

Section 1. - INTERVENTION / REFERRAL

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Section 1. - INTERVENTION / REFERRAL

I. PRIOR TO INITIAL REFERRALS TO SPECIAL EDUCATION

Prior to a referral to special education, students experiencing difficulties progressing in the general curriculum should be considered for all support services and intervention programs available to all students in the district, including tutoring, RTI programs, and remedial or compensatory programs. Implementation of any intervention program cannot serve to delay or deny referral, evaluation, and eligibility determinations under the IDEA when students are suspected of having a disability and a need for special education services. The federal law has some requirements to consider. Below are listed some of the regulations.

Title I – Amendments to the Individuals with Disabilities Education Act (IDEA) “Part A-General Provisions

118 Statute 2647 - Sec. 601 (c) Findings – Congress finds the following:

- (5) Almost 30 years of research and experience has demonstrated that the education of children with disabilities can be made more effective by –
 - (A) having high expectations for such children and ensuring their access to the general education curriculum in the regular classroom, to the maximum extent possible;
 -
 - (E) supporting high quality, intensive preservice preparation and professional development for all personnel who work with children with disabilities in order to ensure that such personnel have the skills and knowledge necessary to improve the academic achievement and functional performance of children with disabilities, including the use of scientifically based instructional practices;
 - (F) providing incentives for whole-school approaches, scientifically based early reading programs, positive behavioral interventions and supports, and early intervening services to reduce the need to label children as disabled in order to address the learning and behavioral needs of such children.

§300.309 Determining the existence of a specific learning disability.

- (b) To ensure that underachievement in a child suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group must consider, as part of the evaluation described in § 300.304 through 300.306 –
 - (1) Data that demonstrate that prior to, or as a part of the referral process, the child was provided appropriate instruction in regular education settings delivered by qualified personnel; and
 - (2) Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child's parents.
- (c) The public agency must promptly request parental consent to evaluate the child to determine if the child needs special education and related services, and must adhere to the timeframes described in § 300.301 and 300.303, unless extended by mutual agreement of the child's parents and a group of qualified professionals, as described in 300.306(a)(1)–
 - (1) If, prior to a referral, the child has not made adequate progress after an appropriate period of time, when provided instruction, as described in paragraphs (b)(1) and (2) of this section; and
 - (2) Whenever a child is referred for an evaluation.

The support services, intervention program options to address the students' difficulties should be made in collaboration with parents, who should be notified of their right to request a special education referral at any time. If students continue to struggle with the general curriculum despite provision of interventions, the student should be referred for a special education evaluation within a reasonable

timeframe, depending on the degree of response to interventions, the parents' input, and the degree of difficulty the student is experiencing in meeting mastery criteria on general curriculum.

Implementation of any intervention program cannot serve to delay or deny referral, evaluation, and eligibility determinations under the IDEA when students are suspected of having a disability and a need for special education services. Specific Learning Disability is also found in Section 3 - Disability Criteria.

Specific Learning Disability is also found in Section 3 – Disability Criteria.

TEC §29.023. NOTICE OF RIGHTS.

<https://tea.texas.gov/about-tea/news-and-multimedia/correspondence/taa-letters/senate-bill-139-notice-families>
<https://tea.texas.gov/academics/special-student-populations/special-education/programs-and-services/student-handbook-statement-english>

- (a) The agency shall develop a notice for distribution as provided by Subsection (c) and posting on the agency's Internet website that indicates:
 - (1) the change made from 2016 to 2017 in reporting requirements for school districts and open-enrollment charter schools regarding the special education representation indicator adopted in the Performance-Based Monitoring Analysis System Manual; and
 - (2) in plain language, the rights of a child under both federal and state law and the general process available to initiate a referral of a child for a full individual and initial evaluation under Section 29.004 to determine the child's eligibility for special education services.
- (b) A school district or open-enrollment charter school shall include in the notice developed by the agency under Subsection (a) information indicating where the local processes and procedures for initiating a referral for special education services eligibility evaluation may be found.
- (c) By a date established by the commissioner, each school district or open-enrollment charter school shall provide the notice to the parent of each child who attends school in the district or at the school at any time during the 2019-2020 school year. A school district or open-enrollment charter school shall also make the notice available on request to any person. The notice must be available in English and Spanish, and a school district or open-enrollment charter school shall make a good faith effort to provide the notice in the parent's native language if the parent's native language is a language other than English or Spanish.
- (d) The notice is in addition to requirements imposed by Section 26.0081.
- (e) The commissioner may adopt rules necessary to implement this section.
- (f) This section expires September 1, 2023.

The district will provide the required notice in English and Spanish to each child who attends school in the district of their right to request an evaluation for special education. This notice will be posted in each campus' student handbook given to the parents of each enrolled student. Parents can request a referral at any time regardless of whether the student is receiving interventions through the RtI Committee system. OSEP has advised that unless the district believes there is no reason to suspect that a child has a disability and is in need of special education services, an evaluation must be conducted within the applicable Federal/State existing timeline. If, however, the district does not suspect the child is a child with a disability and denies the request for an initial evaluation, the local campus designee must: 1) provide written notice to parents explaining why the district declines to conduct an initial evaluation and the information that was used as the basis for that decision; 2) provide the parent with a copy of their procedural safeguards and be sure they are informed they can challenge this decision by requesting a due process hearing under 34 CFR §300.153 to resolve the dispute regarding the child's need for an evaluation; and 3) campus principals will determine the designee responsible for providing this information to the parent. The Special Education Director will train campus Principals, campus Child Find designee and diagnostician annually on the proper procedures. Other campus personnel will be trained annually on this Child Find procedure by the campus principal or designee.

TEC §26.004. ACCESS TO STUDENT RECORDS.

- (a) In this section, "intervention strategy" means a strategy in a multi-tiered system of supports that is above the level of intervention generally used in that system with all children. The term includes response to intervention and other early intervening strategies.
- (b) A parent is entitled to access to all written records of a school district concerning the parent's child,

including:

- (1) attendance records;
- (2) test scores;
- (3) grades;
- (4) disciplinary records;
- (5) counseling records;
- (6) psychological records;
- (7) applications for admission;
- (8) health and immunization information;
- (9) teacher and school counselor evaluations;
- (10) reports of behavioral patterns; and
- (11) records relating to assistance provided for learning difficulties, including information collected regarding any intervention strategies used with the child.

Response to Intervention (RtI) and Learning Disability (LD) Eligibility: https://tea.texas.gov/Academics/Special_Student_Populations/Special_Education/Programs_and_Services/Response_to_Intervention/

The LEA is required to provide parents with notice whenever their child begins to receive intervention strategies. The notice must contain specific requirements. TEA has created a template that LEAs can use that meets the statutory requirements. For a sample of the notice form required in TEC §26.0081(d) as well as the Response to Intervention (RtI) and Learning Disability (LD) Eligibility document from TEA, use this link: https://tea.texas.gov/Academics/Special_Student_Populations/Special_Education/Programs_and_Services/Response_to_Intervention/

TEC §26.0081. RIGHT TO INFORMATION CONCERNING SPECIAL EDUCATION AND EDUCATION OF STUDENTS WITH LEARNING DIFFICULTIES.

- (a) The agency shall produce and provide to school districts sufficient copies of a comprehensive, easily understood document that explains the process by which an individualized education program is developed for a student in a special education program and the rights and responsibilities of a parent concerning the process. The document must include information a parent needs to effectively participate in an admission, review, and dismissal committee meeting for the parent's child.
- (b) The agency will ensure that each school district provides the document required under this section to the parent as provided by 20 U.S.C. Section 1415(b):
 - (1) as soon as practicable after a child is referred to determine the child's eligibility for admission into the district's special education program, but at least five school days before the date of the initial meeting of the admission, review, and dismissal committee; and
 - (2) at any other time on reasonable request of the child's parent.
- (c) The agency shall produce and provide to school districts a written explanation of the options and requirements for providing assistance to students who have learning difficulties or who need or may need special education. The explanation must state that a parent is entitled at any time to request an evaluation of the parent's child for special education services under Section 29.004 or for aids, accommodations, or services under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794). Each school year, each district shall provide the written explanation to a parent of each district student by including the explanation in the student handbook or by another means.
- (d) Each school year, each school district shall notify a parent of each child, other than a child enrolled in a special education program under Subchapter A, Chapter 29, who receives assistance from the district for learning difficulties, including through the use of intervention strategies, as that term is defined by Section 26.004, that the district provides that assistance to the child. The notice must:
 - (1) be provided when the child begins to receive the assistance for that school year;
 - (2) be written in English or, to the extent practicable, the parent's native language; and
 - (3) include:
 - (A) a reasonable description of the assistance that may be provided to the child, including any intervention strategies that may be used;
 - (B) information collected regarding any intervention in the base tier of a multi-tiered system of supports that has previously been used with the child;
 - (C) an estimate of the duration for which the assistance, including through the use of intervention

- strategies, will be provided;
 - (D) the estimated time frames within which a report on the child's progress with the assistance, including any intervention strategies used, will be provided to the parent; and
 - (E) a copy of the explanation provided under Subsection (c).
- (e) The notice required under Subsection (d) may be provided to a child's parent at a meeting of the team established for the child under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), if applicable.

TEC §38.003. SCREENING AND TREATMENT FOR DYSLLEXIA AND RELATED DISORDERS.

