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 clearly not feasible.

Form 6, on page 37, is a sample letter for requesting additional testing.

What Can I Do if I Think the School's Evaluation Is Incomplete?

Ask for Additional Testing in Writing

If you feel the school's evaluation is incomplete and additional testing is needed, you can ask the school to do more testing.

What Can I Do if I Think the School's Evaluation is Wrong?

Ask for an Independent Evaluation

If you think the school's evaluation does not accurately measure your child's need for special education, you may get an independent education evaluation at your own expense and/or request an independent evaluation at the school's expense. Independent evaluations are done by qualified persons who are not employed by the school. You may ask the school how and where to get an independent evaluation or you may get the independent evaluation done by someone not recommended by the school, as long as this person is qualified to perform the evaluation.

Form 7, on page 38, is a sample letter for requesting an independent evaluation.

If you ask the school to pay for the independent evaluation, the school must do so unless the school asks for a due process hearing to show its evaluation was appropriate. If you want the school to pay for the independent evaluation, the testing you get must meet the same requirements the school uses. You should notify school officials in writing if you want an independent evaluation and you expect the school to pay for it. Although the school can ask you, you do not have to tell the district why you disagree with their evaluation. You must say in your letter that you disagree with an evaluation obtained by the school. It is best to identify the school's evaluation that you disagree with by name or date.

The ARD committee must discuss and equally consider independent evaluations, regardless of who pays for them, in any ARD committee decisions. They do not, however, have to accept any or all of the evaluator's recommendations.

Ask for a Reevaluation

Form 8, on page 39, is a sample letter for requesting a reevaluation.

The school must conduct a reevaluation if they determine the educational or related services needs, including academic and functional performance of the student, warrant a reevaluation. They also must conduct a reevaluation if requested by the teacher or parent.

The school district is not required to conduct a reevaluation more than once a year unless there is an agreement between the school and parent to do so. The school shall conduct a reevaluation at least every three years, unless the parent and school agree it is not necessary. If the school thinks the three-year reevaluation is not necessary, but the parent does, the school must conduct the reevaluation anyway. If the student has not progressed in the general education curriculum as expected or has not met other IEP goals, a new evaluation is probably necessary.

The first step in the reevaluation process is a review of existing evaluation data about the child, known as the REED. If the ARD committee determines that no additional data are needed to determine whether the child continues to be a child with a disability, or the child's educational needs, then the ARD must notify the parents and say why no new testing will be conducted as part of the reevaluation. Parents do have the right to respond and 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 school is required to get parental consent for both initial evaluations and reevaluations. A district may ONLY reevaluate a student without parental consent if the parents fail to respond and the district can show that it has taken all reasonable measures to get consent. If the parent does not agree with the reevaluation, the district may only reevaluate if the district requests a due process hearing. If the parent refuses to consent to a reevaluation, the district is not required to request a due process hearing to override the parent's refusal to consent.

A new evaluation is also required before a change of placement unless the student is graduating under regular academic standards or is aging out of services. For a student graduating under the IEP, the evaluation will be included as part of the Summary of Performance. All special education students graduating will be provided with a summary of academic achievement and functional performance. This summary will include recommendations to assist the student in meeting post-secondary goals, written recommendations from adult service agencies and the views of the parent and student.

If you believe the school's evaluation is inaccurate or incomplete, and you cannot resolve the issue with the school, you can challenge the evaluation through the dispute resolution processes. (See page 74.) If you challenge the evaluation, you will need some proof or evidence showing what is wrong with the school's evaluation. For example, this could be a doctor's or psychologist's report or other independent evaluation and testimony.

FORM 5

FORM 5: Letter Requesting Initial Evaluation

(Be sure to keep a copy for yourself.)

EXAMPLE

Date

Name of principal
Name of school
Address of school

Dear (name of principal):

I am the parent of (name of student), a student at your school. My child's teacher and I have concerns that my child may have a disability and is in need of special education services. [or]

I am the parent of (name of child), a child that resides in your district that is or will be 3 years old on (birth date). I believe my child may have a disability and is in need of special education services.

I am requesting a full individual evaluation of my child. I believe testing is needed in the area(s) of: (list areas of suspected disability needing testing).

I understand that the evaluation generally must be completed within 45 school days from the date the school district receives signed consent for the evaluation. Please notify me in writing if the evaluation period is not subject to this deadline or will take longer to complete.

Please contact me within five days of this request to sign consent forms to evaluate my child. Thank you for your help.

Sincerely,

Your name
Your address
Your telephone number
Your e-mail address (optional)

IDEA

FORM 6: Letter Requesting Additional Testing

(Be sure to keep a copy for yourself.)

EXAMPLE

Date

Name of principal
Name of school
Address of school

Dear (name of principal):

I am the parent of (name of student), a student at your school. I have studied the reports of the school's evaluation of my child and believe she was not evaluated in every area of suspected disability. I believe additional testing is needed in the area(s) of: (list areas needing further testing). [or] I believe my child may need specialized services and am requesting that she receive a specific evaluation for (orientation and mobility, functional behavioral assessment, vocational evaluation, assistive technology evaluation, etc.)

I look forward to hearing from you within five school days of the date you receive this letter if you do not plan to schedule an ARD meeting to consider my request. Otherwise, please contact me so we can arrange a time and place for the meeting.

If any consent forms must be signed, please provide them as soon as possible.

Thank you for your help.

Sincerely,

Your name
Your address
Your telephone number
Your e-mail address (optional)

FORM 7

FORM 7: Letter Requesting an Independent Evaluation

(Be sure to keep a copy for yourself.)

EXAMPLE

Date

Name of principal
Name of school
Address of school

Dear (name of principal):

I am the parent of (name of student), a student at your school. I disagree with the school's evaluation of (name of student), and I am requesting an independent evaluation.

Please send me a copy of the written criteria under which independent evaluations must be conducted and a written list of independent evaluators I can consider.

I understand the school must pay for the independent evaluation unless it requests a hearing to prove that its evaluation was appropriate. I will send you the results of the evaluation. I understand it must be considered in any future decisions about my child's education.

Please send me the criteria and list or let me know within five school days of the date you receive this letter if you intend to request a due process hearing.

Thank you for your help.

Sincerely,

Your name
Your address
Your telephone number
Your e-mail address (optional)

IDEA

FORM 8:
Letter Requesting Reevaluation

(Be sure to keep a copy for yourself.)

EXAMPLE

Date

Name of principal
Name of school
Address of school

Dear (name of principal):

I am the parent of (name of student), a student at your school. I believe a new (speech, physical therapy, assistive technology) evaluation is needed because _____. It has been at least a year since my child has been evaluated in this area.

I look forward to hearing from you within five school days of the date you receive this letter if you do not plan to schedule an ARD meeting to consider my request. Otherwise, please contact me so we can arrange a time and place for the meeting.

If any consent forms must be signed, please provide them as soon as possible.

Thank you for your help.

Sincerely,

Your name
Your address
Your telephone number
Your e-mail address (optional)

Step 4: The ARD Meeting

The Admission, Review and Dismissal committee, usually called an ARD meeting, meets at least once a year to develop, review and revise your child's IEP. You are a member of your child's ARD committee. The ARD Committee should work collaboratively with a goal of reaching agreement by consensus.

Form 10 on page 46 is a checklist that will help you prepare for the ARD meeting. Copy or print Form 10 for your use before each committee meeting.

Notice of the ARD Meeting
Current rules require that the school must give you written notice at least five school days before the ARD meeting so you can prepare. When a meeting is called with less than five days notice, the parents have the right to waive the five-day notice requirement and attend the ARD meeting if they want. The notice should include the purpose, time and place of the ARD meeting and a list of the people attending. Some school districts will provide you with an agenda for the meeting. If your school district does not currently do this, you can ask them to provide you with an agenda. If the parent is unable to speak English, the school district must provide the parent with the written notice in the parent's native language, unless it is clearly not feasible to do so.

Parents are allowed to bring anyone they wish with them to the ARD meeting. It is a good idea for both parents to attend, if possible. Parents can bring another relative, friend or neighbor if they would be more comfortable attending the meeting with someone. Parents can also bring someone to help them understand the meeting, such as an advocate. Some parent organizations provide advocate training for parents or other interested individuals who may be able to attend ARD meetings with other parents. There are also professional advocates who may be able to attend an ARD meeting with parents. See the Texas Disability Advocacy Organizations section of this manual for lists of parent organizations.

If you plan to bring an advocate with you to the meeting, you should let the school know ahead of time. If you plan to bring an attorney, it is important that you let the school know because they will most likely want to ensure their own attorney can also attend the meeting or they may reschedule the meeting so their attorney can attend.

Many school districts have provided training to staff on how to facilitate an ARD meeting to ensure the meeting is positive and focused on the needs of the student. In addition, some school districts use a process called IEP facilitation to assist in an ARD meeting where the school and the parent anticipate disagreements or other concerns. IEP facilitation can help ensure open and positive communication and ensure proper procedure is followed. Some school districts have designated staff with additional training to provide facilitation at ARD meetings. Sometimes the school will bring in an independent facilitator (someone who does not work for the school district). If you think this process could benefit your child, you should request IEP facilitation from your principal, special education director or other district administrators. Your request should be in writing. If you believe it would be best to have an independent facilitator, you should request that also. But remember, the school is not required to provide this service.

If you want to go to your child's ARD meeting, but the date, time or place is not convenient for you, ask the school to reschedule the meeting. The school must attempt to schedule the meeting at a time and place agreeable to you and school officials. If you cannot attend the ARD meeting, the school must use other methods,

such as telephone conference calls or video conferences, to give you a chance to participate. However, the school district can hold the ARD meeting without you if you do not attend and do not reschedule.

At the meeting, you have a right to have an interpreter (e.g., American Sign Language, Spanish or other foreign language that the school can reasonably provide) paid for by the school. If you need an interpreter, you must be sure to tell the school before the meeting. Parents also have the right to receive either a recording of the meeting or your child's written IEP translated into Spanish or other foreign language the school can reasonably provide. If you are given an audio recording, all of the content in the student's IEP must be orally translated.

You may want to meet with your child's teacher(s) or related services provider before the meeting to discuss possible IEP goals and to learn more about the curriculum for your child's grade level. This is sometimes referred to as a Pre-ARD Meeting. A pre-ARD meeting is when parents meet with school personnel, typically the child's teacher, to discuss the child's progress and to draft proposed IEP goals for the coming year. It gives the parents and teachers a more informal opportunity to discuss how the child is learning and progressing, as well as what they need to be successful. A pre-ARD meeting is not required by IDEA, but some school districts offer formal pre-ARD meetings, and in some districts parents and teachers may decide to meet informally prior to the ARD meeting.

Even though a pre-ARD meeting is not official and the final decision of the ARD committee must occur at the actual ARD meeting with all participants in attendance, many of the major decisions about the child's program can be discussed and planned during the pre-ARD meeting. This meeting can help ensure open and positive communication between the parents and schools because they have had a chance to fully discuss the child's program prior to the ARD meeting. If your school offers a pre-ARD meeting, you should try to attend. If they do not, and you think it would be helpful, you can request to meet with your child's teacher prior to the ARD meeting.

For Students Who Are 17 Years of Age or Older
By age 17, the school district must notify both the student and the parent that all rights given to the parent by IDEA, except the right to receive notice, will transfer to the student at age 18. This notice must be reflected in the student's IEP. Although the notice of transfer of rights must be given by the time the student turns age 17, this should not be the first time the ARD committee discusses the student gaining rights as an adult and having the training and skills to use them.

For Students Who Are 18 Years of Age or Older
At the time the student reaches the age of 18, the school district must notify, in writing, the adult student and parent that the parent's rights have been transferred to the student. This notice must include contact information for the student and parents to use in obtaining additional information. The school district must continue to provide parents with notice of the ARD meetings. However, under current Texas special education rules, the notice is not an invitation to attend the ARD meeting. The parent will no longer have the right to attend the ARD meeting, but can be invited to attend by the school district or the student. If invited to attend the meeting, the parent is not the educational decision maker.

For many students, all the parent needs to do to participate in the ARD meeting after their child turns 18 is to simply ask them if they want you to attend the ARD meeting with them. If your child agrees, then just tell the school that your child invited you to the meeting. The invitation is not required to be a formal written invitation. If you prefer to have the invitation in writing, simply ask your child to sign a statement that they have invited you to attend the ARD meeting.

If your child does not want to invite you to the ARD meeting, you can still ask the school to invite you.

Many schools continue to see the benefit of parent participation in the meeting and will invite the parents to attend the meeting.

It is important that families know the decision to obtain a guardianship is up to them. Schools and other agencies or service providers should not tell parents they have to obtain a guardianship or that they cannot serve their child if they do not have guardianship. Further, parents should not feel pressured by the school to obtain guardianship of their child just to attend the meeting. Parents and students can work together as a team at the ARD meeting.

There are many alternatives to guardianship, including power of attorney, special needs trusts, joint bank accounts, etc. The student could also give their rights over to their parent with a power of attorney. The student can also keep his rights and use a written supported decision-making agreement to have the assistance of a supporter such as a parent.

