

Greater Erath County Special Education Shared Service Arrangement

Local Operating Guidelines

For

Special Education

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Purpose of GECSESSA Local Operating Guidelines

The local operating guidelines have been developed in order to acquaint SSA and member district personnel with GECSESSA procedures and operating guidelines concerning the education of students **with disabilities**. All local procedures have been designed to meet the Federal and State guidelines and regulations of the GECSESSA member district board policy.

Policies are defined as written statements of what is to be achieved. The local procedures consist of written statements of the steps that the GECSESSA will take or require others to take to ensure that the policies are understood and followed. Operating guidelines as outlined in this manual further define the processes by describing actions the district will take when specificity and clarity are needed. They describe the actions to be taken, the person (s) responsible for taking the actions, and timelines for completion. Persons with responsibilities know each step necessary to fulfill the completion of the process with consistency, and have a way of measuring the performance of the process.

Operating guidelines are developed in support of the Policies and Procedures, and give procedural guidance in support of the requirements of IDEA Part 300. At no time should they be interpreted as being additional Policies and Procedures. GECSESSA staff has been informed of the difference.

Local procedures and operating guidelines have been designed to ensure an appropriate education for all students with disabilities while placing the least possible time and paperwork burden on school staff. As needs emerge or deficiencies in current procedures become apparent, changes will be made. All GECSESSA and member district staff are encouraged to review and evaluate all procedures, and help in the ongoing development of special education services.

Throughout this manual, the reference to GECSESSA refer to the Greater Erath County Special Education Shared Service Arrangement and its operating guidelines.

Child Find

20 U.S.C. §1401, 1412

Child Find is defined as the requirement to identify, locate, and evaluate children with disabilities. All children or individuals with disabilities, birth through 21 years of age, regardless of the severity of the disability and who are in need of special education and/or related services, are identified, located, and evaluated.

The GECSESSA ensures implementation of a comprehensive system of Child Find in which GECSESSA personnel actively search for all individuals, birth through 21 years of age, with disabilities. The GECSESSA further ensures that evaluations are completed in accordance with Federal timelines.

As a part of the GECSESSA comprehensive Child Find System, all children age birth through 21 years of age who have disabilities and are living in the GECSESSA member school districts shall be identified, located, and assessed in regard to their needs for special education and related services. The GECSESSA ensures the provision of a full educational opportunity for these individuals. The GECSESSA further ensures that a free appropriate public education (FAPE) is available to all students with disabilities aged 3 years through 21 years of age.

Students with disabilities who are eligible for special education are those students who have reached their third birthday and have not reached their twenty-second birthday on September 1 of the current school year, except as noted. Educational disabilities include: orthopedic impairment, other health impairment, auditory impairment (ages 0-21), visual impairment (ages 0-21), deaf-blind (ages 0-21), intellectual disability, emotional disturbance, specific learning disability, speech impairment, autism, multiple disabilities, and traumatic brain injury. The child identification process will include procedures for locating those children who are not in school, those who are in school but are not receiving special education services, those enrolled in private school, including home schooled, those who are homeless, or are wards of the State.

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

The GECSESSA encourages promotion of collaboration and cooperation the Education Service Center and other state, regional, and local agencies, especially with all ECI services, as well as in-district departments, to actively locate and identify students with disabilities in order to afford them a full educational opportunity. The GECSESSA further ensures compliance with confidentiality requirements in Federal and State law in the collection and use of data in its Child Find system.

The GECSESSA conducts early childhood screenings, displays public notices, and annually advertises the availability of services through the media and meetings with private schools. For children who are not yet three years of age, a referral is routed to Early Childhood Intervention.

The GECSSA will ensure compliance with the Memorandum of Understanding (MOU) Concerning Interagency Coordination of Special Education Services for Students with Disabilities in Residential Facilities. The MOU addresses:

- Responsibilities and programs
- Procedures and policies for implementation; and
- Procedures for resolving disputes

The MOU provides direction to school districts in meeting their legal obligation to provide a free appropriate public education (FAPE) to students residing in residential facilities.

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=125>

Early Childhood Intervention (ECI)

Referral process (from GECSESSA to ECI) Age 0-3

GECSESSA staff maintains a referral log on children ages 0-3 suspected of having a disability. Within two working days from the date that a child find referral is received, it is forwarded to an ECI program.

GECSESSA maintains a commitment of services related to year round programming based on ARD/IFSP decisions documenting the need for such service. If the referral is initiated within 90 days of the student's third birthday, GECSESSA will not route the referral to ECI, and GECSESSA will process the referral pursuant to GECSESSA regular child find procedures.

For students who are served by ECI and GECSESSA (auditory/visual impairments):

The student's IFSP (rather than ARD/IEP) will be developed collaboratively with ECI, GECSESSA staff, and each student's family (in accordance with IDEA/MOU) and will include signatures of the multidisciplinary team.

The deaf education and/or the vision service personnel of GECSESSA and or the Regional Program for the Deaf will provide monthly progress reports (concerning services identified in the IFSP) to the student's ECI case manager. The ECI case manager will forward the reports to GECSESSA for those students who have shared services from GECSESSA and ECI.

The district will provide services only under IDEA C guidelines, not IDEA B (there will be an ARD/IEP in place by the time the eligible student reaches his/her 3rd birthday).

Referral process (from ECI to GECSESSA) Ages 0-3

The ECI Program Coordinator will provide GECSESSA with referrals for students served in ECI. These referrals are made after the parent has agreed for ECI to release information to GECSESSA. GECSESSA's Special Education Director will accept and assign the referral to the appropriate assessment personnel. ECI and GECSESSA staff will conduct a face to face meeting with the student's parent approximately 120 days before the student's third birthday.

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

Referral process (not currently enrolled in ECI) to GECSESSA Age 0-3

Referrals initiated from all sources other than ECI will be assigned by the Special Education Director to the appropriate GECSESSA diagnostician or speech therapist. The diagnostician or speech therapist must:

- Obtain appropriate consent for assessment; and

- Schedule and complete the necessary assessment; and
- Schedule and conduct the ARD meeting to ensure that services are provided beginning on the student's 3rd birthday, if eligible for special education under IDEA B.

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=152>

Parents

34 C.F.R. §300.30. Parent

20 United States Code §1401. Definitions

T.A.C. §29.015. Foster Parents.

The term "parent" means:

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

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

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

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

Appointment of a Surrogate Parent

34 C.F.R. §300.519

GECSESSA will make reasonable efforts to appoint a surrogate parent not more than 30 days after there is a determination that the student needs a surrogate parent unless, the judge overseeing the student's care appoints the surrogate.

Unless appointed by the judge overseeing the student's care, GECSESSA will appoint a surrogate parent whenever:

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

The surrogate parent cannot be:

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

T.A.C. §29.001(10)

GECSSA requires appointed surrogate parents to:

- Visit the student and the student's school;
- Consult with the persons involved in the student's education, including teachers, caseworkers, court-appointed volunteers, guardians ad litem, attorneys ad litem, foster parents, and caretakers;
- Review the student's educational records;
- Attend meetings of the student's ARD Committee;
- Exercise independent judgment in pursuing the student's interests; and
- Complete a training program within 90 days of assignment as a surrogate parent.
- The district may select a person who is an employee of a nonpublic agency that only provides non-educational care for the student.

Training for Foster Parents and Surrogate Parents

34 Code of Federal Regulations §300.519

19 Texas Administrative Code §89.1047

The training program will include the following components:

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

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

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

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

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

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

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=123>

GECSESSA Procedures for appointing a surrogate parent

The campus diagnostician will inform the Director of Special Education when a student enrolls that may require a surrogate parent, or if the student is currently in foster care. The Director of Special Education will determine the need for a surrogate parent and appoint a surrogate parent as appropriate within 30 days after determining that the student needs a surrogate parent. The Director of Special Education will maintain a folder for each surrogate parent assigned. The folder will contain the following forms:

- Determination of Conflict of Interest
- Surrogate Parent Letter of Agreement
- Surrogate Parent Tracking Form
- Documentation of Required Surrogate Parent Training

The Adult Student

Transfer of Parental Rights at Age of Majority

34 C.F.R. §300.520; §300.625; §99.31

19 T.A.C. §89.1049

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

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

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

Notification of the Transfer of Rights

34 C.F.R. §300.520

19 T.A.C. §89.1049

T.E.C. §29.017

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

- That parental rights have been transferred to the adult student; and
- Of contact information for the parties to use in obtaining additional information.

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

Right to Notice Following a Transfer of Rights

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

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

Incarcerated Students

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

<http://esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=146>

Referral and Evaluation Process

20 U.S.C. §1400, 1413

T.A.C. §89.1011

If a student is experiencing learning difficulties, the parent may contact the Director of Special Education to learn about the GECSESSA's overall general education referral or screening system for support services. This system links students to a variety of support options, including referral for a special

education evaluation. Students having difficulty in the regular classroom should be considered for tutorial, compensatory, and other support services that are available to all students including a process based on Response to Intervention (RtI). The implementation of RtI has the potential to have a positive impact on the ability of school districts to meet the needs of all struggling students.

At any time, a parent is entitled to request an evaluation for special education services. If a parent submits a written request to the special education director or to a district administrative employee for a full individual and initial evaluation of a student, the GECSESSA will have 15 school days to determine if the evaluation is warranted. If evaluation is warranted, the parent will be provided with a Prior Written Notice of its proposal to conduct an evaluation. A Procedural Safeguard notice will be provided to the parent and the parent will be asked to give written consent for the evaluation

If the GECSESSA determines that the evaluation is not warranted, the GECSESSA will provide the parent, within 15 school days, a Prior Written Notice that explains why the student will not be evaluated. This written notice will include a statement that informs the parent of his or her rights if the parent disagrees with the district. Additionally, the parent will be given a Procedural Safeguard notice.

Refer to the member district's Student Intervention Team (SIT) procedures for the process utilized in the Response to Intervention (RtI) system.

Initial Evaluations

34C.F.R. §300.301; §300.8

T.E.C. §29.004

19 T.A.C. §89.1011

The GECSESSA must conduct a Full Initial and Individual Evaluation (FIIE) before the initial provision of special education and related services to a student with a disability. The initial evaluation must consist of procedures to determine whether a student is a student with a disability; and the educational needs of such students. The campus special education teacher will give the completed referral packet to the GECSESSA staff member (diagnostician or speech therapist) responsible for conducting the evaluation. The GECSESSA staff member will give the referral packet to the Director of Special Education for approval. Upon approval, the GECSESSA staff member will obtain written consent for evaluation from the parent. The "initiation date" of the referral is defined as the date the parent returns the signed Consent for Evaluation to the GECSESSA staff member. The GECSESSA staff member(s) complete(s) the full and individual evaluation and a written report within 45 school days from the date the written consent was received by the GECSESSA staff unless, the student has been absent from school during that period on three or more school days. If a student is absent three or more days, that period must be extended by a number of school days equal to the number of school days during that period on which the student has been absent. If the student is not enrolled in school, the Full Initial and Individual Evaluation and written report will be completed not later than the 45th school day following the date on which the school district receives written consent for the evaluation from the student's parent.