- (a) Students enrolling in public schools in this state shall be screened or tested, as appropriate, for dyslexia and related disorders at appropriate times in accordance with a program approved by the State Board of Education. The program must include screening at the end of the school year of each student in kindergarten and each student in the first grade.
- (b) In accordance with the program approved by the State Board of Education, the board of trustees of each school district shall provide for the treatment of any student determined to have dyslexia or a related disorder.
- (b-1) Unless otherwise provided by law, a student determined to have dyslexia during screening or testing under Subsection (a) or accommodated because of dyslexia may not be rescreened or retested for dyslexia for the purpose of reassessing the student's need for accommodations until the district reevaluates the information obtained from previous screening or testing of the student.
- (c) The State Board of Education shall adopt any rules and standards necessary to administer this section.
- (c-1) The agency by rule shall develop procedures designed to allow the agency to:
 - (1) effectively audit and monitor and periodically conduct site visits of all school districts to ensure that districts are complying with this section, including the program approved by the State Board of Education under this section;
 - (2) identify any problems school districts experience in complying with this section, including the program approved by the State Board of Education under this section; and
 - (3) develop reasonable and appropriate remedial strategies to address school district noncompliance and ensure the purposes of this section are accomplished.
- (d) In this section:
 - (1) "Dyslexia" means a disorder of constitutional origin manifested by a difficulty in learning to read, write, or spell, despite conventional instruction, adequate intelligence, and sociocultural opportunity.
 - (2) "Related disorders" includes disorders similar to or related to dyslexia, such as developmental auditory imperception, dysphasia, specific developmental dyslexia, developmental dysgraphia, and developmental spelling disability.

TAC §74.1101. Dyslexia Screening Requirements for 2019-2020 and 2020-2021 School Years.

- (a) Conditional waiver for 2019-2020 school year. The requirement established under Texas Education Code (TEC), §38.003(a), to screen each student in Kindergarten for dyslexia and related disorders by the end of the school year was waived by the governor for the 2019-2020 school year due to school closures resulting from the COVID-19 pandemic, subject to guidance and rules adopted by Texas Education Agency.
- (b) Applicability. The waiver described under subsection (a) of this section applies to school districts and open-enrollment charter schools that implement the requirements of subsection (c) of this section.
- (c) Requirements for 2020-2021 school year. School districts and open-enrollment charter schools must administer the reading diagnostic instrument required by TEC, §28.006, within the first 20 school days of the 2020-2021 school year.
 - (1) A student should be provided reading intervention as needed based on the reading diagnostic instrument results.
 - (2) A student should be referred for an evaluation if dyslexia or a related disorder is suspected.
 - (3) A student should be referred for a full and individual initial evaluation as required by state and federal law if a need for special education services is suspected in addition to suspicion of the presence of dyslexia.
 - (4) Students in Grade 1 must be screened for dyslexia and related disorders by the end of January 2021 in accordance with TEC, §38.003(a), and the "Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders" adopted under §74.28 of this title (relating to Students with Dyslexia and Related Disorders).

- (d) Alteration of timelines. The commissioner of education may alter the timelines under subsection (c) of this section for the state or an individual school district or open-enrollment charter school if circumstances resulting from the COVID-19 pandemic necessitate alteration.

TAC §74.28. Students with Dyslexia and Related Disorders.

- (a) In order to support and maintain full educational opportunity for students with dyslexia and related disorders and consistent with federal and state law, school districts and open-enrollment charter schools shall provide each student with dyslexia or a related disorder access to each program under which the student qualifies for services.
- (b) The board of trustees of a school district or the governing body of an open-enrollment charter school must ensure that procedures for identifying a student with dyslexia or a related disorder and for providing appropriate, evidence-based instructional services to the student are implemented in the district.
- (c) A school district's or open-enrollment charter school's procedures must be implemented according to the State Board of Education (SBOE) approved strategies for screening, individualized evaluation, and techniques for treating dyslexia and related disorders. The strategies and techniques are described in the "Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders," provided in this subsection. The handbook is a set of guidelines for school districts and open-enrollment charter schools that may be modified by the SBOE only with broad-based dialogue that includes input from educators and professionals in the field of reading and dyslexia and related disorders from across the state.
- (d) Screening as described in the "Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders," and further evaluation should only be conducted by individuals who are trained in valid, evidence-based assessments and who are trained to appropriately evaluate students for dyslexia and related disorders.
- (e) A school district or open enrollment charter school shall purchase a reading program or develop its own evidence-based reading program for students with dyslexia and related disorders that is aligned with the descriptors found in the "Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders." Teachers who screen and treat these students must be trained in instructional strategies that use individualized, intensive, multisensory, phonetic methods and a variety of writing and spelling components described in the "Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders." The professional development activities specified by each open-enrollment charter school and district and/or campus planning and decision making committee shall include these instructional strategies.
- (f) At least five school days before any evaluation or identification procedure is used selectively with an individual student, the school district or open-enrollment charter school must provide written notification to the student's parent or guardian or another person standing in parental relation to the student of the proposed identification or evaluation. The notice must be in English, or to the extent practicable, the individual's native language and must include the following:
- (1) a reasonable description of the evaluation procedure to be used with the individual student;
 - (2) information related to any instructional intervention or strategy used to assist the student prior to evaluation;
 - (3) an estimated time frame within which the evaluation will be completed; and
 - (4) specific contact information for the campus point of contact, relevant Parent Training and Information Projects, and any other appropriate parent resources.
- (g) Before a full individual and initial evaluation is conducted to determine whether a student has a disability under the Individuals with Disabilities Education Act (IDEA), the school district or open-enrollment charter school must notify the student's parent or guardian or another person standing in parental relation to the student of its proposal to conduct an evaluation consistent with 34 Code of Federal Regulations (CFR), §300.503, provide all information required under subsection (f) of this section, and provide:
- 1) a copy of the procedural safeguards notice required by 34 CFR, §300.504;
 - (2) an opportunity to give written consent for the evaluation; and
 - (3) a copy of information required under Texas Education Code (TEC), §26.0081.
- (h) Parents/guardians of a student with dyslexia or a related disorder must be informed of all services and options available to the student, including general education interventions under response to intervention and multi-tiered systems of support models as required by TEC, §26.0081(d), and options under federal law, including IDEA and the Rehabilitation Act, §504.
- (i) Each school or open-enrollment charter school must provide each identified student access at his or her campus to instructional programs required in subsection (e) of this section and to the services of a teacher

trained in dyslexia and related disorders. The school district or open-enrollment charter school may, with the approval of each student's parents or guardians, offer additional services at a centralized location. Such centralized services shall not preclude each student from receiving services at his or her campus.

- (j) Because early intervention is critical, a process for early identification, intervention, and support for students at risk for dyslexia and related disorders must be available in each district and open-enrollment charter school as outlined in the "Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders." School districts and open-enrollment charter schools may not use early intervention strategies, including multi-tiered systems of support, to delay or deny the provision of a full and individual evaluation to a child suspected of having a specific learning disability, including dyslexia or a related disorder.
- (k) Each school district and open-enrollment charter school shall provide a parent education program for parents/guardians of students with dyslexia and related disorders. This program must include:
 - (1) awareness and characteristics of dyslexia and related disorders;
 - (2) information on testing and diagnosis of dyslexia and related disorders;
 - (3) information on effective strategies for teaching students with dyslexia and related disorders;
 - (4) information on qualifications of those delivering services to students with dyslexia and related disorders;
 - (5) awareness of information on accommodations and modifications, especially those allowed for standardized testing;
 - (6) information on eligibility, evaluation requests, and services available under IDEA and the Rehabilitation Act, §504, and information on the response to intervention process; and
 - (7) contact information for the relevant regional and/or school district or open-enrollment charter school specialists.
- (l) School districts and open-enrollment charter schools shall provide to parents of children suspected to have dyslexia or a related disorder a copy or a link to the electronic version of the "Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders."
- (m) School districts and open-enrollment charter schools will be subject to monitoring for compliance with federal law and regulations in connection with this section.

Current TEA Dyslexia Handbook: <https://tea.texas.gov/academics/dyslexia/>

The district Special Education Department will provide training to each campus Child Find designee on procedures related to services for students with dyslexia during August inservice and at a minimum of annually.

- *The campus RtI Committee will be responsible for reviewing referrals of students suspected of having characteristics of dyslexia.*
- *Students in grades K-2 may have been identified through a dyslexia screening procedure provided to all students in those grades.*
- *Referrals for consideration of dyslexia may be completed for any student in the district.*
- *Parents of all students suspected of dyslexia will be notified by the local campus designee and provided information concerning the condition and possible options for providing services to the student which align with the TEA Dyslexia Handbook. The special education department in collaboration with the district dyslexia specialist will provide an annual parent education program that provides information to parents regarding the characteristics of dyslexia and related disorder, the testing and diagnosis process, effective research based interventions and strategies, eligibility criteria under IDEA and Section 504, and accommodations and modifications that can be effective and utilized in standardized testing. All parents will also be provided a copy of the current Dyslexia Handbook published by TEA.*
- *Using the designated district-wide process, the family of all students suspected of dyslexia will be offered an opportunity by the district dyslexia designee for an evaluation for dyslexia.*
- *When it appears that the student may require a program of specially designed instruction, the family will be offered a full initial and individual evaluation for special education services following the special education referral procedures. This includes following all special education timelines and includes Notice and Consent.*

Screenings and assessments for dyslexia must be done by individuals who have been appropriately trained to identify dyslexia and related disorders. Teachers and evaluators who screen and/or evaluate for dyslexia and

related disorders must also be trained in instructional strategies that utilize researched based interventions as identified in the Dyslexia Handbook published by the TEA. The district will provide information to the TEA annually regarding the number of student enrolled in the district who are identified as having dyslexia. Data will be gathered through the electronic data management system utilized by the district.

If the student is referred for an FIE under special education, The FIE will include information if the student has dyslexia and is a student with a Learning Disability. The ARD committee will meet to determine eligibility and need for special education and related services. The ARD committee will determine a need for goals and the Least Restrictive Environment for services if necessary. The district dyslexia designee will provide the parent education program, including all required components, annually. Documentation will be maintained by the district dyslexia designee.

