

INDIVIDUAL EDUCATIONAL PROGRAM DEVELOPMENT (IEP)

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INDIVIDUAL EDUCATIONAL PROGRAM DEVELOPMENT (IEP)

(34 CFR §300.342 - §300.347 and TAC §89.1055)

Clarification: The IDEA federal regulations refer only to the Individual Education Program (IEP) developed for a student. However, in Texas, the Admission, Review, and Dismissal (ARD) Committee incorporates all elements of the federal IEP requirements. These two terms (ARD/IEP) are used interchangeably in our guidelines.

I. CONTENT OF THE I.E.P.

The Individual Educational Program/Admission, Review, and Dismissal (ARD) committee decisions for each student will comply with all requirements of §34 CFR 300.342 - §300.347. The IEP must:

- * Be in effect before special education and related services are provided,
- * Begin on the date designated by the ARD/IEP committee meeting,
- * Be in effect at the beginning of each school year for each student with a disability within our jurisdiction,
- * Be provided to each general education teacher, or is accessible to all other special education teachers, related service provider, and other service providers who are responsible for its implementation, and
- * In addition, each teacher and provider is informed of his/her specific responsibilities related to implementing the child's IEP and the specific accommodations and supports that must be provided.

A. The IEP will include a statement of:

1. The student's present levels of competencies taken from the results of the initial and most recent evaluation data. This statement will include:
 - a. present level of educational performance, including strengths and how the student's disability affects the student's involvement and progress in the general curriculum;
 - b. physical abilities and disabilities which would affect participation in instructional settings or in physical education;
 - c. behaviors which affect educational placement, programming, or discipline; and
 - d. skills which may be prerequisite to participation in vocational education, when appropriate;
 - e. for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;
2. Measurable annual goals, including benchmarks or short-term objectives, related to:
 - a. meeting the student's needs that result from the student's disability to enable the student to be involved in and progress in the general curriculum (the same curriculum as for non-disabled children) or for preschool children, as appropriate to participate in appropriate activities; and
 - b. meeting each of the student's other educational needs that result from the student's disability;

3. The special education and related services to assist the student to benefit from special education. Supplementary aids and services to be provided to the student, or on behalf of the student.
4. A statement of the program interventions, accommodations or other program modifications including any necessary supports for school personnel that will be provided for the student to:
 - a. advance appropriately toward attaining the annual goals;
 - b. be involved and progress in the general curriculum in accordance with A.1.a above and to participate in extracurricular and other nonacademic activities; and
 - c. be educated and participate with other students with disabilities and non-disabled students in the activities described in 4.a.-b.
5. The projected date for the beginning of the services and accommodations described in 3 above, and the anticipated frequency, location, and duration of those services and accommodations;
 - * the IEP documents the amount of time in general education, special education, and related services (*the IDEA and Texas laws DO NOT require time in general classrooms to be specified in the IEP.*)
6. An explanation of the extent, if any, to which the student will not participate with non-disabled in the activities described in 4b above.
7. The IEP must include a statement of any individual allowable accommodations in the administration of assessment instruments developed in accordance with TEC §39.023, or district-wide assessments of student achievement that are needed in order for the student to participate in the assessment. If the ARD/IEP committee determines that the student will not participate in a particular state or district-wide assessment of student achievement (or part of an assessment), the IEP must include a statement of:
 - a. why that assessment is not appropriate for the student;
 - b. the grade level for the SDAA, if appropriate; or
 - c. if appropriate, how the student will be assessed using a locally developed alternative assessment (LDAA) and the instructional level.
8. The results of the student's performance on state/district-wide assessment programs.
9. How the student's progress toward the annual goals will be measured.
10. Concerns of the parents for enhancing the education of their child.
11. How the student's parents will be regularly informed (through such means as periodic report cards), at least as often as parents are informed of their non-disabled students progress, of:
 - a. their student's progress toward the annual goals; and
 - b. the extent to which that progress is sufficient to enable the student to achieve the goals by the end of the year.
12. A statement addressing non-exemption, modification, or exemption from some or all of the criterion-referenced assessment instruments, as appropriate. Accommodations of general classroom procedures, as specified in the student's

IEP will be provided during the testing process in accordance with §101.3 (relating to Testing Accommodations and Exemptions).

13. If Extended School Year (ESY) is determined appropriate, then the IEP must also include goals and objectives for ESY services from the student's current IEP (more information on ESY is in this section).

