

PROCEDURAL SAFEGUARDS

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PROCEDURAL SAFEGUARDS
(34 CFR §300.500 - §300-517)

I. NOTICE

Procedural Safeguards Notice

When a student is referred to special education for the first time for an individual comprehensive assessment, local campuses in CISD are responsible for providing a copy of An Explanation of Rights and Procedural Safeguards document to notify the student, parent, or guardian of students suspected of having a disability of their educational rights. The TEA adopted this written document based on the Office of Special Education Programs model which includes a full explanation of all procedural safeguards that meet the requirements of 34 CFR §300.504(b). Parents will also be provided The ARD Process Guide the first time (and one time only) when the initial referral takes place. CISD will document the parents' receipt of the ARD Process Guide.

The regular education designee at the local campus shall be responsible for explaining the document, for providing answers to questions pertaining to the document and for providing to parents updated copies of the document, as provided by TEA.

A. Distribution (34 CFR §300.504 a)

The Procedural Safeguards document developed by the Texas Education Agency must be provided to parents of a student with a disability, at a minimum upon:

1. Initial referral for evaluation,
2. Each notification of an ARD / IEP meeting,
3. Reevaluation of the student,
4. Receipt of a request for due process, and
5. A manifestation determination review, or if a removal is contemplated that constitutes a change of placement.

B. Prior Written Notice (34 CFR §300.503 and §300.344)

Written notice must be given to the parents of a student with a reasonable time before CISD:

1. Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child; or
2. Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child.
3. When the notice relates to an action proposed by CISD that also requires parental consent, notice may be given at the same time parental consent is requested.

The written notice must:

1. Be written in language understandable to the general public;
2. Be provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so; and
3. Include a statement that the parents of a student with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of the description of the procedural safeguards can be obtained.

If the native language is not a written language, the district shall take steps to insure that:

1. The notice is translated orally or by other means to the parent in his or her native language, or other mode of communication used by the parent;
2. The parent understands the content of the notice; and
3. There is written evidence of the above.

C. Content of the Notice of Evaluation:

1. A description of the action proposed or refused by CISD,
2. An explanation of why the district proposes or refuses to take the action,
3. A description of any options the district considered and the reasons why those options were rejected,
4. A description of each evaluation procedure, test, record, or report the district uses as a basis for the proposal or refusal,
5. A description of any other factors which are relevant to the district's proposal or refusal,
6. Sources (more than one) for parents to contact to obtain assistance in understanding these provisions.
7. Indicate the date sent (unless the parents agree otherwise, provide written notice to parents at least five school days prior to evaluation).

D. Notice of ARD/IEP Committee Meeting (TAC §89.1045)

Local campuses will take steps to ensure that one or both of the parents are present at each meeting or are afforded the opportunity to participate. CISD will invite parents and adult students to participate as members of the ARD/IEP committee by providing written Notice. The parent or CISD may invite other individuals who have knowledge or special expertise regarding the student, including related services personnel as appropriate. The determination of the knowledge or special expertise will be made by the parent or CISD who invited the individual to be a member of the ARD/IEP committee. (*see also ARD section - Parent Participation*)

1. Content of the written Notice of ARD/IEP meeting must include:
 - a. a description of the action proposed or refused by CISD,
 - b. an explanation of why the district proposes or refuses to take the action,
 - c. a description of any options the district considered and the reasons why those options were rejected,
 - d. a description of each evaluation procedure, test, record, or report the district uses as a basis for the proposal or refusal,
 - e. a description of any other factors which are relevant to the district's proposal or refusal,
 - f. sources for parents to contact to obtain assistance in understanding these provisions,
 - g. a statement informing the parents about the State complaint procedures, including a description of how to file a complaint and the timelines under those procedures.
 - h. include a statement that the ARD committee members will discuss, at the parent's request, the provision of any educational or related service not proposed for discussion by CISD.

2. The Notice of the ARD/IEP meeting must: (34 CFR §300.345 and §89.1015)
 - a. be provided to parents at least 5 school days in advance of the ARD to ensure they will have an opportunity to attend,
 - b. include the purpose, time, and location of the meeting and who will be in attendance,
 - c. provide opportunity to schedule the meeting at a mutually agreed upon time and place, including rescheduling the meeting,
 - d. For a student with a disability beginning at age 14, or younger, if appropriate, the notice must:
 - (1. indicate that a purpose of the meeting will be the development of a statement of the transition services needs of the student, and
 - (2. indicate that the student will be invited.
 - e. For a student with a disability beginning at age 16, or younger, if appropriate, the notice must:
 - (1. indicate that a purpose of the meeting is the consideration of the individual transition plan for the student,
 - (2. indicate that the student will be invited, and
 - (3. identify any other agency that will be invited to send a representative, if appropriate.

E. Timeline for Notice (TAC §89.1015)

State Board of Education rule interprets the federal term “reasonable time” as at least five school days. Parents may agree to waive the five school day notice period to which they are entitled.

F. Notice of Proposal or Refusal

The Notice of Proposal or Refusal includes the following:

1. It is given in the native language or other mode of communication of the parent.
2. The date sent/mailed (unless the parents agree otherwise, provide written notice to parents at least five school days prior to acting on proposal or refusal).
3. The action proposed or refused,
4. Why action was proposed or refused,
5. Description of the options considered,
6. Description of why options were rejected,
7. Description of evaluation procedures, tests, records, or reports used as basis for the refusal,
8. Other factors relevant to the proposal or refusal,
9. Sources for parents to contact to obtain assistance in understanding these provisions,
10. The notice includes a full explanation of all procedural safeguards (Explanation of Procedural Safeguards).

G. Parental Rights Regarding Adult Students. 34 CFR §§300.347(c), 300.315(a)(2-3); 300.517, TAC §89.1049, TEC §29.017

1. Beginning at least one year before a student reaches 18 years of age, the student's individualized education program (IEP) will 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, CISD will provide any notice required under IDEA to both the adult student and the parent.
2. All rights accorded to a parent under IDEA Part B including the right to receive any notice required by IDEA 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. CISD will notify in writing the adult student and parent of the transfer of parental rights, as described in subsections 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 will 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, which 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 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.

II. CONSENT (34 CFR §300.500, §300.505)

A. Consent means the parent:

1. Has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication;

2. Understands and agrees in writing to the carrying out of the activity for which consent is sought, and the consent describes that activity and lists the records (if any) which will be released and to whom; and
3. Understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.

Note: With respect to A.3. (above), the parent's ability to revoke consent, if invoked, is not retroactive, i.e., it does not negate an action that has occurred after the consent was given and before it was revoked.

4. All consent forms must be maintained in the student's eligibility folder.

B. Parental consent must be obtained before:

1. Conducting an initial evaluation or re-evaluation, and
2. Initial provision of special education and related services to a student with a disability
 - Parental consent is not required before:
 - a. reviewing existing data as part of any evaluation or re-evaluation, or
 - b. administering a test or other evaluation that is administered to all children, unless before administration of that test or evaluation, consent is required of parents of all children.