Some families may decide guardianship is right for them and other families may decide not to get guardianship. It is up to the parents and adult student. If you decide not to get guardianship when your child turns age 18 and discover later that you think it would be best, you can still file for guardianship. For more information on guardianship, alternatives to guardianship and a sample power of attorney, go to www.texasprojectfirst.org.

It is important for students of transition age (at least by age 14 and older) to attend their IEP meetings so they can be prepared to plan for their transition from school to work and for the transfer of rights when they turn age 18. Students must learn to participate in the meeting and learn to speak up for themselves and to make decisions about their life. This is referred to as self advocacy. Training and support to help a student learn to be a self advocate should be considered in developing the student's IEP. Self advocacy does not mean that students no longer need support or advice from their parents or other people who care about them. It does mean that they have the right and the opportunity to say what is important to them and what they want and that the other team members respect their opinions and ideas. An important phrase in the self advocacy movement is "Nothing About Us Without Us". To learn more about self advocacy, go to the Texas Advocates website at www.thetexasadvocates.org and the national organization Self Advocates Becoming Empowered at www.sabeusa.org.

Members of the ARD Committee
The ARD committee must have, at a minimum, the following members to develop, review or revise an IEP:

- The student's parents
- The adult student (age 18 or older)/or a younger student, when appropriate
- The student must be invited if the meeting will include a discussion of post secondary goals or transition services to meet those goals (transition goals should be included in the IEP starting at age 14)
- A representative of the school district who is qualified to provide or supervise special education, knows the general curriculum, and knows about the resources available in the district
- At least one special education teacher or, when appropriate, at least one special education service provider.
- At least one regular education teacher who is responsible for implementing the students IEP, if the student is or may be in regular education
- Someone who can interpret evaluations as they apply to a student's instruction
- Others, invited by the parents, the adult student or the school, who have knowledge or expertise about the student, including related services personnel as appropriate; the school should include related service providers (speech, OT, PT, AT) if related services goals are being discussed at the ARD meeting

AND

- A representative of the Part C provider (Early Childhood Intervention, or ECI) at the request of the parents must be invited to the meeting if the student is entering school from an ECI program.

A vocational rehabilitation counselor with the Texas Workforce Commission must attend if invited. There are additional requirements for membership that may apply in certain situations (i.e., requirements for teachers of students with visual impairments or hearing impairments to attend or requirements for Career and Technology or Vocational Education teachers to attend). These requirements sometimes change. You may want to look at the TEA document "Special Education Rules and Regulations" for the most current list.

You can also request that the school include other participants, such as teachers from the next school year or other school personnel who have worked with your child with information that may be helpful. In addition, please be aware that the district must have a process for all teachers of a student with a disability who receives instruction in the regular classroom setting to provide input into the development of the student's IEP.

You have the right to invite other people. For example, you may bring someone who has worked with your child in another setting, or you may bring a friend or parent advocate along for support. Because the role of the committee is to develop a plan for just your child, the intent of the membership requirements is to have members in attendance who are familiar with your child.

If your child is entering school from an ECI program, an invitation to attend the first ARD committee meeting must be sent to ECI upon the request of the parent. An ECI staff person who knows your child can provide important information to the team. The school district also can request ECI attendance at the meeting.

An ARD committee member may not be required to attend all or part of the meeting if the parent and the school agree in writing that the person's attendance is not required because that person's area of the curriculum or related services is not being modified or discussed. A member of the team may be excused from attending all or part of the meeting even when the meeting involves a modification to or discussion of the member's area of the curriculum or related services if the parent and the school agree in writing and the member provides written input to the parent and the ARD committee prior to the meeting. Although "prior to the meeting" is not defined in federal or state law or regulation, parents should request that the information be provided to them with sufficient time to review the information and ask questions of the ARD committee member who has been excused from attending the meeting.

Parents should not feel pressured to agree to excuse someone they believe should be there.

The ARD agenda shown below lists the topics that must be addressed by the ARD committee as required by law. These topics are listed in the order in which they usually will be discussed during the ARD meeting. The ARD committee should review each topic in the order presented and work toward reaching a consensus among all members of the group.

The agenda listed below is an example of what an ARD agenda may look like. Before the ARD meeting, ask your school to see a copy of the agenda. It will help you prepare for this most important meeting. Copy or print Form 9 for your use during each committee meeting.

FORM 9:
ARD Committee Meeting Agenda*

1. Introductions: Participants in the ARD meeting introduce themselves and describe their role at the meeting for the record.

   Note: It is important for parents to know that minutes are taken at each ARD meeting. This will serve as the only record of the discussion and decisions, so slow down and ask that important discussion or decisions are included.
2. Purpose of the ARD meeting: The purpose of the ARD meeting is reported for the record.
3. Interpreter, if needed: Parents should notify the school when they need interpretation.
4. Waivers: If the parent agrees to a meeting in fewer than the five-day time frame, they will sign a waiver. If a parent agrees to excuse a member of the ARD committee, then another waiver might be signed noting that the parent and school agree to this. Some districts document parent agreement for member excusal in meeting minutes.
5. Review of evaluation data and other information and consider need for any additional evaluations
6. Determination of eligibility
7. Review present levels of academic achievement and functional performance
8. Development of measurable annual goals
9. Development of the behavior intervention plan based on a functional behavioral assessment.
10. Address both state and federal transition planning requirements.
11. Graduation
12. Additional considerations for students with Autism (AU) and Visual Impairment (VI): Certain items are required to be discussed for students with AU or VI, but this does not preclude the ARD committee from discussing these items for other special education students if needed.
13. Modifications / Accommodations
14. State and district assessments
15. Consider extended school year (ESY) services
16. Determine services to be provided, which may include classes, where provided, coordination between regular and special education, grading, related services, transportation needs, etc.
17. Determine placement in the least restrictive environment (LRE)
18. Assurances or effects of removal from the general education classroom: Consider the opportunity to participate and consider the potential harmful effects
19. Parent and administrator sign IEP form, either in agreement or disagreement. A parent should not sign “agree” if you do not agree to the terms of the IEP. If there is not mutual agreement, there are options to try to resolve differences. You may ask the TEA to assign an independent IEP facilitator to come and assist with another ARD meeting to work out the issue. You may ask for a 10-day recess of the ARD meeting to give everyone the opportunity to gather more information before making a final decision.
20. Parent signs initial consent for services: This is only required for an initial ARD meeting.
21. Parent receives a free copy of IEP. If parents’ native language is a language other than English, parents receive a translated copy of IEP in either written or audio form according to state regulations.

**Adapted from Texas Project First, www.texasprojectfirst.org*

FORM 9

IDEA

FORM 10

FORM 10: Before the ARD Meeting – A Parent Checklist

(Be sure to keep a copy for yourself.)

___Read your notice to see what issues will be discussed and who will attend.

___Be sure enough time is allotted for the meeting.

___If necessary, request the meeting be rescheduled at a time you can attend or when more time can be allotted for the meeting.

___Ask the school to invite any representatives of outside agencies (e.g., ECI, TWC, HHSC, etc.) you think should attend.

___Ask the school for copies of any relevant information you do not already have, including:

- ___Latest evaluation and any new testing the school has done or will need
- ___Teacher progress notes (if necessary, request a meeting to talk with the teacher(s) and others for information on the student's progress such as a pre-ARD meeting)
- ___Texas Essential Knowledge and Skills (TEKS) for your child's age-appropriate grade level
- ___Student Code of Conduct and any disciplinary referrals
- ___The ARD committee agenda
- ___Blank IEP forms/any drafts of IEPs the school may have done

___ Gather any reports you have from outside therapists, tutors, consultants or doctors.

___ Make a list of your child's gifts and talents.

___ Read the TEKS and list the ones you think your child could learn "as is" or with modifications. The TEKS can be found on line at http://tea.texas.gov/curriculum/teks/.

___ Make a list of the instructional/behavioral modifications and accommodations you know work best for your child.

___ Make a list of other things you would like your child to learn during the year.

How is this going to help her? _____

Will she be able to participate more fully in school life? _____

Will she become more independent? _____

How will her life change or improve? _____

___ Review the lists and mark four or five things you think are most important for your child. These will be the basis for developing her IEP goals during the ARD meetings.

___ Make a list of her areas of functioning that would increase with assistive technology (communication, mobility, etc.). Be prepared to make requests for assistive technology.

___ Make extra copies of each list to bring to the meeting.

___ Decide who you will bring to the ARD meeting.

___ Decide if you want to meet with the teacher(s), diagnostician or related services provider before the ARD meeting.

___ If you want to record the ARD meeting, gather the equipment.

___ If you need an interpreter to participate in the ARD meeting, tell the school.

IDEA

Step 5: The IEP

What Is an IEP?

The Individual Education Program (IEP) is a written plan, designed just for one student. It is an agreement between the school and parents on how the student will be educated. Although the IEP is not as detailed as a teacher's lesson plan, it must contain measurable annual goals in each area of need. The IEP states what special education and related services and supplemental aids and services the school will provide, and when and where those services will be provided. The IEP must consider and address the academic, developmental, and functional needs of the student. Services must be based on peer-reviewed research to the extent practicable.

All decisions in your child's IEP must be individualized, which is why it is called an Individual Education Program. Individual means that the plan is made especially for him and is tailored to meet his needs. Your child's special education needs are likely to be different from those of another student, even one with the same disability. His IEP should reflect those differences and not be exactly the same as that of any other student.

In 2011 the Texas legislature directed the TEA to develop a model IEP form to provide a uniform structure to the IEP for school districts and parents to use if they choose. More information about the model form is available on the TEA website.

When Is an IEP Required?

IDEA requires a student to have an IEP before he receives special education and related services. If a student needs to begin school before his evaluation is completed, a temporary IEP (usually called an interim IEP) can be developed and used while the evaluation is being completed.

If a special education student transfers from one Texas school district to another or from another state, the new school district must, in consultation with the parents, provide special education services comparable to those described in the IEP from the previous school until the new school: (for transfers from one Texas school to another) either adopts the IEP from the previous school or develops, adopts and implements a new IEP; or (for transfers from another state), the new school conducts its own full evaluation (if the new school district determines that a new evaluation is necessary) and develops, adopts and implements a new IEP, if appropriate. The new school must promptly request the child's records and the previous school must promptly send the child's records.

For children transitioning from a Part C program (ECI), the school should consider the student's Individual Family Service Plan (IFSP) and may use the IFSP as the IEP if agreed to by the school and the parents.

How the IEP Is Developed With Your Participation

Although the forms and agendas for ARD meetings vary, each meeting should follow a basic set of steps. This section outlines what you can expect and offers some suggestions for ways you can participate.

Listed below are the steps the ARD committee will typically follow:

1) Opening Remarks and Introductions

All ARD committee members and others in attendance introduce themselves and explain their relationship to the student. It is helpful to know if those in attendance have actually worked with your child. Be sure to introduce anyone you may have brought with you to the meeting. A written agenda may be given out.

Ways You Can Participate

Read the agenda and add any items you want to discuss.

2) Reviewing Present Level of Academic Achievement and Functional Performance

The committee reviews the most recent evaluation information and summarizes the student's strengths and needs, including how the child's disability affects the child's involvement and progress in the general education curriculum (TEKS). This and any information about her performance in the general curriculum will be the basis for developing her IEP goals. ARD committees also must review each student's present level of "functional" performance, which includes areas other than academics. This is an opportunity to review how the student is functioning socially and behaviorally.

If the student has been eligible for and has received services for some time, the ARD committee also reviews the student's progress on each IEP goal and discusses the special education and related services she has been receiving.

The committee uses this information to write a statement on the IEP describing her current levels of academic achievement and functional performance. Review this statement and be sure you think it is accurate before proceeding.

Ways You Can Participate

- Share your ideas about her progress. Show pictures or other documentation about what she can do outside of school, including assistive technology solutions that are helpful. Remind the team you want your child's program to help her use and build on her strengths and abilities. IDEA requires the ARD committee to address each child's strengths. You are the best source of this information.
- Share any reports you have from outside therapists, tutors, consultants or doctors.
- Make sure you understand whether your child has made progress on her IEP goals as a result of the services she has received. (Go to www.wrightslaw.com to read articles about writing good IEPs)
- Ask questions if something is not clear. At this point, you should have a clear picture in your mind about how your child is doing in school.
- Point out any area of need which has not been evaluated or could benefit from more current evaluation data.

3) Developing Measurable Annual Goals, Both Academic and Functional

Goals are statements about what your child will learn during a school year. Each goal must be measurable. That is, it should state clearly and objectively how you and the school will know if she has reached that goal.

IEP goals must be designed to:

- Meet the child's needs caused by her disability so she can participate in and progress in the general education curriculum (academic)
- Meet each of the child's other needs caused by her disability that affect her ability to learn (functional)

During this part of the process, the ARD committee decides whether the student will address all, most or part of their grade level TEKS (the curriculum adopted by the State Board of Education for each grade level). Any modifications needed to the curriculum should be written in the IEP.

School staff may have met before the ARD meeting, either with or without you, to write a draft of proposed goals. Schools may send a copy of the draft to you before the meeting. If you did not receive a draft IEP, ask at the beginning of the meeting if a draft exists. If so, ask for a copy and read it then.