Some families may decline a full initial and individual evaluation for a learning disability and may opt for evaluation under district Section 504 procedures instead. When it appears to the campus RtI Committee that the student will benefit from the standard dyslexia protocol, evaluation under Section 504 will be appropriate.

TAC §89.1011. Full Individual and Initial Evaluation.

- (a) Referral of students for a full individual and initial evaluation for possible special education services must be a part of the district's overall, general education referral or screening system. Prior to referral, students experiencing difficulty in the general classroom should be considered for all support services available to all students, such as tutorial; remedial; compensatory; response to evidence-based intervention; and other academic or behavior support services. If the student continues to experience difficulty in the general classroom after the provision of interventions, district personnel must refer the student for a full individual and initial evaluation. This referral for a full individual and initial evaluation may be initiated by school personnel, the student's parents or legal guardian, or another person involved in the education or care of the student.
- (b) If a parent submits a written request to a school district's director of special education services or to a district administrative employee for a full individual and initial evaluation of a student, the school district must, not later than the 15th school day after the date the district receives the request:
 - (1) provide the parent with prior written notice of its proposal to conduct an evaluation consistent with 34 Code of Federal Regulations (CFR), §300.503; a copy of the procedural safeguards notice required by 34 CFR, §300.504; and an opportunity to give written consent for the evaluation; or
 - (2) provide the parent with prior written notice of its refusal to conduct an evaluation consistent with 34 CFR, §300.503, and a copy of the procedural safeguards notice required by 34 CFR, §300.504.

For TAC §89.1011 in its entirety, see V. TIMELINE - in this Section 1.

The Blum ISD will use the RtI Committee to consider all intervention services provided, all scientifically based reading or other programs used, any support services available to all students prior to referral for special education evaluation. Interventions such as tutorials, remedial support, compensatory support, and other services will be considered and documented in detail by the RtI Committee prior to referral for special education evaluation.

II. REFERRALS FOR SPECIAL EDUCATION EVALUATION

TAC § 89.1035. Age Ranges for Student Eligibility.

- (a) Pursuant to state and federal law, services provided in accordance with this subchapter must be available to all eligible students ages 3-21. Services will be made available to eligible students on their third birthday. Graduation with a regular high school diploma pursuant to §89.1070 (b)(1), (b)(2)(D), (g)(1), (g)(2), (g)(3), or (g)(4)(D) of this title (relating to Graduation Requirements) terminates a student's eligibility to receive services in accordance with this subchapter. An eligible student receiving special education services who is 21 years of age on September 1 of a school year will be eligible for services through the end of that school year or until graduation with a regular high school diploma pursuant to §89.1070 (b)(1), (b)(2)(D), (g)(1), (g)(2), (g)(3), or (g)(4)(D) of this title, whichever comes first.
- (b) In accordance with the Texas Education Code (TEC), § 29.003, 30.002(a), and 30.081, a free, appropriate, public education must be available from birth to students with visual or impairments or who are deaf or hard of hearing. *(See Disability Criteria Section 3 for: TAC § 89.1040. Eligibility Criteria)*

Students meeting the age criteria above, suspected of having a disability, and residing within the Blum ISD can be referred for special education evaluation. Students suspected of having a disability attending a private, nonpublic school within the boundaries of Blum ISD may also obtain an evaluation for special education services. The district RtI Committee, teacher, parent, doctor or other invested person with educational concerns may refer a student for a suspected disability and need for special education services. District forms are used for all documentation.

Enrolled Students (RtI Committee):

Any enrolled student experiencing a lack of educational progress will be addressed by the general education intervention services provided as a part of the campus RtI Committee process that is the responsibility of the campus principal. This local campus committee will monitor and determine student progress individually, track student progress on district forms and may refer for special education evaluation. At such time as the local campus committee determines a referral for special education evaluation is needed, the special education referral process begins. The district designee will complete the specific referral forms that are provided in the Blum ISD's Special Education computer system.

Enrolled Students (Parent/ Other Request):

Parents can request a referral at any time regardless of whether the student is receiving interventions through the RtI Committee system. Unless the district believes there is no reason to suspect that a child has a disability and is in need of special education services, an evaluation must be conducted within the applicable Federal/State timeline found in Section 1 of these Operating Procedures.

- 1. If a parent contacts campus personnel verbally requesting a referral for special education evaluation, that campus person will immediately contact the local campus diagnostician, principal, or child find designee who will reconnect with the parent and request a meeting.*
- 2. The parent will be offered the opportunity to meet with the local campus diagnostician, principal, or child find designee to discuss concerns regarding the student. The designee may also explain other options, 504 evaluation or the RtI Committee process depending on student needs and parent request.*

The campus designee will proceed with gathering existing information. The designee will meet with the RtI Committee to review all data and determine if the student data warrants moving forward with an evaluation for special education. The suspected disability must be interfering with the student's educational progress. If the RtI Committee agrees the evaluation is needed, the committee will follow the district referral procedures. All state timelines will be followed.

If the RtI Committee determines the evaluation is not warranted follow (b) (1), (2), & (3) below

If the parent wishes to proceed with a written request for a full and individual initial evaluation, the parent must provide the written request to the campus designee. The campus assessment specialist will then follow district procedures regarding Notice and Consent for Evaluation.

- (a) the special education department and campus designee will, not later than the 15th school day after the date*

- the district receives the written request either continue the referral process providing and completing all required district forms including Notice/Consent (all TEA timelines for FIE and ARD apply); OR
- (b) If the district does not suspect the child is a child with a disability and denies the request for an initial evaluation, the local campus designee must
- (1) provide prior written notice to parents explaining why the district declines to conduct an initial evaluation and the information that was used as the basis for that decision;*
 - (2) provide the parent with a copy of their procedural safeguards. The district must ensure that parents are informed of their right to challenge this decision by requesting a due process hearing under 34 CFR §300.153.; and*
 - (3) campus principals and Special Education Director will determine the designee responsible for providing the required information to the parent.*

The Special Education Director will train campus Principals, campus Child Find designee and the diagnostician annually on the proper procedures. Other appropriate campus personnel will be trained annually on this Child Find procedure by the campus principal or designee. All RtI Committee documentation will be maintained in the student's campus folder. All special education required notifications, consents and documentation will be maintained with the student's special education eligibility information.

III. MEMBERSHIP OF THE RTI COMMITTEE

- a. The membership in the district's overall general education screening system is determined by local campus administration unless specified in Blum ISD policy. The overall screening system on each campus is under the general responsibility of the campus Principal and not the Special Education Department. The timeline for review of individual student progress is also under the direction of the Principal and members of the RtI Committee. The Principal is responsible for annual training of the campus staff.*
- b. Special education personnel may participate on, but not be assigned primary responsibility for the RtI Committee.*
- c. Special education personnel may be involved in collecting referral data ONLY for the following students:*
 - 1. pre-kindergarten students*
 - 2. students who are hospitalized, institutionalized, or admitted to treatment centers.*
 - 3. students with multiple-disabilities*
 - 4. eligible students with disabilities new to a district*
 - 5. students referred to special education during the summer*

IV. GENERAL EDUCATION RESPONSIBILITIES

- a. The general education teacher will consider the student experiencing difficulty in the general classroom for all support services available to all students such as tutorial, remedial, compensatory, and other services. When a student is suspected of having both a disability and the need for specially designed instruction, a timely referral for evaluation under the IDEA is made. This referral can occur at any point in the RtI Committee process.*
- b. The general education teacher will discuss, consider, and document student educational concerns and all educational alternatives and options available and those tried, the amount of time tried, and reasons why those tried did not work.*
- c. The teacher will discuss student needs and additional possible supports in the Blum ISD committee following campus procedures. However, if the student is suspected of having a disability and in need of special education services, the Blum ISD's process will not preclude a referral for special education evaluation.*
- d. For students referred with a suspected learning disability, data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, must have been documented and provided to the child's parents prior to referral for special education evaluation.*
- e. If the options tried were not successful, the Blum ISD's referral forms required are outlined in the directions of the referral packet. All required information (including Procedural Safeguards) will be completed by the campus designee with appropriate signatures and dates. Required information includes the TEA publication "[A Guide to the Admission, Review and Dismissal Process](#)".*
- f. Obtain the parent, guardian, adult student's signature showing explanation and receipt of the required Notice of Procedural Safeguards.*
- g. Provide parent the Prior Written Notice of Proposal or Refusal to Provide Services. Obtain parent signature for Consent for Evaluation if appropriate. In the event the parent refuses Consent for Evaluation, the Blum ISD designee will request assistance from the campus diagnostician in order to complete required documentation. Also see Section 2. FIE and Section 7. Procedural Safeguards.*
- h. The student's referral data shall be maintained for documentation purposes.*
- i. For students whose Home Language Survey is other than English, the LPAC report, which must have been completed within the past year, must be included with the referral packet. The student should have been tested in English and their primary language. Referral information will also include referral information, LPAC report, LAS scores or equivalent test, amount of time in ESL, and a copy of the Home Language Survey.*

The principal will determine the manner in which referral packets are given to teachers.

V. TIMELINE – INITIAL REFERRAL TO EVALUATION

§ 300.301 Initial evaluations.