C. Refusal of Consent.

If the parents refuse consent for initial evaluation or a reevaluation, CISD may continue to pursue those evaluations by using the due process procedures or the mediation procedures if appropriate, except to the extent inconsistent with State law.

When a parent refuses or otherwise does not give consent prior to the initiation of formal evaluation procedures or for initial special education services:

1. CISD personnel shall first ensure with all reasonable effort that the parent understands the proceedings and understands his or her rights.
2. CISD shall then attempt to come to agreement with parents.
3. CISD may then request a due process hearing or mediation
NOTE: Schools should notify the Special Education Director if this step is contemplated.
4. CISD may evaluate or initially provide special education and related services to the child without the parent's consent, subject to the parent's rights under 34 CFR §300.510-300.513 if a hearing officer upholds CISD's program.

D. Failure to Respond to Request for Reevaluation

1. Informed parental consent need not be obtained for reevaluation if CISD can demonstrate that it has taken reasonable measures to obtain that consent, and the student's parent has failed to respond.
2. To meet the reasonable measures requirement above, CISD will use one or more of the following documentation of efforts to obtain consent:
 - a. detailed records of telephone calls made or attempted and the results of those calls with documentation on CISD copy of Notice of ARD form or attached;
 - b. copies of correspondence sent to the parents and any responses received;
 - c. detailed records of visits made to the parents' home or place of employment and the results of those visits; or

- d. conference telephone calls to ensure parent receipt of the consent and their understanding.
 - 3. CISD may proceed with the responsibility to conduct a reevaluation after exhausting all avenues to obtain informed consent from the parent(s).
 - 4. Efforts described in #2 (above) will be documented and in the student folder.
 - 5. CISD will take whatever action is necessary to ensure that the parents understand the consent, including arranging for an interpreter for parents with deafness, or whose native language is other than English.
- E. Parental Consent may not be Required
Parental consent may not be required as a condition of any benefit to the parent or the student except for the service or activity for which consent is required in B above.
- F. Consent for Disclosure of Confidential Information. (Transfers)
CISD or the previous school district is not required to obtain parental consent before requesting or sending student's special education records if disclosure is conducted according to §99.30 – 99.37 (relating to the disclosure of personally identifiable information from education records). CISD will transfer student records to the receiving school district within 30 calendar days after the student is enrolled in the new school district.
- G. Consent to use the Individual Family Service Plan (IFSP) instead of an IEP
The consent is requested in the native language or other mode of communication used by the parent or guardian. The consent form states that the parent has been fully informed and understands the activity for which consent is sought. The parent agrees in writing to the decision for which consent is sought. Documentation will indicate that the parent was provided an explanation of the difference between the IFSP and an IEP. The documentation will also indicate that the parent understands that consent is voluntary and may be revoked at any time.
- H. Limitations
CISD not use a parent's refusal to consent to one service or activity under IDEA to deny the parent or student any other service, benefit, or activity of the district, except as required of this part. [§300.505(e)]

III. PARENT PARTICIPATION IN MEETINGS (34 CFR §300.501)

Parents will receive notice of meetings to ensure they have the opportunity to participate in meetings with respect to the identification, evaluation, and educational placement of the student, and the provision of FAPE to the student. A meeting does not include:

- 1. Informal or unscheduled conversations involving CISD personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision if those issues are not addressed in the student's IEP,
- 2. The term also does not include preparatory activities that CISD personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

CISD will make reasonable efforts to ensure that the parents understand, and are able to participate in, any group discussions relating to the educational placement of their child, including arranging for an interpreter for parents with deafness, or whose language is other than English.

Definition: Parent (34 CFR §300.20): A parent, guardian, or person acting in the place of a parent, such as a grand- parent or stepparent, with whom a student with disabilities lives. The term includes a surrogate parent who has been appointed in accordance with law, but does not include the state if the student is in the conservatorship of the state. A foster parent qualifies as a parent if:

1. The natural parent's authority to make educational decisions on the student's behalf has been extinguished under state law;
2. An ongoing, long-term parental relationship exists between the foster parent and the student,
3. A willingness to participate in making educational decisions on the student's behalf exists, and
4. The interests of the foster parent do not conflict with the interests of the student.

IV. COMPLAINT PROCEDURES (§89.1150)

If there is a dispute relating to the identification, evaluation, or educational placement of or the provision of a free appropriate public education (FAPE), to a student with a disability, it is the intent of the TEA to encourage and support the resolution of any dispute at the lowest level possible and in a prompt, efficient, and effective manner.

CISD should always be sure the parents have a current document. If the parents say they do not have the document, provide them with the document Procedural Safeguards, an explanation, and keep documentation that they have received the document. This documentation of receipt of the Procedural Safeguards is kept in the Special Education student eligibility file. The possible options for resolving disputes include, but are not limited to:

- ❖ Meetings of the student's ARD committee,
- ❖ Meetings or conferences with the student's teachers,
- ❖ Meetings or conferences, subject to CISD policy, with the campus administrator(s), the special education director, the superintendent and/or the board of trustees.
- ❖ A request for mediation through the TEA in accordance with IDEA and all regulations,
- ❖ The filing of a complaint with the TEA, or
- ❖ The request of a due process hearing through the TEA (upon the filing of a due process hearing, the parent and the school shall also be provided with an opportunity to resolve the dispute through the mediation process established by TEA).

Schools should contact the Special Education Director as soon as there is reason to believe any type of complaint will be made.

- A. Parents may notify the local administration.
Administration may encourage parents to follow local complaint procedures. The following may also be suggested:
- B. Parents may notify the Texas Education Agency and file a complaint. The TEA will:
1. Collect information concerning special education and analyzing the information in conjunction with other information on file with the TEA;
 2. Respond to inquiries concerning special education services;
 3. Take appropriate action on substantial complaints;
 4. Engage in mediation activities; and
 5. Provide information on the formal procedures available in the impartial hearing process.

Filing a complaint: a complaint must include:

1. A statement that CISD has violated a requirement of Part B of the Act
2. Facts on which the statement is based,
2. The alleged violation that occurred not more than one year prior to the date that the complaint is received unless a longer period is reasonable because the violation is continuing, or the complainant is requesting compensatory services for a violation that occurred not more than three years prior to the date the complaint is received.

V. MEDIATION (34 CFR §300.506)

The mediation process must meet the following requirements:

1. The mediation process is voluntary on the part of both CISD and the parent(s),
2. Is not used to deny or delay a parent's right to a due process hearing or to deny any other rights afforded under IDEA-Part B, and
3. Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

If agreement cannot be reached at the local level, mediation is a viable option. CISD or the parents may request mediation through the Texas Education Agency. If mediation is not agreed upon by both the school and the parent, a due process hearing may be requested.