The ARD committee must make its decision regarding a student's initial eligibility determination and, if appropriate, IEP and placement within 30 calendar days from the date of the completion of the written Full Initial and Individual Evaluation report. If the 30th day falls during the summer and school is not in session, the student's ARD committee has until the first day of classes in the fall to finalize decisions concerning the student's initial eligibility determination, IEP, and placement unless the FIIE indicates that the student will need extended school year services during the summer.

If the school district receives the written consent for the evaluation from the student's parent at least 35 but less than 45 school days before the last instructional day of the school year, the written report of a Full Initial and Individual Evaluation of a student must be provided to the student's parent not later than June 30 of that year. The student's ARD committee must meet no later than the 15th day of the following school year to consider the evaluation. If the student was absent from school three or more days between the time that the district received written consent and the last instructional day of the school year, the timeline will be extended for the completion of the FIE to 45 instructional days with ARD committee meeting within 30 calendar days from completion of the FIE. If the FIE is completed by June 30 and indicates that the student will need extended school year services during that summer, the ARD committee must meet as expeditiously as possible.

Reevaluations

34 C.F.R. §300.303; §300.305

The GECSESA must ensure that a reevaluation of each student with a disability is conducted:

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

Review of Existing Evaluation Data (REED):

34 C.F.R. §300.302, §300.305

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

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

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

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

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

The local educational agency (LEA) must administer such assessments and other evaluation measures as may be needed to produce the data identified by the REED in accordance to the evaluation guidelines.

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

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

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

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

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

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

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

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

Group of Qualified Professionals

34 C.F.R. §300.306

19 T.A.C. §89.1040

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

- A licensed specialist in school psychology (LSSP), an education diagnostician, or other appropriately certified or licensed practitioner with experience and training in the area of the disability; or
- Licensed or certified professional for a specific eligibility category as specified in the applicable specific eligibility category guidelines.

Evaluation Procedures

34 C.F.R. §300.304

T.E.C. §29.310

19 T.A.C. §89.1230

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

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

In conducting the evaluation, the GECSESSA must:

- Not use any single measure or assessment as the sole criterion for determining whether a student is a student with a disability or determining an appropriate educational program for the student; and
- Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

The district must not use any single measure or assessment as the sole criterion for determining whether a student is a student with a disability or determining an appropriate educational program for the student; and use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

GECSESSA will ensure that assessments and other evaluation materials used to assess a student under this framework:

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

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

The evaluation is sufficiently comprehensive to identify all of the student's special education and related services needs, whether or not commonly linked to the disability category in which the student has been classified; and assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the student must be provided.

GECSESSA Procedures for Evaluation of Emotional Disturbance

Initial evaluations of a student's suspected of having an emotional disturbance are done by a multidisciplinary team which includes an LSSP, the campus diagnostician, the student's parents, the Special Education Counselor, the campus SIT Coordinator, and the student's teacher(s). Each member of this multidisciplinary team has specific responsibilities for completing the evaluation.

The SIT Coordinator and teacher(s) are responsible for:

- ensuring that the parent is aware of the nature of the referral
- completing questionnaires or other evaluation instruments related to the teacher's observations of the student's school performance and behaviors

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

The campus diagnostician is responsible for:

- notifying the Director of Special Education of the referral
- obtaining written consent from the parent
- conducting the necessary individual evaluation of cognition and academic skills, and
- providing the resulting evaluation data to the LSSP

The Special Education Counselor is responsible for:

- distributing questionnaires or other evaluation instruments related specifically to the diagnosis of emotional disturbance as request by the LSSP
- doing classroom observation(s) and contacting the parents of the student as appropriate and necessary for diagnostic purposes and
- scheduling the LSSP and informing the parent and the campus of this schedule
- providing the LSSP with collected evaluation data

The LSSP is responsible for:

- meeting with the parent, observing the student, and talking with campus personnel as appropriate
- analyzing the evaluation data
- completing a written report addressing the student's eligibility for special education services as emotionally disturbed, and
- furnishing the written report to the GECSESSA personnel prior to the day of the ARD meeting

GECSESSA Procedures for Evaluation of Autism

Autism Evaluation Team Procedures:

1. The purpose of the Autism Evaluation Team (AET) is to determine eligibility and make recommendations for educational performance.
2. AET members include: Educational Diagnostician, Special Education Counselor, Speech Therapist, LSSP, Related Service personnel as appropriate
3. Campus diagnostician notifies AET members that evaluation needs to be done, and sets a date and time for the evaluation.
4. AET administers appropriate checklists and assessments deemed necessary.
5. LSSP is provided AET data, interviews the parent and observes the student, and is responsible for writing the Autism eligibility report.
6. If cognitive and/or achievement testing is needed, the diagnostician will complete the assessments.
7. The Speech Therapist completes language and communication assessments and reports in the FIE.
8. The campus diagnostician is responsible for completing the remaining portions of the FIE.

Categories of Eligibility

Emotional Disturbance

34 C.F.R. §300.306, 300.8

19 T.A.C. §89.1040

Emotional disturbance includes schizophrenia.

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

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

Specific recommendations for behavioral support and interventions must be made.

<http://esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=136>

Specific Learning Disability

20 U.S.C. §§1401, 1414, 6368;

34 C.F.R. Part 300;

Texas Education Code;

19 T.A.C. Chapter 89

A student referred for an evaluation of a suspected learning disability is evaluated by a multidisciplinary team consisting of the campus diagnostician, the student's parent(s) and teacher(s), the school nurse, and others who have knowledge that relates to the student's abilities, strengths and weaknesses. The evaluation generally involves the campus diagnostician administering individual intelligence and

achievement tests for comparison of the student's cognitive ability and present levels of academic performance. The diagnostician also gathers other evaluation data from other members of the multidisciplinary team as a part of the diagnostic process.

Participation in a Response to Intervention (RtI) Process:

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

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

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

Observation

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

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

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

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

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

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

Criteria

A student may be considered to be a student with a learning disability if:

- The student does not achieve adequately for the student's age or to meet State-approved grade-level standards in one or more of the following areas:
 - Oral Expression
 - Listening Comprehension
 - Written Expression
 - Basic reading skills
 - Reading fluency skills
 - Reading comprehension
 - Mathematics calculation
 - Mathematics problem solving

- The student's lack of adequate achievement is indicated by performance on multiple measures such as:
 - In-class tests
 - Grade average over time (e.g., six weeks, semester);
 - Norm or criterion-referenced tests;
 - Statewide assessments; or
 - A process based on the student's response to scientific, research-based intervention;
- The student does not make sufficient progress under the additional criteria of a RtI model, or the student meets the additional criteria under a pattern of strengths and weaknesses model;
- The student's lack of adequate achievement is not primarily the result of exclusionary factors;
- The student's lack of adequate achievement is not due to a determinant factor;
- The student has a learning disability which means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia; and
- By reason of the learning disability, the student needs special education and related services.

RtI Model

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

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

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

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

Pattern of Strengths and Weaknesses Model

When applying the State's pattern of strengths and weaknesses model, finding that the student meets the criteria for a learning disability must include a determination that the student:

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

Exclusionary Factors

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

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

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

- A visual, hearing, **or motor** disability;
- Intellectual Disability;
- Emotional disturbance;
- Cultural factors;
- Environmental or economic disadvantage; or
- Limited English proficiency

Determinant Factor

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

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

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

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

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

Conclusion

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

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

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

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

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=143>

Autism/PDD

20 U.S.C. §§1401, 1414;

34 C.F.R. Part 300;

19 T.A.C. Chapter 89

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

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

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

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

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

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=137>

Intellectual Disability

20 U.S.C. §§ 1401, 1414;

34 C.F.R. Part 300;

19 T.A.C. Chapter 89

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

- Has been determined to have significantly below average intellectual functioning as measured by a standardized individually administered test of cognitive ability in which the overall test

score is at least two standard deviations below the mean, when taking into consideration the standard error of measurement of the test: and

- Concurrently exhibits deficits in at least two of the following areas of adaptive behavior: communication, self-care, home living, social/interpersonal skills, and use of community resources, self-direction, functional academic skills, work, leisure, health, and safety.
- The student's deficits are manifested during the developmental period; and
- By reason of the intellectual disability, the student needs special education and related services.

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=137>

Speech Impairment

20 U.S.C. §§1401,1414;

34 C.F.R. Part 300;

19 T.A.C. Chapter 89

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

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

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

Eligibility is determined by the ARD committee.

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=138>

Deaf-Blindness

20 U.S.C. §1401. 1414;

34 C.F.R. Part 300;

Texas Education Code;

19 T.A.C. Chapter 89

A student with deaf-blindness is one who has been determined to meet the criteria for deaf-blindness as stated in Federal regulations. In meeting the criteria, a student with deaf-blindness is one who, based on specified evaluations:

- Meets the eligibility criteria for auditory impairment and visual impairment;
- Meets the eligibility criteria for a student with a visual impairment and has a suspected hearing loss that cannot be demonstrated conclusively, but a speech/language therapist, a certified speech and language therapist, or a licensed speech language pathologist indicates there is no speech at an age when speech would normally be expected;
- Has documented hearing and visual losses that, if considered individually, may not meet the requirements for auditory impairment or visual impairment, but the combination of such losses adversely affects the student's educational performance; or

- Has a documented medical diagnosis of a progressive medical condition that will result in concomitant hearing and visual losses that, without special education intervention, will adversely affect the student's educational performance.
- The combination of auditory and visual impairments causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for students with deafness or students with blindness; and
- By reason of the deaf-blindness, the student needs special education and related services.

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

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=148>

Deaf/Hard of Hearing

20 U.S.C. §§ 1401, 1414;

34 C.F.R. Part 300;

Texas Education Code;

18 T.A.C. Chapter 89

A student is deaf or hard of hearing is one who has been determined to meet the criteria for deafness as stated in Federal regulations, or hard of hearing as stated in Federal regulations. The evaluation data reviewed by the multidisciplinary team in connection with the determination of a student's eligibility based on deafness or hard of hearing, must include an otological examination performed by an otologist or by a licensed medical doctor, with documentation that an otologist is not reasonably available. An audiological evaluation by a licensed audiologist shall also be conducted. The evaluation data shall include a description of the implications of the hearing loss for the student's hearing in a variety of circumstances with or without recommended amplification.

A student may be considered to be a student with deafness or hard of hearing if:

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

Communication Needs

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

- Oral (spoken) means;
- Aural (hearing) means;
- Fingerspelling; or
- Sign language

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=134>

Multiple Disabilities

20 U.S.C. §§1401, 1414;

34 C.F.R. Part 300

19 T.A.C. Chapter 89

A student with multiple disabilities is one who has been determined to meet the criteria for multiple disabilities as stated in Federal regulations. In meeting the criteria, a student with multiple disabilities is one who has a combination of disabilities defined in this section and who meets all of the following conditions:

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

Multiple disabilities does not include deaf-blindness.

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

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=145>

Orthopedic Impairment

20 U.S.C. §§1401, 1414;

34 C.F.R. Part 300;

19 T.A.C. Chapter 89

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

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

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

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=144>

Other Health Impairment

20 U.S.C. §§1401, 1414;

34 C.F.R. Part 300;

19 T.A.C. Chapter 89

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

attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette's Disorder as stated in Federal regulations. The multidisciplinary team that collects or reviews evaluation data in connection with the determination of a student's eligibility based on other health impairment must include a licensed physician.

