

FAPE

PARENT PARTICIPATION

July 7, 2022

Model operating procedures created by



Student Solutions

and

**Thompson
& Horton** LLP
ATTORNEYS | COUNSELORS

Disclaimer: This information is provided for educational purposes only to facilitate a general understanding of the law or other regulatory matter. This information is neither an exhaustive treatment on the subject nor is this intended to substitute for the advice of an attorney or other professional advisor. Consult with your attorney or professional advisor to apply these principles to specific fact situations.

©2020 by Texas Association of School Boards, Inc.

TASB grants members/subscribers of TASB Student Solutions™ the limited right to customize this publication for internal (non-revenue generating) purposes only.

CONTENTS

PARENT PARTICIPATION..... 1

 What is Required..... 1

 Parent’s Guide to the Admission, Review, and Dismissal Process1

 Responsibility for Parent Participation1

 Notice of ARD Committee Meeting.....1

 Conducting an ARD Committee Meeting Without the Parent in Attendance2

 Parent Copy of the Student’s IEP2

 Additional Procedures 3

 Parent’s Guide to the Admission, Review, and Dismissal Process3

 Responsibility for Parent Participation3

 Notice of ARD Committee Meeting.....4

 Notice of Procedural Safeguards5

 Conducting an ARD Committee Meeting Without the Parent in Attendance5

 Parent Copy of the Student’s IEP6

 Parent Request for ARD Meeting6

 Evidence of Implementation 7

 Resources 7

CITATIONS 7

PARENT PARTICIPATION

What is Required

Parent's Guide to the Admission, Review, and Dismissal Process

Campus Special Education Personnel must provide the parent the *Parent's Guide to the Admission, Review, and Dismissal Process* (the "Guide") as soon as practicable after a referral for possible special education services, but no later than 5 school days before the initial ARD Committee meeting. The Guide must also be provided upon request of the student's parent.

Responsibility for Parent Participation

Campus Special Education Personnel must make reasonable efforts to ensure that one or both of the parents of the student with a disability are present at each ARD meeting and afforded a reasonable opportunity to participate. To do so, Campus Special Education Personnel must ensure that the parents are provided a notice of the ARD meeting early enough to ensure that they will have the opportunity to attend and schedule the ARD meeting at a mutually agreed upon time and place.

If no parent or guardian is able to attend the ARD Committee meeting in person, Campus Special Education Personnel must use other methods to encourage parent participation, including via telephone or videoconference.

A meeting in which a parent must be given the opportunity to participate does not include:

- Informal or unscheduled conversations between Service Providers;
- Conversations related to teaching methodology, lesson plans, or communications related to the provision of services; and
- Interactions between the Campus ARD Committee members in preparation of developing a proposal or a response to a parent proposal that will be discussed at the ARD meeting.

The ARD Committee must ensure that the parent is able to understand the entirety of the ARD meeting and provide an interpreter for parents with deafness or whose native language is other than English.

Notice of ARD Committee Meeting

Campus Special Education Personnel must provide the parent or guardian of a student with a disability with written notice of an ARD Committee meeting at least 5 school days before the ARD meeting unless the parent agrees to a shorter timeframe. The written

notice must:

- State the purpose, time, and location of the meeting;
- Notify the parents of the provisions relating to participation of other individuals who have knowledge or special expertise about the student; and
- Notify the parents of the participation of the IDEA Part C service coordinator or IDEA Part C representatives at the initial ARD Committee meeting for the student previously served under Part C of the IDEA.

See [ADMISSION, REVIEW, AND DISMISSAL COMMITTEE MEMBERSHIP].

By the first IEP to be in effect when a student turns 16, or younger if determined appropriate by the ARD Committee, Campus Special Education Personnel must also indicate in the notice:

- That the ARD Committee will consider postsecondary and transition services for the student at the ARD meeting;
- That the student will be invited to the meeting; and
- That any other agency may send a representative with the consent of the parents or adult student.

All written notices must be provided in the parent's native language, unless clearly not feasible. Where the parent's native language is not a written language, Campus Special Education Personnel must ensure that notice is translated orally or by other means to the parent in the parent's native language or other mode of communication to ensure the parent understands the content of the notice.

Conducting an ARD Committee Meeting Without the Parent in Attendance

The ARD Committee may convene an ARD meeting without the parent if Campus Special Education Personnel are unable to convince the parent to attend the meeting. Campus Special Education Personnel must keep a record of each attempt to arrange the meeting at a mutually agreed upon time and place. These efforts include, but are not limited to records of telephone calls made or attempted and the results of those calls, copies of correspondence sent to the parent and any responses received, and detailed records of visits to the parent's home or place of employment and the results of those visits.

Parent Copy of the Student's IEP

Campus Special Education Personnel must provide the parent a copy of the student's IEP at no cost. If a parent is unable to speak English and Spanish is the parent's native

language, the parent must be provided a written copy or audio recording of the student's IEP translated into Spanish. If a parent is unable to speak English and the parent's native language is a language other than Spanish, Campus Special Education Personnel must make a good faith effort to provide the parent with a written copy or audio recording of the student's IEP translated into the parent's native language. If the parent's native language is not a written language, Campus Special Education Personnel must take reasonable steps to ensure that the student's IEP is translated orally or by other means in the parent's native language or other mode of communication.