For specific steps to follow, see the Explanation of Rights and Procedural Safeguards document developed by the TEA. Always be sure to contact the Special Education Director at the earliest appropriate time prior to these steps.

VI. DUE PROCESS HEARINGS (§89.1151)

1. A parent or CISD may initiate a due process hearing as provided in the IDEA and applicable federal regulations.
2. TEA has implemented a one tier system of due process hearings under IDEA.
3. Effective with requests for due process hearings filed on or after August 1, 2002, a parent or CISD must request a due process hearing within one year of the date the complainant knew or should have known about the alleged action that serves as the basis for the hearing request. (more information on due process hearings is in found on page 724 of this document)

VII.CONFIDENTIALITY (34 CFR §300.127, §300.500, and §300.560)

A. Definitions (§300.560)

Destruction of education records means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable .

Education Records means, except as may be provided otherwise below, those records, files, documents, and other materials that contain information directly related to a student and are maintained by an educational agency or institution or by a person acting for such agency or institution.

Participating Agency means any agency or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained.

Personally Identifiable Information means that information includes: the name of the student, the student's parent, or other family member; the address of the student; a personal identifier, such as the student's social security number or student number; or a list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty.

School Officials shall mean any employees, trustees, or agents of CISD as well as attorneys, consultants, and independent contractors who are retained by CISD.

B. Notice to Parents (34 CFR §300.561)

Notice that is adequate to fully inform parents about the requirements of §300.127 which is the confidentiality of personally identifiable information of students with disabilities.

This is an annual written notice provided in the primary or home language informing all parents of students in attendance of their rights. This is not limited to students receiving special education services. The information may be provided:

1. In district's enrollment packets given at registration,
2. In local newspaper advertising,
3. Posted in buildings,
4. District mail-outs.

Documentation will be kept by the designated district staff.

VIII.RECORDS

A. Access Rights (34 CFR §300.501 and §300.562)

CISD shall permit parents to inspect and review education records relating to their student that are collected, maintained or used for purposes of identifying, evaluating, educational placement, or educating their student in the provision of FAPE.

1. The following guidelines shall apply when parents request to review or inspect records relating to the education of their student with disabilities:
 - a. CISD shall comply with a request of parents to review records without unnecessary delay and before any meeting regarding an IEP or hearing relating to the identification, evaluation, or educational placement of the child, or the provision of FAPE to the child.
 - b. CISD shall comply with the request in no case more than 45 days after the request has been made.
 - a. The right to a response from CISD to reasonable requests for explanations and interpretations of the records;
 - b. The right to request that CISD provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and
 - c. The right to have a representative inspect and review the records.
2. The right to inspect and review education records includes:
3. CISD may presume that the parent has authority to inspect and review the student's records, unless CISD has been advised that the parent does not have the authority under applicable State law governing such matters as guardianship, separation, and divorce.

B. Record of Access (§300.563)

1. CISD shall maintain a record, kept with the eligibility file of each student, that indicates all individuals, agencies or organizations that have requested or obtained access to a student's educational records collected, maintained or used under IDEA-Part B (except access by parents and authorized employees of CISD). The records shall include:
 - a. at least the name of the person or agency that made the request,
 - b. the date access was given, and
 - c. the purpose for which the person or agency is authorized to use the records.

2. The record of access will be maintained as long as CISD maintains the student's education record. The record of access shall be available only to parents, school officials responsible for custody of the records, and those state and federal officials authorized to audit the operation of the system.
3. Access Procedures: The cumulative record and special education legal folder shall be made available to the parent. Records may be reviewed during regular school hours upon request to the appropriate record custodian. The record custodian or designee shall be present to explain the record and to answer questions. The confidential nature of the student's records shall be maintained at all times, and the records shall be restricted to use only in the offices of the Superintendent, a principal, a counselor, or Special Education as designated by the appropriate record custodian. The original copy of the record or any document contained in the cumulative record shall not be removed from the school or the Special Education office.
4. Custodian of Records: The principal is custodian of all records for currently enrolled students at the assigned school. The superintendent is the custodian of records for students who have withdrawn or graduated. The special education director is custodian of all special education records.

C. Records on More Than One Child (§300.564)

If material in the education record of a student includes information on more than one student, the parent or guardian shall have the right to inspect and review only the information relating to their child or to be informed of that specific information.

D. Types and Locations of Information (§300.565)

1. CISD shall provide parents, on request, a list of the types and locations of education records collected, maintained, or used by CISD.
2. The designated record custodian and CISD Special Education Director shall be responsible for the education records of CISD students. These records may include:
 - a. admissions data, personal and family data, including certification of date of birth;
 - b. standardized test data, including intelligence, aptitude, interest, personality, and social adjustment ratings;
 - c. all achievement records, as determined by tests, recorded grades, and teacher evaluation;
 - d. health service record including:
 - (1. findings of any screening or health appraisal programs CISD conducts or provides for, which may include vision, hearing and scoliosis;
 - (2. immunization records; and
 - (3. dates for any periods of exclusion from school because of communicable disease and the name of the illness.
 - e. attendance records;
 - f. student questionnaires;
 - g. records of teacher, counselor, or administrative conferences with the student or pertaining to the student;
 - h. verified reports of serious or recurrent behavior patterns;
 - i. copies of correspondence with parents and others concerned with the student;
 - j. records transferred from other districts in which the student has been enrolled;
 - k. records pertaining to participation in co-curricular activities;

- l. information relating to student participation in special programs;
- m. records of fees assessed and paid; and
- n. other records that may contribute to understanding of the student.

E. Fees (§300.566)

No fee may be charged to search for or to retrieve the education record of a student. A fee of \$0.10 (10¢) per page may be charged for copies of education records that are made for the parents or students under this procedure, provided that the fee does not effectively prevent them from exercising their right to inspect and review those records. A waiver of fee should be requested in writing. No fee will be charged to search for or to retrieve information.

F. Amendment of Records at Parent's Request (§300.567)

The parent who believes the information in the student's education records collected, maintained, or used is inaccurate or misleading or violates the privacy or other rights of the student may request CISD to amend the information.

Within fifteen (15) school days of the record custodian's receipt of a request to amend records, CISD shall notify the parents in writing of its decision on the request. If CISD decides to refuse to amend the information in accordance with the request, CISD shall inform the parent of the refusal, and advise the parent of the right to a hearing under §300.568.

1. Opportunity for a Hearing (§300.568):

If a hearing is requested to challenge information in the records, it shall be held within fifteen (15) school days after the request for a hearing is received. Parents shall be notified in advance of the date, time, and place of the hearing. A record custodian, who is not responsible for the contested records, or designee, shall conduct the hearing. The parents shall be given a full and fair opportunity to present evidence and may be assisted or represented at the hearing, at their own expense.

2. Result of Hearing (§300.569):

The parents shall be notified of the decision of the hearing in writing within fifteen (15) school days of the hearing. The decision shall be based solely on the evidence presented at the hearing and shall include a summary of the evidence and reasons for the decision.