During this part of the meeting, the committee develops a clear picture of what the student will be doing and learning over the school year. The ARD committee must say how the child's progress will be measured, what type of support she will need to reach each goal and who will provide each service. Goals must be measurable.

The IEP should contain goals not only for academics, but for all services a student needs, including behavioral intervention, related services, extended school year services (ESY), career and technical education (CATE), and vocational programming. IDEA specifically requires IEPs to include both academic and functional goals.

The IEP must also tell how progress on her IEP goals will be measured and reported to you. For most students, receiving a typical report card is not an adequate progress report.

The IEP you develop must end with a clear statement of the special education and related services, as well as the supplementary aids and services that must be provided to the student. The statement also should include program modifications or supports that will be provided to enable the child to participate in extracurricular and other non academic settings.

IDEA requires that services provided to a special education student must be "based on peer-reviewed research to the extent practicable."

Although the term "peer-reviewed research" is not defined in IDEA, it is similar to the requirement in the Every Student Succeeds Act that instruction be "evidence-based." The intent is clearly to require schools to have credible research behind the choices

they make on how to instruct students. If you are told the school intends to use a particular teaching strategy, ask them to describe the peer-reviewed scientifically based research that supports this particular technique. In the past, ARD committees often have refused to discuss "methodology," stating that how the student is taught is solely at the discretion of the school district. Under this new requirement, ARD committees will have to discuss methodology in order to determine whether the instruction the school is proposing meets the standard of peer-reviewed scientific research. For information about sound research-supported practices, go to the website of the What Works Clearinghouse at www.whatworks.ed.gov.

Another term that is being widely used is the requirement to develop Standards-Based IEPs. This is based on the requirement in IDEA that students participate in and progress in the general education curriculum, known in Texas as the Texas Essential Knowledge and Skills, or TEKS. A standards-based IEP is an IEP that is based on the general education curriculum. If a student is in 4th grade, then she should be learning the same curriculum other 4th graders are learning. Students with disabilities will still receive accommodations and supports so they will be successful learning the 4th grade curriculum. Some students with disabilities will have a modified or simplified curriculum that is still based on the 4th grade curriculum and achievement standard and some students with the most significant disabilities will have alternate achievement standards that are linked to the 4th grade curriculum. To learn more about Standards-Based IEPs, see the online training available from Region 20 Education Service Center at www.esc20.net.

Short-term objectives (sometimes called "benchmarks") are small, measurable steps leading to reaching each IEP goal. Most students receiving special education are required to have only annual measurable goals. Short-term objectives are only required for those students who take an alternate state assessment aligned to alternate achievement standards. In Texas this assessment is called the STAAR-Alternate 2 (STAAR-Alt 2).

Just because short-term objectives are no longer required for some students does not mean they cannot be written if the ARD committee thinks they are needed. If you think one of your child's IEP goals should contain short-term objectives as a way to help you better monitor her progress, you should certainly ask the ARD committee to write them.

Since short-term objectives are no longer required for all students, annual goals must be more comprehensive than many have been in the past. IEP goals must be measurable and include both academic and functional goals. They can no longer be just broad statements of what a student will accomplish during the school year.

Teacher Training

IDEA and its implementing regulations require a school district to ensure that all teachers and other personnel necessary to implement a student's IEP are appropriately and adequately prepared.

Additionally, in 2009 the Texas Legislature amended school Staff Development Rules to require school districts to provide staff development to teachers relating to the instruction of students with disabilities. The required staff development must be provided to a teacher who works outside the area of special education if the teacher needs additional knowledge and skills to implement a student's IEP.

The need for teacher or staff training or support should be discussed during a child's ARD meeting. After an IEP is developed, the committee should determine who will implement the IEP goals. You can ask if the person responsible for implementing the goals will require any additional staff training or development in order to appropriately implement your child's IEP.

Ways You Can Participate

- Share notes you made on the Parent Checklist.
- Talk about what you want for your child when she leaves school. Make sure the goals you include will lead to the outcomes you want for her as an adult. Ask about how IEP goals might affect diploma options for the outcome you want.
- Ask what students without disabilities her age will learn and how she might also learn that information. (Note: You can get the information in advance by looking at the TEKS for her grade level.) If the school has developed a draft of proposed goals ahead of time, remember they must include your input. The IEP should not be written in advance so that your participation is only to come to the meeting and sign it. Talk about all the goals suggested by you and school staff. Help the team decide which ones should be included, keeping in mind the long-term outcomes you want for your child.
- As you review the proposed goals, remember that the IEP must be designed to meet your child's needs and that you and the school staff make up the ARD committee. Your job is to revise, add or delete goals until the IEP reflects the most important goals your child should achieve in the coming year.
- Ask questions if you do not understand how your child's progress will be measured, what services she will receive during the school day, who will provide each service and how much time each day she is with students who do not have disabilities.
- Ask for details about any training your child's teacher has had and, if you think it is necessary, ask that the teacher receive additional training in a particular area that will help her to implement the student's IEP successfully.

4) Deciding on Related Services

Many students who receive special education also need related services in order to benefit from the educational program. A student cannot receive related services unless she has been found eligible for special education.

Though there are others, the most common related services are:

- Assistive technology
- Speech therapy
- Physical therapy
- Occupational therapy
- Psychological services
- Social work
- Counseling
- Special transportation
- Audiology services

- Orientation and mobility training
- Rehabilitation counseling
- School nursing services and school health services
- Interpreter services

The ARD committee decides whether a student is eligible for each related service. Except for transportation, the decision will be based on written reports from related service professionals. Every service the school district provides must be written into the IEP, including information about how often the services will be provided, how long each session will last, the type of related service professional needed, and when the services will begin and end.

The list of related services is not exhaustive and may include other developmental, corrective or support services. For example, in order for a student to successfully use assistive technology in the educational process, he will need training in its use. The staff may also need training in order to correctly use an assistive technology device.

Ways You Can Participate

- Make sure related services, supports or modifications needed to implement the IEP goals are discussed.
- Review all evaluation reports to see which related services are being considered for your child.
- Find out before the ARD meeting if you will need a doctor's letter or other medical referral before the school will provide a particular related service.

Lack of money or personnel cannot be used as a reason to deny the student any related services she needs to benefit from her educational program. If the district lacks the necessary personnel, it can contract with outside professionals to provide related services.

5) Statewide Assessments

Students in Texas public schools are required to take tests of basic academic skills throughout much of their time in school. The major statewide test is the State of Texas Assessment of Academic Readiness (STAAR). The STAAR measures a student's progress in the state curriculum (Texas Essential Knowledge and Skills, or TEKS) and is the foundation for the state's accountability system for Texas public education.

The STAAR program at grades third to eighth assesses math and reading on a yearly basis; additional subjects of writing, science and social studies are assessed but less frequently. At your child's annual ARD meeting, ask the school to tell you what standardized tests are required by the state for your child's grade. The STAAR program at high school tests 5 subjects through end of course (EOC) assessments. There are EOC assessments for English I, English II, Algebra I, Biology and US History. Generally, students must pass these EOC assessments to graduate from high school. The student's ARD committee decides on an individual basis if there will be any exception. If you would like to know more about EOC assessments, see the discussion about high school graduation later in this Manual.

The STAAR program includes additional tests to meet the needs of students receiving special education services at both the elementary and secondary levels. The STAAR Accommodated (STAAR-A) assessment is an on-line version of STAAR that offers special features intended to accommodate the student's disability. Features include, for example, visual aids and text-to-speech. The STAAR Alternate 2 (STAAR-Alt 2) assessment is the state's alternate assessment limited to students with the most significant cognitive disabilities. More information and details about STAAR-A and STAAR-Alt 2 are available at the TEA assessments for students with disabilities website at http:// tea.texas.gov/student.assessment/special-ed/.

At the ARD meeting you will discuss what tests your child will take. The STARR tests are appropriate for most, but not all special education students. Students receiving special education will take the STAAR, unless their ARD committee determines the regular STAAR tests are not an appropriate way to measure her learning and that the student should take either the STAAR-A or the STAAR-Alt 2. Some students will take the regular STAAR in some subjects, but not in others. The decision must be made on an individual basis.

If the ARD committee decides a student should take an alternative assessment, they must state the reasons the student cannot take the regular assessment and why the alternative assessment they selected is appropriate. Be sure the ARD committee discusses the accommodations your child will receive during testing and includes them in the IEP. Your child should be able to take the STARR test using the same accommodations used with her in the classroom during instruction.

For current information about statewide assessments, go to http://tea.texas.gov/Student_Testing_and_Accountability/Testing/Testing/.

Dyslexia Accommodations
Some students who are served under Section 504 and identified with dyslexia or related disorders as defined in Texas Education Code §38.003 may meet the eligibility requirements for the STAAR-A assessment. More information is available about STAAR accommodations at http://tea.texas.gov/student.assessment/accommodations/.

6) Considering Other IEP Elements That May Apply to Your Child

The ARD committee must also discuss the following special factors when applicable:

Extracurricular Activities
The local district's policy on participation in extracurricular activities also applies to students who receive special education, unless exceptions or changes in the policy are made for a student in the IEP. If that is done, the IEP should include the information on which the decision was based.

Assistive Technology
The ARD committee must consider whether a student requires assistive technology devices and services. Assistive technology enables students with disabilities to access the curriculum, increase independence, and participate actively in education

and life activities. For more information about assistive technology, go to the Texas Assistive Technology Network (TATN) website at www.texasat.net.TATN works to ensure that students with disabilities receive assistive technology devices and services when needed to benefit from a free appropriate public education (See Words to Know). If a student using assistive technology transfers schools, it might be possible under state law for the student to keep and continue using the piece of technology under an assistive technology transfer agreement.

Autism

Texas rules require that the ARD committee consider, and when needed, address in the student's IEP a list of 11 items that are intended to ensure students with Autism receive appropriate educational and support services. This list is not exhaustive, and other items can be considered. In addition, anything on this list may be considered and addressed in any special education student's IEP. The 11 items include: extended educational programming; daily schedule reflecting minimum unstructured time; in-home and community-based training; positive behavior support strategies; future planning for integrated living, work, community and educational environments; parent/family training and support, suitable staff-to-student ratio; communication interventions; social skills supports and strategies; professional educator/staff support; and teaching strategies based on peer reviewed, research-based practices for students with Autism Spectrum Disorder (ASD).

Many families choose to provide additional support services for their child with Autism. If a child leaves school for therapy or other medical services and reports to school on the day of the appointment either before or after the appointment, it is considered an excused absence. For more resources on support for students with ASD, go to www.txautism.net.

Transition Services

Transition services are those services and activities provided to students that specifically help them to move successfully from public school to life after public school. Transition activities should help your child make a successful transition to post-secondary education, employment and/or independent living. These services should be very individualized for your child and his likely needs as an adult. Transition services must be based on your child's strengths, preferences and interests. The student himself must be invited to participate in the IEP meeting when transition services are discussed.

Under Texas law for transition planning, the ARD committee must consider, and if appropriate, address the following nine issues in the IEP not later than when the student reaches 14 years of age:

(1) appropriate student involvement in the student's transition to life outside the public school system;
(2) if the student is younger than 18 years of age, appropriate parental involvement in the student's transition;
(3) if the student is at least 18 years of age, appropriate parental involvement in the student's transition, if the parent is invited to participate by the student or the school district in which the student is enrolled;
(4) any postsecondary education options;
(5) a functional vocational evaluation;
(6) employment goals and objectives;

(7) if the student is at least 18 years of age, the availability of age-appropriate instructional environments;
(8) independent living goals and objectives; and
(9) appropriate circumstances for referring a student or the student's parents to a governmental agency for services.

Under federal law for transition planning, two additional elements are addressed in the IEP beginning not later than the first IEP to be in effect when the student turns 16 years of age, or younger if determined appropriate by the ARD committee. These items must be updated annually. These two items are:

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

Within your school district, state law requires that a trained employee be named as "transition and employment services designee." This employee is responsible for helping parents and students find information and resources about transition planning. Not later than when a student reaches age 14, you should ask for the name of the district's transition and employment services designee and request a call or email to begin a relationship and understanding about what help can be offered. The district should also have on its website a link to the state's official Transition and Employment Guide.

The Education Service Centers have staff with expertise in transition planning. If you need help identifying needed transition services for your child, request that the school bring in someone from the ESC with expertise and experience in transition planning. Online resources for transition include: the Texas Secondary Transition/Post School Results Network at Region 11 Education Service Center at www.transitionintexas.org, the National Parent Center on Transition and Employment at www.pacer.org/transition, and the National Center on Secondary Education and Transition at www.ncset.org.

Special Note to Families About Post-Graduation Services

Depending on the nature and extent of your child's disability, you may want to access community-based services and supports before and/or after graduation. Such services might include in-home supports, out-of-home residential services, mental health services, habilitation or other services. These services are sometimes referred to as Medicaid Waiver Services, including the Texas Home Living Waiver, Home and Community Based Services Waiver (HCS) and Community Living Assistance and Support Services Waiver (CLASS), along with the Medically Dependent Children Program and the Deaf Blind Multiple Disabilities Program. These services may be made available through the Texas Health and Human Services Commission, www.hhsc.state.tx.us or 1-877-438-5658 (toll-free) (as of July, 2016). You can also find out more about Medicaid Waiver and Medicaid State Plan services at www.disabilityrightstx.org.

