



Individuals with Disabilities Education Act  
**MANUAL**

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**IDEA Manual: A Guide for Texas Parents  
and Students on Special Education Rights**

*A Joint Project of The Arc of Texas and Disability Rights Texas*

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**About Disability Rights Texas**

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

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The Arc of Texas has local chapters located around the state. See the list of [The Arc of Texas' local chapters](http://tinyurl.com/idea-ArcChapters) (tinyurl.com/idea-ArcChapters) or call their toll-free number to find the location closest to you.

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# About the IDEA Manual

In 1975, the United States passed Public Law 94-142, now called the Individuals with Disabilities Education Act (IDEA), to ensure all students with disabilities receive a free appropriate public education (FAPE). Congress amended it in 1997 and again in 2004. Congress stated that the purpose of IDEA is to prepare students for further education, employment and independent living.

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

The IDEA Manual is based upon laws and policies in place at the time it was written. Laws and policies change frequently and are subject to various interpretations. Future changes in laws and policies may make some information in this manual outdated.

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

# Section 1: Words to Know

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

## **Accommodations**

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

## **Adult Students**

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

## **Alternative Education Programs (AEPs)**

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

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

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

## **Assessment**

Assessments are tests given to all students in the state to evaluate learning. The most common statewide assessment in Texas is the State of Texas Assessment of Academic Readiness (STAAR), previously known as the

Texas Assessment of Knowledge and Skills (TAKS). Students receiving special education take the same state and district-wide assessments given to all students, unless their ARD committee. ARD committee will determine whether the student will take STAAR alternate.

### **Assistive Technology**

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

### **Behavior Intervention Plan (BIP)**

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

### **Due Process Hearing**

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

### **Early Intervening Services**

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

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

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

### **Education Service Centers (ESCs)**

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

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

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

### **Free Appropriate Public Education (FAPE)**

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

### **Functional Behavioral Assessment (FBA)**

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

### **Individuals with Disabilities Education Act (IDEA)**

IDEA is the federal law requiring school districts to provide students with disabilities with a free appropriate public education.

### **Individual Education Program (IEP)**

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

### **IEP Facilitation**

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

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

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

### **Manifestation Determination Review (MDR)**

MDR is a review of the relationship between a student's disability and behavior that is the subject of disciplinary action.

### **Modifications**

Modifications, unlike accommodations, change the level of instruction provided or tested. Modifications create a different standard for the student receiving them. The most common modifications are those made



to the general education curriculum for a student with a cognitive disability. Curriculum modifications should be in the student's IEP.

### **Orientation and Mobility Services**

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

### **The Department of Education's Office for Civil Rights (OCR)**

OCR is the federal agency in the U.S. Department of Education (USDOE) that enforces Section 504 of the Rehabilitation Act and the Americans with Disabilities Act in public schools, including charter schools.

### **Parent**

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

### **Positive Behavior Intervention and Supports (PBIS)**

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

### **Pre-Employment Transition Services**

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

### **Preschool Program for Children with Disabilities (PPCD)**

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

### **Present Levels of Academic Achievement and Functional Performance (PLAAFP)**

Describes child's skills and abilities based on his initial special education evaluation and then how child is doing in each subject or aspect of his program. In an annual ARD meeting you will typically review progress by reviewing the PLAAFP from each teacher and related service provider.

## **Prior Written Notice**

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

## **Procedural Safeguards**

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

## **Response to Intervention (RTI)**

RTI is a process for providing increasingly intensive high-quality instruction to students with learning problems and struggles in a general education classroom. State law requires that the school notify the parents about their child's participation in RTI.

## **Scientifically Based Instruction**

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

## **Section 504**

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

## **Standards-Based IEP**

All students are required to have enrolled, grade-level, standards-based, measurable, annual IEP goals. Standards-based goals are aligned to enrolled grade-level Texas Essential Knowledge and Skills (TEKS), the general curriculum in Texas. IEP goals should reflect and link directly to specific grade-level TEKS for all students, including students who are taking alternate assessments. For more information, see TEA's [Standards-Based Individualized Education Program Guidance](http://tinyurl.com/idea-standards) (tinyurl.com/idea-standards).

## **Supplementary Aids and Services**

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

## **Ten-Day Recess**

If the parents disagree with the discussion and proposals of the Admission, Review and Dismissal Committee, the parents may request that the meeting stop and take a break for 10 school days to collect more

information and develop other ideas and plans upon which the parents and school can agree upon for the education of the student with a disability. Under Texas law, this break is called a ten-day recess of the committee meeting. If the parents and school agree, the break may last longer than 10 school days if it would be helpful.

### **Texas Education Agency (TEA)**

The state agency ultimately responsible for making sure every student with a disability receives a free appropriate public education.

### **Texas Essential Knowledge and Skills (TEKS) Curriculum**

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

### **Transition Services**

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

### **Universal Design**

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

# Section 2: Laws, Rules and Regulations

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

## Federal Laws

In 1975, Congress first passed a federal law to ensure that local schools served the educational needs of students with disabilities. The law that was originally passed was called the Education for All Handicapped Children Act. That first law has been updated several times over the years.

## Individuals with Disabilities Act

In 1990 Congress renamed the law the Individuals with Disabilities Education Act (IDEA). The most recent version of IDEA was passed by Congress in 2004 as the Individuals with Disabilities Education Improvement Act (IDEIA).

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

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

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

## Section 504

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

U.S. Office for Civil Rights, Dallas Office  
1999 Bryan St. Suite 1620  
Dallas, Texas 75201  
Phone: (214) 661-9600  
Fax: (214) 661-9587  
[U.S. Office for Civil Rights website](http://ed.gov/ocr) (ed.gov/ocr)  
[E-mail the U.S. Office for Civil Rights](mailto:OCR.Dallas@ed.gov) (OCR.Dallas@ed.gov)

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

## **Americans With Disabilities Act (ADA)**

The ADA is a federal law that gives people with disabilities, including students, protections like those provided to people on the basis of race, sex and national origin. All public schools and many private schools must comply with the ADA, which bans discrimination based on disability in the areas of public accommodations, state and local government services, employment, transportation, and telecommunications. For more information, visit the [ADA Information and Technical Assistance website](http://ada.gov) (ada.gov).

## **Every Student Succeeds Act (ESSA)**

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

## **The Family Education Rights and Privacy Act (FERPA)**

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

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

Parents have the right to request that a school correct records which they believe to be inaccurate or misleading. If the school decides not to amend the records, a parent has the right to a formal hearing on the

issue. If the school still decides not to amend the record, a parent may place a statement within the record explaining why she believes the information is incorrect.

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

- School officials with a legitimate educational interest
- Other schools to which a student is transferring
- Specified officials for audit or evaluation purposes
- To comply with a judicial order or lawfully issued subpoena
- Appropriate officials in cases of health and safety emergencies
- State and local authorities, within a juvenile justice system, pursuant to specific state law

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

For additional information, see to the U.S. Department of Education's [FERPA webpage](http://tinyurl.com/idea-ferpa) (tinyurl.com/idea-ferpa).

You may also contact:

Family Policy Compliance Office  
U.S. Department of Education  
400 Maryland Avenue SW  
Washington, D.C. 20202-5920  
Phone: (800) 421-3481

## **Federal Regulations**

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

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

## **State Special Education Rules and Regulations**

As part of their responsibilities required by IDEA, every state has to issue state rules that provide guidance on IDEA implementation in the state. At a minimum, state rules must provide all of the protections contained in the federal IDEA. The state rules explain how Texas will carry out IDEA and how school districts are to provide special education services.

## **Publications and Resources on Special Education Rules and Regulations**

TEA's publication, [Special Education Rules and Regulations](http://tinyurl.com/idea-SpEdRules) (tinyurl.com/idea-SpEdRules) can help parents understand the special education process. It combines federal laws and regulations, state laws and rules (Commissioner of Education and State Board of Education rules). Because of its format, this document often is referred to as the "TEA Side-by-Side." You may request a hard copy from:

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

The Texas Education Agency has two other documents about the rights of parents: the [Notice of Procedural Safeguards](http://tinyurl.com/idea-safeguards) (tinyurl.com/idea-safeguards) and the [Parent's Guide to the Admission, Review, and Dismissal Process](http://tinyurl.com/idea-ARDguide) (tinyurl.com/idea-ARDguide). These must be given to every parent of a child receiving special education services. TEA contracts with Region 18 Education Service Center to maintain a website that includes The Legal Framework for the Child Centered Process.

Another source of information for parents about state and federal laws and regulations is [Texas Project First](http://tinyurl.com/idea-TxPF) (tinyurl.com/idea-TxPF). Created by parents, for parents, this website is a project of the Texas Education Agency and is committed to providing accurate and consistent information to parents and families of students with disabilities.

## Section 3: Education Records

All sample forms and letters referred to in the rest of this manual are available in Section 6.

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

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

### Creating A Parent Notebook

To keep up with all of these important documents and conversations with the school, consider creating a parent notebook. You probably have copies of many of the records listed above. If not, request copies of at least the most recent Full and Individual Initial Evaluation (FIIE), IEP and ARD reports.

Begin keeping records of conversations, phone calls, e-mails and other meetings together with copies of your child's past education records in a notebook or computer folder. Having these records together and organized will help you make sure your child receives the services he needs, enable you to monitor his progress, and be an informed partner in developing the IEP.

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

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

### How to Get Records

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



To see your child's education records, first write a letter to the principal of his school. (See [Form 1: Letter Requesting Records from School](#) in Section 6: Sample Forms and Letters.) Ask for the list of all the different kinds of education records the school keeps or uses to educate your child and where records are kept. Then write a letter identifying which records you want to review.

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

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

## **Confidentiality of Records**

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

## **Getting Records Changed**

If you think something written in the education records is wrong or misleading or violates your child's rights, ask school officials to change it. (See [Form 2: Letter Requesting a Change in Your Child's Records](#) in Section 6: Sample Forms and Letters.) Within a reasonable time, they must decide whether they will make the change.

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

# Section 4: A Parent's Guide to the Special Education Process

## Step 1: Is Special Education Right for My Child?

When a student struggles academically or behaviorally, some parents request an evaluation for special education. Schools may also request parental consent to evaluate for special education and, if the student is eligible, consent to special education services. This section seeks to help parents decide if special education is needed and appropriate for their child. Start by considering how your child is doing without special education services and consider the issues below to determine whether to seek services, provide consent for evaluation, or consent to services. Also, keep in mind that you can revoke consent in the future if you begin to believe special education services are more harmful than helpful.

Listed below are things to consider.

### Individualized Educational Services

- Full evaluation of child.
- An ARD (Admission, Review, and Dismissal) Committee, including the parents, makes an individual education plan for your child.
- The plan must provide a free appropriate public education.
- The plan may include individualized instruction, accommodations (such as extended time), and modifications (such as changes in the grading scale or what is being taught).
- The plan can provide additional services such as speech therapy, transportation or counselling.
- The plan may also include a behavior improvement plan that uses positive behavioral supports or other behavioral modifications and accommodations.
- Individualized services may be available in the summer.

### Standardized Tests Don't Determine Promotion or Graduation

There are students who are not identified for special education services who fulfill all credit requirements for graduation but do not graduate because of challenges with standardized tests. For students in special education, their ARD committees can provide for accommodations on STAAR or determine that satisfactory performance on state assessments is not necessary for promotion or graduation.

### Discipline Protections

- When the school wants to suspend, expel or send a student to disciplinary placement for 10 days or more, the ARD committee must decide if the conduct was caused by the student's disability or school's failure to implement the individualized plan. For most conduct, the student can't be removed if the answer to either question is "yes."
- Despite this strong legal protection, most school systems continue to disproportionately remove students with disabilities, and enforcing discipline protections often requires advocacy. See DRTX's [Interactive Discipline Guide](http://tinyurl.com/idea-discipline) (tinyurl.com/idea-discipline) to learn more.

- Students receiving special education whose behaviors interfere with their education should be evaluated to determine why the behaviors are occurring. The evaluation should be used to develop a plan to improve the student’s behavior. In special education, a student who doesn’t receive adequate services to make improvements in behavior goals may be able to challenge the educational services provided by the school.

## **Transition Services**

- Must receive transition assessment and services to prepare for life after high school.
- May remain in public school through age 21, instead of paying for instruction in college or vocational program.

## **Other Legal Protections**

- Parents play a key role in determining what special education services look like for their child. Parents do not have to accept what a school proposes.
- Parents have the right to file a complaint, request a hearing, and even file lawsuit in federal court to ensure child receives appropriate education.
- Parents have the option to bring an advocate or lawyer to help at ARD meetings.
- Advocacy can improve outcomes for children receiving special education.

## **Potential for Stigma and Self-Esteem Issues**

- Students and parents understandably fear the stigma of special education, potential bullying by peers and impact on a student’s self-esteem. While a school shouldn’t disclose a child’s special education status, peers may notice if a student receives additional assistance, goes to a self-contained placement, or rides a special education bus. However, educators often report that peers are more tolerant of differences than families fear.
- Some students report being ashamed of receiving special education, but others report relief in having an explanation for academic or behavioral struggles.
- There is also sometimes a risk of stigma involved in not intervening. Students who don’t receive needed assistance may fall more behind or have escalating behaviors, which can also lead to stigma.