- (a) General.** Each public agency must conduct a full and individual initial evaluation, in accordance with §§300.304 and 300.306, before the initial provision of special education and related services to a child with a disability under this part.
- (b) Request for initial evaluation.** Consistent with the consent requirements in §300.300, either a parent of a child, or public agency may initiate a request for an initial evaluation to determine if the child is a child with a disability.
- (c) Procedures for initial evaluation.** The initial evaluation--
 - (1)** (i) Must be conducted within 60 days of receiving parental consent for the evaluation; or
(ii) If the State establishes a timeframe within which the evaluation must be conducted, within that timeframe; and
 - (2) Must consist of procedures--**
 - (i) To determine if the child is a child with a disability under §300.8; and
 - (ii) To determine the educational needs of the child.
- (d) Exception.** The timeframe described in paragraph (c)(1) of this section shall not apply to the public agency if--
 - (1) The parent of a child repeatedly fails or refuses to produce the child for the evaluation; or**
 - (2) A child enrolls in a school of another public agency after the relevant timeframe in paragraph (c)(1) of this section has begun, and prior to a determination by the child's previous public agency as to whether the child is a child with a disability under § 300.8.**
- (e) The exception in paragraph (d)(2) of this section applies only if the subsequent public agency is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and subsequent public agency agree to a specific time when the evaluation will be completed. (Authority: 20 U.S.C. 1414(a))**

TEC§ 29.004 Full and Individual Initial Evaluation (authorizing statute for §89.1011)

- (a) A written report of a full individual and initial evaluation of a student for purposes of special education services shall be completed as follows, except as otherwise provided by this section:**
 - (1) not later than the 45th school day following the date on which the school district, in accordance with 20 U.S.C. Section 1414(a), as amended, receives written consent for the evaluation, signed by the student's parent or legal guardian, except that if a student has been absent from school during that period on three or more days, that period must be extended by a number of school days equal to the number of school days during that period on which the student has been absent; or**
 - (2) for students under five years of age by September 1 of the school year and not enrolled in public school and for students enrolled in a private or home school setting, not later than the 45th school day following the date on which the school district receives written consent for the evaluation, signed by a student's parent or legal guardian.**
- (a-1) If a school district receives written consent signed by a student's parent or legal guardian for a full individual and initial evaluation of a student at least 35 but less than 45 school days before the last instructional day of the school year, the evaluation must be completed and the written report of the evaluation must be provided to the parent or legal guardian not later than June 30 of that year. The student's admission, review, and dismissal committee shall meet not later than the 15th school day of the following school year to consider the evaluation. If a district receives written consent signed by a student's parent or legal guardian less than 35 school days before the last instructional day of the school year or if the district receives the written consent at least 35 but less than 45 school days before the last instructional day of the school year but the student is absent from school during that period on three or more days, Subsection (a)(1) applies to the date the written report of the full individual and initial evaluation is required.**
- (a-2) For purposes of this section, "school day" does not include a day that falls after the last instructional day of the spring school term and before the first instructional day of the subsequent fall school term. The commissioner by rule may determine days during which year-round schools are recessed that,**

consistent with this subsection, are not considered to be school days for purposes of this section.

- (a-3) Subsection (a) does not impair any rights of an infant or toddler with a disability who is receiving early intervention services in accordance with 20 U.S.C. Section 1431.
- (b) The evaluation shall be conducted using procedures that are appropriate for the student's most proficient method of communication.
- (c) If a parent or legal guardian makes a written request to a school district's director of special education services or to a district administrative employee for a full individual and initial evaluation of a student, the district shall, not later than the 15th school day after the date the district receives the request:
- (1) provide an opportunity for the parent or legal guardian to give written consent for the evaluation; or
 - (2) refuse to provide the evaluation and provide the parent or legal guardian with notice of procedural safeguards under 20 U.S.C. Section 1415(b).

*The **black bold text in 300.301** is Federal regulations. See our required state timeline that we follow in Texas (TEC§ 29.004 and TAC §89.1011).*

SECTION 2. Section 29.004, Education Code, as amended by this Act, applies to completion of a report of a full individual and initial evaluation of a public school student for purposes of special education services only as to an initial evaluation performed on or after September 1, 2013.

SECTION 3. This Act takes effect September 1, 2013.

TAC §89.1011. Full Individual and Initial Evaluation.

- (a) Referral of students for a full individual and initial evaluation for possible special education services must be a part of the district's overall, general education referral or screening system. Prior to referral, students experiencing difficulty in the general classroom should be considered for all support services available to all students, such as tutorial; remedial; compensatory; response to evidence-based intervention; and other academic or behavior support services. If the student continues to experience difficulty in the general classroom after the provision of interventions, district personnel must refer the student for a full individual and initial evaluation. This referral for a full individual and initial evaluation may be initiated by school personnel, the student's parents or legal guardian, or another person involved in the education or care of the student.
- (b) If a parent submits a written request to a school district's director of special education services or to a district administrative employee for a full individual and initial evaluation of a student, the school district must, not later than the 15th school day after the date the district receives the request:
- (1) provide the parent with prior written notice of its proposal to conduct an evaluation consistent with 34 Code of Federal Regulations (CFR), §300.503; a copy of the procedural safeguards notice required by 34 CFR, §300.504; and an opportunity to give written consent for the evaluation; or
 - (2) provide the parent with prior written notice of its refusal to conduct an evaluation consistent with 34 CFR, §300.503, and a copy of the procedural safeguards notice required by 34 CFR, §300.504.
- (c) Except as otherwise provided in this section, a written report of a full individual and initial evaluation of a student must be completed as follows:
- (1) not later than the 45th school day following the date on which the school district receives written consent for the evaluation from the student's parent, except that if a student has been absent from school during that period on three or more school days, that period must be extended by a number of school days equal to the number of school days during that period on which the student has been absent; or
 - (2) for students under five years of age by September 1 of the school year and not enrolled in public school and for students enrolled in a private or home school setting, not later than the 45th school day following the date on which the school district receives written consent for the evaluation from the student's parent.
- (d) The admission, review, and dismissal (ARD) committee must make its decisions regarding a student's initial eligibility determination and, if appropriate, individualized education program (IEP) and placement within 30 calendar days from the date of the completion of the written full individual and initial evaluation report. If the 30th day falls during the summer and school is not in session, the student's ARD committee has until the first day of classes in the fall to finalize decisions concerning the student's initial eligibility determination, IEP, and placement, unless the full individual and initial evaluation indicates that the student will need extended school year services during that summer.

- (e) Notwithstanding the timelines in subsections (c) and (d) of this section, if the school district received the written consent for the evaluation from the student's parent at least 35 but less than 45 school days before the last instructional day of the school year, the written report of a full individual and initial evaluation of a student must be provided to the student's parent not later than June 30 of that year. The student's ARD committee must meet not later than the 15th school day of the following school year to consider the evaluation. If, however, the student was absent from school three or more days between the time that the school district received written consent and the last instructional day of the school year, the timeline in subsection (c)(1) of this section applies to the date the written report of the full individual and initial evaluation is required.
- (f) If a student was in the process of being evaluated for special education eligibility by a school district and enrolls in another school district before the previous school district completed the full individual and initial evaluation, the new school district must coordinate with the previous school district as necessary and as expeditiously as possible to ensure a prompt completion of the evaluation in accordance with 34 CFR, §300.301(d)(2) and (e) and §300.304(c)(5). The timelines in subsections (c) and (e) of this section do not apply in such a situation if:
 - (1) the new school district is making sufficient progress to ensure a prompt completion of the evaluation; and
 - (2) the parent and the new school district agree to a specific time when the evaluation will be completed.
- (g) For purposes of subsections (b), (c), and (e) of this section, school day does not include a day that falls after the last instructional day of the spring school term and before the first instructional day of the subsequent fall school term.
- (h) For purposes of subsections (c)(1) and (e) of this section, a student is considered absent for the school day if the student is not in attendance at the school's official attendance taking time or at the alternate attendance taking time set for that student. A student is considered in attendance if the student is off campus participating in an activity that is approved by the school board and is under the direction of a professional staff member of the school district, or an adjunct staff member who has a minimum of a bachelor's degree and is eligible for participation in the Teacher Retirement System of Texas.

§ 300.302 Screening for instructional purposes is not evaluation.

The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services. (Authority: 20 U.S.C. 1414(a)(1)(E))

VI. SPECIAL EDUCATION DEPARTMENT RESPONSIBILITIES

A. Referral Packet

- 1. When the Blum ISD RtI Committee determines a referral for special education evaluation is needed, a Referral Packet will be used at each campus.*
- 2. The Referral Packet includes (but is not limited to) required district forms located within our district IEP computerized system, for example: Parental Receipt of Procedural Safeguards, Notice of Evaluation and Consent for Evaluation. Also provided is the TEA publication "A Guide to the Admission, Review and Dismissal Process".*
- 3. The Blum ISD designee completes the sections documenting Blum ISD activities and all existing data for the Referral Packet. The Blum ISD designee is responsible for meeting with the parent, providing the explanation of Procedural Safeguards, Notice of Evaluation and for obtaining written Consent for the Evaluation.*
- 4. The Blum ISD designee submits the completed packet to the Special Education designee noting the important timeline date (the day that the written "Consent for Evaluation" form is received by the school). This date begins the time line for the evaluation process.
The special education designee marks on the Referral packet (or in the special education electronic system): the date the signed Parent Consent for Evaluation is received by the school and the date the FIE is due. (following the state regulations for the timeline for evaluation)*
- 5. The district evaluation personnel will determine the evaluations needed and will contact appropriate special education personnel to assist and/or conduct the evaluation (for example if the student is suspected to be a student who is deaf or hard of hearing, suspected of having a visual impairment (VI), or to be bilingual, etc. special evaluation personnel may be needed).*
- 6. The evaluation personnel will conduct the evaluation and completes the written report for the Full and Individual Evaluation (FIE).*
- 7. The appropriate campus personnel who send the Notice of ARD Meeting are notified when the report is completed in order to schedule the ARD/IEP meeting.*

B. Schedule ARD/IEP Meeting

- 1. The campus diagnostician notifies the principal the data collection is completed, FIE report is written and ready for the ARD/IEP committee's review.*
- 2. Keeping within the timelines, the campus designee coordinates with the required ARD committee members for a date/time for the ARD/IEP meeting. Coordination with the parent may be done by phone calls or emails. If the ARD is an Initial placement, the diagnostician will make every attempt to review the written report with the parent prior to the ARD/IEP committee meeting.*
- 3. The designated district personnel schedules the ARD/IEP meeting, completes the Notice of ARD/IEP Meeting paperwork and sends the first written Notice to the parent and/or adult student as required. Notification of the ARD/IEP committee meeting will also be provided to all those who are requested to attend the meeting. (See Procedural Safeguards, section 7 of this manual, for specific requirements on fulfilling the Notice requirement.)*
- 4. The parent must be provided the Notice of ARD/IEP Committee Meeting at least 5 school days prior to the date of the meeting. The parents may choose to waive the 5 day Notice Requirement.*
- 5. The Notice and all documentation is included in the computerized IEP system utilized by the district.*

C. Timeline for ARD/IEP Meeting

TAC § 89.1011 (d)

The admission, review, and dismissal (ARD) committee must make its decisions regarding a student's initial eligibility determination and, if appropriate, individualized education program (IEP) and placement within 30 calendar days from the date of the completion of the written full individual and initial evaluation report. If the 30th day falls during the summer and school is not in session, the student's ARD committee has until the first day of classes in the fall to finalize decisions concerning the student's initial eligibility determination, IEP, and placement, unless the full individual and initial evaluation indicates that the student will need extended school year services during that summer.