The health problems manifest themselves as:

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

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

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=141>

Traumatic Brain Injury

20 U.S.C. §§1401, 1414;

34 C.F.R. Part 300;

19 T.A.C. Chapter 89

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

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

- The student has an acquired injury to the brain caused by an external physical force;
- The injury results in total or partial functional disability or psychosocial impairment or both;
 - Applies to both open or closed head injuries resulting in impairments in one or more areas: Cognition; Language; Memory; Attention; Reasoning; Abstract thinking; Judgment; Problem-solving; Sensory; Perceptual, and motor abilities; Psychosocial behavior; Physical functions; Information processing; and Speech.
- The traumatic brain injury adversely affects the student's educational performance; and
- By reason of the traumatic brain injury, the student needs special education and related services.

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=142>

Visual Impairment

20 U.S.C. §§ 1401, 1414;

34 C.F.R. Part 300;

19 T.A.C. Chapter 89

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

- Has been determined by a licensed ophthalmologist or optometrist:
 - To have no vision or to have a serious visual loss after correction; or
 - To have a progressive medical condition that will result in no vision or a serious visual loss after correction.
- Has been determined by the following evaluations to have a need for special services:
 - A functional vision evaluation by a professional certified in the education of students with visual impairments or a certified orientation and mobility instructor. The evaluation must include the performance of tasks in a variety of environments requiring the use of both near and distance vision and recommendations concerning the need for a clinical low vision evaluation and an orientation and mobility evaluation; and
 - A learning media assessment by a professional certified in the education of students with visual impairments. The learning media assessment must include recommendations concerning which specific visual, tactual, and/or auditory learning media are appropriate for the student and whether or not there is a need for ongoing evaluation in this area.
- A student with a visual impairment is functionally blind if, based on the preceding evaluations; the student will use tactile media (which includes Braille) as a primary tool for learning to be able to communicate in both reading and writing at the same level of proficiency as other students of comparable ability.
- Beginning with the 2014-15 school year, a full individual and initial evaluation of a student suspected of having a visual impairment must include an orientation and mobility evaluation conducted by a person who is appropriately certified as an orientation and mobility specialist and must be conducted in a variety of lighting conditions and in a variety of settings, including in the student's home, school, and community and in settings unfamiliar to the student.
- Beginning with the 2014-15 school year, a person who is appropriately certified as an orientation and mobility specialist must participate, as part of a multidisciplinary team, in evaluating data used in making the determination of the student's eligibility as a student with a visual impairment.
- Beginning with the 2014-15 school year, the scope of any reevaluation of a student who has been determined, after the Full Initial and Individual Evaluation, to be eligible for the district's special education program on the basis of a visual impairment must be determined by a multidisciplinary team that includes an appropriately certified orientation and mobility specialist.

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

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=140>

Noncategorical

20 U.S.C. §1414;

34 C.F.R. Part 300;

19 T.A.C. Chapter 89

A student between the ages of 3.0-5.11 years who is evaluated as having an intellectual disability, emotional disturbance, specific learning disability, or autism may be described as noncategorical early childhood.

Prior Written Notice

20 U.S.C. §§ 1414, 1415;

34 C.F.R. Part 300;

19 TAC Chapter 89

Situations When Required

The GECSESSA must provide prior written notice to the parent whenever it:

- Proposes or refuses to initiate or change the identification of the student;
- Proposes or refuses to initiate or change the evaluation of the student;
- Proposes or refuses to initiate or change the educational placement of the student;
- Proposes or refuses to initiate or change the provision of FAPE to the student;
- Proposes to convene an ARD committee meeting as part of the invitation to the ARD meeting; or
- Implements an IEP with which the parent or adult student disagrees, pursuant to reaching closure and consensus procedures.

Timeline and Manner

The GECSESSA must provide a least five school days prior written notice:

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

Required Contents

The prior written notice must include:

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

Additional Content Requirement for a Proposal to Evaluate

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

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

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

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

- Purpose, time, and location of the meeting;
- Who will be in attendance;
- Information relating to ARD committee membership of other individuals who have knowledge or special expertise about the student;

- Information relating to the participation of the Part C (ECI) service coordinator or other representatives of the Part C system at the initial ARD committee meeting for a student previously served under Part C; and
- Beginning not later than the first IEP to be in effect when the child turns 14, or younger if determined appropriate by the ARD committee:
 - That a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the student, in accordance with the guidelines for transition services;
 - That the district will invite the student; and
 - Any other agency that will be invited to send a representative in accordance with the guidelines for consent.

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=124>

Consent for Initial Evaluation

34 C.F.R. §300.300; §300.302; §300.9

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

Actions that Do Not Constitute Evaluation

The following actions do not constitute evaluation:

- Screening to determine strategies for curriculum implementation;
- Conducting a REED as part of an initial evaluation or a reevaluation; and
- Administering a test or other evaluation that is administered to all students.

Elements of Consent

The GECSESSA must make reasonable efforts to obtain informed consent.

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

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

Information and Consent for certain psychological examinations or tests

Texas Education Code §29.0041; §29.004

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

- If the district determines that an additional examination or test is required for the evaluation of a student's need for special education, after obtaining consent from the student's parent, the

GECSSESA must provide the information regarding the additional test, including the name of the test and an explanation of its use in developing an appropriate IEP to the student's parent and must obtain additional consent for the examination or test.

- The time required for the district to provide information and seek additional consent may not be counted toward the 45 school day timeline for completion of an initial evaluation; and
- If the parent does not give consent to the additional examination or test within 20 calendar days after the date the district provided to the parent the required information about the test and its use, the parent's consent is considered denied.

When despite Reasonable Efforts, Consent is Not Obtained

34 C.F.R. §300.300; §300.322

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

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

If the parent fails to respond or does not provide consent for an initial evaluation:

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

If the parent of a student who is homeschooled or placed in a private school at parent expense does not provide consent for the initial evaluation, the district will comply with the guidelines for private schools. <http://fw.esc18.net/frameworkdisplayportlet/ESC19-FW-Summary.aspx?FID=177>

Consent for Reevaluation

20 U.S.C. §1414;

34 C.F.R. Part 300;

Texas Education Code

Elements of Consent

The GECSSESA must make reasonable efforts to obtain informed consent.

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

- The parent has been fully informed of all information relevant to the to the reevaluation in his or her native language or other mode of communication;
- The consent describes the reevaluation;
- The consent lists the records (if any) that will be released and to whom;

- The parent understands and agrees in writing to the district carrying out the reevaluation;
- The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time; and
- The parent understands that if the parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).

Information and Consent for Certain Psychological Examinations or Tests

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

When Despite Reasonable Efforts, Consent is Not Obtained

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

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

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

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

If the parent refuses to consent to the reevaluation:

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

Consent must be obtained for reevaluation, but the 45 school day timeline for completed FIE is not in effect. Date for completed reevaluation should be determined by the ARD committee and clearly stated in the ARD document. <http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FIE=188>

Summary of Performance

20 U.S.C. §1414; 34 C.F.R. Part 300;

19 T.A.C. Chapter 89

A summary of performance is required for:

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

The summary of performance must consider, as appropriate:

- The views of the parent;

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

The summary of performance must contain:

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

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

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=162>

ARD Committee Meeting

ARD Committee Membership

34 C.F.R. §300.321; 300.324

19 T.A.C. §89/1050; 75.1023

The ARD committee shall be composed of:

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

- Including to the extent appropriate, with consent for disclosure of confidential information, a representative of any participating agency that is likely to be responsible for providing or paying for transition services;
- The student whenever appropriate.
 - The student should attend when transition services are to be discussed.
 - The student must attend when the transfer of rights to the adult student are to be discussed.
- A teacher who is certified in the education of children with auditory impairments when the student has a suspected or documented auditory impairment including deaf-blindness.
- A teacher who is certified in the education of students with visual impairments when the child has a suspected or documented visual impairment including deaf-blindness.
- A member of the **language proficiency** assessment committee (LPAC) when determining participation in state and district-wide assessments for a student with limited English proficiency, to address the student's language needs.
- A representative from career and technology education (CATE), preferably the teacher, when considering initial or continued placement of a student in CATE.

Attendance and Excusal

34 C.F.R. §300.320; §300.321

19 T.A.C. §89.1050

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

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

The parent may still give the school permission to conduct an ARD meeting without them being present. Such permission shall be recorded in the minutes of the ARD committee meeting.

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

Excusal Process for an ARD Member who is not required to Attend:

- If the diagnostician/speech therapist determines that a member of the ARD committee is not required to attend the committee meeting as permitted above, he/she will contact the appropriate campus administrator to receive permission to excuse the member from attendance.
- When scheduling the ARD meeting with the parent, the diagnostician/speech therapist will inform the parent that the ARD committee member will not be present because the member's area of the curriculum or related services will not be modified or discussed in the meeting.
- If the parent insists that the ARD committee member be present, then the ARD Committee member will be present.
- If the parent agrees with the excusal, the name of the person excused, the reason for the excusal, and the parent's and district's agreement to the excusal shall be documented on the Agreement to Excuse ARD Committee Member (When the Member's Area of the Curriculum or

Related Service will not be Discussed) form. If the parents should rescind permission for the excusal at the time of the meeting, and previously excused member cannot attend, the meeting shall be rescheduled.

- The administrative representative and diagnostician/Speech Therapist may not be excused. (Note: The Speech Therapist does not have to be present at the ARD meeting when the student's primary disability is not speech and no new speech/language evaluation will be presented; however, the Speech Therapist should provide written comments regarding the student's needs and progress for consideration by the committee.)
- A student's general education teacher may not be excused from an ARD meeting for a speech only student.

Excusal Process for ARD Member who is required to Attend

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

- This type of excusal will be used rarely in the district. It should only be used for extreme emergency situations. It is preferable to reschedule an ARD meeting so that all required members can attend the meeting.
- The ARD committee member requesting an excusal from the meeting shall contact the diagnostician/speech therapist. The diagnostician/speech therapist will then notify the campus administrator of the request. The campus principal will determine if the excusal will be allowed.
- The excusal will be documented on the Consent to Excuse ARD Committee Member (When the Member's Area of the Curriculum or related Service will be Discussed) form.
- The administrative representative and diagnostician/speech therapist may not be excused using this process.

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=109>

Parent Participation in ARD

34 C.F.R. §300.322; 300.501; 300.328

19 T.A.C. §89.1015

GECSESSA will make every effort to ensure that a student's parent is present at the ARD committee meeting or is afforded the opportunity to participate including:

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

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

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

- Individual telephone calls
- Conference calls

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

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

The GECSESSA will take action to ensure that the parent understands the proceedings of the ARD committee meeting by

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

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

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

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=165>

GECSESSA Procedures for securing parent participation

1. Print out a written notice in Success ED.
2. Mail the notice to all appropriate parent/adult student at least 7 days prior to meeting unless documentation of parent agreeing to an earlier meeting.
3. Provide the special education teacher or appropriate general education teacher two reminder notices to be sent home with the child.
4. Follow up on any response received from the parent indicating a need to reschedule the meeting.
5. Document all contacts and/or attempted contacts with detailed information related to phone calls and results of phone calls, visits to parent's home or work and results of those visits, or e-mails and responses to the e-mails.
6. Detailed logs of phone calls and results of those phone calls and copies of written notices (including e-mails) will be included in the ARD documentation.