## **Potential for Lowered Expectations**

- The ARD Committee can sometimes reduce performance expectations for your child more than what is appropriate. Inappropriately challenging material can be frustrating, discouraging, and increase behavior challenges.
- Some teachers may not expect your child to learn or succeed in mastering the material at the level they are capable of. Some educators may help your student too much, subconsciously communicating lack of confidence to your child, or fail to challenge them.

## **Potential for Restrictive Placement and Exclusion**

- The IDEA law provides that students with disabilities should receive education in the “least restrictive environment” (LRE) whenever possible.

- Most students who receive special education services spend the majority of their school day in regular general education classes (inclusion).
- Sometimes students are moved to more restrictive classes with all special education students for part or even all of their day. Those classes may offer fewer students per teacher so more customized education services. However, most special education classrooms contain a wider range of ages and grades, so students miss some of instruction and curriculum that occurs in the general education classroom. Students also miss out on positive peer role models who demonstrate strong communication, behavior, and academic skills. Additionally, when a child is placed in a restrictive behavior classroom, the child may begin to mimic some of the negative behavior exhibited by peers.
- Some students are moved to separate special education classes for part of their day, and in rare cases can be sent to separate schools or even residential placements.

## **Racial Disproportionality**

- Racial disproportionalities exist in special education identification, placement and discipline.
- In Texas, Black students are disproportionately identified as needing special education services, while Hispanic/ Latinx students and Asian-American students are under-identified as needing special education services.
- English Language Learners are also under identified as needing special education in Texas.
- There are larger disproportionalities in some disability categories, in some districts, and on some campuses.
- Environmental pollution, lead exposure, nutrition, and access to prenatal care and preventative health care all influence presence of disability. Some risk factors are not spread equally across racial and ethnic groups.
- Disproportionality is also caused by implicit bias in referral and evaluation for special education services.
- Research has found that students of color in special education are more likely to experience disciplinary removal and to be placed in more restrictive special education classrooms and schools.

## **Role of Advocacy**

- Parent's play a key role in determining what special education services look like for their child.
- You do not have to accept what the school proposes. You can disagree about goals, accommodations, services, or placement as needed to advocate for what you believe is appropriate for your child.
- Advocacy can make a big difference.

## **Step 2: Requesting Initial Special Education Evaluation**

If you or someone you know thinks your child may have a disability and needs special education or related services to be involved in and make progress in school, then an evaluation for special education eligibility may be appropriate.

As a parent or guardian, you have the right to request that your child's school conduct an evaluation to determine if your child is eligible to receive special education services at any time.

The Individuals with Disabilities Education Act (IDEA) requires local public school districts to "identify, locate, and evaluate every child who may have a disability requiring special education services." This is called "Child Find." When there is suspicion that a child has a disability, parents and educators have a responsibility and a right to request a full, individual, comprehensive, multi-disciplinary evaluation.

To request an evaluation to determine if your child is eligible for special education, you should submit a written request to your child's school. If your child is pre-school age and not enrolled in school yet, direct the letter to the School District's Special Education Director. Otherwise, address the letter to your School's Principal.

## **Timelines**

The written request will trigger specific timelines that the school must follow. One way to remember these timelines is 15 – 45 – 30.

- The school has 15 school days to provide parents with an opportunity to provide written consent for the evaluation. After receiving the written request or if the school refuses to conduct the evaluation, the school must provide parents a notice of their procedural safeguards that explains their rights under the law.
- The school district has 45 school days to conduct the evaluation after receiving a signed consent from a parent or guardian.
- The school has 30 calendar days after completing the evaluation to hold an ARD meeting to review the results of the evaluation to determine eligibility and develop an IEP if a child is found eligible for services.

Note: School days do not include any day that a student is not in school, such as:

- Weekends
- Student Holidays
- Staff Development Days
- Spring Break
- Winter Break
- Summer Break

Also note: If a student is absent more than three (3) days after the consent for evaluation is signed, the school district may extend the 45 school day timeline by the number of absences.

## **Special Note about Evaluation Requests at the End of a School Year**

It is important for parents to request an evaluation as soon as they suspect that a student may have a disability and require special education services, because if an evaluation is requested late in a school year, you may have to wait until the beginning of the next school year for the evaluation to be completed. However, if the evaluation is almost completed before the school year ends, the school district may be required to complete the evaluation and provide you with the report during the summer break.

If a parent provides the school with written consent for the evaluation less than 45 school days, but at least 35 school days before the last instructional day of the school year, the evaluation must be completed and the

report provided to the parent by June 30th of that school year. Then, not later than the 15th school day of the following school year, the ARD meeting to review the results of the evaluation and determine eligibility must be conducted.

## **Written Request**

In the letter you should briefly describe your concerns and why you feel your child may need special education service. Remember, this can include social and behavioral concerns as well as academic issues. Also, when writing the letter, you should also state that any general education interventions (such as Rtl) that the school would like to try should not slow down the timelines established under IDEA. (See [Form 3: Sample Letter From Parent/Guardian to School Requesting Assessment](#) in Section 6: Sample Forms and Letters.)

## **Response to Intervention (Rtl)**

Response to Intervention, often called Rtl, is an intervention approach designed to help children who are having difficulty learning and achieving at grade level. RTI is designed to give students additional academic support and improve student achievement. Rtl is not specialized instruction as defined under the IDEA and the IDEA does not require the use of Rtl. However, IDEA says that a local school district may use Rtl as “part” of the process.

On January 21, 2011, a memorandum from the Office of Special Education Programs, US Department of Education, to State Directors of Special Education stated that a Response to Intervention (Rtl) process cannot be used to delay or deny an evaluation under the IDEA. So, a school district cannot require that a student complete Rtl before it conducts an evaluation for special education eligibility. Additionally, regardless of where the child is in an RTI process, the IDEA regulations give parents the right to request an evaluation for special education services at any time..

## **Step 3: Notice of Rights and Consent for Services**

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

### **Procedural Safeguards Notice**

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

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

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

## **Other Types of Notice**

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

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

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

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

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

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

## **Consent to Provide Services**

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

For students who are already in special education, consent is not required again. If you disagree with proposed changes in the services that your child receives, you need to go through the dispute resolution process to resolve your disagreement. (See Section 6.)

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

## **Revocation of Consent for Services**

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

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

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

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

## **Step 4: Full and Individual Initial Evaluation**

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

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

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



to yield accurate information on what the child knows and can do academically, developmentally and functionally.

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

## **Evaluation of Educational Needs**

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

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

If your child needs assistive technology, advise the evaluation team before the process begins so that your child can be evaluated by a professional experienced with assistive technology evaluation.

The written report should tell you at least four things:

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

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

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

## **Evaluation for Related and Other Special Services**

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

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

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

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

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

## **Understanding the Evaluation Results**

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

To help you understand the tests and what they mean:

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

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

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

## **Student Eligibility for Special Education Under IDEA**

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

Commissioner Rules and that the student needs special education and related services, In Texas, the disability categories include the following:

- Orthopedic Impairment (OI)
- Other Health Impairment (OHI) – includes students with ADD or AD/HD, and Tourette syndrome
- Auditory Impairment (AI) – includes students who are deaf or hard of hearing
- Visual Impairment (VI) – includes students who are blind or visually impaired
- Deaf-Blindness (D-B)
- Intellectual Disability (ID) (previously called Mental Retardation)
- Emotional Disturbance (ED)
- Learning Disability (LD)
- Speech Impairment (SI)
- Autism (AU) – includes Autism Spectrum Disorder (ASD)
- Multiple Disabilities (MD)
- Traumatic Brain Injury (TBI)
- Non-Categorical – for students ages 3 to 5 who may have an intellectual disability, emotional disturbance, learning disability or autism. (This is a disability category only in Texas. Its intent is to prevent inaccurately assigning a very young child to one of these four disability categories.) Use of this category is optional.

Definitions of these categories can be found in Subpart A of TEA's [Special Education Rules and Regulations](http://tinyurl.com/idea-SpEdRules) (tinyurl.com/idea-SpEdRules).

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

## **Who Is Eligible for Which Programs**

### **Newborn to 3 Years**

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

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

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

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

See the Texas Health and Human Services Commission's website for more information about [Early Childhood Intervention Services](https://www.texas.gov/idea-eci) ([tinyurl.com/idea-eci](https://tinyurl.com/idea-eci)).

## **Ages 3 Through 21**

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

The school district must begin serving your child on his third birthday. If the school did not receive the referral in time to have the evaluation completed by his birthday, they can still deliver special education services while your child completes the evaluation process. If your child turns age 3 during the summer, you will want to make sure that the evaluation and ARD meeting are completed before the end of the school year so you will know if your child is eligible for special education services. If you were not able to complete the evaluation or ARD meeting prior to the end of the school year, generally you will have to wait until the start of school to complete the process to determine eligibility and services. If you suspect that your child may need extended year services (see *Words to Know*) the school must complete the evaluation process and conduct an ARD meeting to determine the child's eligibility and need for extended year services during the summer.

## **Parents' Rights During Evaluation**

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

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

## **What Are Students' Rights During Evaluation?**

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

- Evaluated in all areas related to the suspected disability
- Tested with instruments that are valid and reliable

- Tested in a way that is not racially or culturally discriminatory
- Tested by qualified, trained and knowledgeable personnel
- Evaluated in her native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible.

See [Form 4: Letter Requesting Additional Testing](#) in Section 6: Sample Forms and Letters.

## **If You Think the School’s Evaluation Is Incomplete**

If you feel the school’s evaluation is incomplete and additional testing is needed, you can ask the school to do more testing. You should request this in writing. In Section 6: Sample Forms and Letters, see:

[Form 5: Letter Requesting an Independent Evaluation](#)

[Form 6: Letter Requesting Reevaluation](#)

## **If You Think the School’s Evaluation is Wrong**

If you think the school’s evaluation does not accurately measure your child’s need for special education, you may get an independent education evaluation (IEE) at your own expense and/or request an independent evaluation at the school’s expense.

Independent evaluations are done by qualified persons who are not employed by the school. You may ask the school how and where to get an independent evaluation or you may get the independent evaluation done by someone not recommended by the school, as long as this person is qualified to perform the evaluation.

If you ask the school to pay for the independent evaluation, the school must do so unless the school asks for a due process hearing to show its evaluation was appropriate. If you want the school to pay for the independent evaluation, the testing you get must meet the same requirements the school uses. You should notify school officials in writing if you want an independent evaluation and you expect the school to pay for it.

Although the school can ask you, you do not have to tell the district why you disagree with their evaluation. You must say in your letter that you disagree with an evaluation obtained by the school. It is best to identify the school’s evaluation that you disagree with by name or date. Most schools contract with the independent evaluators directly, though some try to make parents pay initially and seek reimbursement at the end. Schools cannot have parents pay initially if they cannot afford to do so and it effectively keeps parent from having access to independent evaluation. If your school tries to do this, and you cannot afford it, provide the school with the information about your inability to pay and request they waive that policy to allow you to still have access to independent evaluation.

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

## Asking for a Reevaluation

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

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

The first step in the reevaluation process is a review of existing evaluation data (REED) about the child. If the ARD committee determines that no additional data is needed to determine whether the child continues to be a child with a disability or the child's educational needs, then the ARD must notify the parents and say why no new testing will be conducted as part of the reevaluation. Parents do have the right to respond and request an assessment to determine whether the child continues to be a child with a disability, and to determine the child's educational needs.

The school is required to get parental consent for both initial evaluations and reevaluations. A district may ONLY reevaluate a student without parental consent if the parents fail to respond and the district can show that it has taken all reasonable measures to get consent. If the parent does not agree with the reevaluation, the district may only reevaluate if the district requests a due process hearing. If the parent refuses to consent to a reevaluation, the district is not required to request a due process hearing to override the parent's refusal to consent.

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

If you believe the school's evaluation is inaccurate or incomplete, and you cannot resolve the issue with the school, you can challenge the evaluation through the dispute resolution processes. (See Section 5.) If you challenge the evaluation, you will need some proof or evidence showing what is wrong with the school's evaluation.

For example, this could be a doctor's or psychologist's report or other independent evaluation and testimony.

## Step 5: The ARD Meeting

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

## Notice of the ARD Meeting and Typical Agenda

Current rules require that the school must give you written notice at least five school days before the ARD meeting so you can prepare. When a meeting is called with less than five days' notice, the parents have the right to waive the five-day notice requirement and attend the ARD meeting if they want.

The notice should include:

- The purpose of meeting
- The time and place of the ARD meeting
- A list of the people attending

Some school districts will provide you with an agenda for the meeting. If your school district does not currently do this, you can ask them to provide you with an agenda. If the parent is unable to speak English, the school district must provide the parent with the written notice in the parent's native language, unless it is clearly not feasible to do so. See [Form 7: ARD Committee Meeting Agenda](#) in Section 6: Sample Forms and Letters.

## Members of the ARD Committee

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

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

A vocational rehabilitation counselor with the Texas Workforce Commission must attend if invited. There are additional requirements for membership that may apply in certain situations (i.e., requirements for teachers of students with visual impairments or hearing impairments to attend or requirements for Career and Technology or Vocational Education teachers to attend). These requirements sometimes change. You may want to look at Subpart D of TEA's [Special Education Rules and Regulations](http://tinyurl.com/idea-SpEdRules) (tinyurl.com/idea-SpEdRules) for the most current list.