For the entire content of TAC §89.1011 please look above at V. TIMELINE and you will see all of TAC §89.1011(a - h).

D. Transfers from Outside the District – already in Special Education

For students who are new to Blum ISD and have received special education services in the student's previous school district, regular referral procedures are bypassed. Procedures to be followed are included in the ARD/IEP Section 4 of this manual under Transfers.

VII. REFERRALS FOR SPECIFIC AREAS:

§ 300.305 Additional requirements for evaluations and reevaluations.

- (a) **Review of existing evaluation data.** As part of an initial evaluation (if appropriate) and as part of any reevaluation under this part, the IEP Team and other qualified professionals, as appropriate, must--
- (1) Review existing evaluation data on the child, including—
 - (i) Evaluations and information provided by the parents of the child;
 - (ii) Current classroom-based local or State assessments, and classroom-based observations; and
 - (iii) Observations by teachers and related services providers; and
 - (2) On the basis of that review, and input from the child's parents, identify what additional data, if any, are needed.....

(for entire text, see Section 2 – FIE)

Any evaluation of an existing special education student is NOT a referral but is a reevaluation and should follow all requirements of 300.305 found in Section 2 of FIE.

A. Adapted Physical Education (APE)

§ 300.108 Physical education.

The SEA must ensure that public agencies in the State comply with the following:

- (a) **General.** Physical education services, specially designed if necessary, must be made available to every child with a disability receiving FAPE, unless the public agency enrolls children without disabilities and does not provide PE to children without disabilities in the same grades.
- (b) **Regular physical education.** Each child with a disability must be afforded the opportunity to participate in the regular physical education program available to nondisabled children unless--
 - (1) The child is enrolled full time in a separate facility; or
 - (2) The child needs specially designed physical education, as prescribed in the child's IEP.
- (c) **Special physical education.** If specially designed physical education is prescribed in a child's IEP, the public agency responsible for the education of that child must provide the services directly or make arrangements for those services to be provided through other public or private programs.
- (d) **Education in separate facilities.** The public agency responsible for the education of a child with a disability who is enrolled in a separate facility must ensure that the child receives appropriate physical education services in compliance with this section.
(Authority: 20 U.S.C. 1412(a)(5)(A))

Students Referred For Adapted P.E.

1. *All students referred for adapted physical education evaluation must have an identified disability.*
 - A. *The request for an adapted physical education evaluation must be made by the RtI Committee upon initial referral or by the student's ARD/IEP committee.*
 - B. *The evaluation person will monitor the referral and forward the request for APE screening/evaluation to the appropriate person.*
2. *A written report from the adapted physical education evaluation personnel will be made available for ARD/IEP committee consideration and action.*

B. Assistive Technology

(For more information see also FIE Section 2 and ARD/IEP Section 4)

Students Referred For AT

1. *Requests for AT Team evaluation will come through the Full Initial and Individual Evaluation or the ARD/IEP Committee.*
2. *The ARD/IEP Committee may recommend additional evaluation by the technology assistance team. The technology assistance team may include any of the following professionals: Occupational Therapist, Physical Therapist, Speech Pathologist, Diagnostician, Vision Teacher, others as needed.*
3. *If the assistive technology team is requested for an evaluation, the team member(s) will make written*

recommendations in an evaluation report for assistive technology services or devices including specific modifications which are needed to implement the student's individual education plan. The ARD/IEP Committee will then consider the recommendations.

- 4. Recommendations for assistive technology for all students from the ARD/IEP Committee meetings will be logged and tracked by the AT designee to assure follow up occurs in ordering of material, any training required, etc.*

C. Attention Deficit Disorder/Attention Deficit With Hyperactivity Disorder

Students Referred For ADHD

If the general education staff has concerns and documented evidence of student behaviors, that documentation will be provided to the evaluation staff in the referral paperwork. The special education evaluation staff will proceed with proper documentation and any eligibility determination.

§ 300.306 Determination of eligibility.

- (b) Special rule for eligibility determination.** A child must not be determined to be a child with a disability under this part--
- (1) If the determinant factor for that determination is--**
- (i) Lack of appropriate instruction in reading, including the essential components of reading instruction (as defined in section 1208(3) of the ESEA) “as such section was in effect on the day before the date of enactment on the Every Student Succeeds Act (December 9, 2015)”;**
see section 2 of Operating Procedures
 - (ii) Lack of instruction in math; or**
 - (iii) Limited English proficiency; and**
- (2) If the child does not otherwise meet the eligibility criteria under § 300.8(a).** *see section 3*

TAC § 38.016. Psychotropic Drugs and Psychiatric Evaluations or Examinations.

- (a) In this section:**
- (1) "Parent"** includes a guardian or other person standing in parental relation.
 - (2) "Psychotropic drug"** means a substance that is:
 - (A)** used in the diagnosis, treatment, or prevention of a disease or as a component of a medication; and
 - (B)** intended to have an altering effect on perception, emotion, or behavior.
- (b) A school district employee may not:**
- (1)** recommend that a student use a psychotropic drug; or
 - (2)** suggest any particular diagnosis; or
 - (3)** use the refusal by a parent to consent to administration of a psychotropic drug to a student or to a psychiatric evaluation or examination of a student as grounds, by itself, for prohibiting the child from attending a class or participating in a school related activity.
- (c) Subsection (b) does not:**
- (1)** prevent an appropriate referral under the child find system required under 20 U.S.C. Section 1412, as amended; or
 - (2)** prohibit a school district employee who is a registered nurse, advanced nurse practitioner, physician, or certified or appropriately credentialed mental health professional from recommending that a child be evaluated by an appropriate medical practitioner; or
 - (3)** prohibit a school employee from discussing any aspect of a child's behavior or academic progress with the child's parent or another school district employee.
- (d)** The board of trustees of each school district shall adopt a policy to ensure implementation and enforcement of this section.
- (e)** An act in violation of Subsection (b) does not override the immunity from personal liability granted in Section 22.0511 or other law or the district's sovereign and governmental immunity.

The Special Education evaluation staff is responsible for coordinating any disability determination.

Caution: Remember that a student may be diagnosed by a physician as having ADD or ADHD but the student may not necessarily have an educational need for special education services. Some students' needs may be addressed by the local campus Section 504 committee or classroom strategies. If you have any questions, please review with your

Blum ISD campus personnel or call the Blum ISD special education office.

D. Early Childhood Intervention (ECI) *(see also section H. for ECSE information)*

For the Memorandum of Understanding (MOU) with the TEA and specific referral information, refer to the MOU in its entirety at: https://tea.texas.gov/index4.aspx?id=2147494988&ekfxmen_noscript=1&ekfxmensel=e9edebdf8_25769804222_25769804223

ECI is a coordinated system of services available in every county within Texas for children birth to age three with disabilities or delays. ECI is funded through the federal Individuals with Disabilities Education Act (IDEA, Part C), P.L. 105-17 and through state appropriations. ECI supports families to help children reach potential through developmental services. ECI contracts with local agencies and organizations through a funding application process.

ECI staff may include physical therapists, occupational therapists, speech and language therapists, audiologists, educators, social workers, nurses, dietitians, psychologists, licensed professional counselors, and early intervention specialists. ECI programs must follow the Texas Early Childhood Intervention Policy Manual.

The local ECI programs must identify, locate, and screen or evaluate all infants and toddlers, birth through two years of age, who have or are suspected of having developmental delays.

Before notifying the appropriate LEA that a child is potentially eligible for Part B services, the ECI program provides written notification to the child's parent advising the parent of:

- a. The information that will be disclosed, including the limited personally identifiable information (child's name, child's date of birth, parent's name, address, and telephone number), the service coordinator's name, and the child's home language; and
- b. The right to opt out of the disclosure by submitting a written request to Opt Out of the Notification to the ECI program (CFR) §303.209 and the timelines specified in the 40 TAC, Chapter 108 before the notification is scheduled to be sent;

For a child whose parent has not opted out of the disclosure within the prescribed timeline, the ECI program notifies the LEA at least 90 days before the child's third birthday that the child is potentially eligible for Part B services; An IEP is developed and implemented for Part B eligible children by their third birthday; The ARD committee determines the start date of the IEP if the child's birthday occurs during the summer. Services will begin by the first day of school, or earlier as determined and stated on the IEP; and For children transitioning from Part C services to Part B services, the ARD committee considers an IFSP that contains the IFSP content including the natural environments statement, described in 34 CFR §303.344, and that is developed in accordance with the IEP procedures under 34 CFR §300.323(b) when developing the initial IEP.