Initial Meeting

34 C.F.R. §300.323

The ARD committee must meet to develop an IEP within 30 calendar days of determination of eligibility.

As soon as possible following the development of the IEP, the district must ensure that special education and related services are made available to the child in accordance with the student's IEP.

Annual ARD Meeting

34 C.F.R. §300.324; 300.116; 300.320

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

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

IEP Process

In developing the IEP, the ARD Committee must consider:

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

Development

- Prior to developing IEP goals and objectives, A statement of present levels of academic and functional performance (PLAAFP) should be written for each area to be addressed in the IEP.
- All IEPs must be based on enrolled grade level TEKS.
- Goals and objectives should be chosen and prioritized based on identified needs/PLAAFP.

Documentation and Review

- Formal updating of student progress on the goals and objectives in the student's official eligibility folder shall be completed by the special education teacher, speech therapist or related service providers at the following times:
 - At the end of each grading period
 - Prior to the student's annual review ARD meeting
- The special education teacher, speech therapist, and related service providers will review and document the student's progress toward meeting IEP goals and objectives for which they have responsibility. All progress reports will be completed on Special Education Manager.
- Progress reports will be sent home to parents each grading period with the student's general education report card.
- The special education teacher, speech therapist or related service provider will provide a copy of the updated "mastered" IEP to the diagnostician at a student's annual ARD meeting. This IEP will be filed in the student's eligibility folder.
- Teachers in general education are required to accommodate and/or modify the general education program for a student as determined by the ARD Committee
- Teachers in general education shall maintain documentation that they are modifying and/ or accommodating educational programs of students receiving special education services as specified in the student's IEP. Documentation may include lesson plans, accommodation sheets, samples of modified tests, or other performance evaluation measures.
- If a student has not maintained passing grades on progress reports or report cards for two consecutive six weeks in the same academic area, the diagnostician should be contacted to schedule a failure review ARD meeting to determine if the failure is due to an inappropriate IEP or placement.

Diagnostician or Speech Therapist's Role

Prior to a student's annual ARD meeting, the campus diagnostician or speech therapist will provide the special education teacher with the General Education Teacher ARD Meeting Input form to be distributed to the child's general education teacher(s). The teacher may:

- List and/or document the present competencies and progress of a student
- List and document any accommodations/modifications currently being provided to the student
- List and document any accommodation/modifications recommended for the upcoming IEP

- Provide a current classroom grade for the student
- Share any information which they feel will assist an ARD committee in making ARD decisions

The information contained in the General Education Teacher ARD Meeting Input form will be reviewed and considered by the ARD Committee.

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

- Receives relevant sections of the student's current IEP
- Be informed of specific responsibilities related to implementing the IEP, such as
 - Goals
 - Benchmarks
 - Objectives
 - Behavior plans
 - Needed accommodations
 - Needed modifications
 - Other educational, behavioral, or health supports needed for the student

The above information will be:

- Sent to teachers before services begin in a hard copy format
- Documented as to when the teacher received the information (the campus diagnostician/speech therapist will keep this documentation)
- Kept by each teacher in the student's working folder
- Shared only with others that have a need to know (substitute teachers, instructional aides, etc.)

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

- Receive relevant sections of the student's current IEP
- Be informed of specific responsibilities related to implementing the IEP such as
 - Goals
 - Benchmarks
 - Objectives
 - Behavior plans
 - Needed accommodations
 - Needed modifications
 - Other educational, behavioral, or health supports needed for the student
- Sign and date documentation of receipt of the current IEP accommodations/modifications

Annual Goals

20 U.S.C. §§1412, 1414;

34 C.F.R. Parts 200, 300

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

- Designed to meet the student's needs that result from the student's disability to enable the student to be involved in and to make progress in the general education curriculum;
- Designed to meet each of the student's other educational needs that result from the student's disability; and
- For a student that takes a modified or alternate assessment on the academic content standard for the grade in which the student is enrolled.

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

- Designed to meet the student's needs that result from the student's disability to enable the student to be involved in and to make progress in the general education curriculum; and
- Designed to meet each of the student's other education needs that result from the student's disability

The ARD committee must provide a description of:

- How the student's progress toward meeting the annual goals will be measured; and
- When periodic reports on the progress the student is making toward meeting the annual goals will be provided:

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=113>

Revising the IEP

34 C.F.R. §300.324

19 T.A.C. §89.1070

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

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

ARD Meeting at the Request of the Parent

19 T.A.C. §89.1045

T.E.C. §26.0081

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

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

Campus or district-wide personnel should inform parents of the functions of the ARD Committee and the circumstances or types of problems for which requesting an ARD meeting would be appropriate. Parents should be directed to appropriate campus personnel for resolution of problems that are not appropriately addressed through ARD committee meetings.

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=163>

Determination of Eligibility

20 U.S.C. §§1401, 1414, 6368;

34 C.F.R. Part 300;

19 T.A.C. Chapter 89

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

- Whether the student has a disability;

- Who, by reason of the disability, needs special education and related services.

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

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

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

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

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=111>

Present Levels of Performance

20 U.S.C. §1414;

34 C.F.R. Part 300,

Prekindergarten Curriculum Guidelines

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

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

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=112>

Assessment for Exit of a Student from a Bilingual or ESL Program

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

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

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

- The ARD committee in conjunction with the LPAC must:
 - Provide a statement of why the student cannot participate in the regular assessment;
 - Determine an appropriate assessment instrument for exit from a bilingual education or ESL program;

- Provide a statement of why the particular assessment selected is appropriate for the student; and
- Determine the performance standard on the assessment instrument required for exit.

STAAR

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

A personal graduation plan must be developed for any student grades 6-12 who does not perform satisfactorily on a State-wide assessment.

STAAR Alternate 2

The State has developed STAAR Alternate 2 to assess students with the most significant cognitive disabilities based on alternate achievement standards.

Students receiving special education services who have the most significant cognitive disabilities and are unable to participate in other State-wide assessments even with substantial accommodations and/or modifications will be assessed with STAAR Alternate 2, if the State's participation requirements are met.

A personal graduation plan must be developed for any student in grades 6-12 who does not perform satisfactorily on a State-wide assessment.

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=116>

Transition Services

20 U.S.C. §§1401,1414;

34 C.F.R. Part 300

Texas Education Code;

19 T.A.C. Chapter 89

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

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

- Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the student with a disability to facilitate the student's movement from school to post-school activities, including:
 - Post-secondary education;
 - Vocational education;
 - Integrated employment (including supported employment);
 - Continuing and adult education;
 - Adult services;
 - Independent living; or
 - Community participation; and
- Is based on the individual student's needs, taking into account the student's strengths, preferences, and interests; and includes:

- Instruction;
- Related services;
- Community experiences;
- The development of employment and other post-school adult living objectives; and
- If appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.

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

Development of Post-secondary Goals

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

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

Development of a Coordinated Set of Activities

Transition services may be special education, if provided as specially designed instruction, or a related service, if required to assist the student with a disability to benefit from special education.

The ARD committee must determine transition services (including courses of study) needed to assist the student in reaching post-secondary goals.

The LEA must ensure that each student enrolls in the courses necessary to complete the curriculum requirements for the recommended or advanced high school program unless:

- The student, the parent of a student, and a school counselor or school administrator agree in writing signed by each party that the student should be permitted to take courses under the minimum high school program and the student:
 - Is at least 16 years of age;
 - Completes two credits required for graduation in each subject of the foundation curriculum; or
 - Failed to be promoted to the tenth grade one or more times as determined by the school district.
- The LEA provides written notice developed by the TEA and printed in English and Spanish to the parent explaining the benefits of the recommended high school program before the student's parent agrees that the student may be permitted to take courses under the minimum high school program;
- The student's parent signs a confirmation of receipt of the written notice and returns the confirmation to the student's campus; and

A student agreeing to take courses under the minimum high school program may, upon request, resume taking courses under the recommended high school program.

(Students taking alternate assessments will graduate under the minimum high school program.

Students will need to recover any credits earned through modified instruction if they move from the minimum plan to the recommended or distinguished plan).

Development of a Coordinated Set of Activities

The following issues must be considered in the development of the IEP, and if appropriate, integrated into the IEP:

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

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

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

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

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=117>

Special Factors

20 U.S.C. §§ 1401, 1414;

34 C.F.R. Part 300;

Texas Education Code;

19 T.A.C. Chapter 89;

Texas School for the Blind and Visually Impaired brochure; Texas School for the Deaf brochure

Behavior

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

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

Communication

The ARD committee must address the communication needs of the student.

Limited English Proficiency (LEP)

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

- Review all pertinent information including the results of the appropriate assessment instrument identified in accordance with State and district-wide guidelines for indicating a student as LEP;

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

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

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

The student may be exited from a bilingual education or ESL program at the end of the school year in which the student received special language services from a bilingual education or ESL program.

To exit a student with a disability from a bilingual education or ESL program, the ARD committee in conjunction with the LPAC must:

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

Deaf or Hard of Hearing

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

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

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

Blind or Visually Impaired

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

- Either:
 - Provide for reading and writing instruction in Braille and the use of Braille that is sufficient to enable the student to communicate with the same level of proficiency as other students of comparable ability who are at the same grade; or

- Determine that instruction in Braille or the use of Braille is not appropriate.
- Provide a detailed description of the arrangements made to provide the student with orientation and mobility training, instruction in Braille, use of large print, other training to compensate for serious visual loss, access to special media and special tools, appliances, aids, or devices commonly used by individuals with serious visual impairments;
- Set forth the plans and arrangements made for contacts with and continuing services to the student beyond regular school hours to ensure the student learns the skills and receives the training specified above;
- For a student who is functionally blind, specify the appropriate learning medium based on the assessment;
- Indicate that the student has been provided a detailed explanation of the various service resources available in the community and throughout the State; and
- Provide each parent with the State-adopted form that contains written information about programs offered by state institutions.

Each person assisting in the development of the IEP for a student who is functionally blind must receive information describing the benefits of Braille instruction.

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

- Provide training in compensatory skills
- Provide training in communication skills
- Provide training in orientation and mobility
- Provide training in social adjustment; and
- Provide vocational or career counseling

Assistive Technology

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

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

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

- The term includes:
 - The evaluation of the needs of the student; including a functional evaluation of the student in the student’s customary environment;
 - Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices for the student;
 - Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
 - Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
 - Training or technical assistance for the student, or, where appropriate, the family of the student; and

- Training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of the student.

GECSESSA Assistive Technology Referral Procedures

1. Referral may come as part of an evaluation or as a recommendation of an ARD committee
2. Referral is made to the GECSESSA Assistive Technology Team when a student needs AT to improve, remediate, or compensate for deficits in educational performance.
3. The AT team uses a variety of observation checklists and interviews to determine the needs of the student and consults with outside professional resources in order to meet the student's needs.
4. A report is written with findings and recommendations for the following areas: vision and hearing, communication, seating and positioning, mobility, self-help, and writing.
5. A member of the AT Team will attend the ARD meeting to present the findings of the evaluation.