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

## **Excusing People from Meeting**

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

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

## **Who Parents Can Bring**

Parents are allowed to bring anyone they wish with them to the ARD meeting. They could invite a therapist, social worker, tutor, previous teacher or other person who knows about the student's needs. It is a good idea for both parents to attend, if possible. Parents can bring another relative, friend or neighbor if they would be more comfortable attending the meeting with someone.

Parents can also bring someone to help them understand the meeting, such as an advocate. Some parent organizations provide advocate training for parents or other interested individuals who may be able to attend ARD meetings with other parents. There are also professional advocates who may be able to attend an ARD meeting with parents. See the Texas Disability Advocacy Organizations in Section 7 of this manual for a list of parent organizations.

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

## **Scheduling the Meeting**

If you want to go to your child's ARD meeting, but the date, time or place is not convenient for you, ask the school to reschedule the meeting. The school must attempt to schedule the meeting at a time and place agreeable to you and school officials. If you cannot attend the ARD meeting, the school must use other methods, such as telephone conference calls or video conferences, to give you a chance to participate. However, the school district can hold the ARD meeting without you if you do not attend and do not reschedule.



## Right to an Interpreter

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

## Preparing for the Meeting

First, make sure the time of the meeting works for your schedule and either confirm your attendance or ask for meeting to be rescheduled. Then review the list of topics to be discussed and consider informing the school of any additional topics you would like added to the agenda.

You may want to meet with your child's teacher(s) or related services provider before the meeting to discuss possible IEP goals and to learn more about the curriculum for your child's grade level. This is sometimes referred to as a pre-ARD Meeting. A pre-ARD meeting is when parents meet with school personnel, typically the child's teacher, to discuss the child's progress and to draft proposed IEP goals for the coming year. It gives the parents and teachers a more informal opportunity to discuss how the child is learning and progressing, as well as what they need to be successful.

A pre-ARD meeting is not required by IDEA, but some school districts offer formal pre-ARD meetings, and in some districts parents and teachers may decide to meet informally prior to the ARD meeting.

Even though a pre-ARD meeting is not official and the final decision of the ARD committee must occur at the actual ARD meeting with all participants in attendance, many of the major decisions about the child's program can be discussed and planned during the pre-ARD meeting. This meeting can help ensure open and positive communication between the parents and schools because they have had a chance to fully discuss the child's program prior to the ARD meeting. If your school offers a pre-ARD meeting, you should try to attend. If they do not, and you think it would be helpful, you can request to meet with your child's teacher prior to the ARD meeting. To prepare for the ARD meeting, use [Form 8: Before the ARD Meeting – A Parent Checklist](#) in Section 6: Sample Forms and Letters.

## Dealing with Tense Meetings

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

There are rare situations where past tensions between the parent and school have resulted in the district refusing entry to or ejecting the parent from district property. Nonetheless, Texas law requires the district to still allow the parent access to participate in their child's ARD committee meeting or Section 504 team meeting in accordance with federal special education rules.

## **ECI Students Moving to School**

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

## **Students Who Are 17 Years of Age**

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

## **Students Who Are 18 Years or Older**

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

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

If your child does not want to invite you to the ARD meeting, you can still ask the school to invite you. Many schools continue to see the benefit of parent participation in the meeting and will invite the parents to attend the meeting.

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

There are many alternatives to guardianship, including supported decision-making, power of attorney, special needs trusts, joint bank accounts, etc. The student could also give their rights over to their parent with a power of attorney. Learn more about [Supported Decision-Making](http://www.DRTx.org/SDM) (www.DRTx.org/SDM).

Some families may decide guardianship is right for them, and other families may decide not to get guardianship. It is up to the parents and adult student. If you decide not to get guardianship when your child turns 18 and discover later that you think it would be best, you can still file for guardianship.

## **Transition Services for Students 14+**

It is important for students of transition age (at least by age 14 and older) to attend their IEP meetings so they can plan for their transition to life after high school and prepare for the transfer of rights when they turn 18. Students must learn to participate in the meeting, speak up for themselves, and make decisions about their life. This is referred to as self-advocacy. Training and support to help a student learn to be a self-advocate should be considered in developing the student's IEP.

Self-advocacy does not mean that students no longer need support or advice from their parents or other people who care about them. It does mean that they have the right to say what is important to them and what they want and that the other team members respect their opinions and ideas. To learn more about self-advocacy, go to the [Texas Advocates website](http://texadvocates.org) (texadvocates.org) and the national organization [Self Advocates Becoming Empowered website](http://sabeusa.org) (sabeusa.org).

## **The ARD Agenda**

The ARD agenda (see [Form 7: ARD Committee Meeting Agenda](#) in Section 6: Sample Forms and Letters) lists the topics that must be addressed by the ARD committee as required by law. These topics are listed in the order in which they usually will be discussed during the ARD meeting. The ARD committee should review each topic in the order presented and work toward reaching a consensus among all members of the group.

Before the ARD meeting, ask your school to see a copy of the agenda. It will help you prepare for this most important meeting. You can use [Form 7: ARD Committee Meeting Agenda](#) during each committee meeting.

## **Step 6: The IEP**

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

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

## When an IEP is Required

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

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

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

In 2011 the Texas legislature directed TEA to develop a model IEP form to provide a uniform structure to the IEP for school districts and parents to use if they choose. For more information, see TEA's [IEP Model Form](http://tinyurl.com/idea-IEPmodel) (tinyurl.com/idea-IEPmodel).

## Teacher IEP Training

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

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

## Developing the IEP With Your Participation

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

### 1. Reviewing Present Level of Academic Achievement and Functional Performance (PLAAFP)

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

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

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

### **Ways You Can Participate:**

- Share your ideas about her progress.
- Show pictures or other documentation about what she can do outside of school, including assistive technology solutions that are helpful.
- Share any reports you have from outside therapists, tutors, consultants or doctors.
- Make sure you understand whether your child has made progress on her IEP goals as a result of the services she has received. [Visit the [Wrightslaw website](http://wrightslaw.com) (wrightslaw.com) to read articles about writing good IEPs.]
- Ask questions if something is not clear. At this point, you should have a clear picture in your mind about how your child is doing in school.
- Point out any area of need which has not been evaluated or could benefit from more current evaluation data.

## **2. Developing Measurable Annual Goals, Both Academic and Functional**

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

IEP goals must be designed to meet the child's needs caused by her disability so she can participate in and progress in the general education curriculum (academic) and meet each of the child's other needs caused by her disability that affect her ability to learn (functional)

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

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

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

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

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

The IEP you develop must end with a clear statement of the special education and related services, as well as the supplementary aids and services that must be provided to the student. The statement also should include

program modifications or supports that will be provided to enable the child to participate in extracurricular and other non-academic settings.

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

Another term that is being widely used is the requirement to develop Standards-Based IEPs. This is based on the requirement in IDEA that students participate in and progress in the general education curriculum, known in Texas as the Texas Essential Knowledge and Skills, or TEKS. A standards-based IEP is an IEP that is based on the general education curriculum. For example, if a student is in 4th grade, then she should be learning the same curriculum other 4th graders are learning. Some students with disabilities will have a modified or simplified curriculum that is still based on the 4th grade curriculum and achievement standards. Some students with the most significant disabilities will have alternate achievement standards that are linked to the 4th grade curriculum. To learn more about Standards-Based IEPs, see the online training available from the [Region 20 Education Service Center](http://esc20.net) (esc20.net).

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

### **Ways You Can Participate**

- Talk about what you want for your child when she leaves school. Make sure the goals you include will lead to the outcomes you want for her as an adult. Ask about how IEP goals might affect diploma options for the outcome you want.
- As you review the proposed goals, remember that the IEP must be designed to meet your child’s needs and that you and the school staff make up the ARD committee. Your job is to revise, add or delete goals until the IEP reflects the most important goals your child should achieve in the coming year.
- Ask questions if you do not understand how your child’s progress will be measured, what services she will receive during the school day, who will provide each service and how much time each day she is with students who do not have disabilities.
- Ask for details about any training your child’s teacher has had and, if you think it is necessary, ask that the teacher receive additional training in a particular area that will help her to implement the student’s IEP successfully.

### **3. Deciding on Related Services**

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

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

- Assistive technology
- Speech therapy
- Physical therapy
- Occupational therapy
- Psychological services
- Social work
- Counseling
- Special transportation
- Audiology services
- Orientation and mobility training
- Rehabilitation counseling
- School nursing services and school health services
- Interpreter services

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

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

### **Ways You Can Participate**

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

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

## **4. Statewide Assessments**

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

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

The STAAR program includes additional tests to meet the needs of students receiving special education services at both the elementary and secondary levels. The STAAR Alternate 2 (STAAR-Alt 2) assessment is the state's alternate assessment limited to students with the most significant cognitive disabilities. For more information and details about STAAR-Alt 2, see TEA's [Assessments for Students with Disabilities](http://tinyurl.com/idea-staar) (tinyurl.com/idea-staar).

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

If the ARD committee decides a student should take an alternative assessment, they must complete a supplement to state the reasons the student cannot take the regular assessment and why the alternative assessment they selected is appropriate. Be sure the ARD committee discusses the accommodations your child will receive during testing and includes them in the IEP. Limited accommodations are allowed on the STAAR test but the ARD committee decides which of allowable accommodations will be provided based on what is done during typical classroom instruction.

See TEA's [Student Assessment webpage](http://tinyurl.com/idea-assess) (tinyurl.com/idea-assess) for current information.

## **5. Considering Other IEP Elements That May Apply to Your Child**

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

### **Extracurricular Activities**

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

### **Assistive Technology**

The ARD committee must consider whether a student requires assistive technology devices and services. Assistive technology enables students with disabilities to access the curriculum, increase independence, and participate actively in education and life activities. For more information about assistive technology, see the [Texas Assistive Technology Network](http://texasat.net) (TATN) website (texasat.net). TATN works to ensure that students with disabilities receive assistive technology devices and services when needed to benefit from a free appropriate public education (FAPE). If a student using assistive technology transfers schools, it might be possible under



state law for the student to keep and continue using the piece of technology under an assistive technology transfer agreement.

### **Autism**

Texas rules require that the ARD committee consider, and when needed, address in the student's IEP a list of 11 items that are intended to ensure students with Autism receive appropriate educational and support services. This list is not exhaustive, and other items can be considered. In addition, anything on this list may be considered and addressed in any special education student's IEP. The 11 items are:

1. Extended educational programming
2. Daily schedule reflecting minimum unstructured time
3. In-home and community-based training
4. Positive behavior support strategies
5. Future planning for integrated living, work, community and educational environments
6. Parent/family training and support
7. Suitable staff-to-student ratio
8. Communication interventions
9. Social skills supports and strategies
10. Professional educator/staff support
11. Teaching strategies based on peer reviewed, research-based practices for students with Autism Spectrum Disorder (ASD)

Many families choose to provide additional support services for their child with Autism. If a child leaves school for therapy or other medical services and reports to school on the day of the appointment either before or after the appointment, it is considered an excused absence. For more resources on support for students with ASD, see the [Texas Statewide Leadership for Autism Training website](http://txautism.net) (txautism.net).

### **Transition Services**

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

Under Texas law for transition planning, the ARD committee must consider, and if appropriate, address the following 10 issues in the IEP not later than when the student reaches 14 years of age:

1. Appropriate student involvement in the student's transition to life outside the public school system
2. If the student is younger than 18 years of age, appropriate involvement in the student's transition by the parents and other persons invited to participate by either the parents or the school district
3. If the student is at least 18 years of age, involvement in the student's transition and future by the student's parents and other persons, if the parent or other person is invited to participate by either the student or the school district or has the student's consent to participate under a supported decision-making agreement

4. Appropriate postsecondary education options, including preparation for postsecondary-level coursework
5. A functional vocational evaluation
6. Employment goals and objectives
7. If the student is at least 18 years of age, the availability of age-appropriate instructional environments, including community settings or environments that prepare the student for postsecondary education or training, competitive integrated employment, or independent living, in coordination with the student's transition goals
8. Independent living goals and objectives
9. Appropriate circumstances for facilitating a referral of a student or the student's parents to a governmental agency for services or public benefits, including a referral to a governmental agency to place the student on a waiting list for public benefits available to the student, such as Medicaid waiver programs
10. The use and availability of appropriate supplementary aids, services, curricula, and other opportunities to assist the student in developing decision-making skills, and supports and services to foster the student's independence and self-determination, including a supported decision-making agreement.

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

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

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

The Education Service Centers have staff with expertise in transition planning. If you need help identifying needed transition services for your child, request that the school bring in someone from the ESC with expertise and experience in transition planning. Online resources for transition include: the [Student-Centered Transitions Network](http://texastransition.org) (texastransition.org), the [National Parent Center on Transition and Employment](http://pacer.org/transition) (pacer.org/transition), and the [National Center on Secondary Education and Transition](http://ncset.org) (ncset.org).

DRTx also has the [Your Rights, Your Voice Transition Guide](http://tinyurl.com/idea-RightsVoice) (tinyurl.com/idea-RightsVoice) aimed at transition age students themselves with things to keep in mind about each area of transition including housing, healthcare, Social Security, etc.

