



To the Administrator Addressed

Commissioner Mike Morath

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| DATE: | August 3, 2023 |
| SUBJECT: | Admission, Review, and Dismissal (ARD) Committee Requirements |
| CATEGORY: | Special Populations |
| NEXT STEPS: | Share with appropriate staff and update local processes and procedures as necessary |

The purpose of this correspondence is to notify local educational agencies (LEAs) of a recent rule change to [19 Texas Administrative Code \(TAC\) §89.1050](#) regarding ARD committee responsibilities.

Two primary issues were addressed in this rule change, which was effective July 18, 2023:

- 1) the ARD committee’s responsibility to take all reasonable actions to ensure that a parent understands the proceedings of an ARD committee meeting, including arranging for an interpreter for a parent who is deaf or hard of hearing or whose native language is a language other than English; and
- 2) the procedures for an ARD committee to follow when a student enrolls in a school district and the student received special education and related services in their previous school district.

The addition of language to ensure a parent understands the proceedings of an ARD committee meeting clarifies and aligns with wording in federal regulations and reiterates a school district’s duty to ensure the parent has the opportunity to be an active member of the ARD committee.

In relation to the student enrollment change, the rule addresses a school district’s obligations when a student transfers to a new school district during the school year from a school district within Texas and outside of Texas. The rule also addresses requirements in situations where a student who was previously receiving special education and related services enrolls in a new school district over the summer months. Federal requirements in the Individuals with Disabilities Education Act (IDEA) specifically address student transfers during the school year; they do not address procedures for enrollment over the summer months. However, IDEA regulations specifically require LEAs to have an individualized education program (IEP) in effect at the beginning of a school year for each student with a disability within the LEA’s jurisdiction. The rule clarifies how each LEA must comply with that requirement.

The rule addresses student transfers during the year and enrollment during the summer months in the following ways:

- If a student transfers to a Texas school district from another Texas school district during the school year, the provisions in 34 CFR, §300.323(e), would apply. Those provisions state that the new district must provide a free appropriate public education (FAPE) to the transfer student, including services comparable to those described in the child's IEP from the previous district, until the new district either (a) adopts the child's IEP from the previous district, or (b) develops, adopts, and implements a new IEP. There is no set timeline defined in this provision of §300.323(e). The timeline set in this TAC rule has been changed from 30 school days to 20 school days based on a more specific definition of "verify" provided in the rule, as that term is used to determine the special education and related services that the student was previously receiving at the transferring district.
- If a student transfers to a Texas district from a district outside of Texas during the school year, the provisions in 34 CFR, §300.323(f), would apply. The difference between a transfer from out of state versus within Texas is that the provision of FAPE and comparable services are effective until the new district (a) conducts an evaluation, and (b) develops, adopts, and implements a new IEP, if appropriate. While there is no set timeline defined in this provision of §300.323(f), if an evaluation is determined to be necessary, the evaluation timeline would align with the Texas requirement of having initial evaluations completed within 45 school days, with limited exceptions. The requirement to comply with the development, adoption, and implementation of the new IEP would then

align with §300.323(c)(1) to have an ARD meeting within 30 calendar days from the completion date of the evaluation report. If the new district determines that an evaluation is not necessary, the timeline listed in this TAC rule has been adjusted from 30 school days to 20 school days to align with the more specific definition of "verify" provided in the rule.

- Procedures for ensuring the provision of FAPE to students with disabilities who enroll in a new district over the summer months are not contemplated in 34 CFR, §300.323. Therefore, the rule must address those instances to ensure that a student has an IEP in place at the beginning of the school year. When a student enrolls over the summer months – whether coming from an in-state or out-of-state district – the new school district must implement the IEP from the previous district in full on the first day of the new school year or must convene an ARD committee meeting during the summer to revise the student’s IEP for implementation on the first day. This requirement is conditional on the new district having received verification of the student’s special education and related services that were in place at the previous district. If a student’s services cannot be verified prior to the start of the school year, the timelines described above would apply, depending on whether the student previously attended a district within Texas or outside of Texas.

As mentioned, a new definition of “verify” has been added to clarify that this term means actual receipt of a copy of the student’s IEP that was in effect in the previous district. Because of this specific definition, the timelines as noted above were changed on adoption from 30 school days to 20 school days to balance the district’s need to become familiar with the student and the need for expeditious decisions in relation a student's necessary services. In other words, the timeline of 20 school days will not begin until the new district is in receipt of the student’s IEP that was in effect at the previous district.

As this rule does have a change that affects the timeline of certain ARD committee decisions, it is important to share this information with all appropriate staff. Should you have any questions, please e-mail sped@tea.texas.gov.