Autism

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

The strategies to be addressed are as follows:

- Social skills supports and strategies based on social skills assessment/curriculum and provided across settings:
 - For example, trained peer facilitators (e.g., circle of friends), video modeling, social stories, and role playing;
- Positive behavior support strategies based on relevant information:
 - For example, antecedent manipulation, replacement behaviors, reinforcement strategies, and data-based decisions; and a behavior intervention plan (BIP) developed from a functional behavioral assessment (FBA) that uses current data to target behaviors and addresses behavioral programming across home, school, and community-based settings;
- In-home and community-based training or viable alternatives that assist the student with acquisition of social/behavioral skills:
 - For example, strategies that facilitate maintenance and generalization of such skills from home to school, school to home, home to community, and school to community;
- Suitable staff-to-student ratio appropriate to identified activities and as needed to achieve social/behavioral progress based on the student's developmental and learning level (acquisition, fluency, maintenance, generalization) that encourages work towards individual independence:
 - As determined by, for example, adaptive behavior evaluation results; behavioral accommodations needed across settings; and transitions within the school day;
- Daily schedules reflecting minimal unstructured time and active engagement in learning activities:
 - For example, lunch, snack, and recess periods that provide flexibility within routines; adapt to individual skill levels; and assist with schedule changes, such as changes involving substitute teachers and pep rallies;

- Communication interventions, including language forms and functions that enhance effective communication across settings:
 - For example, augmentative, incidental, and naturalistic teaching;
- Extended educational programming:
 - For example, extended day and/ or extended school year services that consider the duration of programs/settings based on assessment of behavior, social skills, communication, academics, and self-help skills;
- Teaching strategies based on peer reviewed research-based practices for students with autism spectrum disorder:
 - For example, those associated with discrete-trial training; visual supports, applied behavior analysis, structured learning, augmentative communication, or social skills training;
- Beginning at any age, consistent with transition services, futures planning for integrated living, work, community, and educational environments that considers skills necessary to function in current and post-secondary environments;
- Parent/family training and support, provided by qualified personnel with experience in autism spectrum disorders:
 - That for example, provides a family with skills necessary for a student to succeed in the home/community setting;
 - That for example, includes information regarding resources: For example parent support groups, workshops, videos, conferences, and materials designed to increase parent knowledge of specific teaching/management techniques related to the student's curriculum;
 - That for example, facilitates parental carryover of in-home training : For example strategies for behavior management and developing structured home environments and/or communication training so that parents are active participants in promoting the continuity of interventions across all settings; and
- Professional educator/staff support:
 - For example, training provided to personnel who work with the student to assure the correct implementation of techniques and strategies described in the IEP.

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=119>

Least Restrictive Environment (LRE)

34 C.F.R. §300.114; §300.117

GECSSESA ensures that to the maximum extent appropriate, a student with disabilities, including students in public or private institutions or other care facilities, are educated with students who are not disabled.

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

GECSSESA ensures that each student with a disability may participate with non disabled students in nonacademic and extracurricular services to the maximum extent appropriate to the needs of the student.

Factors for Consideration

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

- Whether the district provided supplementary aids and services:
- Whether the district modified the regular education program:
 - A student with a disability may not be removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum;
- Whether the efforts to modify and supplement regular education were sufficient:
 - The district need not provide every conceivable supplementary aide or services to assist the student;
 - The Individuals with Disabilities Education Act does not require regular education instructors to devote all or most of their time to one disabled student or to modify the regular education program beyond recognition;
- Whether the student receives educational benefit from regular education (including non-academic benefit);
- The student's overall education experience in the mainstreamed environment, balancing the benefits of regular and special education for the individual student:
 - For example, a student may be able to absorb only a minimal amount of the regular education program, but may benefit enormously from the language models that his or her nondisabled peers provide (in such case, the benefit that the student receives from mainstreaming may tip the balance in favor of mainstreaming); and
- The effect the disabled student's presence has on the regular classroom, and thus, on the education that the other students are receiving.

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

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

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

- On the student; or
- On the quality of services that the student needs.

Placement Determination

34 C.F.R. §300.116; §300.320

19 T.A.C. §89.1075

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

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

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

- Students with disabilities must have available an instructional day commensurate with that of students without disabilities.

Placement Closest to Home Campus

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

- Gives first consideration to the student attending the campus with the appropriate program that is closest to the student's home as required by Federal law.
- After consideration to "closest to home", the ARD committee may consider other extenuating circumstances such as class size, etc.

A representative from the receiving campus must be present at the ARD committee meeting, and if the decision is made to go to a special program, the receiving campus must be in agreement with the decision. The principal of the proposed receiving campus may call for a Pre-ARD staffing involving personnel from the student's current/home campus and/or district personnel who have been involved in the student's evaluation and placement.

Instructional Arrangements

34 C.F.R. §300.115

19 T.A.C. §89.1075; §89.63; §89.1080

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

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

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

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

Students Residing in a Residential Facility

19 T.A.C. §89.1115

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

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

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

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

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

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

Residential Placement at Public Expense

19 T.A.C. §89.61

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

- List the services which the district is unable to provide and which the facility will provide;
- Establish criteria and estimated timelines for the student's return to the district;
- Verify that residential placement is needed;
- Verify that the placement is the LRE for the student; and
- Follow the requirements for supplementary aids and services, special education and related services when selecting the facility.
- Follow the requirements for the use of funds for contract services including residential placements.

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

19 T.A.C. §89.1085; §89 1090

T.E.C. §30.057

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

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

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

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

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=120>

Supplementary Aids and Services, Special Education, Related Services

20 U.S.C. §§1401, 1414;

34 C.F.R. Part 300;

Texas Education Code;

19 T.A.C. Chapter 89;

Fifth Circuit Federal Court of Appeals

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

Supplementary Aids and Services

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

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

Special Education

The ARD committee must determine needed special education services:

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

Related Services

The ARD committee must determine needed related services:

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

Program Modifications and Supports for School Personnel

The ARD committee must determine needed program modifications or supports for school personnel that will be provided to enable the student to:

- Advance appropriately toward attaining the annual goals;
- Be involved in and make progress in the general education curriculum, and be afforded an equal opportunity to participate in extracurricular and other nonacademic activities including, to the maximum extent appropriate, in nonacademic settings and services such as:
 - Meals;
 - Recess periods;
 - Counseling services;
 - Athletics;
 - Transportation;
 - Health services;
 - Recreational activities;
 - Special interest groups or clubs sponsored by the district;

- Referrals to other agencies; or
- Employment of students, including both employment by the district and assistance in making outside employment available; and
- Be educated and participate with other children with disabilities and non disabled children.

Intensive Program of Instruction

For a child who did not perform satisfactorily on STAAR or STAAR Alternate 2:

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

For a student who did not perform satisfactorily on an end-of-course assessment instrument for secondary-level courses in Algebra I, Biology, English I, English II, or United States History:

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

Accelerated Instruction under the Texas Reading Initiative

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

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

Student Success Initiative

For a student in the fifth grade, each time the student fails to perform satisfactorily on the reading or mathematics assessment of STAAR or STAAR A:

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

For a child in the eighth grade, each time the student fails to perform satisfactorily on the reading or mathematics assessment of STAAR or STAAR A:

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

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

Initiation, Frequency and Duration

The ARD committee must provide:

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

- The anticipated duration of those services and modifications.

Location

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

- Except that these provisions do not explicitly require parental participation in campus location;
- The requirement that parents be involved in determining “educational placement” does not necessarily mean they must be involved in the selection of campus location;
- The location must be as close as possible to the student’s home;
- Unless the IEP requires some other arrangement, the student is educated at the campus that he or she would attend if not disabled; and
- The provision that requires the IEP to specify the location is primarily administrative.

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

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

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

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

The GECSESSA shall ensure that a continuum of services is available to meet the needs of eligible students with disabilities.

All placements will be the determination of the ARD committee after reviewing documentation to indicate intervention strategies and placements have been ineffective.

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=115>

Reaching Closure and Consensus

Texas Education Code;

19 T.A.C. Chapter 89

Reaching Closure

The ARD committee documentation must include:

- The date of the meeting
- The names, positions, and signatures of the members participating in each meeting. This documentation will be the ARD signature page.

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

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

Reaching Consensus

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

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

- Offer the parents or adult student who disagrees a single opportunity to have the committee recess for a period of time not to exceed ten school days:
 - Except when the student's presence on the campus presents a danger of physical harm to the student or others or when the student has committed an expellable offense or an offense which may lead to a placement in an alternative education program;
- Provide a written statement of the basis for the disagreement. A statement of the disagreement must be provided in the IEP. If the parent or adult student refuses to provide the statement, the diagnostician or speech therapist will provide the statement.
- When the parent accepts the offer to reconvene, determine by mutual agreement prior to the recess, the date, time, and place for continuing the ARD committee meeting.

During a recess, the ARD committee members must:

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

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

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

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=133>

IEP Amendment Process

IEP Amendment Without a Meeting

20 U.S.C. §§1414, 1415;

34 C.F.R. Part 300

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

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

Only minor changes will be made through an amendment. Eligibility determinations, changes of placement, changes in related services and manifestation determination reviews may not be conducted through an amendment.

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

- Addition/deletion of instructional accommodations
- Additions/deletions of accommodations for state assessments
- Routine schedule changes from one general education class to another
- Implementation of an accelerated instruction plan

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

- District personnel wishing to amend the IEP will contact the diagnostician to discuss the proposed amendment and provide appropriate information and/or documentation to support the amendment.
- If the requested change to the IEP is appropriate, the diagnostician or a special education teacher will contact the parent or adult student by telephone, in person, or in writing with the proposed change(s) to the IEP. The parent shall be informed that he/she may request that the entire ARD committee consider the proposed change.
- After verbal or written agreement is obtained to amend the IEP, it will be documented on the GECSESA ARD amendment cover letter.
- The ARD amendment form will be completed and signed by the campus administrator, special education teacher, regular education teacher, and either the diagnostician or speech therapist, whichever is applicable.
- A copy of the cover letter, ARD amendment form, and prior written notice will be mailed or given to the parent.
- A copy of the changes will be given to the campus administrator and special education teacher.
- The original will be filed in the student's eligibility folder.

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

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summanry.aspx?FIE=132>

Graduation

20 U.S.C. §§ 1412, 1414;

34 C.F.R. Part 300;

Texas Education Code

19 T.A.C. Chapter 89

Graduation from high school with a regular high school diploma:

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

For a student graduating and being awarded a high school diploma under this part, graduation terminates the student's eligibility for special education services and entitlement to the benefits of the Foundation School Program.

Graduation for Students Receiving Special Education Services entered Grade 9 in 2014-15 and thereafter

A student entering ninth grade in the 2014-15 school year and thereafter, receiving special education services may graduate and be awarded a regular high school diploma if the student meets one of the following conditions:

- The student has satisfactorily completed the State's or district's (whichever is greater) minimum curriculum and credit requirements for graduation under the Foundation High School Program applicable to children in general education; and
- The student has had satisfactory performance on the state required exit-level assessment instrument unless the student's ARD committee has determined that satisfactory performance is not necessary for graduation.