## **Post-Graduation Services**

Depending on the nature and extent of your child's disability, you may want to access community-based services and supports before and/or after graduation. Such services might include in-home supports, out-of-home residential services, mental health services, habilitation or other services. These services are sometimes referred to as Medicaid Waiver Services, including the Texas Home Living Waiver, Home and Community Based Services Waiver (HCS) and Community Living Assistance and Support Services Waiver (CLASS), along with the Medically Dependent Children Program and the Deaf Blind Multiple Disabilities Program.

These services may be made available through the [Texas Health and Human Services Commission website](https://www.hhs.texas.gov) (hhs.texas.gov) or by calling 1-877-438-5658 (toll-free). You can also find out more about Medicaid Waiver and Medicaid State Plan services in the [Healthcare resources](https://www.tinyurl.com/idea-healthcare) (tinyurl.com/idea-healthcare) section of the Disability Rights Texas website.

Many of these programs have long waiting lists. In some cases, individuals must wait ten or more 15 to 20 years to access services. Parents of students receiving special education supports should become familiar with the services that are available through state and local agencies. If they believe that these programs may be needed in the future, parents should take steps now to contact the responsible agency and, if necessary, sign up for the waiting/interest lists. Parents should do so prior to beginning formal transition planning even though they may not need services until graduation.

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

## **Noneducational Community-Based Support Services: Preventing Residential Placement**

The Texas Legislature has appropriated funds for the provision of noneducational community-based support services (Non-Ed Funds) for certain students with disabilities and their families so that those students may receive a free appropriate public education (FAPE) in the least restrictive environment (LRE). These funds can only be used for students who, without community-based support services, would have to be placed in a residential facility. Parents who are struggling to keep their child with a disability in their home and need support services to prevent institutionalization of the child may request their school apply for these Non-Ed Funds from the Texas Education Agency. There are very limited funds in this program.

Some of the support services that Non-Ed Funds may be used for include:

- Attendant care
- Psychiatric/psychological consultation
- Management of leisure time
- Peer support group
- Parent support group
- Socialization training
- Individual support
- Family support
- Family dynamics training
- Respite care
- Transportation to access approved noneducational services
- Generalization training

Students with autism can only be approved for respite care or attendant care. If your school is not familiar with this program have them contact their Regional Education Service Center or the Texas Education Agency.

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

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

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

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

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

### **Termination of Services/Graduation Diploma Endorsements**

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

The key features of the 2013 reform are the elimination of prior types of diplomas and the creation of the “Foundation High School Program Diploma.” Students working toward a diploma may Foundation Program Diploma must declare an “endorsement.” that they will earn with the Diploma. An endorsement is a block of related courses that allow the student to get deep instruction and learning in a particular area. The Legislature’s belief is that these extra classes connected to an endorsement will give the student a boost in college preparation or readiness for the workforce after high school.

The Texas Legislature created five endorsements:

- Science, Technology, Engineering and Math (STEM)
- Business and Industry
- Public Service
- Arts and Humanities
- Multidisciplinary

A student may change the endorsement she has picked and may even earn more than one endorsement. A student may also decide to withdraw from all endorsements and just earn the basic Foundation Diploma. A student who fails to complete the necessary coursework might have tried to earn an endorsement but, in the end, only achieves the basic Foundation Diploma. For students with disabilities, it is important to be aware that a class will not count toward the endorsement requirement if its curriculum is modified for the student with a disability. For details and more information, including course substitutions to accommodate a student's disability, visit TEA's [Foundation High School Program webpage](http://tinyurl.com/idea-foundation) (tinyurl.com/idea-foundation).

Earning the Foundation Diploma and any endorsements is also tied to the student passing the STAAR EOC assessments. For a student in special education, the ARD committee decides if the student must achieve satisfactory performance on the EOC assessments. Even if the ARD decides that a student with a disability should attempt to pass all EOC assessments, it is still possible for an individual graduation committee to essentially waive passage of up to two EOC assessments in appropriate circumstances. For more information on individual graduation committees and their role and power, see TEA's [State Graduation Requirements](http://tinyurl.com/idea-grad) (tinyurl.com/idea-grad).

### **Paths to Graduation**

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

1. When a student who receives special education services completes the minimum credit and curriculum requirements that apply to a general education student and passes the required assessments, the student can graduate and receive a high school diploma under the Foundation Program.
2. When a student who receives special education services completes the minimum credit and curriculum requirements that apply to a general education student and her ARD committee has determined that satisfactory performance on required assessments is not necessary for graduation, the student can graduate and receive a high school diploma under the Foundation Program.
3. A student may also graduate by completing the minimum credit requirements for students in general education, completing the minimum curriculum requirements to the extent possible as determined by the ARD committee, and completing the requirements of the IEP, including one of the following conditions outlined in the IEP:
  - Full-time employment and sufficient self-help skills to maintain employment without direct and ongoing support from the school district
  - Demonstration of specific employability and self-help skills that do not require direct ongoing support from the school district

- Access to services that are not within the legal responsibility of public education or to employment or educational options for which the student has been prepared by the academic program.
4. A student receiving special education services may also graduate and receive a regular high school diploma upon the ARD committee's determining that the student no longer meets age eligibility requirements and has completed the requirements specified in the IEP.

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

A district may stop providing special education services when any of the following occur:

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

### **Students Can Walk at Graduation with Their Class and Still Receive Services**

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

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

### **Braille**

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

### **Communication Needs**

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

### **Limited English Proficiency**

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

## **Transportation**

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

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

## **Behavior/Discipline**

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

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

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

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

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

## When Your Child Can Be Disciplined

There is much controversy about how and when a student with a disability can be disciplined. IDEA contains specific procedures that must be followed when making decisions about discipline. In addition, state laws govern discipline (in Chapter 37 of the Texas Education Code). State laws apply to students with disabilities unless the law conflicts with IDEA or with a student's IEP. DRTx's [Interactive Discipline Guide](http://tinyurl.com/idea-discipline) (tinyurl.com/idea-discipline) allows you to answer questions and understand your options based on your answers.

Following is basic information about the discipline process for students with disabilities. It does not include all information you need if your child has discipline problems at school. You can get additional information about discipline requirements under state and federal law by:

- contacting the [Special Education Information Center](http://spedtex.org/contact-us) (spedtex.org/contact-us) by calling at 1-855-SPED-TEX (773-3839),
- visiting TEA's [Discipline and School Removals webpage](http://tinyurl.com/idea-remove) (tinyurl.com/idea-remove), or
- accessing DRTx's [Education resources](http://tinyurl.com/idea-DRTx-Ed) (tinyurl.com/idea-DRTx-Ed).

## Individual Discretion

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

## Additional Protections for Disciplinary Removal More than 10 Days

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

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

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

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

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



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

#### Educational Services in Disciplinary Settings

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

According to the Individuals with Disabilities Education Act, "To the maximum extent appropriate, children with disabilities are educated with children who are not disabled, and special classes, separate schooling or other removal of children with disabilities from the regular educational environment occurs ONLY when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily."

#### Removals for Up to 45 Days

Schools may make a change in placement whether or not the conduct was a manifestation of a child's disability if a child:

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

#### "Stay Put"

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

#### Expedited Hearings

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

#### Students Not Receiving Special Education

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

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

- A parent expresses concern in writing to school personnel that the child is in need of special education services
- The parent requests an evaluation of the child
- The teacher of the child or other school personnel expresses specific concerns about a pattern of behavior

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

### Restraint, Seclusion and Time Out

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

Students cannot be physically restrained, except in an emergency situation. If physical restraint is used by school personnel, including a school resource officer, written documentation of its use, including information on why the student was restrained and for how long, MUST be sent to the parent. There is also required training for any school staff who might use physical restraint. If your child is physically restrained, be sure you get (and keep) the required documentation.

Since it is only to be used in an emergency, use of restraint should be infrequent. Restraint should not be included in a student's IEP or BIP as a planned or "therapeutic" intervention. If restraint is being used in nonemergency situations, you should request that the ARD committee review the FBA and BIP and determine the need for additional assessments and new or additional positive behavior interventions and supports.

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

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

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

### Cameras in Special Education Classrooms

A Texas law requires school districts and public charter schools to place video cameras in certain self-contained special education classrooms and settings upon request from a parent, staff member, principal, or school board. This law is intended to protect students who, because of a disability, might not be able to report abuse or neglect by district employees or other students.

This section answers questions parents might have about how to request a camera in a special education classroom. This section explains what the law does, what options are available under it, and how to use it.

#### *How does the law work?*

A parent (which includes a guardian or other person who has a parental relation to a student and adult students who receive special education services in the setting) may request in writing for the district to install video and audio recording equipment in a self-contained classroom or other special education setting. The

school must respond to this request not later than the seventh school business day after receipt of the request and, if the request is granted, install the camera within a certain period.

The camera will record at all times during the instructional day when one or more students are present. The district must save the recordings but only for a limited amount of time. If an incident is alleged, certain people can request access to view the recording.

#### *What sorts of classrooms are eligible for cameras?*

The law allows for cameras to be requested in “self-contained classroom[s] or other special education setting[s].” The law defines this as a room, including a separate room used for time-out, in which a majority of students who regularly attend class in the room are provided special education and are assigned to this sort of setting for at least 50 percent of the school day.

A resource room arrangement does not meet the definition of a self-contained classroom, although students who attend resource rooms for part of the school day may also be educated in a self-contained classroom eligible for surveillance.

#### *How do I request a camera in my child’s classroom?*

A parent must submit a written request to the principal or a person the principal has designated to receive these requests. Districts are required to have policies related to placing cameras in self-contained classrooms, which may specify some requirements for submitting a request. Some districts provide their own form for requesting a camera (See [Form 9: Request a Camera for a Special Education Classroom Sample Letter](#) in Section 6: Sample Forms and Letters).

State law requires that the district respond to a request within seven school business days. This answer must either authorize the request or provide reasons for a denial.

If the school grants the request, it must begin operating the camera within 45 school business days (or the first school day after 45 school business days if school hasn’t started yet) unless the Texas Education Agency (TEA) grants an extension. If a parent makes a request for a camera in the classroom for the following school year, the district must place the camera by the 10th school day of the semester, or 45 school business days after the request was made, whichever comes last.

If the school refuses your request for a camera or does not respond within the required time, you have the right to appeal (see information about appealing denied requests below).

#### *What will the camera record?*

The recording must include video and audio of all areas of the classroom, including rooms used for time-out. However, the inside of a bathroom or any area in which a student’s clothes are changed cannot be visually monitored.

#### *How long will the camera be in place?*

After a district installs a camera, it must operate and maintain the camera for the remainder of the school year if the classroom continues to meet the criteria for recording, unless the person who requested the camera

withdraws that request in writing. If the school intends to stop operating the camera during the school year, it must notify every parent whose child attends school in the classroom at least five school days before ending recordings. At least ten school days before the end of the school year, the school must notify parents of children in the recorded room that the operation of the camera won't continue unless an eligible person sends in a new request for the next school year.

#### *What does the school do with the recordings?*

The law only allows video and audio recordings to be used for the safety of students receiving special education services in self-contained classrooms. Videos are confidential and cannot be released or viewed unless related to an alleged incident or investigation.

The district is required to retain recordings for at least three months. Unless someone has raised an allegation, the district may delete the recording after three months. If a person requests to view a recording, the district has to retain the recording until the requestor has viewed it and a determination has been made as to whether the video documents an incident. If the recording does document an incident, the district has to retain the recording until the incident has been resolved and all appeals have been exhausted.

#### *How can I gain access to a recording?*

If a parent suspects that a child has been abused or neglected in a monitored classroom or setting, then he or she should first submit a written incident report as soon as possible. Either with or following the incident report, you should submit a written request for release of the recording for viewing.

Districts are required to have a process for the reporting of incidents. Ask your district if it has forms to report an incident and request access to the recording. If it doesn't have a process or forms, you should send your own incident report and request to view the recording to the school principal and the district superintendent (See [Form 10: Report an Incident and Request a Recording Sample Letter](#) in Section 6: Sample Forms and Letters). In both documents, it's important to state why you suspect abuse or neglect and when you suspect it happened. The recording you want to watch and listen to can be from a specific date or a reasonable period of time, such as a particular week.

If the district asserts that an incident did not occur, that does not negate your right to view the video (see information about appealing denied requests below). Please note that this camera procedure is separate from a public information request. You can ask the district for the recording directly without going through open records request procedures.

#### *What can I do if the district denies my request for a camera in the classroom or refuses to release a video for viewing that I have requested?*

You must first raise any complaints and appeals over a district decision through the district's local grievance procedures. Districts usually post grievance procedures on their websites.

After parents have gone through the local process and received a final denial, they can then appeal the denial to TEA by filing a petition for review. You must file the petition with TEA within 10 calendar days of receiving word about the district's final decision.

Parents can also request TEA to conduct an expedited review of a district decision to deny a request for the installation of a camera and a district decision to deny a request to release a video. The TEA expedited review happens while you are still using the local grievance process. TEA timelines for an expedited review are short so you must act quickly. TEA will give both the district and parent an initial determination once completing the expedited review. However, you must still pursue the local appeal and TEA petition for review, if necessary, to obtain a final determination that adopts the initial determination by TEA.