Many of these programs have long waiting lists. In some cases, individuals must wait ten or more years to access services. Parents of students receiving special education

supports should become familiar with the services that are available through state and local agencies. If they believe that these programs may be needed in the future, parents should take steps now to contact the responsible agency and, if necessary, sign up for the waiting/interest lists. Parents should do so prior to beginning formal transition planning even though they may not need services until graduation.

Take action now to ensure that your son or daughter can access needed community supports after graduation.

Noneducational Community-Based Support Services
The Texas Legislature has appropriated funds for the provision of noneducational community-based support services (Non-Ed Funds) for certain students with disabilities and their families so that those students may receive a free appropriate public education (FAPE) in the least restrictive environment (LRE). These funds can only be used for students who, without community-based support services, would have to be placed in a residential facility. Parents who are struggling to keep their child with a disability in their home and need support services to prevent institutionalization of the child may request their school apply for these Non-Ed Funds from the Texas Education Agency. There are very limited funds in this program. Some of the support services that Non-Ed Funds may be used for include: attendant care, psychiatric/psychological consultation, management of leisure time, peer support group, parent support group, socialization training, individual support, family support, family dynamics training, respite care, transportation to access approved noneducational services, and generalization training. Students with autism can only be approved for respite care or attendant care. If your school is not familiar with this program have them contact their Regional Education Service Center or the Texas Education Agency.

Extended School Year Services (ESY)
The ARD committee should also discuss whether a student requires an extension of the school program during the long holidays and/or the summer. Some students cannot get an appropriate education without receiving services during long holiday breaks and/or the summer. Others forget what they have learned about academics and/or behavior and take a long time to “recoup” these skills once school starts again in the fall. Others need services such as physical therapy during the summer so they do not lose the progress they have made during the school year.

Most districts use recoupment time as the basis for a decision on providing ESY services. However, if the loss of acquired critical skills would be particularly severe or substantial, or if the loss of skills could cause physical harm to the student or to others, ESY services should be provided even without consideration of how much recoupment time would be needed if services were not extended.

Many schools require documentation or proof of an extended recoupment time in order for the student to receive ESY services. Both the school and the parent should keep documentation at home and school of the skills a student loses while not in school and the time a student needs to regain skills when he returns to school. The student’s ability to use ESY services should not be penalized because of the school’s failure to keep accurate documentation.

The decision about ESY should be made at the ARD meeting, and measurable goals and objectives (objectives are required for students who take the STAAR-Alternate statewide assessment) should be written into the IEP. If you request them, the ARD

committee must consider ESY.

Termination of Services/Graduation
In 2013, the Texas Legislature reformed high school graduation rules and the kind of diploma awarded to high school graduates. Because of these changes in state law, TEA and the State Board of Education have updated agency regulations about high school graduation. All of these changes affect students with disabilities. While there are some students with disabilities in high school who will finish under the old system, as time goes on the 2013 reform will eventually apply to every cohort or class of high school students.

The key features of the 2013 reform are the elimination of prior types of diplomas and the creation of the "Foundation High School Program Diploma." Students working toward a Foundation Program Diploma must declare an "endorsement" that they will earn with the Diploma. An endorsement is a block of related courses that allow the student to get deep instruction and learning in a particular area. The Legislature's belief is that these extra classes connected to an endorsement will give the student a boost in college preparation or readiness for the workforce after high school. The Texas Legislature created five endorsements: Science, Technology, Engineering and Math (STEM); Business and Industry; Public Service; Arts and Humanities; and Multidisciplinary. A student may change the endorsement she has picked and may even earn more than one endorsement. A student may also decide to withdraw from all endorsements and just earn the basic Foundation Diploma. A student who fails to complete the necessary coursework might have tried to earn an endorsement but in the end only achieves the basic Foundation Diploma. For students with disabilities, it is important to be aware that a class will not count toward the endorsement requirement if its curriculum is modified for the student with a disability. For details and more information about the Foundation High School Program Diploma and endorsements, including course substitutions to accommodate a student's disability, visit the website tea.texas.gov/graduation-requirements/hb5.aspx.

Earning the Foundation Diploma and any endorsements is also tied to the student passing the STAAR EOC assessments. For a student in special education, the ARD committee decides if the student must achieve satisfactory performance on the EOC assessments. Even if the ARD decides that a student with a disability should attempt to pass all EOC assessments, it is still possible for an individual graduation committee to essentially waive passage of up to two EOC assessments in appropriate circumstances. For more information on individual graduation committees and their role and power, visit tea.texas.gov/graduation.aspx.

There are four ways that a student receiving special education services may graduate from high school and receive a regular high school diploma:

1. When a student who receives special education services completes the minimum credit and curriculum requirements that apply to a general education student and passes the required assessments, the student can graduate and receive a high school diploma under the Foundation Program.

2. When a student who receives special education services completes the minimum credit and curriculum requirements that apply to a general education student and her ARD committee has determined that satisfactory performance on required assessments is not necessary for graduation, the student can graduate and receive a high school diploma under the Foundation Program.

3. A student may also graduate by completing the minimum credit requirements for students in general education, completing the minimum curriculum requirements to the extent possible as determined by the ARD committee, and completing the requirements of the IEP, including one of the following conditions outlined in the IEP:
   - Full-time employment and sufficient self-help skills to maintain employment without direct and ongoing support from the school district
   - Demonstration of specific employability and self-help skills that do not require direct ongoing support from the school district
   - Access to services that are not within the legal responsibility of public education or to employment or educational options for which the student has been prepared by the academic program.
4. A student receiving special education services may also graduate and receive a regular high school diploma upon the ARD committee's determining that the student no longer meets age eligibility requirements and has completed the requirements specified in the IEP.

A student's ARD committee will decide if a student must pass the STAAR assessment to receive a high school diploma.

A district may stop providing special education services when:

- The student no longer meets the age requirements. Note: A student is entitled to services through the end of the school year in which she reaches her 22nd birthday.
- The student is 19 years old and decides on her own to withdraw from school.
- The student meets the requirements for graduation and receives her high school diploma.

Participation in the graduation ceremony without receiving a diploma does not affect eligibility for future services from the school district. A law passed in 2007, referred to as Scooter's Law, states that students with disabilities who plan to graduate under their IEP (not regular academic standards) and have been in high school for four years can participate in the graduation ceremony with their peers at age 18 and continue to be eligible for special education services until they graduate or age out. The law says that students can only participate in one graduation ceremony. This gives the option to the special education student who will be graduating under their IEP to decide when they want to participate in the graduation ceremony at age 18 with their grade level peers or when they leave school sometime after age 18.

IDEA requires that before graduation, including aging-out of eligibility, the school district must provide the student with a document, called a "Summary of Performance," that summarizes his academic achievement and functional performance.

Braille

A student who is blind or visually impaired, must be provided instruction in Braille and the use of Braille unless the ARD committee determines after an evaluation of her reading and writing skills and needs that instruction in Braille or the use of Braille is not appropriate. Additional state requirements for students who are blind or visually impaired can be found in the Texas Education Code at TEC 30.002.

Communication Needs
The ARD committee must consider the communication needs of a student who is deaf or hard of hearing. Specific consideration must be given to opportunities for communication with other students and staff in the child's language and mode of communication, as well as for direct instruction in the student's language and communication mode. Interpreter services are a related service under IDEA.

Limited English Proficiency
The IEP of a student with limited English proficiency must address how his language needs relate to achieving the goals on the IEP. Students eligible for bilingual classes and programs can receive special education services in those settings.

Transportation
Special transportation is actually a related service, but is often discussed at ARD meetings separately from other related services, such as speech or physical therapy. The ARD committee makes the initial decision as to whether a student is eligible for special transportation and the type and kind of special transportation that will be provided. The district cannot deny any student services in the IEP because the parent cannot provide transportation. This includes 3-year-olds to 5-year-olds who do not attend the school's preschool program, but need special transportation in order to receive speech therapy from the school district.

The ARD committee should first talk about having the student use the transportation services used by nondisabled students. If a student is unable to use regular transportation services, the ARD committee must consider special transportation. State laws that limit transportation to students who live a certain distance from the school do not apply to students for whom an ARD committee has determined a need. Also, transportation must be provided for special education students placed in DAEPs if the ARD committee determines it is necessary.

Behavior/Discipline

IDEA requires that if a child exhibits behaviors that interfere with her learning or are disruptive to other students, the IEP must address those behaviors. The ARD committee must identify appropriate positive behavior interventions and supports and other strategies to address each behavior.

Region 4 Education Service Center, through The Texas Behavior Support Initiative (TBSI), www.txbehaviorsupport.org, provides training to build capacity in Texas schools for the provision of Positive Behavioral Interventions and Supports (PBIS) to all students. PBIS training assists schools to develop and implement a wide range of behavior strategies and prevention-based interventions that can be used to establish school-wide, classroom and individual student-level systems of support. You can also contact your regional education service center to attend training or seek technical assistance in ensuring your child is receiving positive behavior interventions and supports.

If you are concerned about your child's behavior at school, you can request a "functional behavior assessment" (FBA) to determine why and when she is displaying the inappropriate behaviors and how best to respond. With that information, the ARD committee can develop a "behavior intervention plan" (BIP), which becomes a part of her IEP. The BIP should identify the supports and services she needs so she does not display the inappropriate behaviors — not just a list of consequences for misbehavior.

If at any point a student violates a school rule that results in a determination that the behavior was related to the student's disability, the ARD committee must conduct a functional behavior assessment and develop a behavior intervention plan. If an FBA has previously been conducted and the student already has a BIP, the ARD committee must review the plan and modify it as needed.

It is extremely important that the ARD committee discusses and plans for any behaviors you think might cause your child problems at school. In Texas, parents are asked to sign a statement that their child will comply with the school district's "Student Code of Conduct." This applies to your child too, so be sure and read it thoroughly and discuss anything in the code that might be difficult for your child to follow. The IEP should note any exceptions to the Code of Conduct.

When Your Child Can Be Disciplined
There is much controversy about how and when a student with a disability can be disciplined. IDEA contains specific procedures that must be followed when making decisions about discipline. In addition, state laws govern discipline (in Chapter 37 of the Texas Education Code). State laws apply to students with disabilities unless the law conflicts with IDEA or with a student's IEP.

Following is basic information about the discipline process for students with disabilities. It does not include all information you need if your child has discipline problems at school. You can get additional information about discipline requirements under state and federal law by calling the Special Education Information Center at 1-855-SPED-TEX (www.spedtex.org); by accessing the TEA special education website, tea.texas.gov/Curriculum_and_Instructional_Programs/Special_Education/Programs_and_Services/State_Guidance/Discipline_and_School_Removals; or on the Disability Rights Texas website, www.disabilityrightstx.org.

Individual Discretion
School administrators, including the campus behavior coordinator, are allowed under both the federal IDEA and state law to use discretion about whether or not to recommend or change the placement of a student with a disability who violates the district student Code of Conduct. This means the principal (or other administrator) no longer must apply a local "zero tolerance" policy to a student with a disability, but should consider the impact of the student's disability. This will hopefully decrease the number of students with disabilities suspended or expelled because the administrator says he has "no choice."

Change in Placement
If a school suspends a child from class for more than 10 days in a row, the suspension is called a change in placement. A change in placement can also happen if a child has been suspended for more than 10 days total during a school year and there is a pattern.

Before a school can change a student's placement for disciplinary reasons, the school must first determine to what extent a child's disability relates to the conduct or behavior that is causing concerns. This is called a manifestation determination. An ARD meeting must be held within 10 days of the school's decision to make a change in placement. The full ARD committee does not have to meet to conduct a manifestation determination.

At the meeting the committee must review relevant information and determine whether a child's alleged conduct or behavior was:

- Caused by or has a direct and substantial relationship to your child's disability
- A direct result of the school's failure to implement your child's IEP

If the IEP team determines that a child's conduct or behavior was a manifestation of his or her disability, the school must return the child to her placement she was in when the behavior occurred, unless a parent agrees the student should go to another placement as part of a modification of his behavioral intervention plan.

If it is determined that a child's conduct or behavior was not a manifestation of her disability, the school can discipline the child the same way it would a child not receiving special education. However, if the discipline results in a change in placement, the full ARD committee would have to meet to change the student's placement in her IEP.

Educational Services in Disciplinary Settings
Students in disciplinary settings are still entitled to special education services needed to continue participation in the general curriculum and to progress toward meeting his IEP goals.

Removals for Up to 45 Days
Schools may make a change in placement whether or not the conduct was a manifestation of a child's disability, if a child:

- Has a weapon at school
- Knowingly has, uses, sells or attempts to get illegal drugs at school
- Inflicts serious bodily injury on another person while at school

"Stay Put"
Unlike when a parent files for a due process hearing for other matters, when a parent files for a due process hearing to challenge a disciplinary action, the student will remain in the disciplinary setting pending the hearing decision or until the end of his disciplinary placement.

Expedited Hearings
In discipline cases, the student is entitled to an "expedited" hearing within 20 school days after the hearing is requested. The hearing officer must issue a decision within 10 school days after the hearing.