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

- The student has satisfactorily completed the State's or district's (whichever is greater) minimum curriculum and credit requirements for graduation under the Foundation High School Program through courses, one or more of which contained modified curriculum, applicable to children in general education; and
- The student has had satisfactory performance on required state assessments, unless the student's ARD committee has determined that satisfactory performance is not necessary for graduation.

The student must also successfully complete the student's individualized education program (IEP) and meet one of the following conditions:

- Consistent with the IEP, the student has obtained full-time employment, based on the student's abilities and local employment opportunities, in addition to mastering sufficient self-help skills to enable the student to maintain the employment without direct and ongoing educational support of the local school district.
- Consistent with the IEP, the student has demonstrated mastery of specific employability skills and self-help skills that do not require direct ongoing educational support of the local school district.

- The student has access to services that are not within the legal responsibility of public education or employment or educational options for which the student has been prepared by the academic program.
- The student no longer meets age eligibility requirements.

A student receiving special education services may earn an endorsement under §74.13 if the student:

- Satisfactorily completes the requirement for graduation under the Foundation High School Program as well as the additional credit requirements in mathematics, science and elective courses as specified in §74.13 with or without modified curriculum;
- satisfactorily completes the courses required for the endorsement under §74.13 without any modified curriculum; and
- performs satisfactorily on the required state assessments.

In order for a student receiving special education services to use a course to satisfy both a requirement under the Foundation High School Program and a requirement for an endorsement, the student must satisfactorily complete the course without any modified curriculum

Graduation for Students Receiving Special Education Services who entered Grade 9 prior to 2014-15

A student receiving special education services who entered Grade 9 before the 2014-15 school year may graduated and be awarded a high school diploma under the Foundation High School Program if the student's ARD committee determines that the student should take courses under that program and the student satisfies the requirements of that program.

A student receiving special education services who entered Grade 9 before the 2014-15 school year may graduate and be awarded a regular high school diploma if the student meets one of the following conditions.

- The student has demonstrated mastery of the required district or state standards (whichever is greater) and satisfactorily completed credit requirements for graduation under the recommended or distinguished achievement high school programs including satisfactory performance on the required state assessments.
- The student has demonstrated mastery of the required district or state standards (whichever is greater) and satisfactorily completed credit requirements for graduation under the minimum high school program, including participation in required state assessments. The student's ARD committee will determine whether satisfactory performance on the required state assessments is necessary for graduation.
- The student has demonstrated mastery of the required district or state standards (whichever is greater) through courses, one or more of which contain modified content that is aligned to the standards required under the minimum high school program, as well as satisfactorily completed credit requirements under the minimum high school program, including participation in required state assessments. The student's ARD committee will determine whether satisfactory performance on the required state assessments is necessary for graduation. The student graduating under this subsection must also successfully complete the student's IEP and meet one of the following conditions.
 - Consistent with the IEP, the student has obtained full-time employment, based on the student's abilities and local employment opportunities, in addition to mastering sufficient self-help skills to enable the student to maintain the employment without direct and ongoing educational support of the local school district.
 - Consistent with the IEP, the student has demonstrated mastery of specific employability skills and self-help skills that do not require direct ongoing educational support of the local school district.

- The student has access to services that are not within the legal responsibility of public education or employment or educational options for which the student has been prepared by the academic program.
- The student no longer meets age eligibility requirements

For students who receive a diploma under this section, the ARD committee must determine needed educational services upon the request of the student or parent to resume services, as long as the student meets the age eligibility requirement

Students Who Have Completed Four Years of High School but have not Met Graduation Requirements

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

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

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

The child may participate in only one graduation ceremony to receive a certificate of attendance.

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

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=131>

Personal Graduation Plan

Texas Education Code;

19 T.A.C. Chapter 89

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

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

- Does not perform satisfactorily on a State-wide assessment; or
- Is not likely to receive a high school diploma before the fifth school year following the student's enrollment in grade 9, as determined by the district.

A personal graduation plan must address participation of the parent:

- Including consideration of the parent's educational expectation for the student

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

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

<http://esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=164>

Extended School Year (ESY) Services

34 C.F.R. §300.106;

19 T.A.C. §89.1065; §89.1055

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

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

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

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

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

Limitations

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

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

Determination of Need

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

- The district must ensure that ESY services are available as necessary to provide a free appropriate public education; and
- ESY services must be provided only if the student’s ARD committee determines, on an individual basis, that the services are necessary for the provision of FAPE.

Data to Make the Decision

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

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

Regression in Critical Areas

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

- A skill is critical when the loss of that skill results, or is reasonably expected to result , in any of the following occurrences during the first eight weeks of the next regular school year:

- Placement in a more restrictive instruction arrangement;
 - Significant loss of acquired skills necessary for the student to appropriately progress in the general curriculum;
 - Significant loss of self-sufficiency in self-help skill areas as evidenced by an increase in the number of direct service staff and/or amount of time required to provide special education or related services;
 - Loss of access to community-based independent living skills instruction or an independent living environment provided by non-educational sources as a result of regression in skills; or
 - Loss of access to on-the job training or productive employment as a result of regression in skills; and
- “Severe or substantial regression” means that the student has been, or will be, unable to maintain one or more acquired critical skills in the absence of ESY services.

Recoupment of Acquired Skills

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

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

Goals and Objectives

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

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

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=130>

Consent for Services

20 U.S.C. §1414;

34 C.F.R. Part 300

Elements of Consent

The district must make reasonable efforts to obtain informed consent.

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

- The parent has been fully informed of all information relevant to the initial provision of special education and related services in his or her native language or other mode of communication;
- The consent describes the initial provision of special education and related services;
- The consent lists the records (if any) that will be released and to whom;
- The parent understands and agrees in writing to the district carrying out the initial provision of special education and related services;

- The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at anytime; and
- The parent understands that if the parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).

When Despite Reasonable Efforts, Consent is Not Obtained

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

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

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=187>

Revocation of Consent by Parents

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

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

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

The GECSESSA is not required to amend the student's education records to remove any references to the student having received special education and related services in the past.

When a parent revokes consent for services, the Director of Special Education is to be notified so that a "Ready and Willing" letter may be issued to the parent.

<http://fwesc18.net/frameworkdisplayportlet/Documents/ARD%20Guide%20ADDENDUM%20%202-16-09%20Final.pdf>

Special Consents

Consent to Access Public Benefits

20 U.S.C. §1412;

OSEP Letter to State Directors of Special Education (May 3, 2007)

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

Elements of Consent

The GECSESSA must obtain consent from the parent each time that access to public benefits or to an insurance program is sought, which means:

- The parent has been fully informed of all information relevant to the GECSESSA's use of public benefits or insurance in his or her native language or other mode of communication, including that:
 - The GECSESSA may not require parents to sign up for or enroll in public benefits or insurance programs in order for their student to receive FAPE;
 - The GECSESSA may not require parents to incur an out-of-pocket expense such as the payment of a deductible or co-pay amount incurred in filing a claim;
 - The GECSESSA may not use a student's benefits under a public benefits or insurance program if that use would decrease available lifetime coverage or any other insured benefit;
 - The GECSESSA may not use a student's benefits under a public benefits or insurance program if that use would result in the family paying for services that would otherwise be covered by the public benefits or insurance program and that are required for the student outside of the time the student is in school;
 - The district may not use a student's benefits under a public benefits or insurance program if that use would risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures;
- The parent is informed that the parents' refusal to allow access to public benefits or to an insurance program in which the student participates does not relieve the district of its responsibility to ensure that all required services are provided at no cost to the parents;
- The consent describes the activity of the district accessing public benefits or an insurance program;
- The consent lists the records (if any) that will be released and to whom;
- The parent understands and agrees in writing to the district accessing the public benefits or insurance program in which the student participates;
- The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time; and
- The parent understands that if the parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=178>

Consent to Access Private Insurance

34 C.F.R. Part 300

GECSESSA does not routinely seek to access private insurance. Any exceptions to this practice require the approval of the Director of Special Education.

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=178>

Consent to Transfer Assistive Technology Devices

34 C.F.R. Part 300;

Texas Education Code;

19 T.A.C. Chapter 89

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

The assistive technology device may be transferred to:

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

Before transferring an assistive technology device, the district must, through a Uniform Transfer Agreement that incorporates the standards of the State, obtain informed consent from the parent which means:

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

When Despite Reasonable Efforts, Consent is not Obtained

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

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

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

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=191>

Consent for Disclosure of Confidential Information

20 U.S.C. §1417;

34 C.F.R. Parts 99, 300

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

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

- To officials of agencies providing or paying for transition services; and
- If a student is enrolled, or is going to enroll in a private school that is not located in the district of the parent's residence, between district officials where the private school is located and district officials of the parent's residence.

Elements of Consent

Parental consent means:

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

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=183>

Transfer Students

Transmittal of Records

34 C.F.R. §99.31; §99.34; §300.323;

19 T.A.C. §25.002; §25.007; §7.010

To facilitate the transition for a student with a disability:

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

When an Evaluation is Pending

34 C.F.R. §300.301; 300.304;

19 T.A.C. §89.1050

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

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

- A child enrolls in a school served by the GECSESSA after the timeframe has begun and prior to a determination by the student's previous district as to whether the student is a student with a disability;
- The parent and the GECSESSA agree to a specific time when the evaluation will be completed; and
- The GECSESSA is making sufficient progress to ensure a prompt completion of the evaluation.
- The initial evaluation is completed no later than the 45th school day following the date GECSESSA receives the consent.

IEP for a Student with a Disability Who Transfers Within the State

34 C.F.R. §300.323

19 T.A.C. §89.1050

The GECSESSA must verify that the student with a disability:

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

The district must provide such student with FAPE:

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

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

The GECSESSA must verify that the student with a disability:

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

The GECSESSA must provide such student with a FAPE:

- Including services comparable to those described in the previously held IEP;
- In consultation with the parents;
- Until such time as the district:
 - Conducts an evaluation, if determined necessary by the GECSESSA; and
 - Develops a new IEP.

Within 30 school days from the date the student is verified as being a student eligible for special education services:

- Conduct an evaluation, if determined to be necessary; and
- Develop, adopt, and implement a new IEP

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=108>

Incarcerated Students

20 U.S.C. §1412; §1414; §1415;

34 C.F.R. Part 300

Limitations to FAPE

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

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

The obligation to make FAPE available to students with disabilities aged 18 through 21 does not apply to students who:

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

Students in Adult Prisons

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

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

Transfer of Parental Rights

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

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

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=129>

Private Schools

20 U.S.C. §1401, §1412;

19 T.A.C. Chapter 89

Characteristics of a Private School (including a religious school and home school)

- An adopted curriculum, including scope and sequence;
- Formal review and documentation of student progress and performance gains;
- Teaching strategies and methods; and
- Targeted instruction based on identified student needs.