- a. If as a result of the hearing, CISD decides the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, the records will be amended and the parent informed in writing.
- b. If after the hearing, CISD decides the information is not inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, the parents shall be given a copy of this guideline and the opportunity, within thirty (30) school days, to place in the record a statement commenting on the information and/or setting forth any reason for disagreeing with CISD's decision.
- c. Any explanation is maintained by CISD, and if the contested record is disclosed, the explanation shall also be disclosed.

3. Hearing Procedures (§300.570): A hearing held under §300.568 must be conducted according to the procedures under FERPA (Family Education Rights and Privacy Act §99.22).
 - a. the hearing was held within a reasonable time after receiving the request,
 - b. the parent was given notice of date, time, and place, in a reasonable time prior to the hearing,
 - c. the hearing was conducted by an official of CISD who did not have a direct interest in the outcome of the hearing,
 - d. the parents were given full and fair opportunity to present evidence relevant to the amendment to the record,
 - e. the decision was made by CISD in a reasonable time after the hearing and presented in writing to the parent
 - f. the decision was based solely on the evidence presented at the hearing, and the summary of evidence and the reasons for the decision were included in the written report of the hearing.
 - g. the parent or eligible student may, at their own expense, be assisted or represented by one or more individuals of his or her own choice, including an attorney.

G. Consent for Release of Records (§300.571)

1. Parental consent must be obtained before personally identifiable information is:
 - a. disclosed to anyone other than officials of participating agencies collecting or using the information;
 - b. used for any purpose other than meeting a requirement under the Individual with Disabilities Act. CISD may not release information from these records without parental consent except as provided in the Family Educational Rights and Privacy Act (FERPA) - (see 4. below).
2. Written consent must be obtained from the student's parent (signed / dated) in order personally identifiable information in education records to be released to any individual, agency, or organization other than the student himself and those listed in 4 below. (A copy is maintained in the student's eligibility file.)
 - a. Such consent shall specify records to be released, the reason for such release, and to whom the records are to be released.
 - b. Such information may also be released in compliance with a judicial order or subpoena provided that the parent and student are notified in advance of compliance.
3. Transcripts and Transfers of Records. CISD may forward education records upon request to officials of other schools or school systems in which the student intends to enroll without written consent under the conditions described in this procedure (see 4. below). CISD will try to obtain consent if the parent is available. CISD may request transcripts from previously attended schools for students transferring into our schools; however, the ultimate responsibility for obtaining transcripts from sending schools rests with the parent.
4. Personally identifiable information in education records, including directory information, may be released without the written consent of the student's parents to the following:

- a. school officials, including teachers, who have a legitimate educational interests. “School officials” are deemed to have a “legitimate educational interest” in a student’s records when they are working with the student; considering disciplinary or academic actions, the student’s case, compiling statistical data; or investigating or evaluating programs.
- b. officials of other schools or school systems in which the student seeks or intends to enroll, provided that CISD will notify the parent or student that it forwards education records to such officials; or
 - (1. makes a reasonable attempt to notify the parent, unless the record transfer is initiated by the parent,
 - (2. furnishes a copy of the transferred record to the parent if he so desires,
 - (3. gives the parent an opportunity for a hearing to challenge the content of the record.
- c. authorized representatives of the Comptroller General of the United States, the Secretary of Education or state educational authorities who require access to student or other records necessary in connection with the audit and evaluation of a state supported program or in connection with the enforcement of federal or state legal requirements that relate to such programs;
- d. personnel involved with a student’s application for, or receipt of, financial aid;
- e. state and local officials to whom such information is specifically required to be reported or disclosed by state statute adopted prior to November 19, 1974;
- f. accrediting organizations that require the information for purposes of accreditation;
- g. parents of a dependent student;
- h. appropriate persons who, in an emergency, must have such information in order to protect the health or safety of the student or other person.

H. Safeguards (§300.572)

- 1. CISD shall protect the confidentiality of personally identifiable information in collection, storage, disclosure, and destruction stages.
- 2. One official in the district shall assume responsibility for ensuring confidentiality of personally identifiable information. The official responsible for ensuring the confidentiality of any personally identifiable information in special education records shall be the Special Education Director in the special education office which is located at:
1201 N. Carroll Avenue
Southlake, TX 76092
- 3. All persons collecting or using this information shall receive training or instruction concerning the legal requirements involved in handling these records. Documentation of the training and those in attendance shall be maintained with the Special Education Director.
- 4. CISD shall maintain for public inspection a current listing of the names and positions of employees who may have access to this information. A current listing of names and positions of persons who may have access to special education records is maintained at the special education office.

I. Destruction of Information (§300.573)

1. CISD shall inform parents, via registration and/or beginning of the year newsletter information, when personally identifiable information collected, maintained, or used is no longer needed to provide educational services to the child.
2. CISD will destroy special education records at the parent's request when records are no longer needed to provide educational services to the child and the criteria below are met.
 - a. Parents have been reminded that the records may be needed by the student or the parents for social security benefits or other purposes.
 - b. CISD shall maintain special education records a minimum of **seven (7)** years beyond dismissal, graduation, or transfer from the district.
 - c. Efforts will be made to notify parents prior to destruction of such personally identifiable information.
3. Directory information may be maintained without time limit, including the student's name, address, phone number, grades, attendance record, classes attended, grade level completed, and year completed.

J. Student's Rights

Under the regulations for the Family Educational Rights and Privacy Act of 1974 [34 CFR99.5 (a)], the rights of parents regarding education records are transferred to the student at age 18. In addition:

1. The rights accorded to parents under Part B of the Act are transferred to a student who reaches the age of majority; the rights regarding educational records must be transferred to the student.
2. However, CISD will provide any notice required under Part B of the Act to the student and the parent.

K. Comprehensive System of Confidentiality of Records

The Superintendent shall develop and maintain a comprehensive system of student records and reports dealing with all facets of the school program operation. These data and records shall be stored in a safe and secure manner and shall be conveniently retrievable for utilization by authorized school personnel.

1. **Cumulative Record:** A cumulative record that complies with TEA requirements and standards shall be maintained for each student from entrance into CISD schools until withdrawal or graduation from CISD schools. This record shall move with the student from school to school and be maintained at the school where currently enrolled until graduation or withdrawal. Records for students who are no longer enrolled shall be housed in their respective schools for the period of time required by law. No permanent records may be destroyed without explicit permission from the Superintendent.
2. **Directory Information:** Directory information shall include the student's name, address, telephone listing, date and place of birth, participation in officially recognized activities and sports, height and weight of members of athletic teams, dates of

attendance, awards received, the most recent previous school attended by the student, and other similar information.