<https://hhs.texas.gov/services/disability/early-childhood-intervention-services> <https://texasprojectfirst.org/node/32>

The Blum ISD will transition students from ECI to ECSE as required. Parents are provided a document from the ECI staff that describes the process.

E. Homebound Instruction *(see also Instructional Arrangement Section 5)* **Students Referred For Homebound Instruction**

Homebound instruction is a service that could be provided through General Education Homebound (GEH) services or Special Education Homebound services; depending which eligibility criteria the student meets. If the student is suspected of having a disability, a referral should be made for a special education evaluation through the established referral procedures. When determining services needed by a student, homebound services may only be considered under the following conditions:

- 1. The student is expected to be confined at home or hospital bedside for a minimum of four weeks;*
- 2. The student must be confined for medical reasons only;*

3. *The medical condition is documented by a physician licensed to practice in the United States.*

Students may not be placed on Homebound services through either program solely for disciplinary reasons. If a student is in need of homebound services due to pregnancy and does not meet the eligibility requirements for special education, services will be provided through the General Education Homebound program. If the student is pregnant and in need of homebound services and also meets the requirements for special education, the ARD committee will meet to determine the level of services and supports needed for that particular student.

F. Limited English Proficient (LEP)

(See also Home Language Survey and LPAC in this Referral Section). Additional LPAC guidance on TEA website.

<https://www.txel.org/lpac/>

<http://tea.texas.gov/student.assessment/ell/lpac/>

Students Referred Who Are Limited English Proficient (ELL)

1. For all LEP (Limited English Proficient) Students:

- A. The LPAC report, which must have been completed within the past year, must be included with the referral packet. The student should have been tested in English and their primary language.*
- B. Referral information will include: Initial referral information, LPAC report, LAS scores or equivalent test, amount of time in ESL, Home Language Survey copy.*
- C. When the packet is verified, the diagnostician gives the packet to the Blum ISD Coordinator.*

2. Speech only referral: (for these guidelines, Spanish is referenced as the other language)

- A. (LANGUAGE) The language proficiency assessment (ex. LAS, IDEA, other) should be considered with regard to the following:
 - i. If the student is proficient in English and has a lower proficiency in Spanish, the normal procedures for the speech pathologist evaluations are followed.*
 - ii. If the student is proficient in Spanish and not in English, the speech pathologist will confer with the second language specialist and determine if an evaluation in Spanish (or other language) is needed. The second language specialist and speech pathologist will collaboratively complete the evaluation and write the evaluation report.*
 - iii. If the student is barely proficient in both languages, the second language specialist and speech pathologist will gather all information regarding the student's educational history and performance and consult with the special education administrator before proceeding with the FIE.*
 - iv. If the student is proficient in both languages, normal procedures in English may be followed.**
- B. (ARTICULATION) The articulation evaluation should be considered with regard to how the student articulates sounds in English as well as the student's native language.*

3. Other Referrals (LD, ID, etc.):

- A. The language evaluation (ex. LAS, IDEA) should be considered with regard to the following:
 - i. If the student is proficient in English and lower in Spanish, the usual procedures for testing are followed.*
 - ii. If the student is proficient in Spanish and not in English, the diagnostician/LSSP will confer with the second language specialist and determine if an evaluation in the student's native language is needed. The second language specialist and the diagnostician/LSSP will collaboratively determine the appropriate evaluation procedures and instruments and write the full and individual evaluation report (FIE) and proceed to ARD.*
 - iii. If the student is barely proficient in both languages, the second language specialist and the diagnostician/LSSP will gather all the information regarding the student's educational history and performance and consult with the Special Education Coordinator or Director before proceeding with the FIE.*
 - iv. If the student is above proficient in both languages, normal procedures in English may be followed.**
- B. Consideration should be given to the following:
 - i. How long the student has been in the country;*
 - ii. Whether or not the student was enrolled and attending school prior to entering the United**

- States;*
- iii. What types of bilingual supports and services have been provided;*
 - iv. What type of academic progress the student is making in their home language as well as their progress in English.*

G. Occupational Therapy, Physical Therapy or any Related Service

Students Referred for Occupational Therapy, Physical Therapy, or any Related Service

- 1. A child must be identified as a student with a disability in order to receive OT, PT or any related service. If a child who is eligible for special education services is in need of a related service, the request for these services must be reviewed by the ARD committee and based on a current evaluation completed by the related service provider or a team of evaluators qualified to determine the need for the service.*
- 2. Occupational and/or physical therapy services are provided to students whose disability, as determined through evaluation, interferes with their ability to benefit from educational programming.*
- 3. Occupational therapy services include the evaluation, consultation, and/or direct services to individuals whose ability to cope with the tasks of living and learning is threatened or impaired by developmental deficits, environmental or sensory deprivation, physical injury, illness, or psychological disability.*
- 4. Physical therapy is the art and science of evaluation, program planning, and implementation of physical or corrective conditions resulting from birth, illness, or injury. Physical therapy includes therapeutic exercise programs designed to develop or restore neuromuscular and / or sensorimotor function, relieve pain, control postural deviations, minimize disabilities, and maintain maximal performance levels within the individual's capabilities. If the child qualifies for therapy, the OT or PT will work with the diagnostician/LSSP to obtain the needed medical prescriptions per the therapist licensing requirements.*
- 5. The diagnostician/LSSP is the designated person to monitor the referrals or request for related services. A REED will be scheduled to determine the need for the related service evaluations. If the committee agrees that an evaluation is needed, the diagnostician/LSSP will contact the related service provider and determine who will obtain the required notice and consent documents from the parents.*
- 6. The Special Education evaluation staff is responsible for collecting all evaluation information in order to provide recommendations to the ARD committee regarding the existence of a disability according to state and federal regulations and that the student is in need of specially designed instruction. The ARD committee is also responsible for determining all supports and services the student may need, including the provision or any related service.*

H. Early Childhood Special Education (ECSE) *(see also section 5 of the operating procedures)*

§ 300.124 Transition of children from the Part C program to preschool programs.

The State must have in effect policies and procedures to ensure that--

- (a) Children participating in early intervention programs assisted under Part C of the Act, and who will participate in preschool programs assisted under Part B of the Act, experience a smooth and effective transition to those preschool programs in a manner consistent with section 637(a)(9) of the Act;**
 - (b) By the third birthday of a child described in paragraph (a) of this section, an IEP or, if consistent with § 300.323(b) and section 636(d) of the Act, an IFSP, has been developed and is being implemented for the child consistent with § 300.101(b); and**
 - (c) Each affected LEA will participate in transition planning conferences arranged by the designated lead agency under section 635(a)(10) of the Act.**
- (Authority: 20 U.S.C. 1412(a)(9))**

§ 300.323 When IEPs must be in effect.

- (a) General.** At the beginning of each school year, the public agency must have in effect, for each child with a disability within its jurisdiction, an IEP, as defined in § 300.320.
- (b) IEP or IFSP for children aged three through five.**
 - (1)** In the case of a child with a disability aged three through five (or, at the discretion of the SEA, a two-year-old child with a disability who will turn age three during the school year), the IEP Team must consider an IFSP that contains the IFSP content (including the natural environments statement) described in section 636(d) of the Act and its implementing regulations (including an

educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills for children with IFSPs under this section who are at least three years of age), and that is developed in accordance with the IEP procedures under this part. The IFSP may serve as the IEP of the child, if using the IFSP as the IEP is--

- (i) Consistent with State policy; and
 - (ii) Agreed to by the agency and the child's parents.
- (2) In implementing the requirements of paragraph (b)(1) of this section, the public agency must--
- (i) Provide to the child's parents a detailed explanation of the differences between an IFSP and an IEP; and
 - (ii) If the parents choose an IFSP, obtain written informed consent from the parents.

§ 300.24 Individualized family service plan. (IFSP)

Individualized family service plan or IFSP has the meaning given the term in section 636 of the Act. (Authority 20 U.S.C. 1401(15))

§ 300.25 Infant or toddler with a disability.

Infant or toddler with a disability-

(a) Means an individual under three years of age who needs early intervention services because the individual—

- (1) Is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the areas of cognitive development, physical development, communication development, social or emotional development, and adaptive development; or
 - (2) Has a diagnosed physical or mental condition that has a high probability of resulting in developmental delay; and
- (b) May also include, at a State's discretion—
- (1) At-risk infants and toddlers; and
 - (2) Children with disabilities who are eligible for services under section 619 and who previously received services under Part C of the Act until such children enter, or are eligible under State law to enter, kindergarten or elementary school, as appropriate, provided that any programs under Part C of the Act serving such children shall include--
 - (i) An educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills; and
 - (ii) A written notification to parents of their rights and responsibilities in determining whether their child will continue to receive services under Part C of the Act or participate in preschool programs under section 619. (Authority: 20 U.S.C. 1401(16) and 1432(5))

TEC§29.009. Public Notice Concerning Preschool Programs for Students with Disabilities.

Each school district shall develop a system to notify the population in the district with children who are at least 3 years of age but younger than 6 years of age and who are eligible for enrollment in a special education program of the availability of the program.

See also the ECI Memorandum of Understanding: https://tea.texas.gov/index4.aspx?id=2147494988&ekfxmen_noscript=1&ekfxmense1=e9edebdf8_25769804222_25769804223

Transition from ECI.