Students Not Receiving Special Education
Students who have not yet been determined eligible for special education may receive protections for disciplinary purposes under IDEA when a school has knowledge that a child is a child with a disability before the problem behavior occurs.

A school may be considered to have knowledge that a child is a child with a disability if before a problem incident occurs:

- A parent expresses concern in writing to school personnel that the child is in need of special education services
- The parent requests an evaluation of the child

- The teacher of the child or other school personnel expresses specific concerns about a pattern of behavior

  Note: A school is not considered to have knowledge under IDEA if a parent has not allowed an evaluation of the child or has refused services under IDEA.

Restraint, Seclusion and Time Out
State legislation, and subsequent rules adopted by the Texas Education Agency, prohibits students in Texas public schools from being placed in a locked space or room (regardless of the size of the room) as a behavior intervention or disciplinary technique. This includes spaces that are not locked, but from which the student cannot get out, such as a room in which the door is blocked by a piece of furniture.

Students cannot be physically restrained, except in an emergency situation. If physical restraint is used by school personnel, including a school resource officer, written documentation of its use, including information on why the student was restrained and for how long, MUST be sent to the parent. There is also required training for any school staff who might use physical restraint. If your child is physically restrained, be sure you get (and keep) the required documentation. Since it is only to be used in an emergency, use of restraint should be infrequent. Restraint should not be included in a student's IEP or BIP as a planned or "therapeutic" intervention. If restraint is being used in nonemergency situations, you should request that the ARD committee review the FBA and BIP and determine the need for additional assessments and new or additional positive behavior interventions and supports.

Time out can be used, but if used repeatedly to decrease or increase a particular behavior it must be a part of the student's IEP or BIP and must be used in conjunction with an array of positive behavioral interventions. A school district cannot place a student in timeout by using physical force or threatening to use physical force.

Finally, no technique may be used that demeans a student or deprives her of "basic human necessities," such as eating or using the bathroom.

If you know the ARD committee will be discussing the use of restraint and/or time out (seclusion is prohibited), you should read the state rules before the meeting. Schools cannot avoid following these rules by getting parent permission to use prohibited practices. These rules apply to all students, including those in "behavior management classes" or other behavior programs.

Bullying
The Texas Education Code requires every public school district to have a policy that prohibits bullying and harassment and provides options for preventing bullying and disciplining students who engage in bullying or harassment. The Texas law also offers parents of children in public schools the opportunity to transfer their child to another classroom or campus if the school determines that the child has been bullied in school. Additionally, the law allows a school board to transfer a student it has determined engaged in bullying to another classroom or campus. However, if a student receives special education services, her ARD committee would have to meet to determine the appropriateness of any change in placement.

The Texas Education Code defines bullying as engaging in written or verbal expression, expression through electronic means, or physical conduct that occurs on school property, at a school-sponsored or school-related activity, or in a vehicle operated by the district and that:

- Has the effect or will have the effect of physically harming a student, damaging a student's property, or placing a student in reasonable fear of harm to the student's person or of damage to the student's property, or
- Is sufficiently severe, persistent and pervasive enough that the action or threat creates an intimidating, threatening or abusive educational environment

Conduct is considered bullying if the conduct:

- Exploits an imbalance of power between the student perpetrator and the student victim through written or verbal expression or physical conduct, and
- Interferes with a student's education or substantially disrupts the operation of a school

If your child suffers harassment or bullying at a public school, it is important for the conduct to be reported as soon as possible, in writing, to the school describing the acts of bullying or harassment.

In some cases, to avoid continuing harassment, you may wish to transfer your child to another class or school. The Texas Anti-Bullying Law gives parents of a child who is a victim of bullying the right to petition the school Board or their representative to transfer their child to another class at the same school, or to another school within the same school district. You might also request information from the school about whether the school board has been requested to determine that the student accused of bullying your child has engaged in bullying or harassment and whether the school board and the Student's ARD committee have considered or approved transferring the student to another classroom or campus.

If you wish to request a transfer, the request should be in writing and addressed to the school principal and copied to the superintendent of the school district. The letter should provide a timeline of events and evidence supporting the severity of the bullying.

It is important to call a school's attention to harassment or bullying of any type, even if you do not want to request a move to another school or class. By putting the details of bullying and request for action in writing, you are taking the first important step to making the school take appropriate action.

If a student receives special education services, an ARD committee meeting can be an appropriate place to address bullying or harassment. A student who is a victim of bullying or a student who has engaged in bullying may need a change of placement, counseling as a related service, or other interventions.

"To the maximum extent appropriate, children with disabilities are educated with children who are not disabled, and 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."
- Individuals with Disabilities Education Act

7) Deciding on Placement in the Least Restrictive Environment

After ARD committee members agree on the IEP, the next step is to determine placement, or where the special education and related services will be provided. Parents must be a part of any decision on placement.

Laws and regulations require placement decisions to:

- Be made at least once every year
- Be based on the student's individual needs
- Take into consideration any harmful effects to the student
- Be made based on evaluation information and not on disability label or staff convenience

In addition, first consideration should be given to placements that are:

- As close to home as possible
- At the school the student would attend if not disabled
- In regular classes with the supplementary aids and services the student needs

Placement in the LRE
Federal law requires school districts to educate students with disabilities in the least restrictive environment (LRE). This means the student must be placed in the setting that puts the fewest limits on her opportunities to be educated with students who do not have disabilities. If the ARD committee places the child somewhere other than the regular classroom, they must specify in the IEP why a more restrictive placement is needed.

Many important court decisions and rulings have clarified the meaning of LRE and have made the legal preference to educate students with disabilities in general education settings even stronger. In order to be successful in the LRE, students are to be provided supplementary aids and services. This may include assistive technology that compensates for limits in functioning and allows students to perform educational and social activities in a general education environment.

School districts may use a variety of ways to achieve the goal of placing students in the LRE. Terms you may hear in the discussion of placement are "inclusion," "mainstreaming," and "integration." These terms are not used in the federal law, but are commonly used by educators. Regardless of the words you hear, remember the placement of your child should provide as much opportunity as possible for your child to be educated with his nondisabled peers.

Questions About Placement in the LRE

- Can the student learn the same curriculum (general curriculum, or TEKS) as other students her age with only occasional in-class or consultative services from special education? If yes, then place in age-appropriate regular classes.
- Can she participate in the same learning activities as the other students with accommodations for her disability? If yes, then list accommodations needed on IEP, place in age-appropriate regular classes and implement needed accommodations. (See Words to Know for definitions of accommodations and modifications.)

- Does she need any “supplemental aides and services” (e.g., behavior interventions, one-on-one instruction, physical assistance) in order to remain in the regular classroom? If yes, then the IEP should list those supplemental aids and services and how they will be provided in the regular classroom.
- Can she participate in the same learning activities as the other students if modifications are made to those activities because she is learning at a lower grade level than the other students? If yes, then list the modifications she needs on the IEP, specify who is responsible for making those modifications, and place her in the regular classroom with needed special education support.
- Does she need any services that cannot be provided in the regular classroom setting at this time? If yes, then the IEP should specify her removal only for those activities.

Remember: In Texas, the General Education Curriculum is the TEKS.

To ensure your child’s placement in the LRE, ARD committee members should consider placement in an age-appropriate regular class at the student’s home school. The discussion should include which accommodations, modifications and/or supplementary aids and services (behavior interventions, paraprofessional, assistive technology, equipment, environmental modifications, etc.) could allow the student to remain in the regular classroom and make progress in the general curriculum.

If placement in a regular education classroom is rejected, the committee must document why the regular education placement, even with the use of modifications and supplementary aids and services, is not appropriate. A student — even one with significant disabilities — cannot be removed from the regular education classroom solely because she needs modifications to the general curriculum.

Ways You Can Participate

Discuss all supports, modifications or assistive technology your child needs to reach her IEP goals and be involved in and progress in the general curriculum. Examples include but are not limited to:

Remember: Special education is a service, NOT a place.

- Specific learning and teaching strategies
- Adapted expectations, curriculum or materials
- Help from a paraprofessional aide
- Therapies that can be provided in the regular classroom
- Adaptive equipment
- Assistive technology devices (simple or high-tech)

Ask questions, such as:

- What is needed to implement the IEP in regular classes?
- How would the student’s daily schedule look?
- When would the student and/or teacher need these supports?
- Who is available to provide them?
- Who is responsible for any modifications of the curriculum?

Remind committee members that your child cannot be excluded from regular classrooms because she needs:

- Related services
- Special equipment
- Modifications to the general curriculum
- More intensive services (smaller student-to-teacher ratio)
- Assistance of a paraprofessional
- A physically accessible classroom or building

Find Resources to support students to participate in and progress in the General Education Curriculum at:

- Region 20 Education Service Center Statewide Leadership: Access to the General Curriculum, http://www.esc20.net/default.aspx?name=ci_se.agc.Home
- Standards-Based IEP Free Online Training Module and the Least Restrictive Environment Question and Answer Document, http://www.esc20.net/default.aspx?name=ci_se.agc.OnlineTraining
- The Texas Education Agency and the Vaughn Gross Center for Reading and Language Arts (VGCRLA), located in the College of Education on The University of Texas at Austin collaborated on developing the following materials, http://tea.texas.gov/index2.aspx?id=2147494681
- Coordinating for Reading Instruction: General Education and Special Education Working Together (also known as the "Co-Teaching Booklet"), http://www.meadowscenter.org/library/resource/coordinating-for-reading-instruction-general-education-and-special-educatio
- Inclusion Resources on the Texas Project First website, www.texasprojectfirst.org/LinksInclusion.html

Dual Enrollment for 3-Year-Olds and 4-Year-Olds
Districts are required to provide services in integrated environments for 3-year-olds and 4-year-olds, just as they are for older students. The school district must make available other school district programs, such as pre-kindergarten, to children with disabilities for whom that classroom would be appropriate. Parents offered only a separate special education class for their 3-year-olds and 4-year-olds should ask for the district to tell them about other placement options in integrated settings. You should also ask about the district's Preschool Program for Children with Disabilities (PPCD). Learn more about PPCD at http://tea.texas.gov/Curriculum_and_Instructional_Programs/Special_Education/Programs_and_Services/Services_for_Texas_Students_with_Disabilities_Ages_3-5/.

One way districts can meet this requirement is to place a child in a community preschool setting, such as Montessori, and provide services such as occupational or physical therapy the child needs but cannot get at the private program. Another way, used by some school districts, is to place district special education staff at some preschools in the community.

Sometimes parents want their child in a specific preschool program (such as one close to their house or one attended by their other children) and are willing to pay for it so the child can go there. Those parents can choose to “dually enroll” their children in the private school of their choice and then enroll in the public school for special education services. Parents who choose this option will have to pay for the private placement. Only the special education services provided by the district must be at no cost. Therefore, most parents will choose to make the district fulfill its obligation to provide services in the “least restrictive environment.”

You can file a complaint with the Texas Education Agency if your local school district does not offer an education program for 3-year-olds and 4-year-olds with disabilities with their nondisabled peers. However, for parents who want to do so, selecting their own placement and paying for it is an important option for them.

A child who is dually enrolled is enrolled in both a private school and a public school at the same time. Typically, the child attends the private program for all or most of the day, but receives needed special education services from the school district. Dual enrollment is available only for children ages 3 and 4. This is a choice allowed by Texas in its special education rules. It is not a federal requirement.

Transportation is a related service that should be discussed in the ARD meeting. The school district may be obligated to provide transportation if the child’s parents cannot. This requirement only applies to 3-year-olds to 5-year-olds who do not be attend the school’s preschool program, but who need special transportation in order to get to speech or other therapies they receive through the school district.

Contracting Placements
When the school district cannot meet a student’s educational needs in its own program, it can contract with a non-public school approved by TEA. The district should not contract for any part of a student’s education if it can meet the needs in its own program. The ARD committee must decide whether to contract for services from another program or district. Even if the district contracts with a non-public school, the district’s responsibility for the student continues.

Residential Placement
ARD committees will consider residential placements if the district cannot provide the services locally and the student cannot benefit from education without the support provided in a residential facility. A residential facility is one in which the student will both live and go to school. If the ARD committee determines a student needs 24-hour residential placement, the district must provide it at no cost to the parent. Residential placement must be reviewed and re-approved annually. The school district can contract with either a public or private residential program approved by TEA. The school district has to provide for a residential placement only with parental consent and only if:

- It is necessary in order for the student to receive an appropriate education
- The need for the residential placement to receive an appropriate education is related to the student’s disability

Many students who live in residential settings can and should go to school in the local district. However, if a student in a residential placement receives education services

at the facility, the facilities, equipment and programs must be adequate to carry out the IEP.

> *Note: If a student is at risk of, or considering residential placement, you may want to contact your Regional Education Service Center regarding non-educational community-based support services. Funding for these services is subject to appropriations provided by the state legislature.*

Services and Supports in Charter Schools
Charter schools are public schools. Each charter school has all the responsibilities and functions of a traditional public school district. Students in charter schools have the same rights under IDEA and Texas special education laws as students in other public schools. The charter schools have the same Child Find responsibilities and must evaluate students, hold ARD meetings, and develop and implement IEPs for students. Charter schools have a responsibility to provide special education and related services, including behavior supports, and may suspend and expel special education students only in the ways prescribed in IDEA and the Texas Special Education Rules. You should consider reporting to the TEA any charter school that tells you that it cannot provide the specific special education or related services needed by your child. Also, you should not be told to consider finding a better fit or better services for your child elsewhere.