B. For students with visual impairments:

1. The IEP or IFSP will meet the TEC 30.002 (c – 4) and (e) for visually impaired students. Before placing a student with a visual impairment in a classroom setting or within a reasonable period of time after placement (as required for the student to succeed in classroom settings and derive lasting practical benefits from the education in the school district), the CISD will:
 - a. Provide training in compensatory skills
 - b. Communication skills;
 - c. Orientation and mobility;
 - d. Social adjustment;
 - e. Vocational or career counseling;
 - f. Provide a detailed explanation of the various service resources available to the student in the community and throughout the state;
 - g. Provide a detailed description of the arrangements made to provide the student with orientation and mobility training, instruction in Braille or use of large print, other training to compensate for serious visual loss, access to special media and special tools, appliances, aids, or devices commonly used by individuals with serious visual impairments;
 - h. Set forth plans and arrangements made for contacts with and continuing services to the student beyond regular school hours to ensure the student learns the skills and receives the training specified above.
 - i. For a functionally blind student, provide Braille reading and writing instruction that is sufficient to enable the student to communicate with the same level of proficiency as other students of comparable ability who are at the same grade.
2. Include in the IEP content required in the Texas Education Code, §30.002(c) (10) below, assuring that staff assigned to work with the students have prompt and effective access directly to resources available through:
 - a. cooperating agencies in the area with a list provided,
 - b. the Texas School for the Blind and Visually Impaired,
 - c. the Central Media Depository for specialized instructional materials and aids made specifically for use by students with visual impairments,
 - d. sheltered workshops participating in the state program of purchases of blind-made goods and services, and
 - e. other related sources (the Regional Education Service Center maintains additional resources as well)

C. For students with autism, in addition to the requirements listed in A., the information will be considered and, when needed, addressed in the IEP:

1. Extended educational programming;
2. Daily schedules reflecting minimal unstructured time;
3. In-home training or viable alternatives;
4. Prioritized behavioral objectives;
5. Prevocational and vocational needs of students, ages 12 or older;
6. Parent training; and
7. Suitable staff-to-student ratio.

If the ARD/IEP committee determines that services are not needed in one or more of the areas specified in 1-7 above, the IEP must include a statement to that effect and the basis upon which the determination was made.

D. §89.1049. Parental Rights Regarding Adult Students. 34 CFR §300.347(c) and §300.517, and TEC §29.017

1. Beginning at least one year before a student reaches 18 years of age, the student's individualized education program (IEP) must include a statement that the student has been informed that, unless the student's parent or other individual has been granted guardianship of the student under the Probate Code, Chapter XIII, Guardianship, all rights granted to the parent under the Individuals with Disabilities Education Act (IDEA), Part B, other than the right to receive any notice required under IDEA, Part B, will transfer to the student upon reaching age 18. After the student reaches the age of 18, except as provided by subsection 2. of this section, the CISD will provide any notice required under IDEA, Part B, to both the adult student and the parent.
2. In accordance with 34 CFR §300.517(a)(2), and TEC §29.017(a), all rights accorded to a parent under IDEA Part B including the right to receive any notice required by IDEA Part B, will transfer to an 18-year-old student who is incarcerated in an adult or juvenile, state or local correctional institution, unless the student's parent or other individual has been granted guardianship of the student under the Probate Code, Chapter XIII, Guardianship.
3. The CISD will notify in writing the adult student and parent of the transfer of parental rights, as described in 1 and 2 of this section, at the time the student reaches the age of 18. This notification is separate and distinct from the requirement that the student's IEP include a statement relating to the transfer of parental rights beginning at least one year before the student reaches the age of 18. This notification is not required to contain the elements of notice referenced in 34 CFR §300.503, but must include a statement that parental rights have transferred to the adult student and provide contact information for the parties to use in obtaining additional information.
4. A notice under IDEA, Part B that is required to be given to an adult student and parent does not create a right for the parent to consent to or participate in the proposal or refusal to which the notice relates. For example, a notice of an admission, review, and dismissal (ARD) committee meeting does not constitute invitation to, or create a right for, the parent to attend the meeting. However, in accordance with 34 CFR §300.344(a)(6), the adult student or the CISD may invite individuals who have knowledge or special expertise regarding the student, including the parent.

5. Nothing in this section prohibits a valid power of attorney from being executed by an individual who holds rights under IDEA, Part B.