The transition meeting between the agency, parents and school is the cornerstone of the transition process. At the discretion of all parties, it can take place not more than 9 months prior to the third birthday but not less than 90 days before the child is eligible for the preschool services, to discuss any such services that the child may receive. The meeting provides an opportunity for the family, ECI and Blum ISD staff to make plans regarding the transition process. The transition meeting is an opportunity to explain eligibility criteria, service options, and the ARD/IEP process. The referral to the Blum ISD may be made before the transition meeting, during the transition meeting or after the transition meeting. Additional information is provided to parents/guardians regarding:

- *The importance of explaining to the family that a delay in providing consent for Blum ISD involvement during the transition process may impede the implementation of timely, appropriate special education*

services for eligible children.

- *The need for collaborative involvement of the family, ECI, and Blum ISD staff. This ensures a more efficient and timely process of eligibility determination for Blum ISD special education services.*
- *Information on the age eligibility criteria as it relates to when service may begin. Interagency collaboration is especially critical when the child turns three between the months of May and September. Generally, children turning three late in the school year should begin school services when they turn three. In some instances, the ARD/IEP committee, including the family, may decide that IEP services will begin at the start of the upcoming school year.*
- *If a child turns three during the summer, the ARD/IEP committee, which includes the family, may recommend services for the student to begin at the start of the school year or due to the individual needs of the student the ARD/IEP committee may decide to begin to implement the IEP through ESY services. (Note: The instructional setting code for the initial ESY services should be the same as the instructional setting code for services implemented at the beginning of the fall session.) The need for ESY services must be documented from formal and /or informal evaluations provided by the Blum ISD , the parents, another agency or an ECI program.*

The Blum ISD and the ECI program will work closely to ensure that the IEP is in place for eligible children on their third birthday when a child is referred for services close to his/her third birthday.

ECI REFERRAL PROCEDURES

1. *Referral from ECI (Early Childhood Intervention) Programs (all decisions will occur collaboratively between ECI staff, school staff, and the parents)*
 - A. *Blum ISD will complete the child centered process including evaluation and the ARD/IEP process. Review of existing evaluation data, all time lines and referral requirements will be followed.*
 - i. *When invited by the ECI service provider, the Blum ISD representative will attend a face to face meeting held up to 9 months prior to the eligible child's third birthday*
 - ii. *a referral should be made to Blum ISD approximately 90 days prior to the student's third birthday.*
 - iii. *To avoid a gap in services and to assure a smooth effective transition to the preschool program, Blum ISD will accept appropriate evaluations from an infant program serving children with disabilities.*
 - iv. *Blum ISD will complete the referral, evaluation, and ARD/IEP process within the required time-lines.*
 - v. *Eligible preschool children will receive the necessary services as determined by the ARD/IEP committee beginning on their third birthday.*
 - B. *The ARD/IEP committee will determine eligibility, educational need and develop an IEP to determine placement.*
 - C. *Services to auditory or visual impairments birth through 2 are coordinated with ECI service providers in the development of the Individual Family Service Plan (IFSP) instead of an ARD/IEP.*
 - i. *The Blum ISD will document services were coordinated (including copies of progress reports), and*
 - ii. *The Blum ISD has the capacity to provide services to the student throughout the year.(48 weeks)*
 - iii. *Services are provided only under IDEA-C guidelines, not IDEA-B. Typical procedures followed such as: distributing Notice of Procedural Safeguards, completing the Part B referral packets, obtaining consents, and completing full and individual evaluations may not be followed. This would conflict with Part C, and cause parent confusion and may place undue hardship on parents.*
2. *Referral by Parents / Guardians / Others (children not previously served in ECI):*
 - A. *For children with suspected developmental delays birth through 2 years of age, the Blum ISD will maintain logs that document:*
 - i. *within 2 working days from the date that a "Child Find" referral is received it is forwarded to an ECI program, (the Blum ISD will collaborate with the ECI program and determine appropriate steps based on the student age and needs), or*
 - ii. *the Blum ISD will follow up with the ECI program to assure evaluation is completed within 45*

- calendar days from the date the referral is received,*
- iii. the ARD/IEP committee will determine eligibility, educational need and develop an IEP to determine placement prior to the third birthday.*
 - B. For children referred prior to age 3, but less than the 90 days prior to their 3rd birthday, the Blum ISD will complete the referral and evaluation process in a timely manner following the required referral timelines.*
 - C. For children referred for services after their 3rd birthday, the normal referral process will be followed. The Blum ISD may screen and use existing evaluation data to determine if the child will meet eligibility criteria. An ARD/IEP committee may temporarily place the child pending the 90 day timeline for referral, evaluation, and ARD/IEP completion.*
- 3. Services: For eligible students 3 years of age and older, the Blum ISD will develop an IEP. If a student's 3rd birthday occurs during summer, the IEP team will determine the date services under the IEP will begin.*

I. Private / Nonpublic Schools *(See VIII. CHILD FIND in this Section 1. and Section 4a. ARD/IEP. For Private Non-Public Schools regulation in entirety go to: Section 5 – Instructional Arrangements)*

These procedures also apply to homeless children; children who are wards of the state; highly mobile children (including migrant children); all preschool age children and any child suspected of being in need of special education but who are advancing from grade to grade.

The Special Education Director will train campus Principals, campus Child Find designee and the diagnosticians/LSSPs annually on the proper procedures. The campus principal or designee will then train any other campus personnel. The referral of a private school student may be made by the parent, private school personnel, physician, etc. Each campus RtI Committee will coordinate the referral. The data collection and review process will be followed to determine whether an evaluation is needed.

- 1. If Parent has concerns, they may do the following:*
 - A. Contact the appropriate neighborhood campus and initiate a referral. The campus designee will assist the parent.*
 - B. Referrals will be accepted for students who attend a private / nonpublic school within the boundaries of Blum ISD.*
 - C. Provide any documentation available to the campus Principal or counselor or designee regarding the child's suspected disability, the student's private school teacher's contact information and sign a Release form so Blum ISD's staff can talk to the private school teacher.*
- 2. Campus Responsibilities:*
 - A. Blum ISD will use established procedures and forms for the parent referral of students from private/nonpublic schools. This includes the completion of the Referral Packet.*
 - B. The principal or designee will be responsible for coordinating the gathering of information from the parent.*

NOTE: The same referral time lines apply. (If a parent makes a written request, the Blum ISD must respond within 15 school days.)
- 3. Evaluation Person Responsibilities:*
 - A. To the maximum extent possible, Blum ISD shall use referral and evaluation information from the private school's records in order to avoid unnecessary duplication of effort or services.*
 - B. Coordinate and/or administer additional recommended evaluation.*

J. Psychological Referral

Blum ISD recommends that the general education teacher first work with the RtI Committee regarding classroom management and behavioral issues.

Student is Not Currently Receiving Special Education Services

The general education teacher will follow the RtI Committee process, completing all required forms including notifying parents of their Procedural Safeguards, providing Notice of Evaluation and obtaining Consent for Evaluation. The general education campus teacher or campus designee will submit the completed referral packet to the school psychologist.

K. Regional Day School Program for the Deaf *(See Section 4 and Section 5 of this document)*

L. Specific Learning Disabilities (SLD) *(See Section 4)*

M. Texas School for the Deaf (TSD) *(See Section 4 and Section 5 of this document)*

N. Texas School for the Blind and Visually Impaired (TSBVI) *(See Section 4 and Section 5 of this document)*

VIII. CHILD FIND

§300.111 Child find.

(a) General.

(1) The State must have in effect policies and procedures to ensure that--

- (i) All children with disabilities residing in the State, including children with disabilities who are homeless children or are wards of the State, and children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located, and evaluated; and**
- (ii) A practical method is developed and implemented to determine which children are currently receiving needed special education and related services.**

The Blum ISD will disseminate information to the community (including private schools, residential treatment centers, day treatment centers, hospitals, mental health institutions, detention and correctional facilities) concerning services offered to all individuals with disabilities. Records of child find effort will be documented in various locations. All RtI Committee information is maintained at the campus. Any distribution of materials or documentation of contact with other agencies will be maintained in the special education department. Efforts may include:

- 1. Providing information regarding availability of screenings and other services through posting of brochures at all school campuses, the local newspaper, the school tax office mailings, brochures, and other print media;*
- 2. Participating in a network of public information dissemination to assist with locating highly mobile and migrant children....which includes contacting other agencies, day care facilities, community public locations such as doctor offices, hospitals, laundry facilities, and facilities providing services to students with disabilities;*
- 3. Providing Child Find information to local private schools and discuss with private school officials regarding the RtI Committee process;*
- 4. Referring individuals ages 0-3 to a local Early Childhood Intervention (ECI) program for evaluation;*
- 5. Identifying and referring individuals with disabilities who may or may not be in school and who may need Special Education and related services using a properly constituted RtI Committee;*
- 6. Continuing to document persons who are currently receiving needed Special Education and related services and those who are struggling but not currently receiving needed Special Education and related services;*
- 7. Reviewing this process on a yearly basis, updating staff about on-going "Child Find" activities implemented in the community;*
- 8. Maintaining confidentiality of all personally identifiable information used and collected in this system in the same manner that Special Education records are maintained;*
- 9. Maintaining documentation of all Child Find activities including the dates of each activity and the results of each activity; and*
- 10. Training appropriate staff for maintaining the documentation of all Child Find activities including students in private schools, religious schools and home schools located in the Blum ISD.*
- 11. Annual screenings will be performed by qualified Blum ISD personnel and may include:*
 - general health screening, including social/behavioral health*
 - vision screening performed to verify indicators of loss of sight, acuity, or other possible vision related problems;*
 - hearing screening to verify any hearing risk indicators;*
 - speech and language screening to verify problems in the formulation or articulation of speech or any delay in the development of language;*
 - preschool screening which typically includes vision, hearing, cognition, motor, speech-language, and health components to verify developmental delays;*
 - screening for home language*
 - academic screening for school age children to determine the significance of academic delays;*
 - and*

• *screening secondary level students who are at-risk of dropping out, or who have dropped out, to verify that the reasons for dropping out are not related to a previously unidentified disability.*
All screenings and evaluations resulting from child find activities are free to parents, including parents of home-schooled students and parents of students who attend private school by parent choice.