A Note About Special Education Services in Nonpublic Schools
IDEA specifically addresses the role of public schools in providing special education and related services to private school students. The rights of a student in a private school to receive special education services from the public school district largely depend on whether the student was placed at the private school by the student's parents for personal reasons or whether the student was placed at the private school in order to receive a free appropriate public education.

Under IDEA, there are three ways a student can end up in private school seeking special education services.

First, If a student's parents choose a private school for a student without challenging the appropriateness of the public schools' program, the student's rights are limited. This is often referred to as a unilateral parental placement. Unilaterally placed students do not have a legally enforceable right to a FAPE or the services to which the student would be entitled if enrolled in public school. The private school has no obligation to follow IDEA. Before you place your child in a private school, observe the classes yourself. Ask specific questions about the types of services the school will provide and about the types of certifications held by the teachers.

Public schools must work with any private schools within their district's boundaries. The public school must determine the percentage of students with disabilities enrolled in private school and devote a similar percentage of services to these students in general, and not as a result of the individual needs of specific students. This is referred to as the proportionate share percentage.

Second, if an ARD committee decides that a student requires a private school placement to provide all or part of a FAPE, the student is entitled to a FAPE and has all the rights of a public school student.

Finally, parents may choose to place a student in a private school because the parents feel that the public school is not offering a FAPE and/or a program in the least restrictive environment. In such cases, the parents must first provide the public school with notice of their intent to place the student in private school, either by raising their concerns and intent at the most recent ARD meeting or by providing written notice of their intent at least 10 business days prior to removing the student from the public school. If parents do not provide this notice, they may later lose their right to tuition reimbursement. If parents do provide the required 10-day notice, initiate a hearing, and a hearing officer or court determines that the public school failed to offer a FAPE in the LRE, parents are entitled to reimbursement of tuition and associated costs of the private school placement.

If a student is currently attending a private school at the time that parents or a teacher believe the student may have a disability, either the parents or the school may contact the local public school district in which the parents live and request that the student be evaluated by the public school district.

A Note About Cameras in Special Education Classrooms
Texas law now allows video and audio monitoring of certain special education self-contained placements for the purpose of ensuring the safety of students with disabilities. While no one expects something to go wrong in a special education class and a student being abused or injured, it has happened and the video and audio monitoring is a tool that might prevent something wrong from happening. The Texas Education Agency has a new regulation that school districts and charter schools must have local procedures to carry out video and audio monitoring of self-contained classrooms. To keep up on latest news about which classrooms are eligible for monitoring and how the recordings may be requested, accessed and used, visit the website of Disability Rights Texas at www.disabilityrightstx.org.

8) Coming to Mutual Agreement

Once the IEP is written, the parent and administrator sign the IEP form, either in agreement or disagreement. A parent should not sign “agree” if you do not find the terms of the IEP acceptable. If there is not mutual agreement, there are options to try to solve differences.

If a parent or the adult student disagrees with one or more required elements of the IEP, the district must offer a recess of no more than 10 school days (with some exceptions for disciplinary ARDs). The committee members must also agree on a date, time and place to finish the meeting. (Note: The provision for a 10-day recess is a state, not a federal, requirement.) While it is called a 10-day recess, parents and school may agree to a longer break if it would be helpful.

During the recess, both district and parent/student members of the ARD committee must think about other possible choices, gather more data, work on documentation and/or get other people involved. As soon as the parent accepts the recess, you should consider asking the TEA to assign an independent IEP facilitator to come and assist with the next ARD meeting to work out the issue. The TEA FIEP program rules are at 19 TAC 89.1197.

Form 11, on page 71, is a checklist you can use to make sure all the IEP elements have been included. Copy or print Form 11 for your use during each committee meeting.

If after the recess parent or student members of the ARD committee still do not agree, school members can use the IEP they think is best. A second statement about the disagreement must be written into the IEP, and members who disagree must be allowed to write their own statements.

Ways You Can Participate

- Review the checklist following this section to see if all issues have been discussed. If all are in agreement with the IEP and the recommended placement, sign and indicate your agreement, then congratulate the team (including yourself) on a job well done!
- If you disagree with any required elements of the IEP, the school must offer you a recess of no more than 10 school days. You and other ARD members must agree on a time, date and place for the next meeting.
- During the recess, you must gather more information, think of new options, work on documentation or get other people involved. Consider asking for a state-appointed independent facilitator to come and run the next ARD meeting to bring balanced and fair discussion.
- Keep in mind that if you are not in agreement with the student's IEP or placement after the recess, the school can implement the IEP unless you file for a due process hearing.

9) Closing the Meeting

At the close of the meeting, review the completed IEP and minutes. Do not sign the IEP, indicating your agreement, until you have read it. Sometimes things are discussed, but never written into the plan. If you need more time to review the IEP or you want to show it to your spouse or other professionals you work with, you have the right to take the IEP home for further review without formally disagreeing with the IEP and to sign in it later. However if you do not bring back the signed IEP (indicating agreement or disagreement) then the school may implement the new IEP within 10 days unless you formally sign that you disagree with the IEP.

Ask for a copy of the IEP. You are entitled to a copy of all the IEP either at the ARD meeting or within a reasonable time thereafter.

If needed, ask to have the IEP translated into your native language. For parents who speak only Spanish, the district MUST provide the parents with a written copy, or audio recording, of the IEP in Spanish. For parents who do not speak English or Spanish, the district must make a good faith effort to provide the parents with an IEP translated in their native language.

If your child has multiple teachers who will implement parts of her IEP, ask the ARD committee to identify who will be responsible for seeing that each teacher has a copy of her IEP.

FORM 11: At the ARD Meeting – A Parent Checklist

(Be sure to keep a copy for yourself.)

Be sure the IEP for your child includes the following:

___A statement of progress your child has made on her previous IEP goals

___Information about current academic achievement and functional performance

___A statement of how the disability affects the student's involvement and progress in the general curriculum (TEKS)

___Measurable annual goals based on peer-reviewed research

___Short-term objectives for student's taking the alternative assessment (STAAR-Alt 2)

___Method for measuring progress toward goals and how and when progress will be reported to you

___Special education and related services to be provided

___Positive behavior strategies and/or a behavior intervention plan (required if your child's behavior interferes with his learning or the learning of others)

___Modifications of the curriculum (TEKS) (such as a different instructional level) your child needs to participate in the same learning activities as other students her age

___Supplemental aids and services your child needs to participate in regular education classes and activities

___Supports and training to be provided for school personnel

___Specifics about each instructional and related service, including date services begin, minutes per session, frequency of sessions, location of services, and the position (e.g., "special education teacher," "physical therapist," rather than someone's name) responsible for each service in the IEP; you should also clarify whether your child will be receiving "direct" or "consultative" services

___Special materials, equipment, resources and/or assistive technology needed and when they will be made available

___A statement of ANY academic or extracurricular activity in which your child will NOT participate with nondisabled students and the reasons why

___A determination of which state assessment they will take, STAAR, STAAR-A, or STAAR-Alt 2.

___Any accommodations she needs to take the STAAR

___A statement of any exceptions to the district policies such as participation in extracurricular activities and the student Code of Conduct and the reasons for the exceptions

___Transition services to be provided beginning in the school year in which your child turns 14 (or younger if determined appropriate)

___Consideration of and plan for the student's graduation

___Goals for ESY from the current IEP

___Signatures of the parents and school administrator and statements of your agreement or disagreement with any part of the IEP

FORM 11

IDEA

Step 6: After the Meeting

Ways to Stay Involved

You have just spent a great deal of time and effort developing an appropriate IEP for your child. Now you want to make sure that it is implemented and that your child progresses in the general curriculum and receives all of the services in his IEP. Be sure to:

- Give positive feedback to teachers and administrators about things that work well for your child during the school year
- Become involved and visible by volunteering in the classroom, library or other school program; attend school functions; join the PTA and participate in site-based management teams, meetings and special events
- Communicate regularly with teachers throughout the year (notebooks, phone calls, e-mails, meetings and conferences)
- Share articles and other resources of interest with teachers and other school personnel
- Attend joint training with school staff
- Read the progress reports you receive from the school. Bring questions, concerns and/or praise to parent/teacher conferences
- Ask to have the IEP revised as needed

Form 12, on page 73 is a sample letter requesting review or revision of the IEP.

IEPs must be reviewed at least once a year. However IEPs can be revised whenever needed. The team must revise the IEP if the student does not make expected progress toward annual goals or in the general curriculum or if the student makes so much progress that new ones need to be developed. Additional meetings will also be needed if there is new information, such as a reevaluation, that would affect his IEP.

IDEA allows some changes in the IEP to be made without an ARD meeting. Changes outside the ARD process are intended for changes that are not controversial and do not need to be discussed. The only requirements for amendments to the IEP without an ARD meeting are that the school and the parent agree and that the amendments be in writing. If you are asked to agree to a change you do not agree with or do not understand, you should ask for an ARD meeting. If the IEP is changed without an ARD meeting, the school must provide you with a copy of the revised IEP at your request.

Teachers may also request a review of the IEP. If a teacher requests to review the IEP, the school must notify you of the teacher's request and the school's response to her request. If this occurs and the school does not schedule an ARD meeting to review the IEP, it would be a good idea for you to contact the teacher to find out what her concerns are and to decide if you want to request an ARD meeting to review the IEP. You have the right to request an ARD meeting to review your IEP at any time.

FORM 12: Letter Requesting Review and Revision of IEP

(Be sure to keep a copy for yourself.)

EXAMPLE

Date

Name of principal
Name of school
Address of school

Dear (name of principal):

I am the parent of (name of student), a student at your school. I recently reviewed my child's IEP, which was developed in (month and year), and I believe it is (out of date, incomplete, based on insufficient evaluation information, etc.) because (state your reasons). I request a new meeting be held as soon as possible to review and, if necessary, revise (name of student)'s IEP. Please contact me within 10 days so the meeting can be scheduled at a mutually agreeable time and place.

Thank you for your help. I look forward to hearing from you soon.

Sincerely,

Your name
Your address
Your telephone number
Your e-mail address (optional)

The Step You Hope You Will Never Have to Take: Resolving Disagreements

In school districts where there is open communication, a willingness by parents and school officials to compromise, an emphasis on the student's needs, and a commitment to follow the special education process, most problems are resolved locally. However, sometimes parents and school personnel cannot agree on some part of a student's educational program.

If you think this may be the case, you may want to consider asking the school district to provide a school district employee who has been specifically trained in IEP facilitation to facilitate your ARD meeting. You may also ask the school district to provide an independent facilitator (not employed by the school district) to facilitate your ARD meeting. The role of the IEP facilitator is to ensure that communication remains open and positive, the meeting is focused on the needs of the student and proper procedure is followed. The school may be able to find a list of trained independent facilitators from their district administration or their regional education service center. IEP facilitation is regulated by TEA; see state rules 19 TAC sections 89.1196 and 89.1197.

If you disagree with a decision made by the ARD committee, you need to decide whether to accept the other position or seek a third party to settle the disagreement. Although you may not be satisfied with school officials' final offer, you may not be ready for an impartial due process hearing. Other steps can be taken to settle disagreements. You can use TEA's mediation or complaints management systems together with, or instead of, a due process hearing or a lawsuit.

For information about the state's complaints management, mediation, IEP facilitation, and due process hearing systems, go to the TEA website and review its "Special Education Dispute Resolution Handbook" available at http://tea.texas.gov/About_TEA/Legal_Services/Special_Education/Office_of_Legal_Services,_Special_Education_General_Information/. You can also call the Texas Special Education Information Center at 1-855-SPED-TEX or visit its website at www.spedtex.org.

TEA Complaints Management System

If you believe the school district is violating the educational rights of your child, you can file a complaint with TEA. Under federal regulations, TEA must investigate any complaint that a school district is violating any requirement of IDEA, including the identification, evaluation or placement of a special education student, or any violation of a student's right to a free appropriate public education. TEA is required to make sure the district complies with the law. Your complaint must be filed within one year of the alleged violation.

You can call the Texas Special Education Information Center at 1-855-SPED-TEX, or visit its website at www.spedtex.org, for guidance about writing your complaint. Disability Rights Texas also has a handout on its website about filing a TEA complaint. Your complaint must be in writing and should contain information as specific as you

can provide about the alleged violation. Include your name, the name of your child, the name of the school he attends, the school district, your address and a phone number where TEA can reach you during the day. Complaints must be signed, and a copy of the complaint must be sent to the local school district. Mail or fax TEA's copy to:

Texas Education Agency
Division of Federal and State Education Policy
1701 North Congress Avenue
Austin, Texas 78701
Fax: 512-463-9560

You also have the choice of using a form on TEA's website to file your complaint. You can find a link to the form, in both English and Spanish, at http://tea.texas.gov/Curriculum_and_Instructional_Programs/Special_Education/Special_Education_Dispute_Resolution_Processes/#Complaint_Resolution.