- a. Directory information shall be released to any individual or organization that files a written request with the Superintendent or designee.
- b. CISD may release directory information if it has given public notice:
 - (1. of the categories of information that it has designated as directory information,
 - (2. of the right of the parent to refuse to permit the release of any or all of that information, and
 - (3. of the period of time within which the parent must inform the district in writing that such directory information not be released.
3. Student Rights: Whenever a student has attained eighteen (18) years of age and is no longer dependent or is attending an institution of post-secondary education, the permission or consent required of, and the rights accorded to, the student's parent under this policy shall only be required of and accorded to the student.
4. Assessment Instruments: The results of individual student performance on assessment instruments are confidential and may be made available only to the student, the student's parent or guardian, and to the school personnel directly involved with the student's education. However, overall student performance data may be aggregated and made available to the public with appropriate interpretations, at regularly scheduled Board meetings. Such information may not contain names of individual students or teachers.
5. Notification of Rights: CISD shall give parents of students in attendance, or eligible students in attendance, notification of their rights under the Family Educational Rights and Privacy Act of 1974, and of the locations where copies of the district's policy may be located, including notice of the right to file complaints concerning alleged failures by CISD to comply with the provisions of the Act. Parents of students identified as having a primary language other than English shall be notified in that language. Notices in English and Spanish to be posted in each school have been distributed to the building principals. Copies of the notices are available in the special education office.

IX. SURROGATE / FOSTER PARENT (34 CFR §300.515)

A. Definition

As the term applies to CISD, a surrogate parent is an individual who represents and protects the educational interests of a potential or identified student with a disability. A surrogate parent will be assigned for a student with a disability:

1. Whose parent cannot be identified;
2. Whose parents, after reasonable efforts, cannot be located; or
3. Who is a ward of the State of Texas or the parental rights have been terminated under the Texas Family Code. (If the Department of Protective and Regulatory Services is appointed as the temporary or permanent "managing conservator" of the student, the student is a "Ward of the State". The appointment of a surrogate is then required. (ex. TDHR is managing conservator if there is a TDHR foster parent,

usually the foster parent is appointed as the surrogate.) A copy of the court order should be maintained in the special education eligibility folder.

Unless parental rights have been terminated under the Texas Family Code, parents do not lose their rights to participate in the educational process of their children. Appointment may be made for students 18-22 in some instances if needed to assure that the student receives a free appropriate public education (FAPE).

B. Responsibilities

The responsibilities of the surrogate parent are to:

1. Represent the child in the process of identification, evaluation, educational placement, and the provision of a free appropriate public education;
2. Attend training provided for surrogate parents by CISD;
3. Learn the student's needs; educational background; and nature of the student's disability;
4. Know the child including consulting with persons involved in the student's education, including teachers, caseworkers, court-appointed volunteers, guardians ad litem, attorneys ad litem, foster parents, and caretakers.
5. Serve the child's educational interests including participation in the student's ARD/IEP,
6. Examine education records and exercise independent judgment in pursuing the child's interests
7. Receive notice, grant consent, and
8. Exercise the due process rights under applicable state and federal law.

C. Assurances

Assurances must be made by the individual selected to serve as a surrogate or foster parent. These assurances are reviewed at the training and documented on the application form signed by the surrogate / foster parent.

1. The individual may have no personal or professional interest which conflicts with the interest of the child the surrogate parent represents;
2. The individual may not be an employee of CISD or of any other public agency responsible for or involved in the education or care of the child the surrogate parent represents;
3. The individual must have knowledge and skills that insure adequate representation of the child;
4. The individual must be a resident of the member school district where the student attends, and
5. CISD may select as a surrogate a person who is an employee of a nonpublic agency that only provides non-educational care for the child and who meets the standards above.

*A foster parent in a home which is verified by the PRS or a child-placing agency shall not be deemed to have a financial conflict of interest by virtue of serving as the foster parent in that home. These homes include, but are not limited to, basic, habilitative, primary medical, or therapeutic foster or foster group homes. In addition, issues concerning quality of care of the child do not constitute a conflict of interest. Concerns

regarding quality of care of the child should be communicated, and may be statutorily required to be reported, to PRS.

D. Compensation

A person who otherwise qualifies as a surrogate parent is not an employee of CISD solely because he or she is paid by CISD to serve as a surrogate parent.

E. Training Procedures (TAC §89.1047)

To become a surrogate parent, an interested individual or a recruited volunteer agrees to attend the training and make application through the Special Education Director.

1. The Special Education Director follows CISD procedures which include:
 - a. giving surrogate parent an application form (which may be completed at training);
 - b. checking the application for completion including personal or employer references when the form is returned;
 - (1. If the application is not approved because of conflict of interest, the applicant is notified by the Special Education Director with written notice of such denial within 7 calendar days after the date on which the decision was made. The written notice shall:
 - (b. specify the reason(s) the foster parent is being denied the right to serve as the surrogate parent or parent (the notice must specifically explain the interests of the foster parent that conflict with the interests of his/her child);
 - (c. and inform the foster parent of his/her right to file a complaint with the TEA in accordance with 34 CFR §300.660-§300.662, relating to complaint procedures.
 - (2. If the application is approved, the Special Education Director or designee will notify the applicant and schedule the applicant for the Surrogate Parent Training.
2. A foster parent claiming to have met training requirements should provide some evidence of training previously attended.

F. Training Requirements:

The training program will be provided in the native language or other mode of communication used by the surrogate/foster parent. Training requirements include an explanation of the provisions of federal and state laws, rules, and regulations relating to:

1. The identification of a student with a disability;
2. The collection of evaluation and re-evaluation data relating to a student with a disability;
3. The ARD committee process,
4. The development of an IEP and for a student who is at least 16 years of age, and ITP,
5. The determination of least restrictive environment,
6. The implementation of an IEP,
7. The procedural rights and safeguards available,

8. The sources that the surrogate parent may contact to obtain assistance in understanding the provisions of federal and state laws, rules, and regulations relating to students with disabilities.

G. Training Documentation for Volunteer as Surrogate Parent:

1. The individual assigned to act as a surrogate parent must complete the training program within 90 calendar days after the effective date of initial assignment as a surrogate parent.
2. Once the individual has completed a training program conducted or provided by or through the Texas Department of Protective and Regulatory Services (PRS), a school district, an education service center, or any entity that receives federal funds to provide IDEA training to parents, the individual shall not be required by any school to complete the additional training in order to continue serving as the student's surrogate parent or to serve as the surrogate parent for other students with disabilities.
3. CISD may provide additional training to surrogates parents and/or parents; however, CISD cannot deny an individual who has received the training from serving as a surrogate parent on the grounds that the individual has not been trained.
4. Prior to assigning an individual to act as a surrogate parent, training should be provided.
5. Individuals already serving as surrogate parents as of the effective date of this rule shall receive training within 90 calendar days.
6. CISD shall keep records of those individuals who have received training and each person trained by CISD will be given a certificate to take should they move to another school and need evidence of training.