E. Prisons. (34 CFR §300.311)

The CISD will comply with all federal and State regulations regarding students in adult prisons.

II. IEP DEVELOPMENT (Special Education Teacher Responsibilities)

A. Initial ARD/IEP Meeting:

The special education teacher responsibilities in the IEP process are to:

1. Complete the draft IEP goals and objectives, based on appropriate evaluation, selecting a minimum of one goal and one objective for each subject or developmental area anticipated; (remember that the general education teacher(s) to the extent appropriate, should participate in the development, review, and revision of the student's IEP), and
2. Complete the IEP by writing in any individualized items needed:
 - a. Complete header information marking DRAFT IEP,
 - b. Complete proposed evaluation procedures, and criteria.
3. Send draft IEP goals and objectives to the parent at least one week prior to ARD/IEP meeting;
4. Write the date the IEP is accepted by ARD/IEP committee on the IEP during the ARD.
5. Make copies of the accepted IEP goals and objectives.
 - a. One copy is to be filed in the student eligibility folder with the completed ARD/IEP forms, and
 - b. Additional copies will be distributed as needed (i.e., general education teacher copy, etc.).
 - (1) Ensure that each teacher who provides instruction to a student with disabilities receives relevant sections of the student's current IEP and that each teacher be informed of specific responsibilities related to implementing the IEP, such as goals and benchmarks, and of needed accommodations, modifications, and supports for the child;
 - (2) Obtain signed documentation from the general education teachers that they have received relevant sections of the student's IEP, such as goals and benchmarks, and of needed accommodations, modifications, and supports for the child for the list of special education students they instruct, and
 - c. Assist general education teachers who are involved in the student's instruction to maintain documentation that they are modifying educational programs of students as specified in the ARD/IEP.

6. The special education teacher's copy is used to document progress in the same timely manner as students on your campus who are non-disabled (every 6 weeks).

B. Review ARD/IEP Committee Meetings:

1. In addition to presenting the new draft IEP goals and objectives,
2. Submit the original IEP with progress documentation marked on the IEP, and
3. Follow #1 through # 6 in A. above.

III. CHANGES IN THE I.E.P.

- A. Recommendations for changes in the individual educational program (IEP), including changes in the student's placement, must be made to the ARD/IEP committee for formal action. Revisions in the student's IEP that need ARD/IEP committee action may include, but not be limited to:
1. Any lack of expected progress toward the annual goals and in the general curriculum, if appropriate.
 2. The results of any reevaluation conducted.
 3. Information about the student provided to, or by, the parents.
 4. The student's anticipated needs.
 5. Other matters including but not limited to:
 - a. when a student with disabilities fails;
 - b. assigning a student to a classroom to receive instruction in a different curriculum area (i.e. reading comprehension, math calculation, etc.) than was designated by the last ARD/IEP committee;
 - c. any addition or deletion of a related service;
 - d. adding new objectives when all of the goals and objectives have been met;
 - e. any change in schedule which would change the instructional arrangement, or for high school students, the graduation plan;
 - f. when the teacher feels the IEP is not appropriate to the student's need.
- B. All disciplinary actions regarding student with disabilities will be in accordance with federal requirements and TEC Chapter 37, Subchapter A. The ARD/IEP committee will determine the instructional and related services to be provided during the time of expulsion. The student's IEP will include goals and objectives designed to assist in returning the student to school and to prevent significant regression.

IV. I.E.P. ANNUAL REVIEW

Each student's individual educational program (IEP) will be reviewed at least annually to determine the student's progress, the need for modifying the plan, and the student's continued need for special education and related services. The ARD/IEP committee may schedule an earlier review date if needed for review, modification, failure, etc.

- A. At the annual review, the current IEP objectives will be reviewed and documented on the IEP prior to the development and acceptance of a new IEP.
1. There should be some objectives that have been added/deleted/revised on the new IEP.
 2. If there are no changes, the ARD/IEP committee should have written justification or the lack of revision and lack of a new IEP generated.
- B. IEPs will also be reviewed and documented at the beginning of the year and after breaks in the program for regression/recoupment information.
- C. Also, progress on the IEP is documented and reported to parents in the same timely manner (ex. every 6 weeks) as other non-disabled students.

V. EXTENDED SCHOOL YEAR SERVICES (§300.309 and §89.1065)

If ESY services are determined appropriate by the ARD/IEP committee, goals and objectives from the current IEP will be specified and included in the IEP. The CISD ensures that extended year services are available to each student with a disability to the extent necessary to ensure that FAPE is available to the student.