## **Bullying**

The American Psychological Association defines bullying as “a form of aggressive behavior in which someone intentionally and repeatedly causes another person injury or discomfort. Bullying can take the form of physical contact, words or more subtle actions. The bullied individual typically has trouble defending him or herself and does nothing to “cause” the bullying.”

Technologically-aware students also may experience cyberbullying from other students. Cyberbullying includes sending hurtful or threatening e-mails or instant messages, spreading rumors, or posting embarrassing photos. While many students are not distressed by cyberbullying by peers, significant numbers of students report feeling upset or afraid. A majority of victims do speak to their friends, parents or other authority figures about being victimized; cyberbullying is more likely to cause distress when it involves an adult harasser (referred to as cyberstalking), or when it leads to unwanted offline contact.

Adults should be aware that bullying in any form may affect a student’s self-esteem and emotional well-being. Listen to students who approach you with concerns about bullying.

### Texas School Anti-Bullying Laws

The Texas Education Code defines bullying as an expression of conduct which the school board determines:

1. Will physically harm a student, damage a student’s property, or put a student in reasonable fear of harm to his or her person or property; or
2. Is sufficiently “severe, persistent, or pervasive” that the action or threat creates an “intimidating, threatening, or abusive” educational environment for a student.

The Texas legislature has enacted laws that adults may rely on when a student reports being the victim of bullying. Students should know the importance of reporting bullying or threats to a teacher or other adult as soon as possible. If an incident is serious or if bullying continues, the report needs to be made to the campus principal in addition to the teacher.

Texas Education Code Section 37.001 requires every Texas public school district to have a policy that prohibits bullying and harassment and provides options for preventing, or disciplining students who engage in bullying or harassment.

Texas Education Code Section 37.25.0342 offers parents of children in public schools the opportunity to transfer their child to another campus if the school determines that the child has been bullied in school.

Texas Education Code Section 37.083 requires public schools to implement a discipline management program that includes prevention and education concerning unwanted physical or verbal aggression, sexual harassment, and other forms of bullying at school or in school vehicles.

Other important Texas laws seek to prevent or protect students from bullying and harassment that disrupts learning, interferes with permissible student movement about the campus, or involves hazing or dating abuse or intimidation.

### What Can You Do?

When a student suffers harassment or bullying at a public school it is important for the student to report the conduct to responsible adults, including parents, and for parents to provide written notification to the school describing acts of bullying or harassment. In some cases, to avoid continuing harassment, the parent may wish to transfer the student to another class or school. The Texas Anti-Bullying Law gives parents of a child victim of bullying the right to petition the school's Board of Trustees or their authorized representative to transfer their child to another class at the same school, or to another school within the same school district.

### How Do You Request a Transfer Because of Bullying?

A parent of a harassed student may place the transfer request. The request should be in writing and addressed to the school principal and copied to the superintendent of the school district. An effective letter provides a timeline of events and evidence supporting the severity of the bullying. The letter should include specific details about the instances of bullying the youth suffered. For example, if a child suffered wounds which required a doctor's visit, parents should enclose medical documentation to prove particular injuries. Parents should also include relevant incident reports, letters from the school, or correspondence with school teachers or administrators should also be included. See [Form 11: Sample Letter to Transfer Student Due to Bullying](#) in Section 6: Sample Forms and Letters.

### What Does the School Do with the Complaint?

Once the school receives the request, the school board may investigate the bullying allegations before granting the transfer request. The law does not require schools to follow a specific timeframe for responding to the requests, and districts have different procedures for granting requests. For instance, some school districts have offices dealing solely with district transfers. In these districts, the school may investigate and grant the transfer, but the district transfer office must sign off as well. Because of the different procedures, parents should familiarize themselves with district policies and follow-up with phone calls after the letter is sent to make certain the school is investigating the complaint and moving quickly to protect the student.

Before requesting an Intra-District transfer, it is helpful to locate a desired school with space. While a school does not have to offer a parent their first choice of schools, we recommend that parents request a school that is convenient because the school is not required to provide transportation to the transfer placement. The board's transfer decision is final and cannot be appealed.

### What If I Do Not Want to Transfer Schools?

Other laws provide protections against harassment based on disability, sex, race or other protected classes. Title IX prohibits discrimination in any educational program based on sex, while Title II of the ADA and Section 504 can offer some protections to students with disabilities who face harassment based on their disabilities. Generally, schools may be liable for harassment performed by third parties if the student reported harassment, the school responded with "deliberate indifference," and the harassment was so severe that it "effectively bars victims' access to educational opportunities or benefits." *Davis v. Monroe County Bd. of Educ.*, 119 S.Ct. 1661 (1999).

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

### Bullying of Students in Special Education

Special Education ARD committee meetings can be an appropriate place to address bullying of students who are eligible for special education services. A student who is a victim of bullying may need a change of placement, counseling as a related service, or other intervention. Keep in mind that if a ARD Committee moves a student to another school because of educational need, special transportation as a related service can be provided, which can be an important reason to try to address the issue of bullying in ARD when possible.

## **6. Deciding on Placement in the Least Restrictive Environment**

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

Laws and regulations require placement decisions to:

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

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

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

### **Placement in the LRE**

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

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

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

## Questions About Placement in the LRE

- ***Can the student learn the same curriculum (general curriculum, or TEKS) as other students her age with only occasional in-class or consultative services from special education?*** If yes, then place in age-appropriate regular classes.
- ***Can she participate in the same learning activities as the other students with accommodations for her disability?*** If yes, then list accommodations needed on IEP, place in age-appropriate regular classes and implement needed accommodations. (See Words to Know for definitions of accommodations and modifications.)
- ***Does she need any “supplemental aides and services” (e.g., behavior interventions, one-on-one instruction, physical assistance) in order to remain in the regular classroom?*** If yes, then the IEP should list those supplemental aids and services and how they will be provided in the regular classroom.
- ***Can she participate in the same learning activities as the other students if modifications are made to those activities because she is learning at a lower grade level than the other students?*** If yes, then list the modifications she needs on the IEP, specify who is responsible for making those modifications, and place her in the regular classroom with needed special education support.
- ***Does she need any services that cannot be provided in the regular classroom setting at this time?*** If yes, then the IEP should specify her removal only for those activities.

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

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

## Ways You Can Participate

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

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



Ask questions, such as:

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

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

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

The following resources can help support students to participate in and progress in the General Education Curriculum:

- [Special Education Inclusive Practices](http://tinyurl.com/idea-SEIP) (tinyurl.com/idea-SEIP) – Region 20 Education Service Center
- [Standards-Based IEP Goals](http://tinyurl.com/idea-SBIEP) (tinyurl.com/idea-SBIEP) – Region 20 Education Service Center
- [Least Restrictive Environment Question and Answer Document](http://tinyurl.com/idea-LREQA) (tinyurl.com/idea-LREQA) – Region 20 Education Service Center
- [Resources to Support Student Progress in the General Curriculum](http://tinyurl.com/idea-GenCur) (tinyurl.com/idea-GenCur) – TEA and the Vaughn Gross Center for Reading and Language Arts
- [Coordinating for Reading Instruction: General Education and Special Education Working Together](http://tinyurl.com/idea-read) (tinyurl.com/idea-read) – The Meadows Foundation
- [Least Restrictive Environment and Inclusion Resources](http://tinyurl.com/idea-LREI) (tinyurl.com/idea-LREI) – Texas Project First

### **Dual Enrollment for 3-Year-Olds and 4-Year-Olds**

Districts are required to provide services in integrated environments for 3-year-olds and 4-year-olds, just as they are for older students. The school district must make available other school district programs, such as pre-kindergarten, to children with disabilities for whom that classroom would be appropriate. Parents offered only a separate special education class for their 3-year-olds and 4-year-olds should ask for the district to tell them about other placement options in integrated settings. You should also ask about the district's Early Childhood Special Education program. See TEA's [Early Childhood Special Education](http://tinyurl.com/idea-ecse) (tinyurl.com/idea-ecse) webpage for more information.

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

Sometimes parents want their child in a specific preschool program (such as one close to their house or one attended by their other children) and are willing to pay for it so the child can go there. Those parents can

choose to “dually enroll” their children in the private school of their choice and then enroll in the public school for special education services. Parents who choose this option will have to pay for the private placement. Only the special education services provided by the district must be at no cost. Therefore, most parents will choose to make the district fulfill its obligation to provide services in the “least restrictive environment.”

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

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

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

### **Contracting Placements**

When the school district cannot meet a student’s educational needs in its own program, it can contract with a non-public school approved by TEA. The district should not contract for any part of a student’s education if it can meet the needs in its own program. The ARD committee must decide whether to contract for services from another program or district. Even if the district contracts with a non-public school, the district’s responsibility for the student continues. For a checklist you can use to make sure all the IEP elements have been included, use [Form 12: During the ARD Meeting Parent Checklist](#) in Section 6: Sample Forms and Letters.

### **Residential Placement**

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

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

Many students who live in residential settings can and should go to school in the local district. However, if a student in a residential placement receives education services at the facility, the facilities, equipment and programs must be adequate to carry out the IEP.

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

### **Services and Supports in Charter Schools**

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

### **A Note About Special Education Services in Nonpublic Schools**

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

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

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

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

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

Finally, parents may choose to place a student in a private school because the parents feel that the public school is not offering a FAPE and/or a program in the least restrictive environment. In such cases, the parents must first provide the public school with notice of their intent to place the student in private school, either by raising their concerns and intent at the most recent ARD meeting or by providing written notice of their intent at least 10 business days prior to removing the student from the public school. If parents do not provide this

notice, they may later lose their right to tuition reimbursement. If parents do provide the required 10-day notice, initiate a hearing, and a hearing officer or court determines that the public school failed to offer a FAPE in the LRE, parents are entitled to reimbursement of tuition and associated costs of the private school placement.

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

## **7. Coming to Mutual Agreement**

Once the IEP is written, the parent and administrator sign the IEP form, either in agreement or disagreement. A parent should not sign “agree” if you do not find the terms of the IEP acceptable. If there is not mutual agreement, there are options to try to solve differences. See [Form 13: Sample Letter Requesting Review and Revision of IEP](#) in Section 6: Sample Forms and Letters.

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

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

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

### **Ways You Can Participate**

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

## **8. Closing the Meeting**

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

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

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

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

## **Step 7: After the Meeting**

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

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

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

IDEA allows some changes in the IEP to be made without an ARD meeting. Changes outside the ARD process are intended for changes that are not controversial and do not need to be discussed. The only requirements for amendments to the IEP without an ARD meeting are that the school and the parent agree and that the

amendments be in writing. If you are asked to agree to a change you do not agree with or do not understand, you should ask for an ARD meeting. If the IEP is changed without an ARD meeting, the school must provide you with a copy of the revised IEP at your request.

Teachers may also request a review of the IEP. If a teacher requests to review the IEP, the school must notify you of the teacher's request and the school's response to her request. If this occurs and the school does not schedule an ARD meeting to review the IEP, it would be a good idea for you to contact the teacher to find out what her concerns are and to decide if you want to request an ARD meeting to review the IEP. You have the right to request an ARD meeting to review your IEP at any time. See [Form 14: Sample Letter Requesting Mediation](#) in Section 6: Sample Forms and Letters.

## Section 5: Resolving Disagreements

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

Below are options for resolving disputes listed in order of seriousness. For information about the state's complaints management, mediation, IEP facilitation, and due process hearing systems, see TEA's [Special Education Dispute Resolution Systems Handbook](https://www.tea.state.tx.us/idea-dispute) ([tinyurl.com/idea-dispute](https://tinyurl.com/idea-dispute)). You can also visit the [Texas Special Education Information Center](https://www.spedtx.org) ([spedtx.org](https://www.spedtx.org)) website or call the center at 1-855-SPED-TEX.

### Request an ARD Facilitator

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

### Local Level Grievances at Independent School Districts

Generally, school districts will encourage parents to resolve their issue informally, meaning the parent should contact the appropriate teacher, principal or other campus administrator directly so that the dispute can be resolved at the lowest possible administration level.

However, a student or parent has the right to have the issue resolved formally according to the school district's applicable complaints/grievance policy. These policies can be found online by searching for the school district's Texas Association of School Boards (TASB) Online Policy. Once located, you can typically search "complaints" and then "Student Rights and Responsibilities- Student and Parent Complaints/Grievances" to locate your school district's policy. If you are having trouble locating the policy online, contact the superintendent's office to request a printed copy of the policy.

Although most school districts have a three-tiered procedure similar to what is described below, each policy may be slightly different. It is important to locate and review your own school district's policy in regards to timelines; who to file a grievance with; and a description of each of the levels in your district's grievance procedure.

### When to use local level grievances

These tend to be useful to address violations of district policies or specific personnel concerns, but not special education specific complaints (that are better addressed to the Texas Education Agency).

## Requirements

The formal complaint process usually requires that a student or parent timely file a written complaint on a form provided by the district. Some districts provide this form online; others, however, do not. Therefore, the parent may need to contact the district directly to obtain the proper paperwork.

## Typical procedure and timelines

A complaint could potentially move through three levels if it fails to be resolved at the previous level. Each subsequent level requires action by personnel higher on the level of hierarchy in the school.

**Level One:** Generally, the time to file the initial complaint could be from 10-15 days. After the complaint is filed, the Principal or appropriate administrator schedules and holds a conference within 5-10 days of the request. Following the conference, the principal has anywhere from 7-10 days to make a written response.