H. Training Documentation for Assignment of a Foster Parents as Surrogate Parents

A foster parent may act as parent of a child with a disability, in accordance with §300.20 relating to the definition of parent, if he/she complies with the requirements of TEC §29.015(b), relating to foster parents, including the completion of the training programs described in this section.

1. The foster parent must complete the training within 90 calendar days after the effective date of this rule or the date of initial assignment as the parent, whichever comes later.
2. Once the individual has completed a training program conducted or provided by or through the Texas Department of Protective and Regulatory Services (PRS), a school district, an education service center, or any entity that receives federal funds to provide IDEA training to parents, the individual will not be required by any school to complete the additional training in order to continue serving as the student's surrogate parent or to serve as the surrogate parent for other students with disabilities.
3. CISD may provide additional training to surrogates parents and/or parents; however, CISD cannot deny an individual who has received the training from serving as a surrogate parent on the grounds that the individual has not been trained.
4. Prior to assigning a foster parent to act as a surrogate parent, training should be provided.

5. Foster parents already serving as surrogate parents as of the effective date of this rule shall receive training within 90 calendar days if there is no evidence training was previously provided by (PRS).
6. CISD shall keep records of those individuals who have received training and each person trained by CISD will be given a certificate to take should they move to another school and need evidence of training.
7. If the foster parent does not meet the criteria to serve as parent, CISD will appoint a surrogate parent. CISD will give preferential consideration to a foster parent of a student with a disability when assigning a surrogate parent for the child.

I. Surrogate Training Completed

When the applicant successfully completes the Surrogate Parent Training, a copy of those individuals trained as Surrogate Parents will be filed in the office of the Special Education Director.

J. Surrogate Parent Assignment Procedures

The principal or other person makes the request for a surrogate parent for an eligible CISD child. Procedures for requesting a surrogate parent are as follows:

1. Principal or other assigned staff person notifies the Special Education Director of need and potential surrogate parents.
2. The Special Education Director schedules training and notifies district Administration of completed training and the names of new surrogate parents.
3. The Special Education Director, Principal or designee notifies/contacts the student's assigned surrogate parent when appropriate.

X. COMPLIANCE MONITORING (TEC §29.010)

A. Compliance Monitoring

When the Texas Education Agency makes an on-site monitoring visit to CISD, they will obtain information from parents of students receiving special education services. A representative sample of parents will have an opportunity to provide information which may identify particular areas where the program seems to be operating in accordance with compliance requirements or where the program may have potential systemic compliance problems. CISD will provide assistance to identify and notify parents in order to obtain the necessary information.

SBOE and Commissioner Rules, IDEA federal regulations, and CISD Procedures are the documents primarily utilized as the standard references. Results of each visit are delineated in writing and given to the building administrator by the Special Education Director. The Special Education staff is available for assistance in any area pertaining to special education including staff development for the entire faculty when needed.

The special education administrative staff will periodically monitor campuses to ensure compliance with required special education procedures. Items to be monitored include but are not limited to:

1. Special Education Student Teacher Folders,
2. Special Education Eligibility Folders,
3. Procedures including those which reflect coordination between regular education and special education, and
4. Teacher schedules

B. Local Procedures Required (SBOE §89.1075)

1. CISD shall maintain an eligibility folder on each student receiving special education services in addition to the student cumulative record. The eligibility folder must include, but need not be limited to: copies of referral data, documentation of notices and consents, evaluation reports, ARD committee reports, and the student's IEP.
2. For districts providing special education services to students with visual impairments, there shall be written procedures as required in the TEC 30.002(c)(10). (see section 400 ARD/IEP)
3. Each teacher involved in a student's instruction has the opportunity to provide input and request assistance regarding the implementation of the student's IEP. Guidelines are detailed in this document in the ARD section 400.

XI. INDEPENDENT EDUCATIONAL EVALUATION - IEE (34CFR §300.502)

IEE means an evaluation conducted by a qualified examiner not employed by the school that is responsible for the student in question. If a parent disagrees with all or part of CISD assessment, the parent may ask CISD to provide an Independent Educational Evaluation (IEE). If a parent asks CISD to provide an IEE, then without unnecessary delay CISD must do one of the following:

Ensure the IEE is provided at public expense (the IEE must meet CISD criteria specified previously in the CIA Section and the evaluator must meet criteria listed under Qualifications of Special Education Personnel (listed in the Administration Section of this document);

CISD may choose to initiate a due process hearing to show that the evaluation is appropriate. If the district prevails in the hearing, the parent still has the right to an IEE but not at public expense.

1. If the parent obtains an IEE at private expense, the results may be presented as evidence at a hearing regarding the student unless the evaluation does not meet TEA criteria.
2. If a hearing officer requests an IEE as part of a hearing, the cost of the IEE must be at public expense. Public expense means that CISD either pays for the full cost of the IEE ensures that the evaluation is otherwise provided at no cost to the parent.

If a parent requests an IEE, the district may ask for the parent's reason why he or she objects to the public evaluation. However, the explanation may not be required and CISD will not unreasonably delay either providing the IEE at public expense or initiating a due process hearing to defend the CISD evaluation.

A. INFORMATION FOR PARENTS

1. District Evaluation

If CISD has not conducted an evaluation, the parent does not have a right to an independent evaluation at public expense. Only one IEE may be reimbursed for each comprehensive evaluation obtained by the district. The results of a parent-initiated IEE will be considered by the district, but such consideration does not make the district liable for reimbursement for the IEE.

2. Parents Notify District

Parents will be requested to notify the district of specific areas of disagreement when they disagree with the district's evaluation. CISD may offer to resolve the parent's disagreement by providing additional evaluation, but the parents are not required to accept the offer.

3. Where an IEE may be Obtained

Information on where an IEE may be obtained will be provided to parents on request. A list of individuals who can provide an IEE is available from the Special Education Office [§300.502 (a)(2)]. The district criteria (State/Federal requirements) applicable for all evaluations must also be followed for the IEE.

4. Request for an IEE at Public Expense (Steps to Follow):

1. Contact the Special Education Director to make the request in writing.
2. Make request to the ARD Committee for action.
3. Request IEE as soon as possible but no later than six months following the CISD evaluation in question.

4. Specify areas of disagreement with CISD's evaluation and list assessment questions to be addressed by IEE.
 5. Provide name of evaluator to allow CISD to:
 - a. check certification/license of evaluator and
 - b. contract directly with the evaluator.
5. Reimbursement or Payment
- Reimbursement/payment will be made directly to evaluator upon receipt of IEE which meets all of CISD's assessment criteria. Parents obtaining an IEE without following these procedures will risk non-payment. Whenever an IEE is at public expense, the criteria under which the IEE is obtained, must be the same as the criteria which the school uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's rights to an IEE.