A. Definition

Extended School Year services (ESY) are defined as individualized instructional programs beyond the regular school year for eligible students with disabilities:

1. beyond the normal school year of the district;
2. in accordance with the student's IEP;
3. at no cost to the parents of the student.

B. Texas Education Agency Criteria

Services should be provided based on evidence presented to the ARD/IEP committee and the determination made whether the services are needed under the following criteria:

1. The need for ESY services must be determined on an individual basis by the ARD/IEP committee in accordance with Federal and State law. In determining the need for and in providing ESY services, a school may not:
 - limit ESY services to particular categories of disability; or
 - unilaterally limit the type, amount, or duration of ESY services.
2. The need for ESY services must be documented from formal and /or informal evaluations provided by CISD or the parents. The documentation will demonstrate that in one or more critical areas addressed in the current IEP objectives, the student has exhibited, or reasonably may be expected to exhibit, severe or substantial regression that cannot be recouped within a reasonable period of time. Severe or substantial regression means that the student has been, or will be, unable to maintain one or more acquired critical skills in the absence of ESY services.
3. The reasonable period of time for recoupment of acquired critical skills will be determined on the basis of needs identified in each student's IEP.
 - a. If the loss of acquired critical skills would be particularly severe or substantial, or if such loss results, or reasonably may be expected to result, in immediate physical harm to the student or to others, ESY services may be justified without consideration of the period of time for recoupment of such skills.
 - b. In any case the period of time for recoupment will not exceed eight weeks.
4. A skill is critical when the loss of that skill results, or is reasonably expected to result, in any of the following occurrences during the first eight weeks of the next regular school year:
 - a. Placement in a more restrictive environment.
 - b. Significant loss of skills necessary for the student to appropriately progress in the general curriculum.
 - c. Significant loss of self-sufficiency in daily living skills as evidenced by an increase in the number of direct service staff and/or amount of time required to provide special education or related services.

- d. The loss of access to community-based independent living skills instruction or an independent living environment provided by non-educational sources as a result of regression in skills.
 - e. The loss of access to on-the-job training or productive employment as a result of regression in skills.
5. If the CISD does not propose ESY services for discussion at the annual review of a student's IEP, the parent may request that the ARD/IEP committee discuss ESY services.
 6. If a student for whom ESY services were considered and rejected loses critical skills because of the decision not to provide ESY services, and if those skills are not regained after the reasonable period of time for recoupment, the ARD/IEP committee will reconsider the current IEP if the student's loss of critical skills interferes with the implementation of the student's IEP.
 7. For a student enrolling in CISD during the school year, information obtained from the prior school district as well as information collected during the current year may be used to determine the need for ESY services.
 8. The provision of ESY services is limited to the educational needs of the student and will not supplant or limit the responsibility of other public agencies to continue to provide care and treatment services pursuant to policy and practice, even when those services are similar to, or the same as, the services addressed in the student's IEP. No student will be denied ESY services because the student receives care and treatment services under the auspices of other agencies.
 9. CISD is not eligible for reimbursement for ESY services provided to students for reasons other than those set forth in this section.

C. Identification of Students Needing ESY services

The following guidelines will be used to assist in identifying students who may need ESY services:

1. Teachers will identify students who have experienced regression on specific IEP objectives by comparing the IEP reviews of the last six weeks of the previous school year with the student's mastery of those IEP objectives at the beginning of the school year, re-teaching as necessary to recoup skills. This process applies to:
 - a. students who did not receive ESY services, and
 - c. students who did receive ESY services.
2. After the IEP review at the end of the first six weeks of the school year, teachers will document students who have not, even after re-teaching during the first six weeks, recouped those objectives. The teacher will review the regression to determine whether the regression is severe and/or substantial. In addition, teachers will follow #3 after two more weeks of re-teaching.
3. The teacher will conduct an additional IEP review for these objectives at the end of eight weeks, again submitting a report of students who have not recouped objectives after the additional two weeks of re-teaching. This information is very important to determine appropriate ESY services/IEP recommendations
4. Teachers will keep documentation (student work, anecdotal records, charting, etc.) on any student they will be recommending a need for ESY services. They will report information they feel pertinent to a campus administrator, department chairperson, counselor or diagnostician, as directed.