Any translation must be a comparable rendition of the IEP in English and not a partial translation or a summary of the IEP in English. Campus Special Education Personnel may provide the parent an audio recording of an ARD meeting where the parent was assisted by an interpreter if the audio recording contains an oral translation into the target language of all of the content in the student's IEP in English.

Additional Procedures

Parent's Guide to the Admission, Review, and Dismissal Process

The parent can access the Guide both on the Texas Education Agency's website and District's website.

Responsibility for Parent Participation

When scheduling the ARD meeting with the parent, Campus Special Education Personnel will provide the parent multiple different dates/times of the day for the ARD meeting to ensure that the parent can participate. Campus Special Education Personnel will also notify the parent that the parent may participate in the ARD meeting in-person, by phone, or by video conference. ARD meetings will be held at the student's campus unless the parent objects to this location. If the parent objects to the location of the meeting, Campus Special Education Personnel will work with the parent to find an alternative location within the District for the meeting.

Where feasible, Campus Special Education Personnel will send a draft of the IEP (or at least a draft of the PLAAFP, proposed goals and objectives, accommodations, and BIP) to the parent within a reasonable amount of time for the parent to review prior to the ARD meeting. Campus Special Education Personnel will explain to the parent that the draft IEP is solely for the purpose of discussion and development of the student's IEP and are only recommendations for review and discussion with the parents at the ARD Committee meeting. Campus Special Education Personnel should be very clear with the parent that the draft does not indicate the final decisions of the ARD Committee and that all ARD Committee members will consider the parent's input as well as the input of all members at the ARD Committee meeting. Campus Special Education Personnel will maintain a copy of the draft IEP and record in the minutes of the ARD meeting any changes that

were made to the draft IEP based on parent input and/or based on other input during the meeting.

During the ARD meeting, Campus Special Education Personnel will check in with the parent to make sure that the parent fully understands the ARD process and what is being discussed in the meeting. Campus ARD Committee members must enter the ARD Committee meeting with an open mind and must meaningfully consider the parents' input as well as all available appropriate alternatives. The minutes/deliberations of the ARD Committee meeting should reflect the input and the concerns of the parent as well as the District's response to those concerns.

Campus Special Education Personnel should contact District Special Education Administration regarding the need for an interpreter in an ARD meeting. If an interpreter is needed at the ARD meeting, a certified interpreter employed or contracted by the District should be utilized. The other members of the ARD Committee should not also serve as the interpreter for the meeting unless the parent agrees.

Throughout the ARD year, Campus Special Education Personnel will frequently communicate with the parent of the student through email, phone calls, or letters sent home regarding the student's progress. This will ensure that the parent has an accurate understanding of the student's progress and is fully prepared to participate in the ARD process. Campus Special Education Personnel shall maintain documentation of these communications through a communication log that includes the name of the parent, date and time of the conversation, method of communication, and summary of the discussion. [DESCRIBE OTHER FAMILY ENGAGEMENT ACTIVITIES PROVIDED BY THE DISTRICT TO IMPROVE TIMELY COMMUNICATION AND INCREASED PARENT PARTICIPATION IN THE ARD PROCESS]

Notice of ARD Committee Meeting

Campus Special Education Personnel will coordinate with the parent to set up an ARD meeting at a mutually-agreeable time and date. Campus Personnel will provide at least three (3) notices of the ARD to the parent delivered in three (3) different methods (hand delivery, mail, phone call, email, etc.) on three (3) different days. The first notice must be provided to the parent at least five (5) school days before the scheduled ARD meeting. While Campus Special Education Personnel may provide the notice to the parent through the student, (e.g., by placing the notice in the student's backpack), such a delivery method may not be appropriate depending on the student's ability to deliver the notice to the parent and should be followed up with a phone call, email, or other documented delivery method to the parent. Campus Special Education Personnel will document all efforts and place relevant documentation in the student's special education eligibility folder.

In addition to the notice requirements above, Campus Special Education Personnel will ask the parent to provide the names of any other individuals invited by that parent that will be attending the ARD meeting and will include these in the ARD notice when feasible.

Campus Special Education Personnel should contact the District's Special Education Director regarding how to proceed if the parent indicates that an advocate or attorney will attend the ARD meeting.

If necessary, Campus ARD Committee members should schedule and participate in a staffing prior to an ARD meeting to prepare a draft proposal or a response to a parent proposal that will be discussed at the ARD meeting. It is likely that a staffing will need to be scheduled prior to the ARD with District Special Education Personnel (and possibly the District's legal representation), if the parent indicates that an attorney or advocate will be present at the ARD, or if the campus is aware of a significant concern or proposal of the campus and/or parent. Parents have no right to attend a staffing.

All requests for notices of ARD meetings translated in a parent's native language should go through the Special Education Department. Campus Special Education Personnel should not attempt to translate such documentation through an online translation system.