B. Evaluator Requirements [34CFR §300.502(e)]

1. The independent examiner will have the same qualifications as CISD assessment personnel (e.g., psychologist, associate psychologist, or educational diagnostician) as described in SBOE Rules and CISD procedures.
2. The evaluation will be conducted in the school building to which the student is assigned, unless clearly not feasible.
3. The independent examiner shall have access to the student's cumulative folder and special education folders in gathering information about the student.
4. The independent examiner may meet with the school ARD committee to gather information about a student prior to the assessment and to share information following the assessment.
5. The independent examiner shall follow federal and state assessment regulations and rules, reporting requirements and established eligibility criteria for the diagnosis of students with disabilities.
6. The independent evaluation may be restricted to one assessment area upon mutual agreement by CISD and parent.
7. The evaluator must be located within a 100 mile radius of the school district. This will allow the evaluator access to the public school for observation of the student and access to ARD/IEP meetings.
8. The evaluator must provide information in the same timely manner as required by district personnel including an original typed report to CISD within 30 calendar days from the date that an IEE is approved by CISD and five days prior to the ARD meeting. The report must address CISD format (which will be provided to the evaluator) for assessment and eligibility. Protocols must be available for review and the report must include an original signature and title of all assessment personnel involved in the evaluation. The report must comply with all requirements of state and federal regulations.

C. Criteria for Fee Setting

1. CISD will pay a fee for the IEE which allows a parent to choose from among the qualified professionals in the area.

2. CISD will not pay unreasonably excessive fees. An unreasonably excessive fee is one which is 10% above the prevailing fees in the area (or 20% above the Medicaid rate) for the specific test being considered.
3. Upon receipt of a request for payment of an unreasonably excessive fee, CISD may request a hearing to challenge the right of parents to be reimbursed.
4. Parents will be allowed the opportunity to demonstrate to an ARD committee that unique circumstances justify an IEE that does not fall within CISD's criteria.
5. When service providers have a sliding scale fee based on parent income, CISD will pay the amount charged to the parent.
6. In the event that a parent pursues an IEE independently, an original billing form must be submitted to CISD prior to payment. Before reimbursement or direct payment is authorized, criteria must be met and the written report received.
7. Travel costs for examiner and/or parents will not exceed CISD rates for travel as established by state guidelines.

D. Parents Seeking Reimbursement for A Unilaterally Obtained IEE

1. CISD will not consider a parent request for payment for a unilaterally parent-initiated IEE unless the request is made within a reasonable time after receipt of the results of the evaluation. A reasonable time is defined as 90 calendar days.
2. The request will be presented to the ARD Committee for action.
3. CISD can request a due process hearing to prove its own evaluation is appropriate. This can occur before an IEE is conducted or, after the parent has obtained one and is seeking reimbursement.
4. CISD will deny payment of an IEE conducted by an evaluator who does not meet minimum qualifications.
5. CISD will deny payment of an IEE which does not meet minimum Texas Education Agency criteria for the specific disability identified.
6. CISD will deny payment of an IEE which does not meet all state and federal requirements.

E. Consideration of Parent Initiated IEE

The results of a parent-initiated IEE obtained at private expense will be considered by the ARD committee in any decision made with respect to the provision of a free appropriate public education to the student (if the IEE meets TEA criteria). Such consideration does not make CISD liable for payment of the evaluation.

XII. HEARINGS (Concerning Students with Disabilities Under the IDEA) (includes 34 CFR §300.507 - §300.514)

A. Due Process Hearing (TAC §89.1151)

1. A parent or CISD may initiate a due process hearing as provided in the IDEA and applicable federal regulations.
2. TEA has implemented a one tier system of due process hearings under IDEA.
3. Effective with requests for due process hearings filed on or after August 1, 2002, a parent or CISD must request a due process hearing within one year of the date the complainant knew or should have known about the alleged action that serves as the basis for the hearing request.

B. Request for Hearing (TAC §89.1165)

1. The request for a due process hearing must be in writing and filed with TEA located at 1701 N. Congress Avenue, Austin, TX 78701
2. The request for public hearing may be filed by mail, hand delivered, or facsimile. The request for hearing will be deemed filed only when actually received by the TEA division responsible for legal services at the TEA.
3. The TEA has a model form which may be used to request a due process hearing. A petitioner is not required to use the model form. CISD will provide upon request, this form to parents and eligible students. The form is also available on the TEA World Wide Web site and from the education service centers.
4. If the request for hearing does not specify the issues to be heard and the relief requested, the hearing officer will require the complaining party to supplement the request, orally, or in writing, to clarify the issues to be heard at the hearing and the relief sought by the complaining party.

C. Impartial Hearing Officer (TAC §89.1170)

1. Each due process hearing shall be conducted by an impartial hearing officer selected by the Texas Education Agency.
2. The hearing officer has the authority to administer oaths, call and examine witnesses, rule on motions, including discovery and dispositive motions, determine admissibility of evidence and amendments to pleadings, maintain decorum, schedule and recess the proceedings from day to day, and make any other orders as justice requires, including the application of sanctions as necessary to maintain an orderly hearing process.
3. If the hearing officer is removed, dies, becomes disabled, or withdraws from an appeal before the completion of duties, the TEA may designate a substitute hearing officer to complete the performance of duties without the necessity of repeating any previous proceedings.

D. Pre-hearing Procedure (TAC §89.1180)

1. Promptly upon being assigned to a hearing, the hearing officer will schedule a pre-hearing conference to be held at a time reasonably convenient to the parties to the hearing. The pre-hearing conference will be held by telephone unless the hearing officer determines that circumstances require an in person conference. The hearing officer shall ensure that a written or, at the option of either party, an electronic, verbatim record of the pre-hearing conference is made.
2. The purpose of the pre-hearing conference will be to consider any of the following:
 - a. to specify or simplify issues,
 - b. admit certain assertions of fact or stipulations,
 - c. establish any limitation of the number of witnesses and the time allotted for presenting each party's case, and/or
 - d. discuss other matters as may aid in simplifying the proceeding or disposing of matters in controversy, including settling matters in dispute.
3. Promptly upon the conclusion of the pre-hearing conference, the hearing officer will issue and deliver to the parties, or their legal representatives, a written pre-hearing order which identifies:
 - a. the time, place, and date of the hearing;
 - b. the issues to be resolved at the hearing;
 - c. the relief being sought at the hearing; the deadline for disclosure of evidence and identification of witnesses, which must be at least five business days prior to the scheduled date of the hearing (hereafter referred to as the "Disclosure Deadline");
 - d. the date by which the final decision of the hearing officer shall be issued; and
 - e. other information determined to be relevant by the hearing officer.
4. No pleading, other than the request for hearing, are mandatory, unless ordered by the hearing officer. Any pleadings after the request for hearing will be filed with the hearing officer. Copies of all pleadings will be sent to all parties of record in the hearing and to the hearing officer. If a party is represented by an attorney, all copies will be sent to the attorney of record. Telephone facsimile copies may be substituted for copies sent by other means. An affirmative statement that a copy of the pleading has been sent to all parties and the hearing officer is sufficient to indicate compliance with this rule.
5. Discovery methods will be limited to those specified in the APA, Texas Government Code, Chapter 2001, and may be further limited by order of the hearing officer.
6. Upon a party's request to the hearing officer, the hearing officer may issue subpoenas and commissions to take depositions under the APA. Subpoenas and commissions to take depositions shall be issued in the name of the TEA.
7. On or before the Disclosure Deadline (which must be at least 5 business days prior to a scheduled due process hearing), each party must disclose and provide to all other parties and the hearing officer copies of all evidence (including, without limitation, all evaluations completed by the date and recommendations based on those evaluations) which the party intends to use at the hearing. An index of the documents disclosed must be included with and accompany the documents. Each party must also include with the documents disclosed a list of all witnesses (including their names, addresses, phone numbers, and professions) which the party anticipates calling to testify at the hearing.