TEA must review, investigate and resolve complaints within 60 calendar days.

TEA Mediation

Mediation can be a way for parents and school districts to work out disagreements without a due process hearing. Mediation is an informal and voluntary process conducted by an impartial mediator. There is no cost to either the parent or the school district. You can bring an attorney to mediation, but it is not required. If you choose to bring an attorney, you are responsible for that cost.

You have a choice about whether to:

- Ask for mediation
- Accept mediation if TEA offers it to you
- Accept or reject the proposal developed during mediation

Form 13, on page 81, is a sample letter requesting mediation.

Requests for mediation should be made in writing to TEA. Be sure to include in your request for mediation: your child's name and grade, the name of the school district (or charter school), a brief description of the issues you would like mediated, and how you can be contacted. Your request can be mailed or faxed to:

Texas Education Agency
Division of Legal Services
1701 N. Congress Avenue
Austin, TX 78701-1494
Fax: 512-463-6027

If both you and the school district agree to the mediation, TEA will assign a mediator and you will be contacted to schedule a time for the mediation.

If mediation is successful, the agreement must be documented in writing and signed by you and one school official. That agreement is a legally binding document. The agreement must also state that the discussions at the mediation are confidential and cannot be used as evidence in any due process hearing that might follow.

There is also information about mediation and other dispute resolution processes available from the Consortium for Appropriate Dispute Resolution in Special Education (CADRE), which is a national project funded by the U.S. Department of Education.

Their publications on mediation and alternative dispute resolution options are available on their website at www.directionservice.org/cadre.

U.S. Office for Civil Rights (OCR) Complaint
If you believe the school has violated Section 504 of the Vocational Rehabilitation Act, you may file a complaint with the U.S. Department of Education's Office for Civil Rights (OCR), which is the federal agency primarily responsible for enforcing Section 504.

There is information about Sec. 504, including a comparison of the requirements of Sec. 504 to those of IDEA, on TEA's website at http://tea.texas.gov/About_TEA/Contact_Us/General_Inquiry/General_Inquiry/.

If you are not sure whether an OCR complaint is appropriate, or if you do not believe you know how to write a complaint, you can call OCR at 214-661-9600. Disability Rights Texas also has a handout on its website about filing an OCR complaint.

OCR complaints should be mailed to the regional Office for Civil Rights:

Site Director
U.S. Office for Civil Rights, Dallas Office
1999 Bryan Street, Suite 1620
Dallas, Texas 75201
E-mail: OCR.Dallas@ed.gov

What Do I Need to Know About Due Process Hearings?

If at all possible, you should try to reach agreement with the school about your child's education. However, if you have a dispute that you and the school district cannot resolve, you may ask for an impartial due process hearing. If you disagree with the IEP or have any other complaint concerning your child's education, you have a right to a due process hearing before an impartial hearing officer. You have a right to a final decision from the hearing officer within 45 days after compliance with the resolution meeting requirement.

Asking for a due process hearing is a very important decision. Due process hearings are expensive and stressful. School districts win many more hearings than do parents. It is a good idea to carefully consider the other steps you can take to solve a problem before you request a hearing. You can try other remedies (see previous sections on mediation and complaints) instead of, or in addition to, an impartial due process hearing.

If you file for a due process hearing, you will be contacted by TEA and offered mediation. Whether you accept that offer or go directly to a due process hearing is your choice. However, if you choose not to accept mediation, the school district may require you to meet with an impartial party who will encourage the use and explain the benefits of mediation.

Representation by an Attorney
Before you ask for a due process hearing, you must decide whether to hire an attorney to represent you. Although some parents have represented themselves successfully or used a lay advocate, it is very difficult to win without an attorney.

The due process procedure used in Texas is similar to going to court. The hearings follow special rules that apply only to due process hearings, as well as use the Texas Rules of Evidence and the Texas Rules of Civil Procedure, which are very formal and difficult to understand. The school district's attorney knows these rules and will use them.

Also, at the hearing, a court reporter makes an official record. This means a court reporter will prepare a transcript of all the witnesses' testimony. The court reporter will put this transcript and all other evidence (such as evaluation reports and IEPs) into the official record of the hearing. If your case eventually goes to court, this record will be a large part of what the judge will use to decide the case. If your evidence is presented correctly at the hearing, it will not have to be presented again in a formal trial. It is difficult for a parent or lay advocate to know how to present evidence correctly. The best way to protect your rights, and those of your child, is to have an attorney at the due process hearing.

If you represent yourself and lose your due process hearing, you will want an attorney if you appeal your decision in federal court. Even if you win the hearing, the school district may appeal the decision, at which point you will also want an attorney. It is more effective if the attorney who will represent you in court has worked with you during the due process hearing and really understands your case. Try to have an attorney before you ask for a hearing. Though a recent U.S. Supreme Court decision allows a parent to represent his child in federal court in IDEA cases, we strongly suggest you have an attorney since the school district will have one.

Use the TEA form to request a due process hearing or refer to Form 14, on page 82, a sample letter requesting an impartial due process hearing.

Finding an Attorney

Of course, cost is a factor in your decision to use a lawyer or to ask for a hearing. The IDEA 2004 requires each school district to inform you of any free or low-cost legal assistance that might be available in your area. If they have not, you should ask the school officials for this information.

In Texas, it is unfortunately very difficult to find an attorney who will take a special education case. Special education cases are typically complex and difficult, and attorneys are aware they cannot be awarded attorney fees unless they win the case.

Many parents have learned through contacts in their local parent and advocacy organizations of attorneys willing to take cases for a reasonable fee. Check with your local parent and/or advocacy organizations for suggestions.

Disability Rights Texas, a statewide nonprofit legal protection and advocacy agency, provides legal services to people with disabilities and takes some special education cases within priority areas. Call 1-800-252-9108 to find out if they can take your case. If they cannot take your case, ask for a copy of their list of private attorneys who take special education cases.

Other places to find information about attorneys and advocates are the Council of Parent Attorneys and Advocates, www.copaa.org, and the Texas Education Agency resource list of parent attorneys, http://tea.texas.gov/About_TEA/Legal_Services/Special_Education/Office_of_Legal_Services,_Special_Education_General_Information/.

Requesting a Hearing

IDEA requires that certain information be included when requesting a due process hearing. The party requesting due process (typically a parent or the parent's attorney) must provide what is called "due process complaint notice" to the other party (typically the school district) and to TEA. This notice must include:

- The name of the child, the address of the child, and the name of the school district the child is attending
- A description of the problem in dispute, including relevant facts
- A proposed resolution to the problem

If the parent files, then the school will review the complaint. If the school does not think the complaint sufficiently meets the due process complaint requirements, officials must notify the hearing officer and parent in writing within 15 days of receiving the complaint. The hearing officer will notify the parent within five days if he thinks the complaint is sufficient or not. If the hearing officer determines the due process complaint is not sufficient, the hearing officer can allow the parent to amend the complaint.

In addition, if the school has not already done so, they must send you a response within 10 days of receiving your due process complaint that includes:

- An explanation of why they proposed or refused to take the action described in the complaint
- A description of other options considered and the reasons why those options were rejected
- A description of the evaluations, assessments, records or reports used as a basis for their action
- A description of the factors that are relevant to the school's proposal or refusal

Note: It is important that your due process complaint address all of the issues you are disputing. At the hearing you will not be able to bring up an issue that was not included in your complaint unless the school agrees.

In Texas a request for a due process hearing must be filed within one year of the date the parent or school knew or should have known about the action that forms the basis of the complaint. Current Texas law only allows you to go back one year instead of two. The timeline does not apply if the school misrepresented to the parent that it had resolved the problem or if the school withheld information from the parent that it is required to provide, such as failing to provide written notice or a procedural safeguards notice.

There are two ways you or your attorney can file for a due process hearing: 1) by drafting your own due process complaint or 2) by using TEA's form. The TEA form is available at http://tea.texas.gov/About_TEA/Legal_Services/Special_Education/Due_Process_Hearings/Office_of_Legal_Services,_Special_Education_Due_Process_Hearing_Program/.

The Due Process Complaint letter or the TEA form available online must be sent to the school district superintendent and to:

Office of Legal Services
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701

The Texas Education Agency (TEA) will send you a letter telling you the name of the hearing officer they have assigned to your case. The hearing officer will schedule the hearing for a date that is within a few weeks of the date TEA receives your complaint. For this reason, it is a good idea for you and your attorney to prepare your case before you request the hearing. However, this is not always possible. If you do not think you can be ready in time for the hearing, your attorney can request an extension of time from the hearing officer. The hearing officer will usually grant reasonable requests for extensions of time. The school district may also ask for an extension of time.

If you have additional questions about the due process hearing process, you can call TEA's Office of Legal Services at 512-463-9720.

Resolution Meeting
Before conducting a due process hearing, the school must convene a meeting with the parents and the relevant members of the ARD committee who have knowledge of the facts in the due process hearing complaint. The meeting must include a school representative who has decision-making authority and must be held within 15 days of receiving the complaint. The school may not bring an attorney to the meeting unless the parent is bringing an attorney.

The purpose of the resolution meeting is to give the parents the opportunity to discuss their complaint and to allow the school an opportunity to resolve the dispute. The resolution meeting is required unless both the parent and school agree in writing to waive the meeting or they agree to mediation. If the school has not resolved the complaint within 30 days of receiving it, the due process hearing will proceed. Unless an extension of time has been ordered, the hearing officer's decision is due 45 days from the date after complying with the resolution meeting requirement.

If a resolution is reached, the parents and the school must sign a legally binding agreement. The agreement is enforceable in state or federal court. Either the school or the parent can withdraw their agreement within three days of signing it.

Time and Place of the Hearing
After completion of the resolution meeting timeline (30 days after receiving the complaint), the hearing should immediately proceed at a time and place set by the hearing officer. If the hearing is set at a time that does not work for you, ask to have it changed. You or your attorney should immediately tell the hearing officer of the time conflict and your preferred time.

Decision of the Hearing Officer
At the end of the hearing, the hearing officer will usually work out an agreement with the two sides for a date on which a decision will be due. Usually the hearing officer will allow each side to submit a brief (a written summary of the arguments and authorities for their case) before the decision is due. After the hearing and after all parties submit their briefs, the hearing officer will issue a written opinion deciding the dispute.

A hearing officer's decision about whether a student received FAPE must be based on substantive grounds. Substantive violations are those by which a school failed to provide special education and related services required under IDEA. A school's failure to meet the procedural requirements of IDEA, such as failing to provide appropriate notice or to have all of the required members at the ARD meeting, is not typically considered a substantive violation. In rare cases, a hearing officer may find that procedural violations significantly impeded a student's ability to receive FAPE, significantly impeded the parents' opportunity to participate in an ARD meeting, or caused a deprivation of educational benefit to the student.

If you win, you may be entitled to recover attorney's fees. If a hearing officer determines an appropriate IEP would have provided services for which you have already paid, you can ask the hearing officer to order reimbursement for those expenses. Typical examples are extended school year (ESY) and related services (such as physical therapy). You should discuss these issues with your attorney.

IDEA also allows the hearing officer to require the parent or the parent's attorney to pay attorney's fees to the school district if the parent's complaint was frivolous, unreasonable or without foundation and/or if the complaint was presented for an improper purpose, such as to harass, cause unnecessary delay or needlessly increase the cost of litigation.

Appeal to Court
If you or the school district disagrees with the hearing officer's final decision, either party may appeal to state or federal court. The appeal must be filed within 90 days from the date of the decision. If you do not already have an attorney, you will need one for the appeal.

Placement During Due Process Hearings and Court Appeals
If you choose to challenge the school's evaluation, program or placement in a due process hearing, IDEA requires the student to remain in the current placement during the hearings and appeals. This is often referred to as the "stay put" provision of the law. In discipline cases where a student has already been removed from the classroom for an interim period, the "stay put" provisions do not apply. You also may be entitled to an expedited hearing. (See Behavior/Discipline on page 59.)

Expedited Due Process Hearings on Discipline Issues
The steps of the due process hearing process apply to requests for a hearing over a disciplinary removal and/or manifestation determination review. There is a difference, however, in how quickly everything must happen. All important deadlines and time requirements are shortened to expedite the resolution of the case. While all matters in special education are time sensitive to some degree, Congress made a specific decision that due process hearings over disciplinary and removal conflicts must be addressed as quickly as possible. If your hearing request is about discipline or the MDR, you will want to know both the federal and state rules on expedited hearings.

FORM 13:
Letter Requesting Mediation

(Be sure to keep a copy for yourself.)

EXAMPLE

Date

Texas Education Agency
Division of Federal and State Education Policy
1701 North Congress Avenue
Austin, Texas 78701

Dear Texas Education Agency:

I am the parent of (name of student), a student who receives special education. I am writing this letter to request TEA mediation of my dispute with the _____ Independent School District concerning the education of my child. It is my hope that mediation will resolve this disagreement so it will not be necessary for me to request an impartial due process hearing.

(Tell in this paragraph why you are requesting mediation. Briefly describe the facts and tell how and why you disagree with the school.)