**Level Two:** A complaint typically reaches the second level if the student or parent does not receive the relief requested at Level One. The student or parent may request a conference with the next appropriate level of administrator. The parent or student will file an appeal notice in writing, on a form provided by the district within 7-10 days of the written Level One response.

The next level of appropriate administrator should schedule a conference within 7-10 days after the appeal notice is filed. The conference shall be limited to the issues and documents considered at Level One. The next level of appropriate administrator shall provide the student or parent with a written response within 7-10 days following the conference.

**Level Three:** A complaint reaches the third level if the parent or student did not receive the requested relief at the second level. At the third level, student or parent may submit to the Superintendent or the next appropriate level of administration a request for review. The request must be in writing and typically must be filed within 7 days of the received response or response deadline, if no response was received.

The Superintendent or next appropriate level of administrator will review the relevant documents and schedule a conference or prepare a written response within 10 days of the request.

## TEA Complaints Management System

If you disagree with a decision made by the ARD committee, you need to decide whether to accept the other position or seek a third party to settle the disagreement.

Although you may not be satisfied with school officials' final offer, you may not be ready for an impartial due process hearing. Other steps can be taken to settle disagreements. You can use TEA's mediation or complaints management systems together with, or instead of, a due process hearing or a lawsuit.

For information about the state's complaints management, mediation, IEP facilitation, and due process hearing systems, see [TEA's Complaints Management](http://tinyurl.com/idea-complaints) (tinyurl.com/idea-complaints). You can also visit the [Texas Special Education Information Center](http://spedtx.org) (spedtx.org) website or call the center at 1-855-SPED-TEX.

If you believe the school district is violating the educational rights of your child, you can file a complaint with TEA. Under federal regulations, TEA must investigate any complaint that a school district is violating any requirement of IDEA, including the identification, evaluation or placement of a special education student, or



any violation of a student’s right to a free appropriate public education. TEA is required to make sure the district complies with the law. Your complaint must be filed within one year of the alleged violation.

You can also read DRTx’s [How to File a TEA Complaint](http://tinyurl.com/idea-complaint) (tinyurl.com/idea-complaint). Your complaint must be in writing and should contain information as specific as you can provide about the alleged violation. Include your name, the name of your child, the name of the school he attends, the school district, your address and a phone number where TEA can reach you during the day. Complaints must be signed, and a copy of the complaint must be sent to the local school district. Mail, email or fax TEA’s copy to:

Texas Education Agency  
Division of Federal and State Education Policy  
1701 North Congress Avenue  
Austin, Texas 78701  
Fax: (512) 463-9560  
Email: [specialeducation@tea.texas.gov](mailto:specialeducation@tea.texas.gov)

You also have the choice of filing your complaint online with TEA’s [Request for Special Education Complaint Investigation Form](http://tinyurl.com/idea-TEAform) (tinyurl.com/idea-TEAform). The form is available in English, Spanish, Chinese, Vietnamese, and Arabic.

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

## TEA Mediation

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

You have a choice about whether to:

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

Requests for mediation should be made in writing to TEA by email, mail, fax, or hand delivery. Be sure to include in your request for mediation: your child’s name and grade, the name of the school district (or charter school), a brief description of the issues you would like mediated, and how you can be contacted. You can use TEA’s [Request for Special Education Mediation form](http://tinyurl.com/idea-mediation) (tinyurl.com/idea-mediation) to help you make sure your request includes the necessary information.

Your request can be mailed, emailed, hand delivered, or faxed to:

Texas Education Agency Division of Legal Services  
1701 N. Congress Avenue  
Austin, TX 78701-1494  
Fax: (512) 463-6027  
Email: [SE-Legal@tea.texas.gov](mailto:SE-Legal@tea.texas.gov)

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

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

There is also information about mediation and other dispute resolution processes available from the Center for Appropriate Dispute Resolution in Special Education (CADRE), which is a national project funded by the U.S. Department of Education. Their publications on mediation and alternative dispute resolution options are available on [CADRE website](http://cadreworks.org) (cadreworks.org).

## **U.S. Office for Civil Rights (OCR) Complaint**

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

For information and the online form to file an OCR complaint, see [OCR Complaint Forms](http://tinyurl.com/idea-ocr) (tinyurl.com/idea-ocr).

If you are not sure whether an OCR complaint is appropriate, or if you do not believe you know how to write a complaint, you can call OCR at (214) 661-9600. Students receiving special education are also protected from discrimination by Section 504 and may use this complaint process to allege discrimination. An example would be the school not allowing students with disabilities to attend field trips without parents or not accommodating extracurricular activities to allow participation.

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

Site Director  
U.S. Office for Civil Rights, Dallas Office  
1999 Bryan Street, Suite 1620  
Dallas, Texas 75201  
[OCR.Dallas@ed.gov](mailto:OCR.Dallas@ed.gov)

## **Due Process Hearings**

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

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

If you file for a due process hearing, the school will offer a resolution session within 15 days and you will be contacted by TEA and offered mediation. Whether you accept that offer or go directly to a due process hearing is your choice. However, if you choose not to accept mediation, the school district may require you to meet with an impartial party who will encourage the use and explain the benefits of mediation.

## **Time and Place of the Hearing**

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

## **Representation by an Attorney**

Before you ask for a due process hearing, you must decide whether to hire an attorney to represent you. Parents have a right to hire an attorney or to use a lay advocate at due process. Although some parents have represented themselves, it is very difficult to win without an attorney.

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

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

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

## **Finding an Attorney**

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

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

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

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

Other places to find information about attorneys and advocates are the [Council of Parent Attorneys and Advocates](http://copaa.org) (copaa.org) and TEA's [list of special education mediators](http://tinyurl.com/idea-mediators) (tinyurl.com/idea-mediators).

## **Representation by an Advocate**

In Texas, state law does allow a lay advocate to represent a student with a disability at a special education hearing. However, there are state rules and steps that must be followed before an advocate may act as a representative. You should review these rules with the advocate you are considering for your case. One of the main requirements is that the lay advocate must have a written agreement with the parent or adult student. The written agreement must include an explanation of how the advocate and client will solve any dispute about the representation. For example, how will any potential disagreements over payment of fees be solved. This kind of dispute resolution provision is common in many business agreements. The written agreement between the advocate and parent or adult student is confidential and may not be disclosed. Another key requirement in state law is that the lay advocate must get the permission of the Special Education Hearing Officer to act as the student's representative. There is a standard form that the lay advocate submits to the Hearing Officer to get approved to act in the case. There are rules the Hearing Officer follows when considering whether to allow the advocate to participate in the hearing for the student.

## **Requesting a Hearing**

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

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

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

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

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

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

In Texas beginning September 1, 2022, a request for a due process hearing must be filed within two years of the date that the parent or school knew or should have known about the action that forms the basis of the complaint. (Prior to September 1, 2022, Texas law allowed only one year.)

The timeline does not apply if the school misrepresented to the parent that it had resolved the problem or if the school withheld information from the parent that it is required to provide, such as failing to provide written notice or a procedural safeguards notice. In addition, the timeline does not apply if the parent asking for a hearing is an active-duty service member and covered by a federal law known as the Servicemembers Civil Relief Act. This federal law allows active-duty members of the armed forces more time in certain legal actions as an accommodation for their service.

There are two ways you or your attorney can file for a due process hearing: 1) by drafting your own due process complaint or 2) by using TEA's [Request for Special Education Due Process Hearing form](https://www.tea.texas.gov/idea-dph) ([tinyurl.com/idea-dph](https://www.tinyurl.com/idea-dph)).

The Due Process Complaint letter or the TEA form must be mailed, emailed or faxed to the school district superintendent AND to:

Office of Legal Services  
Texas Education Agency  
1701 North Congress Avenue  
Austin, Texas 78701  
Email: [SE-Legal@tea.texas.gov](mailto:SE-Legal@tea.texas.gov)  
Fax: (512) 463-6027

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

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

## **Resolution Meeting**

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

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

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

## **Decision of the Hearing Officer**

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

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

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

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

## **Appeal to Court**

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

## **Placement During Due Process Hearings and Court Appeals**

If you choose to challenge the school's evaluation, program or placement in a due process hearing, IDEA requires the student to remain in the current placement during the hearings and appeals. This is often referred to as the "stay put" provision of the law. In discipline cases where a student has already been removed from the classroom for an interim period, the "stay put" provisions do not apply. You also may be entitled to an expedited hearing. (See Behavior/Discipline starting on page 48.)

## **Expedited Due Process Hearings on Discipline Issues**

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

# Section 6: Sample Forms and Letters

## Form 1: Letter Requesting Records from School

(Be sure to keep a copy for yourself.)

Date

Name of principal

Name of school

Address of school

Dear (name of principal):

I am the parent of (name of student), a student at your school born on (your child's birth month/day/year). Please inform me in writing of the types and locations of all education records collected, maintained or used for (name of student) by the school district.

I would like to request the following records: (choose all that apply)

- The child's most recent special education evaluations.
- Teacher notes for past year
- Progress reports and Progress Monitoring for past two years
- Report cards for past two years
- Achievement tests for past two years
- Discipline, restraint and time-out reports for past two years
- Evaluations and reports done by the school district
- Reports from medical doctors for past two years
- Individual Education Programs (IEPs) and Behavior Intervention Plan (BIPs) for past two years
- Admission, Review and Dismissal (ARD) committee meeting reports for past two years
- Graduation plan (only select if 14+)
- Summary of performance (only select for student almost done with high school)

I prefer to receive these documents (electronically or in hard copies). If the school would prefer me to come and review records on campus, please let me know when and where I will have that opportunity.

Please tell me where all these records are kept and whom I should contact so I can look at them. After looking at the list, I will let you know which records I wish to review.

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

Sincerely,

Your name

Your address

Your telephone number

Your e-mail address (optional)



## Form 2: Letter Requesting a Change in Your Child's Records

(Be sure to keep a copy for yourself.)

Date

Name of principal

Name of school

Address of school

Dear (name of principal):

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

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

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

Sincerely,

Your name

Your address

Your telephone number

Your e-mail address (optional)

### Form 3: Sample Letter From Parent/Guardian to School Requesting Assessment

(Be sure to keep a copy for yourself.)

Date

Name of principal

Name of school

Address of school

Dear (name of principal):

I am the parent of (name of student), a student at your school. My child's teacher and I have concerns that my child may have a disability and is in need of special education services. I am requesting that my child be assessed for both, special education under the Individuals with Disabilities Education Act (IDEA), as well as whether s/he has a disabling condition under Section 504 of the Rehabilitation Act [or]

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

I am requesting a full individual evaluation of my child. I believe testing is needed in the area(s) of: (list areas of suspected disability needing testing). I am also requesting that any general education interventions, such as Response to Intervention (RtI), that the school would like to try not slow down the timelines established for the evaluation process.

I understand that I can expect to receive a response to my request within 15 school days of your receipt of this request and that I will be required to give my written consent for the evaluation at that time or I will receive notice of my procedural safeguards that explains my rights under the law. I look forward to receiving your response and the consent form as soon as possible so that we can proceed.

I also understand that the evaluation must be completed within 45 school days from the date the school district receives signed consent for evaluation. [or]

I also understand that because I consented to the evaluation least 35 school days before the last instructional day of the school year, but less than 45 schools days, the evaluation must be completed and the report provided to me by June 30th. Then, not later than the 15th school day of next school year, the ARD committee will meet to review the results of the evaluation and determine eligibility.

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

Sincerely,

Your name

Your address

Your telephone number

Your e-mail address (optional)

## Form 4: Letter Requesting Additional Testing

(Be sure to keep a copy for yourself.)

Date

Name of principal

Name of school

Address of school

Dear (name of principal):

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

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

If any consent forms must be signed, please provide them as soon as possible. Thank you for your help.

Sincerely,

Your name

Your address

Your telephone number

Your e-mail address (optional)

## Form 5: Letter Requesting an Independent Evaluation

(Be sure to keep a copy for yourself.)

Date

Name of principal

Name of school

Address of school

Dear (name of principal):

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

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

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

Please send me the criteria and list or let me know within five school days of the date

you receive this letter if you intend to request a due process hearing. Thank you for your help.

Sincerely,

Your name

Your address

Your telephone number

Your e-mail address (optional)

## Form 6: Letter Requesting Reevaluation

(Be sure to keep a copy for yourself.)

Date

Name of principal

Name of school

Address of school

Dear (name of principal):

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

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

If any consent forms must be signed, please provide them as soon as possible. Thank you for your help.