8. A party may request a dismissal or non-suit of a due process hearing to the same extent that a plaintiff may dismiss or non-suit a case under Texas Rules of Civil Procedure, Rules 162. However, if a party requests a dismissal or non-suit of a due process hearing after the Disclosure Deadline has passed and, at any time within one year thereafter requests a subsequent due process hearing involving the same or substantially similar issues as those alleged in the hearing which was dismissed or non-suited, then, absent good cause or unless the parties agree otherwise, the Disclosure Deadline for the subsequent due process hearing shall be the same date as was established for the hearing that was dismissed or non-suited.

E. Hearing (TAC §89.1185)

1. The hearing officer will afford the parties an opportunity for hearing after reasonable notice of not less than ten days, unless the parties agree otherwise.
2. Each hearing will be conducted at a time and place that are reasonably convenient to the parents and student involved.
3. All persons in attendance will comport themselves with the same dignity, courtesy, and respect required by the district courts of the State of Texas. All argument will be made to the hearing officer alone.
4. Except as modified or limited by the provisions of §300.507-514, §300.521 or 300.528, or the provision of §89.1151- 1191 of Subchapter AA, the Texas Rules of Civil Procedure shall govern the proceedings at the hearing and the Texas Rules of Evidence shall govern evidentiary issues.
5. Before a document may be offered or admitted into evidence, the document must be identified as an exhibit of the party offering the document. All pages within the exhibit must be numbered, and all personally identifiable information must be redacted from the exhibit.
6. The hearing officer may set reasonable time limits for presenting evidence at the hearing.
7. The hearing officer, at his or her discretion, may permit testimony to be received by telephone.
8. The granting of a motion to exclude witnesses from the hearing room will be at the hearing officer's discretion.
9. Hearings will be closed to the public, unless the parent or eligible student requests that the hearing be open.
10. The hearing will be recorded and transcribed by a reporter, who will immediately prepare and transmit a transcript of the evidence to the hearing officer with copies to the parties. The hearing officer will instruct the reporter and the parties to delete all personally identifiable information from the transcription of the hearing.
11. Filing of post-hearing briefs will be permitted only upon order of the hearing officer and only upon a finding by the hearing officer that the legal issues involved in the hearing are novel or unsettled in the State of Texas or the Fifth Circuit. Any post-hearing briefs permitted by the hearing officer shall be limited to the legal issues specified by the hearing officer.
12. The hearing officer will issue a final decision, signed and dated, no later than 45 days after a request for hearing received by the TEA, unless the deadline for a final decision has been extended by the hearing officer as provided in the section # 17 below.

13. A final decision must be in writing and must include findings of fact and conclusions of law separately stated. Findings of fact must be based exclusively on the evidence presented at the hearing.
14. The final decision will be mailed to each party by the hearing officer. The hearing officer, at his or her discretion, may render his or her decision following the conclusion of the hearing, to be followed by written findings of fact and written decision.
15. At the request of either party, the hearing officer shall include, in the final decision, specific findings of fact regarding the following issues:
 - a. whether the parent or the school unreasonably protracted the final resolution of the issues in controversy in the hearing; and
 - b. if the parent was represented by an attorney, whether the parent's attorney provided the school the appropriate information in the due process complaint in accordance with §300.507(c).
16. In making a find regarding the issue described in 15.a. above, the hearing officer shall consider the extent to which each party had notice of, or the opportunity to resolve, the issues presented at the due process hearing prior to the date on which the due process hearing was requested. If, after the date on which a request for a hearing is filed, either the parent or the school requests that a meeting of the ARD committee of the student be convened to discuss the issues raised in the request for a hearing, the hearing officer shall also consider the extent to which each party participated in the ARD committee meeting in a good faith attempt to resolve the issue(s) in dispute prior to proceeding to a hearing.
17. A hearing officer may grant extensions of time for good cause beyond the 45 day period specified in #12, at the request of either party. Any such extension shall be granted to a specific date and shall be stated in writing by the hearing officer to each of the parties.
18. The decision issued by the hearing officer is final, except that any party aggrieved by the findings and decision made by the hearing officer, or the performance thereof by any other party, may bring a civil action with respect to the issues presented at the due process hearing in any state court of competent jurisdiction or in a district court of the US, as provided in 20 United States Code (USC), §1415 (1)(2), and 34 CFR§300.512.
19. In accordance with §300.514(c), CISD shall implement any decision of the hearing officer that is, at least in part, adverse to the school in a timely manner within ten school days after the date the decision was rendered. CISD must provide the services ordered by the hearing officer, but may withhold reimbursement during the pendency of appeals.

F. Special Rule for Expedited Due Process Hearings §89.1191

An expedited due process hearing requested by a party under §300.528 shall be governed by the same rules as are applicable to due process hearings generally, except that the final decision of the hearing officer must be issued and mailed to each of the parties no later than 45 days after the date the request for the expedited hearing is received by the TEA, without exceptions or extensions.

G. Attorney's Fees §300.513

1. In any action or proceeding brought under the ACT, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to the parents of a student with a disability who is the prevailing party under section 615 (I)(3) of the Act.
2. IDEA funds may not be used to pay attorney's fees. However, Part B funds may be used to pay for costs of the hearing such as the place/location for the hearing.
3. CISD will strive to work with parents using local district complaint process and/or the mediation process to resolve disputes.

XIII. STUDENT'S STATUS DURING PROCEEDINGS (34 CFR §300.514)

1. During the pendency of any administrative or judicial proceeding regarding a complaint, unless the State, CISD, and parents agree otherwise, the student involved in the complaint must remain in his or her current educational placement. This does not apply during parental appeals.
2. If the complaint involves an application for initial admission to CISD, the student, with the consent of the parents, must be placed in CISD until the completion of all the proceedings.
3. If the decision of a hearing officer in a due process hearing or a review official in an administrative appeal agrees with the student's parents that a change of placement is appropriate, that placement must be treated as an agreement between the State or CISD and the parents for purposes of paragraph #1 (above).