System to Identify, Locate, Evaluate and Serve

- GECSESA will locate and evaluate all students who attend a private school located within the jurisdiction of GECSESA. This will include those students with disabilities attending religiously affiliated schools and students who are homeschooled. Referral and evaluation will be conducted in the same manner as other students.
- On an ongoing basis representatives of private schools are invited to a face-to face meeting to discuss child find activities and participate in consultation as stated below (Consultation

Process). Follow up letters will be sent to each private school outlining the district's proportionate share decisions.

- Evaluation of students who reside **within** the jurisdiction of GECSESSA:
 - Private school personnel or the parent contacts the student's home campus to request an evaluation for special education.
 - GECSESSA campus diagnostician or speech therapist gathers the referral information and conducts the evaluation on the home campus in the same manner as other students.
 - The initial ARD meeting is held at the student's home campus to determine eligibility and develop an IEP including placement options that GECSESSA is willing to provide.
 - Parent will make the choice between public school services or private school services subject to the procedures stated below (participation in the services).
- Evaluation of students who reside **outside** the jurisdiction of GECSESSA but attend a private school within GECSESSA:
 - Private school personnel or the parent contact the GECSESSA Director of Special Education to request an evaluation for special education.
 - The Director of Special Education will assign a diagnostician or speech therapist to gather referral information and conduct an evaluation at the private school in the same manner as other students.
 - The diagnostician or speech therapist will convene a multidisciplinary team meeting composed of qualified professionals and the parent to be held at the private school campus.
 - GECSESSA evaluation personnel will share all information with the parents and advise them of services in the home district.

Participation in These Services

- All eligible private school students will be considered for participation in special education services using the proportionate share amount. No individual student has a right to participate or a guarantee of being designated to receive services. If the student is designated to participate, he or she has no right to the same type or amount of services the student would have received if the student had enrolled in the public school system.

Child Find for Private School Students

- For a student ages birth-21 who resides in the districts served by GECSESSA, the ARD committee will decide whether an IEP will be developed even if the parent clearly indicates the student will be enrolled in private school.
- Eligible private school students will be given the same opportunity for reevaluation and annual ARDs or Service Plan meetings as all other GECSESSA special education students.

Consultation Process

- Representatives of eligible private school students including parents and private school administrators will be consulted on an ongoing basis in regards to:
 - Child find
 - Proportionate share of funds
 - Consultation process
 - Provision of special education and related services
 - Written explanation by GECSESSA regarding services
- Consultation will be timely, meaningful and held before eligible private school students are designated to participate.

- Consultation will be used to obtain information on the number, needs, and location of eligible private school students. The consultation will include who should participate, the nature, method and location of services, and how the services should be evaluated.
- GECSESSA will make the final decision on who participates, the specifics of the program, and how it will be evaluated.
- Consultation may be in written form or through individual or group meetings.

Proportionate Share

- GECSESSA will calculate the proportionate share of IDEA-B funds using the TEA formula based on the student count as of the TEA date. Data will be based on the previous school year student count.
- GECSESSA will make the final decision on who participates.
- This decision will be made on a yearly basis
- Eligible private school students who move into a GECSESSA district after service plans are developed will have no entitlement to participate, but will be considered on a case by case basis.
- Based on the proportionate share (calculated on an annual basis) GECSESSA will annually determine how many students will be served, the amount of time to be served, and the type of services to be provided.

Service Plan

- Individual service plans will be in place before the beginning of the school year, or before services begin.
- Individual plans will be implemented as soon as possible after development.
- The plans are available to staff who implement them.
- The plans will be reviewed periodically, but at least annually.
- Students with a plan in one school year have no entitlement to participate in the next year.

Individual Service Plan Team

- The team is the same as the ARD committee plus a representative of the private school.
- The general education teacher may be an employee of the private school or a district employee that teaches the grade level of the student.
- Notice will be given to the parent regarding a mutually convenient time and place of the meeting, the purpose of the meeting, and who will be in attendance. GECSESSA will use the 5 school day notice rule.
- GECSESSA will follow the same procedures as for ARD committee meetings to hold the service plan meeting without the parent.
- GECSESSA will provide a copy of the service plan to the parent.

Components of an Individual Service Plan

- The service plan will describe the specific special education and related services that GECSESSA will provide.
- The service plan will specify where the services will be provided.
- The service plan will address transportation.

Use of School District Property

- Equipment and supplies may be placed at the private school as determined by GECSESSA.

- The equipment and supplies will remain GECSESSA property and under the control of GECSESSA.
- The equipment and supplies may be used only to serve the specific eligible private school student.
- The equipment and supplies should be removed promptly when no longer needed.
- The GECSESSA may remove the equipment and supplies if it determines they are being used for purposes other than serving the specific eligible student.

Procedural Protections Available to the Parent

- Parents of a private school student may request a due process hearing relating to the identification (i.e., child find) or evaluation of the student. Due process hearings relating to the educational placement or the provision of FAPE are not available to parents who voluntarily place their student in a private school.
- Parents can only file a complaint with TEA about the nature or implementation of a service plan, or that an eligible private school student was not designated to participate in the program funded by the proportionate share in a specific school year.

Dual Enrollment

Dual enrollment is when a parent of a student with a disability enrolls the child in both public and private schools.

To dually enroll, the student must meet age requirements:

- Begins on the child's third birthday;
- Continues until whichever comes first:
 - The end of the school year in which the student; turns five; or
 - When the student is eligible to attend the district's kindergarten program.

From the student's IEP, the parent and the district must determine:

- Based on the requirements concerning placement in the least restrictive environment, and the policies and procedures of the district:
 - Which special education and/or related services will be provided to the student; and
 - The location where those services will be provided.

The district must provide special transportation with Federal funds only when the ARD committee determines that the condition of the student warrants the service in order for the student to receive the special education and related services (if any) set forth in the IEP.

Complaints regarding the implementation of the components of the student's IEP that have been selected by the parent and the district may be filed with TEA.

The procedures relating to due process hearings do not apply to complaints regarding the implementation of the components of the student's IEP that have been selected by the parent and the district.

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=126>

Discipline

20 U.S.C. §1415;

34 C.F.R. Part 300;

Texas Education Code

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

At any time a student with special needs has a change of placement; school personnel should contact the campus diagnostician.

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

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

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

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

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

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

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

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

<http://esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=154>

Change of Placement

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

A change of placement occurs if:

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

Pattern

The student has been subjected to a series of removals that constitute a pattern when:

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

Decision

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

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

Notification

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

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

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=155>

Manifestation Determination

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

Membership and Meeting

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

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

Information

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

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

Determination

The conduct is a manifestation of the student's disability if the committee determines that either one of the following conditions are met:

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

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=157>

When Behavior is a Manifestation

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

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

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

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

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

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=158>

When Behavior is Not a Manifestation

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

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

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=160>

Removals for Less than 10 Cumulative Days

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

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

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

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

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

- Services may be provided in an interim alternative educational setting (DAEP).

Removals that are a Change of Placement

The district must comply with guidelines regarding manifestation determination.

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

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

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=161>

Special Circumstances

Special circumstances exist if the student:

- Carries a weapon to or possesses a weapon at school, on school premises, or to, or at a school function under the jurisdiction of TEA or the district:
 - The term "dangerous weapon" means a weapon, device, instrument, material, or substance, animate or inanimate, that is a use for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2 ½ inches in length;
- Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, or school premises, or at a school function under the jurisdiction of TEA or the district:
- Controlled substance means a drug or other substance identified under schedules I, II, III, IV, or V;
- Illegal drug means a controlled substance; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that ACT or under any other provision of Federal law; or
- Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of TEA or the district:
 - The term "serious bodily injury" means bodily injury which involves a substantial risk of death; extreme physical pain; protracted and obvious disfigurement; or protracted loss or impairment of the function of a bodily member, organ, or mental faculty;

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

If the removal is for more than 10 consecutive school days, the district must comply with the guidelines regarding change of placement and conduct a manifestation determination review:

- School personnel may remove a student to a DAEP without regard to whether the behavior is determined to be a manifestation of the student's disability;

- As long as the removal is for not more than 45 school days if the behavior is a manifestation of the student's disability; and
- Services must be determined and provided.

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=159>

Restraint and Time-out

Texas Education Code;

Texas Penal Code;

19 T.A.C. Chapter 89

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

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

Data reporting regarding the use of restraint must be electronically reported to the Texas Education Agency in accordance with reporting standards specified by the TEA.

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

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

This section applies to other peace officers performing law enforcement duties on school property or during a school-sponsored or school-related activity only with regard to the data reporting requirement concerning the use of restraint.

This section and any rules or procedures under this section does not apply to (1) juvenile probation, detention, or corrections personnel; or (2) an educational services provider with whom a student is placed by a judicial authority, unless the services are provided in an educational program of the district.

Confinement

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

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

- The student possesses a weapon as described under TEC 37.007(a)(1); or
- The confinement is necessary to prevent the student from causing bodily harm to the student or another person.

Restraint

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

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

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

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

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

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

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

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

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

- The efforts made to de-escalate the situation and alternatives to restraint that were attempted; and
- Information documenting parent contact and notification.

Physical restraint does not include the use of:

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

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

Time-out

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

- That is not locked; and
- From which the exit is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object. A school employee, volunteer or independent contractor may use time-out with the following limitations:
- Physical force or threat of physical force must not be used to place a student in time-out;
- Time-out must only be used in conjunction with an array of positive behavior intervention strategies and techniques and must be included in the student's IEP and/or BIP if it is utilized on a recurrent basis to increase or decrease a targeted behavior; and
- Use of time-out must not be implemented in a fashion that precludes the ability of the student to be involved in and progress in the general curriculum and advance appropriately toward attaining the annual goals specified in the student's IEP.

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

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

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

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=156>

Independent Educational Evaluation (IEE)

20 U.S.C. §1415;

34 C.F.R. Part 300

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

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

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

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

IEE at Public Expense

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

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

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

Conditions

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

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

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

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

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

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

GECSESSA Criteria

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

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

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

Results of IEE

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

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

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=198>

Other Considerations for an IEE

- If the GECSESSA has not conducted an evaluation, the parent does not have a right to an independent evaluation at public expense. The results of a parent-initiated IEE will be considered by the district, but such consideration does not make the GECSESSA liable for reimbursement for the IEE.
- If a parent requests an IEE, the parent must schedule an appointment with the Director of Special Education to discuss requirements and arrangements for the IEE.
- Evaluators must provide proof of expertise in the area of evaluation techniques and interpretation in the area of dispute. Additionally, the evaluator must have current certification or license in the area of suspected disability and/or educational need.
- Evaluators must agree to follow TEA guidelines in completing the evaluation. The evaluation should be designed to address whether or not the student has a disability as set forth in Federal and State law and to assess specific areas of educational need.
- Evaluators must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information, including information provided by the parent and the school and should not use any single measure or assessment as the sole criterion for determining if the student is a student with a disability.
- Assessment instruments, materials and techniques must be:
 - Selected and administered so as not to be discriminatory on a racial, cultural or gender basis;
 - Provided and administered in the language and form most likely to yield accurate information on what the child knows and can do academically, developmentally and functionally;
 - Used for purposes for which the assessments or measures are valid and reliable; and
 - Administered in accordance with any instructions provided by the producer of the assessment instruments.
- The evaluator must provide an original typed or computer-generated evaluation report within 30 calendar days from the date the GECSESSA mails a written authorization to the evaluator and no later than 5 days prior to the ARD committee meeting. Protocols must be available for review. The report must include an original signature and title of all persons participating in the evaluation. The report must comply with all requirements of State and Federal regulations.