Sincerely,

Your name (required)
Your address (required)
Your telephone number (required)
Your fax number (optional)
Your e-mail address (optional)

cc: Superintendent of your school district (optional)

FORM 14

FORM 14:
Due Process Complaint Letter

(Be sure to keep a copy for yourself.)

Remember, you can use a form on TEA's website instead of writing your own letter to request a due process hearing. You must send your request to both the superintendent and TEA.

EXAMPLE

Date

Name of Superintendent
____ ISD
School district mailing address

Dear Superintendent _____ and Texas Education Agency:

I wish to request a hearing before an impartial hearing officer in order to challenge the failure of the _____ Independent School District to provide an appropriate education program for my child (student's name and address), a student receiving special education at (name of school).

(Tell in this paragraph why you are requesting a hearing. It is important to tell all the reasons you are requesting a hearing. Briefly describe the facts and, as specifically as possible, tell how and why you disagree with the school. Make sure you describe the problem as it relates to what the school wants or does not want to do).

I believe the problem can be resolved by (include ways you think the problem can be solved).

Sincerely,

Your name (required)
Your address (required)
Your telephone number (required)
Your fax number (optional)
Your e-mail address (optional)

CC: Texas Education Agency
Office of Legal Services
1701 North Congress Avenue
Austin, Texas 78701

IDEA

Texas Special Education Resources

The information provided in this resource section was current at the time of publication and is subject to change.

State Agencies

Department of Aging and Disability Services (DADS)
Note: As of September 1, 2016, most of DADS programs and services have moved to HHSC. Any remaining programs under DADS will continue to phase out, and the agency will no longer exist as of September 2017.

Department of Assistive and Rehabilitative Services (DARS)
Note: Effective September 1, 2016, DARS programs were transferred to the Health and Human Services Commission and the Texas Workforce Commission and the agency was abolished.

Department of Family and Protective Services (DFPS)
701 West 51st Street
Austin, Texas 78751
800-252-5400 (Hotline for Abuse of Children & Elderly or Disabled Adults)
www.dfps.state.tx.us

Department of State Health Services (DSHS)
1100 West 49th Street
Austin, Texas 78756-3199
888-963-7111; 512-458-7111
www.dshs.state.tx.us

Health and Human Services Commission (HHSC)
4900 North Lamar Blvd.
Austin, Texas 78751-2316
512-424-6500 / TTY 512-424-6597
www.hhsc.state.tx.us

Texas Council for Developmental Disabilities
(DD Council)
6201 East Oltorf, Suite 600
Austin, Texas 78741
800-262-0334; 512-437-5432 (voice)
512-437-5431 (TTY)
www.txddc.state.tx.us

Texas Education Agency (TEA)
1701 North Congress Avenue
Austin, TX 78701
512-463-9734 main number
512-463-9414 Division of Federal and State Education Policy
E-mail: sped@tea.texas.gov
http://tea.texas.gov/Curriculum_and_Instructional_Programs/Special_Education/

Texas Workforce Commission
101 E 15th St.
Austin, TX 78778
512-463-2222
www.twc.state.tx.us

Texas Disability Advocacy Organizations

ADAPT
1640A E. 2nd St., #100
Austin, Texas 78702-4412
512-442-0252
www.adapt.org

The Arc of Texas
8001 Centre Park Drive, Suite 100
Austin, TX 78754
800-252-9729; 512-454-6694
www.thearcoftexas.org

Attention Deficit Disorder Association (ADDA) of Texas Southern Region
12345 Jones Road, Suite 287-7
Houston, Texas 77070
281-897-0982
www.adda-sr.org

Autism Society of America
For listings of Texas chapters, visit www.autism-society.org

Best Buddies
www.bestbuddies.org/

Brain Injury Association of Texas
P.O. Box 95234
Grapevine, TX 76099
Voice: 512-987-0101; 800-444-6443
Fax: 512-326-8088
http://www.biausa.org/texas

Center on Disability and Development
Office Location:
Harrington Education Center Tower, Suite 637
Texas A&M University
Mailing Address:
4225 TAMU
College Station, TX 77843-4225
979-845-4612
http://cdd.tamu.edu/

Texas Disability Advocacy Organizations (continued)

Coalition of Texans with Disabilities (CTD)
1716 San Antonio Street
Austin, TX 78701
512-478-3366 (voice or TTY)
www.txdisabilities.org

Community Now!
1640A East 2nd Street, Suite 100
Austin, Texas 78702
www.communitynowfreedom.org

Deaf-Blind Multi-Handicapped Association of Texas (DBMAT)
www.dbmat-tx.org

Disability Rights Texas
2222 West Braker Lane
Austin, Texas 78758
800-252-9108; 512-454-4816
www.DRTx.org

Easter Seals
8505 Cross Park Drive, Suite 120
Austin, Texas 78754
800-798-1492; 512-478-2581
www.centraltx.easterseals.com
www.east-texas.easterseals.com
www.ntx.easterseals.com
www.rgv.easterseals.com
www.east-texas.easterseals.com

Family to Family Network (Develops the Texas Project First website)
13150 FM 529, Suite 106
Houston, TX 77041
713-466-6304
www.familytofamilynetwork.org
www.texasprojectfirst.org

Hogg Foundation for Mental Health
3001 Lake Austin Boulevard
Austin, Texas 78703-4200
http://www.hogg.utexas.edu/

Learning Disabilities Association of Texas
P.O. Box 831392
Richardson, Texas 75083-1392
800-604-7500; 512-458-8234
www.LDATX.org

Mental Health Association in Texas (MHAT)
1210 San Antonio St., Ste. 200
Austin, Texas 78701
512-454-3706
www.mhatexas.org

National Alliance for the Mentally Ill (NAMI Texas)
Mailing address:
P.O. Box 300817
Austin, TX 78703
Physical address:
Austin State Hospital Campus
Building 781, Room 428
Toll-Free: 800-273-8255

National Down Syndrome Society
Visit www.ndss.org for a list of Texas affiliates

Neuhaus Education Center (Dyslexia Information)
4433 Bissonnet
Bellaire, Texas 77401
713-664-7676
www.neuhaus.org

Partners Resource Network Inc.
Includes the federally funded Parent Training and Information Centers: PATH, PEN and TEAM
www.partnerstx.org

PATH Project
1090 Longfellow Dr., Suite B
Beaumont TX 77706-4819
800-866-4726 (Texas Parents only)
409-898-4684
www.partnerstx.org/projects/path/path.htm

PEN Project
1001 Main St. Suite 804
Lubbock, TX. 79401
Phone: 806-762 -1434
Toll-Free: 877 -762-1435
www.partnerstx.org/projects/pen/pen.htm

Special Kids, Inc. (SKI) – Federally Funded Community Parent Resource Center
Serves Houston Independent School Districts: South, South Central and Central
P.O. Box 266958
Houston, TX 77207-6958
713-783-KIDS (5437)
www.specialkidsinc.com

Special Olympics
www.sotx.org

TEAM Project
4501 Cartwright Road, Suite 605
Missouri City, Texas 77459
Phone: 281-969-5944
Toll-Free: 877-832-8945
www.partnerstx.org/projects/team/team.htm

Texas Disability Advocacy Organizations (continued)

Texas Center for Disability Studies
The University of Texas
J.J. Pickle Research Campus
10100 Burnet Rd., Bldg. CMS #137
Austin, TX 78758
512-232-0740
http://tcds.edb.utexas.edu

Texas Advocates
8001 Centre Park Drive, Suite 100
Austin, Texas 78754
512-522-6591
www.thetexasadvocates.org

Texas Appleseed
1609 Shoal Creek Blvd.
Austin, Texas 78701
www.Texasappleseed.org

Texas Parent to Parent
3710 Cedar Street, Box 12
Austin, TX 78705
512-458-8600; 800-896-6001
www.txp2p.org

Regional Education Service Centers

Texas has 20 Education Service Centers (ESCs), which serve school districts and parents within defined boundaries. Their job is to provide training and technical assistance to districts and parents in a variety of areas, including special education.

Several ESCs provide statewide leadership and technical assistance on specific areas regarding the education of students with disabilities (in parenthesis below) All ESC websites can be accessed through the TEA site, www.tea.texas.gov.

Region 1 ESC
(Multicultural and Diverse Learners and Texas Initiative for Disproportionate Representation in Special Education)
1900 West Schunior
Edinburg, Texas 78541-2234
956-984-6000
www.esc1.net

Region 2 ESC
(Texas Autism Conference)
209 North Water Street
Corpus Christi, Texas 78401-2599
361-561-8400
www.esc2.net

Region 3 ESC
(Low Incidence Disabilities)
1905 Leary Lane
Victoria, Texas 77901-2899
361-573-0731
www.esc3.net

Region 4 ESC
(Texas Assistive Technology Network, The Texas Behavior Support Initiative and Texas Collaborative for Emotional Development in Schools (TxCEDS))
7145 West Tidwell
Houston, Texas 77092-2096
713-462-7708
www.esc4.net

Region 5 ESC
350 Pine Street
Beaumont, Texas 77701
409-951-1700
www.esc5.net

Region 6 ESC
3332 Montgomery Road
Huntsville, Texas 77340-6499
936-435-8400
www.esc6.net

Region 7 ESC
1909 N. Longview Street
Kilgore, TX 75662-6827
903-988-6700
www.esc7.net

Region 8 ESC
2230 North Edwards
Mt. Pleasant, TX 75455
903-572-8551
www.esc8.net

Region 9 ESC
(Parent Coordination)
301 Loop 11
Wichita Falls, TX 76306-3799
940-322-6928
www.esc9.net

Regional Education Service Centers (continued)

Region 10 ESC
(Services for the Deaf and Hard of Hearing)
400 East Spring Valley Road
Richardson, TX 75083-1300
972-348-1700
www.region10.org

Region 11 ESC
(Texas Secondary Transition and Post School Results, Services for the Blind and Visually Impaired and Services for the Deaf and Hard of Hearing)
1451 S. Cherry Lane
White Settlement, Texas 76108
817-740-3600
www.esc11.net

Region 12 ESC
(Special Education Statewide Evaluation)
2101 West Loop 340
Waco, TX 76702-3409
254-297-1212
www.esc12.net

Region 13 ESC
(Texas Statewide Leadership for Autism)
5701 Springdale Road
Austin, TX 78723-3675
512-919-5313
www.esc13.net

Region 14 ESC
1850 Highway 351
Abilene, TX 79601-4750
325-675-8600
www.esc14.net

Region 15 ESC
612 South Irene
San Angelo, TX 76903
325-658-6571
www.netxv.net

Region 16 ESC
5800 Bell Street
Amarillo, TX 79109-6230
806-677-5000
www.esc16.net

Region 17 ESC
1111 West Loop 289
Lubbock, TX 79416-5029
806-792-4000
www.esc17.net

Region 18 ESC
(Legal Framework for the Child-Centered Process)
2811 LaForce Blvd.
Midland, TX 79711-0580
432-563-2380
www.esc18.net

Region 19 ESC
6611 Boeing Drive
El Paso, TX 79925
915-780-1919
www.esc19.net

Region 20 ESC
(Access to General Curriculum and Services for the Deaf and Hard of Hearing)
1314 Hines Avenue
San Antonio, TX 78208-1899
210-370-5200
www.esc20.net

Texas Special Education Information Center
Region 10 ESC
855-SPED-TEX (toll-free)
www.spedtex.org

Legal Assistance

County Bar Associations

These are organizations of lawyers in major counties. Several county bar associations have a lawyer referral service, which can refer parents to lawyers who specialize in education or child-related cases. See the yellow pages of your phone book. If your county does not have an association, contact the Lawyer Referral Service of the State Bar of Texas.

Lawyer Referral Service
State Bar of Texas
1414 Colorado Street
Austin, Texas 78701
512-427-1463
www.texasbar.com/LRIS

They will refer you to a lawyer near you who handles special education cases. A small fee (approximately $20) is charged for a half-hour consultation. Lawyers who speak languages in addition to English are available.

Legal Aid or Legal Services

Look for a Legal Aid or Legal Services office in your area in your local telephone directory, or contact the Texas Legal Services Center to see if your county is served.

Texas Legal Services Center
815 Brazos, Suite 1100
Austin, Texas 78701
1-800-622-2520
www.tlsc.org

Additional Legal Resources

Legal Aid regional offices have lawyers who may take some special education cases for families who meet their income requirements.

Legal Aid of Northwest Texas
1-888-529-5277
www.lanwt.org

Lone Star Legal Aid
Serves East Texas
www.lonestarlegal.org

Texas Rio Grande Legal Aid
1-888-988-9996
www.trla.org

Listings of Texas Attorneys and Advocates

The Council of Parent Attorneys and Advocates
www.copaa.org

What's Inside:

Words to Know

Laws, Rules and Regulations

Education Records

A Parent's Guide to the Special Education Process

- Referral
- Notice of Rights and Consent for Services
- Full and Individual Evaluation
- The ARD Meeting
- The IEP
- After the Meeting
- Resolving Disagreements

Texas Special Education Resources

The Arc Texas

www.TheArcofTexas.org

Disability Rights Texas

www.DRTx.org

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www.regions.com