5. The ARD/IEP committee will consider the need for ESY services for:
 - a. students who appear to have experienced severe and/or substantial regression - recoupment problems during this data gathering,
 - b. other students referred by school personnel on an individual basis for consideration for ESY services, and
 - c. students referred by parents or guardians for ESY services consideration.
6. The ARD/IEP committee will determine the appropriate IEP goals/objectives from the current IEP and amount of services needed to prevent severe/substantial regression.
7. The IEPs of students receiving ESY services will be reviewed at the beginning of the fall term to determine whether were appropriate to prevent regression, or progress was made. (Follow steps 1 - 5 above)

D. Additional Considerations

For some students a regression might be considered substantial even though recoupment occurs in less than six to eight weeks, particularly in critical skill areas such as health and safety, self-help and independent living skills. This must be an educational decision by the ARD/IEP committee, based on knowledge of the individual student's needs.

1. ESY services are not automatic year after year. The need must be determined each year by the ARD/IEP committee.
2. ESY services to be provided will be determined by the ARD/IEP committee for the individual student. Summer school is not synonymous with ESY services.
3. Services are not to be provided simply for recreational reasons or because the student would benefit from them or gain new skills.
4. The issue is whether the benefits accrued to the student during the school year on critical goals and objectives will be significantly jeopardized if the student is not provided an educational program during the summer months.

VII. GRADUATION [SBOE §89.1070]

- A. Graduation with a regular high school diploma under B. or D. below terminates a student's eligibility for special education services under this subchapter and Part B of the Individuals with Disabilities Education Act (IDEA), 20 United States Code, §§1400 et. seq. In addition, as provided in Texas Education Code (TEC), §42.003(a), graduation with a regular high school diploma under B. or D. below terminates a student's entitlement to the benefits of the Foundation School Program.
- B. A student receiving special education services may graduate and be awarded a high school diploma if:
 1. The student has satisfactorily completed the state's or district's (whichever is greater) minimum curriculum and credit requirements for graduation applicable to students in general education, including satisfactory performance on the exit level assessment instrument; or

2. The student has satisfactorily completed the state's or district's (whichever is greater) minimum curriculum and credit requirements for graduation applicable to students in general education and has been exempted from the exit-level assessment instrument under TEC. §39.027(a)(2)(B). (*ex. exempted because the assessment instrument, even with allowable modifications, would not provide an appropriate measure of the student's achievement as determined by the student's ARD committee*)
- C. A student receiving special education services may also graduate and receive a regular high school diploma when the student's admission, review, and dismissal (ARD) committee has determined that the student has successfully completed:
1. The student's individualized education program (IEP) and met one of the following conditions:
 - a. has obtained full-time employment, based on the student's abilities and local employment opportunities, in addition to sufficient self-help skills to enable the student to maintain the employment without direct and ongoing educational support of CISD;
 - b. has demonstrated mastery of specific employability skills and self-help skills which do not require direct ongoing educational support of the CISD; or
 - c. has access to services, which are not within the legal responsibility of public education, or employment or educational options for which the student has been prepared by the academic program.
 2. The state's or district's (whichever is greater) minimum credit requirements for students without disabilities, and
 3. The state's or district's minimum curriculum requirements to the extent possible with modifications/substitutions only when the modifications/substitutions are determined necessary by the ARD committee for the student to receive an appropriate education.
- D. A student receiving special education services may also graduate and receive a regular high school diploma upon the ARD committee determining that the student no longer meets age eligibility requirements and has completed the requirements specified in the IEP.
- E. When considering a student's graduation under C. above, the student will be evaluated prior to graduation as required by 34 CFR §300.534(c). The ARD committee will consider the evaluation; the views of the parent and/or student as appropriate, and when appropriate, seek in writing and consider written recommendations from adult service agencies.
- F. Students who participate in graduation ceremonies but who are not graduating under C. above and who will remain in school to complete their education do not have to be evaluated in accordance with E. above.

- G. Employability and self-help skills referenced under C above are those skills directly related to the preparation of students for employment, including general skills necessary to obtain or retain employment.
- H. Students with disabilities who are eligible to take the exit level assessment instrument but have not performed satisfactorily are eligible for instruction in accordance with the TEC §39.024.
- I. For students who receive a diploma according to C above, the ARD committee will determine needed educational services upon the request of the student or parent to resume services, as long as the student meets the age eligibility requirements.