Notice of Procedural Safeguards

The District must adopt and implement appropriate procedural safeguards regarding the identification, evaluation, or educational placement of students with disabilities or those who are suspected of having disabilities. District or Campus Special Education Administration or Personnel or District Assessment Personnel must provide the parents of a student with a disability a copy of the *Notice of Procedural Safeguards* at least one (1) time per school year and in the following circumstances:

- Upon initial referral or parent request for evaluation. See [REFERRAL FOR POSSIBLE SPECIAL EDUCATION SERVICES];
- Upon receipt of the first State complaint or due process complaint in a school year. See [TEA COMPLAINT PROCEDURES] and [DUE PROCESS COMPLAINTS];
- In accordance with discipline procedures set forth under the IDEA. See [DISCIPLINE SECTIONS]; and
- Upon request by a parent.

A parent may elect to receive the copy of the *Notice of Procedural Safeguards* via e-mail if the District makes that option available.

Conducting an ARD Committee Meeting Without the Parent in Attendance

Campus Special Education Personnel must keep a record of all attempts to arrange a mutually agreeable time and place for an ARD meeting including keeping a phone log of all calls made or attempted and the results of those calls; all letters, emails, text messages, and/or other communications sent to the parent and the parent's response,

and any record of any visits to the parent's home or place of employment. Campus Special Education Personnel must make at least 3 documented attempts to convince the parent to attend the ARD meeting. If Campus Special Education Personnel still cannot convince the parent to attend the ARD meeting after all reasonable efforts to encourage participation have been made, the ARD Committee will convene an ARD meeting without the parent. During the ARD meeting, the Campus Special Education Personnel should outline the attempts taken to obtain parent participation and this information should be included in the minutes/deliberations of the ARD meeting. Campus Special Education Personnel will ensure that the parent receives a copy of the IEP and Prior Written Notice following the ARD meeting. The documentation will also explain to the parent that the parent is welcome to contact the campus after reviewing the IEP to schedule another ARD meeting.

Parent Copy of the Student's IEP

Campus Special Education Personnel will provide the parent with a copy of the student's IEP. If the ARD meeting is recorded by Campus Special Education Personnel and the parent requests a copy of the recording, the parent will be provided with a copy of the recording in accordance with the District's student records policies. The recording or videotaping of ARD Committee meetings should be in accordance with District policies.

All requests for an IEP translated in a parent's native language should go through District Special Education Department. Campus Special Education Personnel should not attempt to translate such documentation through an online translation system.

The District will maintain documentation requirements of compliance associated with Texas Student Data System (TSDS), Public Education Information Management System (PEIMS), and State Performance Plan (SPP). District staff will provide training, with follow up, to ensure the documentation required is in place and compliant.

Parent Request for ARD Meeting

While a parent has the right to meaningful participation in the student's IEP, the District is not required to convene an ARD meeting at the request of the parent if the request does not involve the provision of a free appropriate public education ("FAPE") to the student. Should the parent request an ARD meeting to address an issue other than the provision of FAPE, Campus Special Education Administration and Campus Special Education Personnel will communicate to determine whether to grant the parent's request. If the District denies a parent's request for an ARD meeting, the Campus Special Education Personnel must provide the parent Prior Written Notice in the parent's native language or other mode of communication within five (5) school days of the request, outlining the District's reason for denying the meeting. See [PRIOR WRITTEN NOTICE]. If a parent/teacher conference or conference with an administrator is appropriate, the Campus Special Education Administrator or Campus Special Education Personnel may offer to meet with the parent outside of an ARD meeting.

[ADD ADDITIONAL DISTRICT PROCEDURES AS APPROPRIATE]

Evidence of Implementation

- Receipt of *Parent's Guide to the Admission, Review, and Dismissal Process*
- *Parent's Guide to the Admission, Review, and Dismissal Process*
- Notice(s) of ARD Meeting
- Attempts to Contact the Parent or Guardian to Ensure Parental Participation in ARD Meeting
- Prior Written Notice
- Family Engagement Activities
- Communication Log
- Draft of ARD/IEP
- Final ARD/IEP
- Documentation that ARD/IEP Was Provided to Parent in Language Accessible to Parent
- Documentation of Translator or Interpreter for Parent Where Necessary
- Documentation for the state in TSDS, PEIMS, and SPP
- [DISTRICT FORMS]

Resources

[The Legal Framework for the Child Centered Special Education Process: Parent Participation Framework - Region 18](#)

[Parent's Guide to the Admission, Review, and Dismissal Process - Texas Education Agency](#)

[OSEP Letter to Thomas \(June 3, 2008\) - U.S. Department of Education](#)

[OSEP Letter to Northrop \(May 21, 2013\) - U.S. Department of Education](#)

[OSEP Letter to Breton \(Sept. 24, 2013\) - U.S. Department of Education](#)

[OSEP Letter to Anonymous \(Mar. 7, 2012\) - U.S. Department of Education](#)

[ADDITIONAL DISTRICT RESOURCES]

CITATIONS

Board Policy EHBAB; 34 CFR 300.321(b)(3), 300.322, 300.328, 300.501; Texas Education Code 26.0081(a)–(b), 29.005(d); 19 TAC 89.1050(d), (f), (i)