Sincerely,

Your name

Your address

Your telephone number

Your e-mail address (optional)

## Form 7: ARD Committee Meeting Agenda\*

1. Purpose of the ARD meeting.
2. Waivers: If the parent agrees to a meeting in fewer than the five-day time frame or to excuse a person, they will sign a waiver.
3. Review of evaluation data and other information and consider need for any additional evaluations
4. Determination of eligibility
5. Present levels of academic achievement and functional performance (PLAAFP)
6. Measurable annual goals
7. Behavior intervention plan Graduation
8. Autism (AU) and Visual Impairment (VI) supplements.
9. Modifications / Accommodations
10. State and district assessments (including HB 4545 requirements for accelerated instruction.
11. Extended school year (ESY) services
12. Determination of services classes, coordination between regular and special education, grading, related services, transportation needs, etc.
13. Determine placement in the least restrictive environment (LRE)
14. Assurances or effects of removal from the general education classroom: Consider the opportunity to participate and consider the potential harmful effects
15. Signature with Agreement/Disagreement Parent and administrator sign IEP form, either in agreement or disagreement. A parent should not sign “agree” if you do not agree to the terms of the IEP. If there is not mutual agreement, there are options to try to resolve differences. You may ask the TEA to assign an independent IEP facilitator to come and assist with another ARD meeting to work out the issue. You may ask for a 10-day recess of the ARD meeting to give everyone the opportunity to gather more information before making a final decision.
16. Consent for services at initial ARD or for additional assessments when needed.
17. Obtain free copy of IEP in native language.

\*Adapted from [Texas Project First](http://tinyurl.com/idea-TxPF) (tinyurl.com/idea-TxPF)

## Form 8: Before the ARD Meeting – A Parent Checklist

(Be sure to keep a copy for yourself.)

- Read notice to see what issues will be discussed and who will attend.
- If necessary, request the meeting be rescheduled at a time you can attend or when more time can be allotted for the meeting.
- If necessary, request additional items of discussion be added to agenda.
- If you need an interpreter to participate in the ARD meeting, tell the school.
- Ask the school to invite any representatives of outside agencies (e.g., ECI, TWC, HHSC, etc.) you think should attend.
- Ask the school for copies of any relevant information you do not already have, including:
  - ✓ Latest evaluation and any new testing the school has done or will need
  - ✓ Teacher progress notes [if necessary, request a meeting, such as a pre-ARD meeting, to talk with the teacher(s) and others for information on the student's progress]
  - ✓ Texas Essential Knowledge and Skills (TEKS) for your child's age-appropriate grade level
  - ✓ Student Code of Conduct and any disciplinary referrals
  - ✓ The ARD committee agenda
  - ✓ Blank IEP forms/any drafts of IEPs the school may have done. To request more records, see [Form 1: Letter Requesting Records from School](#) in Section 6: Sample Forms and Letters.
- Gather any reports you have from outside therapists, tutors, consultants or doctors.
- Make a list of the instructional/behavioral modifications and accommodations you know work best for your child.
- Make a list of other things you would like your child to learn during the year.
  - ✓ How is this going to help her?
  - ✓ Will she be able to participate more fully in school life?
  - ✓ Will she become more independent?
  - ✓ How will her life change or improve?
- Make a list of her areas of functioning that would increase with assistive technology (communication, mobility, etc.). Be prepared to make requests for assistive technology.
- Decide who you will bring to the ARD meeting.
- Decide if you want to meet with the teacher(s), diagnostician or related services provider before the ARD meeting.

If you want to record the ARD meeting, make sure you know how to use the record function on your phone or other equipment.

## Form 9: Request a Camera for a Special Education Classroom Sample Letter

To learn more about this sample letter, including when to use it and how to submit your request, see DRTx's [Request a Camera for a Special Education Classroom Sample Letter](http://tinyurl.com/idea-CameraRequest) (tinyurl.com/idea-CameraRequest).

Date

Name of school principal

Name of public school

Address of public school

Dear Principal (name),

I am the (parent/legal guardian) of (student's name), who is a student enrolled and attending (name of public school). I am writing to request the installation and operation of camera and audio equipment in the special education classroom of (student's name) under the Texas Education Code and Texas Administrative Code. To the best of my knowledge, the special education classroom meets the requirements in state law for video and audio monitoring upon my request. My child's special education placement is:

Classroom/Setting Room Number:

Classroom/Setting Teacher:

Under state law, a response to this request is due no later than the seventh school business day from the date of receipt. I look forward to hearing from you about approval of video surveillance in the special education classroom for (student's name) for the (current school year or next school year) school year.

Yours sincerely,

Name (print):

Address:

Phone number:

Email address:

Signature:



## Form 10: Report an Incident and Request a Recording Sample Letter

To learn more about this sample letter, including how to use it, as well as how to submit your report and request, see DRTX's [Report an Incident and Request a Recording Sample Letter](https://tinyurl.com/idea-CameraIncident) (tinyurl.com/idea-CameraIncident).

Date

Name of school principal

Name of public school

Address of public school

Dear Principal (name),

I am the (parent/legal guardian) of (student's name), who is a student enrolled and attending (name of public school). I am writing to report an incident involving (student's name) in (his/her) special education classroom. The classroom is under video and audio surveillance pursuant to Tex. Educ. Code Ann. § 29.022. Therefore, I am also writing to request the release of video and audio recordings of the incident for viewing by me as authorized by the Texas Education Code and Texas Administrative Code. My child's special education placement is:

Classroom/Setting Room Number:

Classroom/Setting Teacher:

To the best of my knowledge at this time, I have the following information on the incident involving my child.

Date(s) of alleged incident(s): (specific date or reasonable date range, such as a particular week)

Time(s) of alleged incident(s): (specific time or period of day, such as morning or end of school day)

Description of alleged incident(s): (Describe abuse or neglect, such as physical injury by a staff member or sexual abuse by another student)

Identification of witness(es): (names of individuals that you are aware of who observed first-hand the incident(s), such as teacher, aide, or another student)

If the school has already made a report to Child Protective Services about the incident, then I ask that you please inform me.

Please contact me as soon as possible to arrange the location and time for releasing for viewing the requested recordings. If the district denies my request, then please send me the denial in writing along with a copy of the local internal grievance policy. Under state law, I request that the district maintain, preserve, and save all video and audio recordings of my child's special education classroom beyond the mandatory minimum period until all investigations, determinations, and appeals have been fully completed.

Yours sincerely,

Name (print):

Address:

Phone number:

Email address:

Signature:

Copy to District Superintendent

# Form 11: Sample Letter to Transfer Student Due to Bullying

Date

Parent's Name

Parent's Address

Principal's Name

School Address

Dear Principal \_\_\_\_\_:

I am writing to request (an Intra-District or Classroom) transfer for victim's name under the Texas Anti-Bullying Law, TEX. EDUC.CODE. § 25.0341. (Next, describe the child's name, age, address and school campus.) My son/daughter, name of your child, is age and attends name of school.

Name is a victim of constant bullying from fellow student, name, whose conduct has created an intimidating, threatening and abusive educational environment. (Describe the actual problem with details of verbal expressions and physical conduct the victim suffered. Make sure to include names of witnesses, details of injuries, the effect of the conduct on the student's school work, and the fear the victim suffers).

[Example: On date, name of your child sustained severe injuries after being assaulted by fellow student, name. Their teacher, name, had his back turned to the class when the student attempted to staple my child's finger to the desk. Because the staple was rusty and dirty, we had to take our son/daughter to the doctor and have medical documentation of the injury and the necessary tetanus shots. The teacher also wrote an incident report after learning of the assault. (Remember to include any documents which show the threats or harm suffered). Since the incident, name of bully continues to intimidate name of child and has threatened to attack him/her again. Last Thursday, during Science class, name of bully told my son/daughter, "I'm going to beat you up after school." My child feels so endangered that he cannot concentrate in school and has lost focus on homework at home. He failed three subjects last semester and cries every day when I drop him off at Hogwarts.]

I understand that the school board may investigate these bullying allegations before granting the request for (specify whether you request a transfer to another school or just another class) transfer. With the facts and evidence I listed above and enclosed for your convenience, it is my hope that your investigation will be discreet and not put my son in further danger.

I request that the school do all it can to place name of child at (explain whether you request transfer to another school or just another class). Name of school is nearby and allows me to ensure transportation will not be difficult to secure. I called Springfield on (list the date you called and the person you contacted) date, and spoke with name of person, who confirmed that name of school has space available for name of child.

Thank you for your prompt assistance in this matter. Please contact me at (include phone number) to discuss how to proceed.

Sincerely,

Parent name

CC: Assistant Principal  
Superintendent

## Form 12: During the ARD Meeting Parent Checklist

(Be sure to keep a copy for yourself.)

Be sure the IEP for your child includes the following:

- A statement of progress your child has made on her previous IEP goals
- Information about current academic achievement and functional performance
- A statement of how the disability affects the student's involvement and progress in the general curriculum (TEKS)
- Measurable annual goals based on peer-reviewed research
- Short-term objectives for student's taking the alternative assessment (STAAR-Alt 2)
- Method for measuring progress toward goals and how and when progress will be reported to you
- Special education and related services to be provided
- Positive behavior strategies and/or a behavior intervention plan (required if your child's behavior interferes with his learning or the learning of others)
- Modifications of the curriculum (TEKS) (such as a different instructional level) your child needs to participate in the same learning activities as other students her age
- Supplemental aids and services your child needs to participate in regular education classes and activities
- Supports and training to be provided for school personnel
- Specifics about each instructional and related service, including date services begin, minutes per session, frequency of sessions, location of services, and the position (e.g., "special education teacher," "physical therapist," rather than someone's name) responsible for each service in the IEP; you should also clarify whether your child will be receiving "direct" or "consultative" services
- Special materials, equipment, resources and/or assistive technology needed and when they will be made available
- A statement of ANY academic or extracurricular activity in which your child will NOT participate with nondisabled students and the reasons why
- A determination of which state assessment they will take, STAAR or STAAR-Alt 2
- Any accommodations she needs to take the STAAR
- A statement of any exceptions to the district policies such as participation in extracurricular activities and the student Code of Conduct and the reasons for the exceptions
- Transition services to be provided beginning in the school year in which your child turns 14 (or younger if determined appropriate)
- Consideration of and plan for the student's graduation
- Goals for ESY from the current IEP
- Signatures of the parents and school administrator and statements of your agreement or disagreement with any part of the IEP

## Form 13: Sample Letter Requesting Review and Revision of IEP

(Be sure to keep a copy for yourself.)

Date

Name of principal

Name of school

Address of school

Dear (name of principal):

I am the parent of (name of student), a student at your school. I recently reviewed my child's IEP, which was developed in (month and year), and I believe it is (out of date, incomplete, based on insufficient evaluation information, etc.) because (state your reasons). I request a new meeting be held as soon as possible to review and, if necessary, revise (name of student)'s IEP. Please contact me within 5 school days so the meeting can be scheduled at a mutually agreeable time and place.

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

Sincerely,

Your name

Your address

Your telephone number

Your e-mail address (optional)

## Form 14: Sample Letter Requesting Mediation

(Be sure to keep a copy for yourself.)

Date

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

Dear Texas Education Agency:

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

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

Sincerely,

Your name (required)

Your address (required)

Your telephone number (required)

Your fax number (optional)

Your e-mail address (optional)

# Form 15: Letter Revoking Consent

(Be sure to keep a copy for yourself.)

Date

Name of principal

Name of school

Address of school

Dear (name of principal):

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

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

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

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

Thank you.

Sincerely,

Your name

Your address

Your telephone number

Your e-mail address (optional)

# Form 16: Sample Due Process Complaint Letter

(Be sure to keep a copy for yourself.)

Date

Name of Superintendent

Name of ISD

School district mailing address

Dear (Superintendent Name) and Texas Education Agency:

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

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

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

Sincerely,

Your name (required)

Your address (required)

Your telephone number (required)

Your fax number (optional)

Your e-mail address (optional)

CC:

Texas Education Agency

Division of Federal and State Education Policy

1701 North Congress Avenue

Austin, TX 78701

# Section 7: Texas Special Education Resources

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

## State Agencies

### Department of Family and Protective Services (DFPS)

Physical address:

4900 N. Lamar Blvd.

Austin, Texas 78751

Mailing address:

P.O. Box 149030

Austin, Texas 78714-9030

[DFPS website](http://dfps.state.tx.us) (dfps.state.tx.us)

[Texas Abuse Hotline website](http://tinyurl.com/idea-abuse) (tinyurl.com/idea-abuse)

Texas Abuse Hotline phone number: 1-800-252-5400

### Department of State Health Services (DSHS)

1100 West 49th St.

Austin, Texas 78756-3199

Toll-free: (888) 963-7111

Phone: (512) 458-7111

[DSHS website](http://dshs.state.tx.us) (dshs.state.tx.us)

### Health and Human Services Commission (HHSC)

Physical address:

4601 W. Guadalupe St.

Austin, TX 78751-3146

Mailing address:

P.O. Box 13247

Austin, Texas 78711-3247

Phone: (512) 424-6500

TTY: (512) 424-6597

[HHSC website](http://hhs.texas.gov) (hhs.texas.gov)

### Texas Council for Developmental Disabilities (TCDD)

6201 East Oltorf, Suite 600

Austin, Texas 78741

Toll-free: 1-800-262-0334

Phone: (512) 437-5432

TTY: (512) 437-5431

[TCDD website](http://tcdd.texas.gov) (tcdd.texas.gov)



## **Texas Education Agency (TEA)**

Headquarters:

1701 North Congress Avenue

Austin, TX 78701

Phone: (512) 463-9734

[TEA website](http://tea.texas.gov) (tea.texas.gov)

TEA Office of Special Populations and Monitoring

Phone: (512) 463-9414

[TEA Special Education Information Center website](http://spedtex.org) (spedtex.org)