- Reimbursements/payments will be made directly to the evaluator upon receipt of an evaluation report which meets all of the GECSESSA's and TEA's criteria. Parents obtaining an IEE without following the GECSESSA's procedures will risk non-payment.
- The GECSESSA will not pay unreasonably excessive fees. An unreasonably excessive fee is one that is 25% or more above the prevailing fees in the area (as established by Medicaid/Medicare Service Provider Manual) by professionals who are qualified to conduct specific tests and unique circumstances of the child. This determination will be made by the Director of Special Education.
- Whenever an IEE is at public expense, the criteria under which the IEE is obtained, including the location of the examination and the qualifications of the examiner, must be the same as the criteria which the district uses when it initiates an evaluation. The evaluator must be located within a 150 mile radius of the GECSESSA to allow observation and evaluation of the student. GECSESSA will reimburse the evaluator for travel costs for observation and evaluation of the child not to exceed rates for travel as established by state guidelines. The GECSESSA will not reimburse the evaluator for ARD committee attendance.
- Parents will be allowed the opportunity to demonstrate to the Director of Special Education that unique circumstances justify an IEE that does not fall within the GECSESSA's criteria.

Records

20 U.S.C. §1417;

34 C.F.R. Parts 99, 300;

Texas Education Code

Confidentiality of Information

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

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

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

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=179>

Special Education Eligibility Folder

20 U.S.C. §1414;

34 C.F.R. Part 300;

19 T.A.C. Chapter 89

The GECSESSA must maintain an eligibility folder for each student receiving special education services, in addition to the student's cumulative record maintained by the individual district served by GECSESSA.

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

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

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=180>

Record of Access

34 C.F.R. Parts 99 and 300

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

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

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

- The name of the party who requested or received personally identifiable information from the education records;
- The legitimate interest the party had in requesting or obtaining the information (the purpose for which the party is authorized to use the records);
- The date access was given; and
- If the GECSESSA discloses personally identifiable information from an education record with the understanding authorized under the redisclosure of information the record of access must include:
 - The names of the additional parties to which the receiving party may disclose the information on behalf of the district; and
 - The legitimate interests, as provided in "When consent is not required to disclose information" guidelines, which each of the additional parties requesting or obtaining the information.

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

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

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

- The parent or eligible student;
- The school officials or his or her assistants who are responsible for the custody of the records; and
- For the purposes of auditing the recordkeeping procedures of the GECSESSA:

- School officials, including teachers within the GECSESSA whom the GECSESSA has determined to have legitimate educational interests; and
- Authorized representatives of the Comptroller General of the United States, the Attorney General of the United States, and the United States Secretary of Education, or State and district educational authorities.

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=197>

Annual Notification

34 C.F.R. Part 99

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

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

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

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

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

The notice must include all of the following:

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

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

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

The GECSESSA must effectively provide annual notification by any means that are reasonably likely to inform the parents or eligible students of their rights.

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=192>

Parent or Eligible Student Access to Education Records

20 U.S.C. §§1412, 1415;

34 C.F.R. Parts 99, 300;

Texas Education Code

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

Education Records Defined

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

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

The term “education records” means those records that are:

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

The term “educational records” does not include:

- Records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record;
- Records of the law enforcement unit of the district;
- Records relating to an individual who is employed by the district that:
 - Are made and maintained in the normal course of business;
 - Relate exclusively to the individual in that individual’s capacity as an employee; and
 - Are not available for use for any other purpose;
- Records on a student who is 18 years of age or older, or is attending an institution of .. postsecondary education, that are:
 - Made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity;
 - Made, maintained, or used only in connection with treatment of the student; and
 - Disclosed only to individuals providing the treatment which does not include remedial educational activities or activities that are part of the program of instruction in the district; and
- Records that only contain information about an individual after he or she is no longer a student in the district.

List of Types and Locations of Information

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

Right to Inspect and Review Records

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

Right to Inspect and Review Records

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

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

The right to inspect and review education records includes:

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

Timeline

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

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

Records on more than one Student

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

- Inspect and review only the information relating to their student; or
- Be informed of that specific information.

Copies Including Fees for Copies

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

- Provide the parent or eligible student with a copy of the records requested; or

- Make other arrangements for the parent or eligible student to inspect and review the requested records.

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

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

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

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

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=182>

When Consent is not Required to Disclose Information

34 C.F.R. Parts 99, 300;

19 T.A.C. Chapter 89

26 U.S.C.A. § 152

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

- The disclosure is to officials of IDEA Part B participating agencies for purposes of meeting a requirement of IDEA Part B except as otherwise provided in these guidelines;
- The disclosure is to other school officials, including teachers, within the district who the district has determined to have legitimate educational interest including when:
 - Providing to each teacher who provides instruction to a student with disabilities the relevant sections of the student's IEP;
 - Informing each teacher of specific responsibilities related to implementing the IEP, such as goals and benchmarks, and of needed accommodations, modifications, and supports for the student; or
 - Disclosing from the education records of a student appropriate information concerning disciplinary action taken against the student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community to teachers and school officials who have a legitimate educational interest in the behavior of the student.
- The disclosure is to officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll, is enrolled or is receiving services, subject to the conditions that apply to disclosure of information to other educational agencies or institutions;
- The disclosure is to authorized representatives listed in the conditions that apply to disclosure of information for Federal or State program purposes;
- The disclosure is in connection with financial aid for which the student has applied or which the student has received, if the information is necessary for such purposes as to:
 - Determine eligibility for the aid;

- Determine the amount of the aid;
 - Determine the conditions for the aid; or
 - Enforce the terms and conditions of the aid;
- Unless further limited by State law, the disclosure is to State and local officials or authorities to whom this information is specifically allowed:
 - Allowed to be reported or disclosed pursuant to a State statute adopted before November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and the system's ability to effectively serve the student whose records are released; or
 - Allowed to be reported or disclosed pursuant to conditions that apply to disclosure of information as permitted by State statute after November 19, 1974, concerning the juvenile justice system;
- The disclosure is to organizations conducting studies for, or on behalf of, educational agencies or institutions subject to the condition that apply to disclosure of information to organizations conducting studies;
- The disclosure is to comply with a judicial order or lawfully issued subpoena subject to the conditions that apply to a judicial order or lawfully issued subpoena;
- The disclosure is to appropriate parties in connection with a health or safety emergency, if knowledge of the information is necessary to protect the health or safety of the student or other individuals;
- The disclosure is information the district has designated as "directory information," in compliance with the guidelines for the disclosure of directory information;
- The disclosure is to the parent of a student who is not an eligible student or to the student;
- The disclosure is of certain information made in connection with disciplinary proceedings at an institution of postsecondary education; or
- The disclosure is of certain information given by an institution of postsecondary education to a parent of a student.

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

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

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

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

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

- The Comptroller General of the United States;
- The Attorney General of the United States;

- The United States Secretary of Education; or
- State and local educational authorities.

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

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

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

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

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

Conditions that apply to disclosure of information to organizations conducting studies

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

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

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

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

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

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

Conditions that apply to a judicial order or lawfully issued subpoena

The district may disclose information to comply with a judicial order or lawfully issued subpoena only if the district makes a reasonable effort to notify the parent or eligible student of the order or subpoena in

advance of compliance, so that the parent or eligible student may seek protective action, unless the disclosure is in compliance with:

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

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

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

<http://fw.esc18.net/frameworkdisplayportlet/ESC18-FW-Summary.aspx?FID=194>

Destruction of Special Education Records

Paper records are destroyed seven years after the student graduates or leaves the GECSESSA.

Homebound

Special Education Homebound Services for Students Currently in Special Education

A parent, physician, or other professional can make a request for homebound services for a student currently receiving special education services. The campus diagnostician will schedule an ARD committee meeting to determine eligibility, IEPs, and placement. In order for the ARD committee to consider homebound services, a medical eligibility must be received from the attending physician who is licensed to practice in the United States. The attending physician must anticipate that the student will be absent for 20 consecutive school days because of the condition or is anticipated to miss 20 days of school during the school year because of the condition.

When the ARD committee places a student on homebound, the teacher assigned to the student will contact the parent to set up a schedule for the teacher to come to the home to instruct the student. Students on homebound will be given instruction in each subject approved by the ARD committee.

When the physician determines that a student may return to school, the campus diagnostician will schedule an ARD committee meeting to return the student to school.

Guidelines for PIEMS coding, teacher requirements and funding may be found in the Student Attendance Accounting Handbook.

Local District Procedures

T.E.C. §89.1075

34 C.F.R. §300.324

Teacher Access to IEP

The GECSESSA will ensure that each teacher who provides instruction to a student with disabilities:

- Has access to relevant section of the student's current IEP; (The campus special education teacher will be responsible for providing a copy of the student's current IEP to all general education teachers instructing the student with disabilities. Additional copies of the IEP can be located in the campus office or requested from the GECSESSA office.)
- Is informed of the teacher's specific responsibilities related to implementation of the IEP, such as goals and objectives, and of needed accommodations, modifications and supports for the student; and (The campus special education teacher will be responsible for informing the general education teachers of their specific responsibilities.)
- Has an opportunity to request assistance regarding implementation of the student's IEP. (The general education teacher may request assistance from the campus special education teacher, or the campus diagnostician).

Procedure for Failure Review ARD committee meeting and Monitoring Student Progress

Failure Review ARD committee meetings will be held for students failing 2 consecutive 6 weeks periods in the same subject. This includes students failing the 5th and 6th six weeks periods. Failure Review ARD committee meetings will also be conducted if the student fails the year (K-8) as determined by district/campus criteria even if they did not fail 2 consecutive 6 weeks periods in the same subject and regardless if the campus/district administration is recommending retention or placement.

To assure ARD committee meetings are scheduled to address failure at the end of the school year:

- The diagnostician and the campus special education teacher will consult after the 6th six weeks progress reports are issued.
- An ARD committee meeting will be scheduled if the student is failing a subject(s) at the three week period and also failed the 5th six weeks period in the same subject(s) or if the student's cumulative average at that time indicates the student will fail the subject(s) for the year.

Procedure for Walk In Speech "No Show" and Consecutive Absences

- At the beginning of the school year, speech personnel will be required to submit a "no show" list to the Special Education Administrative Assistant.
- If speech personnel are unable to contact a parent of a walk in speech student to schedule therapy, the student should be put on the "no show" list.
- If a walk in speech student misses 3 consecutive sessions, speech personnel will contact the parent to determine the cause of absences. If the parent is unable/unwilling to bring the student and the therapist has made an attempt to mutually arranged the therapy schedule, ask the parent to withdraw the student from services. Contact the Special Education Director to issue a ready, willing and able letter to the parent.
- Diagnosticians and speech personnel will not withdraw a walk in speech student from their caseload without notification from the Special Education Administrative Assistant.

July 2019