Phone: 1-855-773-3839

## **Texas Workforce Commission (TWC)**

101 E 15<sup>th</sup> St.

Austin, TX 78778

Phone (512) 463-2222

[TWC website](http://twc.texas.gov) (twc.texas.gov)

## **Texas Disability Advocacy Organizations**

### **ADAPT of Texas**

1100 S. IH-35 1640A E. 2<sup>nd</sup> St., #100

Austin, Texas 787042-4412

Phone: (512) 442-0252

[ADAPT of Texas website](http://adaptoftexas.org) (adaptoftexas.org)

### **The Arc of Texas**

8001 Centre Park Drive, Suite 100

Austin, TX 78754

Toll-free: 1-800-252-9729

Phone: (512) 454-6694

[The Arc of Texas website](http://thearcoftexas.org) (thearcoftexas.org)

### **Attention Deficit Disorders Association (ADDA) of Texas Southern Region**

9597 Jones Road #334

Houston, Texas 77065

Phone: (281) 894-4932

[ADDA website](http://adda-sr.org) (adda-sr.org)

## **Autism Society of Texas**

300 E. Highland Mall Blvd, Suite 205,

Austin, TX 78752

Phone: (512) 479-4199 Ext 1

[Autism Society website](http://texasautismsociety.org) (texasautismsociety.org)

## **Brain Injury Association of America – Texas Division**

P.O. Box 95234

Grapevine, TX 76099

Phone: (512) 987-0101

Toll-free: 1-800-444-6443

Fax: (512) 326-8088

[Brain Injury Association website](http://tinyurl.com/idea-BIATx) (tinyurl.com/idea-BIATx)

## **Texas A&M Center on Disability and Development (CDD)**

Physical location:

Harrington Education Center Tower, Suite 637, on Texas A&M University Campus

Mailing address:

4225 TAMU

College Station, TX 77843-4225

Phone: (979) 845-4612

[CDD website](http://cdd.tamu.edu) (cdd.tamu.edu)

## **Coalition of Texans with Disabilities (CTD)**

1716 San Antonio Street

Austin, TX 78701

Phone & TTY: (512) 478-3366

[CTD website](http://txdisabilities.org) (txdisabilities.org)

## **Deaf-Blind Multi-Handicapped Association of Texas (DBMAT)**

[DBMAT website](http://dbmat-tx.org) (dbmat-tx.org)

## **Disability Rights Texas (DRTx)**

Headquarters:

2222 West Braker Lane

Austin, Texas 78758

Toll-free: (800) 252-9108

Phone: (512) 454-4816

[DRTx website](http://DRTx.org) (DRTx.org)

## **Easter Seals Chapters in Texas**

### **Central Texas**

2324 Ridgepoint Dr #F1

Austin, TX 78754

[Easter Seals Central Texas website](http://tinyurl.com/idea-ESCTx) (tinyurl.com/idea-ESCTx)

Phone: (512) 615-6800

### **Greater Houston**

4888 Loop Central Drive, Suite 200

Houston, TX 77081

[Easter Seals Houston website](http://tinyurl.com/idea-ESHou) (tinyurl.com/idea-ESHou)

Phone: (713) 838-9050

### **North Texas**

1424 Hemphill Street,

Fort Worth, TX 76104-4703

[Easter Seals North Texas website](http://tinyurl.com/idea-ESNTx) (tinyurl.com/idea-ESNTx)

Phone: (817) 332-7171

### **Rio Grande Valley**

1217 Houston Street

McAllen, TX 78501

[Easter Seals Rio Grande Valley website](http://tinyurl.com/idea-ESRGV) (tinyurl.com/idea-ESRGV)

Phone: (956) 631.9171

### **San Antonio Rehabilitation Center**

2203 Babcock Road

San Antonio, TX 78229

[Easter Seals San Antonio website](http://tinyurl.com/idea-ESSanAn) (tinyurl.com/idea-ESSanAn)

Phone: (210) 614-3911

### **Family to Family Network (F2F)**

(develops the Texas Project First website)

16225 Park Ten Place #500

Houston, TX 77084

Phone: (713) 466-6304

[F2F website](http://f2fn.org) (f2fn.org)

[Texas Project First website](http://texasprojectfirst.org) (texasprojectfirst.org )

### **Hogg Foundation for Mental Health**

3001 Lake Austin Boulevard

Austin, Texas 78703-4200

Phone: (512) 471-5041

[Hogg website](http://hogg.utexas.edu) (hogg.utexas.edu)

## **Learning Disabilities Association of Texas (LDA TX)**

P.O. Box 600205  
Dallas, TX 75360  
Toll-free: (800) 604-7500  
Phone: (512) 458-8234  
[LDA TX website](http://ldatx.org) (ldatx.org)

## **Mental Health America of Texas (MHA of Texas)**

1210 San Antonio St., Ste. 200  
Austin, Texas 78701  
Phone: (512) 454-3706  
[MHA of Texas website](http://mhatexas.org) (mhatexas.org)

## **National Alliance on Mental Illness of Texas (NAMI Texas)**

Physical address:  
Austin State Hospital Campus  
Building 781, Room 428  
Mailing address:  
P.O. Box 300817  
Austin, TX 78703  
Phone: (512) 693-2000  
Toll-free: 1-800-273-8255  
[NAMI Texas website](http://namitexas.org) (namitexas.org)

## **National Down Syndrome Society (NDSS)**

[NDSS local affiliates](http://tinyurl.com/idea-ndss) (tinyurl.com/idea-ndss)

## **Neuhaus Education Center**

(Dyslexia Information)  
4433 Bissonnet  
Bellaire, Texas 77401  
Phone: (713) 664-7676  
[Neuhaus website](http://92euhaus.org) (92euhaus.org)

## **Partners Resource Network Inc. (PRN)**

Includes the federally funded Parent Training and Information Centers: PACT, PATH, PEN and TEAM  
Toll-free: 1-800-866-4726  
[PRN website](http://prntexas.org) (prntexas.org)

### **PACT Project**

1331 Airport Fwy, Ste 303

Eules, TX 76040

Phone: (469) 712.8409

Toll-free: 1-855-974-1368

[PACT website](http://tinyurl.com/idea-pact) (tinyurl.com/idea-pact)

### **PATH Project**

2825 Wilcrest Drive, Suite 205 1090 Longfellow Dr., Suite B Beaumont TX 77706-4819

Toll-free: (800) 866-4726 (Texas Parents only)

Phone: (409) 898-4684

[PATH website](http://tinyurl.com/idea-path) (tinyurl.com/idea-path)

### **PEN Project**

1001 Main St., Suite 804

Lubbock, TX 79401

Phone: (806) 762 -1434

Toll-fee: (877) 762-1435

[PEN website](http://tinyurl.com/idea-PenProj) (tinyurl.com/idea-PenProj)

### **TEAM Project**

8920 Business Park Drive, Suite 140

Austin, Texas 78759

Phone: (281) 969-5944

Toll-free: (877) 832-8945

[TEAM website](http://tinyurl.com/idea-TeamProj) (tinyurl.com/idea-TeamProj)

### **Special Kids, Inc. (SKI)**

(federally funded community parent resource center)

Serves Houston Independent School Districts: South, South Central and Central

9001 Airport Blvd. #604

Houston, TX 77061

Phone: (713) 783-KIDS (5437)

[SKI website](http://specialkidsinc.com) (specialkidsinc.com)

### **Special Olympics of Texas (SOTx)**

[SOTx website](http://sotx.org) (sotx.org)

## **Texas Center for Disability Studies (TCDS)**

J.J. Pickle Research Campus

10100 Burnet Rd., Suite 1.154

Bldg. CMS #137, L4000

Austin, TX 78758

Phone: (512) 232-0740

[TCDS website](http://tinyurl.com/idea-tcds) (tinyurl.com/idea-tcds)

## **Texas Advocates**

8001 Centre Park Drive, Suite 100

Austin, Texas 78754

Phone: (512) 522-6591

[Texas Advocates website](http://texadvocates.org) (texadvocates.org)

## **Texas Appleseed**

1609 Shoal Creek Blvd., Suite 201

Austin, Texas 78701

Phone: (512) 473-2800

[Texas Appleseed website](http://texasappleseed.org) (texasappleseed.org)

## **Texas Parent to Parent (TxP2P)**

1805 Rutherford Lane, Suite 201

3710 Cedar Street, Box 12

Austin, TX 78754

Phone: (512) 458-8600

Toll-free: 1-866-896-6001

[TxP2P website](http://txp2p.org) (txp2p.org)

## **Regional Education Service Centers**

Texas has 20 Education Service Centers (ESCs), which serve school districts and parents within defined boundaries. Their job is to provide training and technical assistance to districts and parents in a variety of areas, including special education. Also, several ESCs provide statewide leadership and technical assistance on specific areas regarding the education of students with disabilities. To find the ESC in your area, see the Education Service Centers Map section of TEA's [Education Service Centers webpage](http://tinyurl.com/idea-ESCs) (tinyurl.com/idea-ESCs). This section includes a map and a table with information about the ESCs.

## **Texas Special Education Information Center (SPEDTex) at Region 10 ESC**

Toll-free: 1-855-SPED-TEX (773-3839)

[SPEDTex website](http://spedtex.org) (spedtex.org)

## **Region 1 ESC – Edinburg**

Phone: (956) 984-6000

[Region 1 ESC website](#) (esc1.net)

## **Region 2 ESC – Corpus Christi**

Phone: (361) 561-8400

[Region 2 ESC website](#) (esc2.net)

## **Region 3 ESC – Victoria**

Phone: (361) 573-0731

[Region 3 ESC website](#) (esc3.net)

## **Region 4 ESC – Houston**

Phone: (713) 462-7708

[Region 4 ESC website](#) (esc4.net)

## **Region 5 ESC – Beaumont**

Phone: (409) 951-1700

[Region 5 ESC website](#) (esc5.net)

## **Region 6 ESC – Huntsville**

Phone: (936) 435-8400

[Region 6 ESC website](#) (esc6.net)

## **Region 7 ESC – Kilgore**

Phone: (903) 988-6700

[Region 7 ESC website](#) (esc7.net)

## **Region 8 ESC – Mt. Pleasant**

Phone: (903) 572-8551

[Region 8 ESC website](#) (reg8.net)

## **Region 9 ESC – Wichita Falls**

Phone: (940) 322-6928

[Region 9 ESC website](#) (esc9.net)

## **Region 10 ESC – Richardson**

Phone: (972) 348-1700

[Region 10 ESC website](#) (region10.org)

## **Region 11 ESC – White Settlement (Fort Worth)**

Phone: (817) 740-3600

[Region 11 ESC website](#) (esc11.net)

## **Region 12 ESC – Waco**

Phone: (254) 297-1212

[Region 12 ESC website](#) (esc12.net)

## **Region 13 ESC – Austin**

Phone: (512) 919-5313

[Region 13 ESC website](#) (esc13.net)

## **Region 14 ESC – Abilene**

Phone: (325) 675-8600

[Region 14 ESC website](#) (www.esc14.net)

## **Region 15 ESC – San Angelo**

Phone: (325) 658-6571

[Region 15 ESC website](#) (esc15.net)

## **Region 16 ESC – Amarillo**

Phone: (806) 677-5000

[Region 16 ESC website](#) (www.esc16.net)

## **Region 17 ESC – Lubbock**

Phone: (806) 792-4000

[Region 17 ESC website](#) (esc17.net)

## **Region 18 ESC – Midland**

Phone: (432) 563-2380

[Region 18 ESC website](#) (esc18.net)

## **Region 19 ESC – El Paso**

Phone: (915) 780-1919

[Region 19 ESC website](#) (esc19.net)

## **Region 20 ESC – San Antonio**

Phone: (210) 370-5200

[Region 20 ESC website](#) (esc20.net)



## **Legal Assistance**

### **County Bar Associations**

These are organizations of lawyers in major counties. Several county bar associations have a lawyer referral service, which can refer parents to lawyers who specialize in education or child-related cases. To find one in your area, search on the web using the name of your county and the term “lawyer referral” or contact the Lawyer Referral & Information Service of the State Bar of Texas listed below.

### **State Bar of Texas Lawyer Referral & Information Service (LRIS)**

Phone: (512) 427-1463

Toll-free: 1-800-252-9690

[State Bar of Texas LRIS webpage](http://tinyurl.com/idea-lris) (tinyurl.com/idea-lris)

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

### **Legal Aid or Legal Services**

To find one in your area, search on the web using the name of your city and the term “legal aid” or contact the Texas Legal Services Center listed below to see if your county is served.

### **Texas Legal Services Center (TLSC)**

Phone: (512) 477-6000

Toll-free: 1-800-622-2520

[TLSC website](http://tlsc.org) (tlsc.org)

### **The Council of Parent Attorneys and Advocates (COPAA)**

[COPAA website](http://copaa.org) (copaa.org)

### **Legal Aid Offices**

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

### **Legal Aid of NorthWest Texas (LANWT)**

Toll-free: 1-888-529-5277

[LANWT website](http://lanwt.org) (lanwt.org)

### **Lone Star Legal Aid (LSLA)**

Toll-free: (800) 733-8394

[LSLA website](http://lonestarlegal.org) (lonestarlegal.org)

### **Texas Rio Grande Legal Aid (TRLA)**

Toll-free: 1-888-988-9996

[TRLA website](http://trla.org) (trla.org)