(b) Use of term developmental delay.

The following provisions apply with respect to implementing the child find requirements of this section:

- (1) A State that adopts a definition of developmental delay under §300.8(b) determines whether the term applies to children aged three through nine, or to a subset of that age range (e.g., ages three through five).
- (2) A State may not require the LEA to adopt and use the term developmental delay for any children within its jurisdiction.
- (3) If an LEA uses the term developmental delay for children described in § 300.8(b), the LEA must conform to both the State's definition of that term and to the age range that has been adopted by the State.
- (4) If a state does not adopt the term developmental delay, the LEA may not independently use that term as a basis for establishing a child's eligibility under this part.

(c) Other children in child find. Child find also must include--

- (1) Children who are suspected of being a child with a disability under § 300.8 and in need of special education, even though they are advancing from grade to grade; and
- (2) Highly mobile children, including migrant children.

(d) Construction. Nothing in the Act requires that children be classified by their disability so long as each child who has a disability that is listed in § 300.8 and who, by reason of that disability, needs special education and related services is regarded as a child with a disability under Part B of the Act.

§300.131 Child find for parentally-placed private school children with disabilities.

- (a) General.** Each LEA must locate, identify, and evaluate all children with disabilities who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the LEA, in accordance with paragraphs (b) through (e) of this section, and § § 300.111 and 300.201.
- (b) Child find design.** The child find process must be designed to ensure--
 - (1) The equitable participation of parentally-placed private school children; and
 - (2) An accurate count of those children.
- (c) Activities.** In carrying out the requirements of this section, the LEA, or, if applicable, the SEA, must undertake activities similar to the activities undertaken for the agency's public school children.
- (d) Cost.** The cost of carrying out the child find requirements in this section, including individual evaluations, may not be considered in determining if the LEA has met its obligation under § 300.133. *(Private school expenditures-section 5 of this document)*
- (e) Completion period.** The child find process must be completed in a time period comparable to that for other students attending public schools in the LEA consistent with § 300.301. *(Initial Evaluations-section 2 of this document)* (Authority: 20 U.S.C. 1412(a)(10)(A)(ii))
- (f) Out-of-state children.** Each LEA in which private, including religious, elementary schools and secondary schools are located must, in carrying out the child find requirements in this section, include parentally-placed private school children who reside in a State other than the State in which the private schools that they attend are located.

§ 300.19 Homeless children.

Homeless children has the meaning given the term homeless children and youths in section 725 (42 U.S.C. 11434a) of the McKinney-Vento Homeless Assistance Act, as amended, 42 U.S.C. 11431 et. seq. (Authority 20 U.S.C. 1401(11))

§ 300.134 Consultation parentally-placed private school children with disabilities.

To ensure timely and meaningful consultation, the LEA, or, if appropriate, the SEA, must consult with private school representatives and representatives of parents of parentally-placed private school children

with disabilities during the design and development of special education and related services for the children regarding the following:

(a) Child find. The child find process, including--

- (1) How parentally-placed private school children suspected of having a disability can participate equitably; and**
- (2) How parents, teachers, and private school officials will be informed of the process.**

Consultation of Parentally-Placed Private School Children With Disabilities

Annual free screenings will be provided. Blum ISD will maintain documentation of all Child Find activities including the dates of each activity and the results of each activity; and train appropriate staff for maintaining the documentation of all Child Find activities including students in private schools, religious schools and home schools located in the Blum ISD.

The private schools are offered our Child Find posters to advertise in their buildings if they choose. For all students not currently enrolled in our district, the required ARD/IEP process and timelines found in Section 4a. roman numeral XI. will be followed. The Child Find activities include collaboration and informing private/nonpublic schools of district requirements and possible options.

- 1. **CONSULT:** The Special Education Director will contact all private schools within our boundaries at a minimum annually. The private, non-public schools will be provided information regarding Child Find procedures. Annual input will be solicited following federal requirements. The Director will discuss equitable participation and solicit ways to inform staff/parents of private school students. Documentation of all communication/meetings with private/nonpublic schools is maintained with the Special Education Director.*
- 2. **AFFIRMATION:** The private school administration is asked to submit a required signed affirmation and consultation form stating the consultation requirements for the district Child Find have been met. If the district cannot obtain this signed form, the Director will provide a description of attempts in the eGrants application.*
- 3. The district will provide the private schools Child Find informational flyers to place in their facility.*
- 4. Parent inquiry: When a parent reaches out to the district with a concern or request for evaluation, the procedures listed in this Section 1. are followed.*
- 5. **SERVICES:** The ARD/IEP process for services including possible “dual enrollment” is discussed in Section 4a. and Section 5.*
- 6. For full text of the federal rules (including definitions) see Section 5. Instructional Arrangements*

IX. HOME LANGUAGE SURVEY

TAC § 89.1215. Home Language Survey <http://ritter.tea.state.tx.us/rules/tac/chapter089/ch089bb.html>

- (a) (a) School districts shall administer only one home language survey to each new student enrolling for the first time in a Texas public school in any grade from prekindergarten through Grade 12. School districts shall require that the survey be signed by the student's parent or guardian for each student in prekindergarten through Grade 8 or by the student in Grades 9-12 as permitted under the Texas Education Code, §29.056(a)(1). The original copy of the survey shall be kept in the student's permanent record.
- (b) (b) The home language survey shall be administered in English, Spanish, and Vietnamese; for students of other language groups, the home language survey shall be translated into the primary language whenever possible. The home language survey shall contain the following questions.
 - (1) "What language is spoken in the child's home most of the time?"
 - (2) "What language does the child speak most of the time?"
- (c) If the response on the home language survey indicates that a language other than English is used, the student shall be tested in accordance with §89.1225 of this title (relating to Testing and Classification of Students) or §89.1226 of this title (relating to Testing and Classification of Students, Beginning with School Year 2019-2020).
- (d) For students previously enrolled in a Texas public school, the receiving district shall secure the student records, including the home language survey. All attempts to contact the sending district to request records shall be documented. Multiple attempts to obtain the student's home language survey shall be made. If attempts to obtain the student's home language survey from the sending district are unsuccessful, the identification process shall begin while attempts to contact the sending district for records continue throughout the four-week testing and identification period.

TAC § 89.1226. Testing and Classification of Students.

<https://www.txel.org/lpac/>

- (a) The single state-approved English language proficiency test for identification of English learners described in subsection (c) of this section shall be used as part of the standardized, statewide identification process.
- (b) Within four weeks of initial enrollment in a Texas school, a student with a language other than English indicated on the home language survey shall be administered the state-approved English language proficiency test for identification as described in subsection (c) of this section and shall be identified as English learners and placed into the required bilingual education or ESL program in accordance with the criteria listed in subsection (f) of this section.
- (c) For identifying English learners, school districts shall administer to each student who has a language other than English as identified on the home language survey:
 - (1) in prekindergarten through Grade 1, the listening and speaking components of the state-approved English language proficiency test for identification; and
 - (2) in Grades 2-12, the listening, speaking, reading, and writing components of the state-approved English language proficiency test for identification.
- (d) School districts that provide a bilingual education program at the elementary grades shall administer a language proficiency test in the primary language of the student who is eligible to be served in the bilingual education program. If the primary language of the student is Spanish, the school district shall administer the Spanish version of the state-approved language proficiency test for identification. If a state-approved language proficiency test for identification is not available in the primary language of the student, the school district shall determine the student's level of proficiency using informal oral language assessment measures.
- (e) All of the language proficiency testing shall be administered by professionals or paraprofessionals who are proficient in the language of the test and trained in the language proficiency testing requirements of the test publisher.
- (f) For entry into a bilingual education or ESL program, a student shall be identified as an English learner using the following criteria.
 - (1) In prekindergarten through Grade 1, the student's score(s) from the listening and/or speaking

components on the state-approved English language proficiency test for identification is/are below the level designated for indicating English proficiency.

- (2) In Grades 2-12 the student's score(s) from the listening, speaking, reading, and/or writing components on the state-approved English language proficiency test for identification is/are below the level designated for indicating English proficiency.
- (g) A student shall be identified as an English learner if the student's ability in English is so limited that the English language proficiency assessment described in subsection (c) of this section cannot be administered.
- (h) The language proficiency assessment committee in conjunction with the admission, review, and dismissal (ARD) committee shall identify a student as an English learner if the student's ability in English is so limited or the student's disabilities are so severe that the English language proficiency assessment described in subsection (c) of this section cannot be administered. The decision for entry into a bilingual education or ESL program shall be determined by the language proficiency assessment committee in conjunction with the ARD committee in accordance with §89.1220(f) of this title (relating to Language Proficiency Assessment Committee).
- (i) An English learner may be reclassified as English proficient only at the end of the school year in which a student would be able to participate equally in a general education, all-English instructional program. This determination shall be based upon all of the following:
 - (1) a proficiency rating on the state-approved English language proficiency test for reclassification that is designated for indicating English proficiency in each of the four language domains (listening, speaking, reading, and writing);
 - (2) passing standard met on the reading assessment instrument under the Texas Education Code (TEC), §39.023(a), or for students at grade levels not assessed by the aforementioned reading assessment instrument a score at or above the 40th percentile on both the English reading and the English language arts sections of the state-approved norm-referenced standardized achievement instrument; and
 - (3) the results of a subjective teacher evaluation using the state's standardized rubric.
- (j) An English learner may not be reclassified as English proficient in prekindergarten or kindergarten. A school district must ensure that English learners are prepared to meet academic standards required by the TEC, §28.0211.
- (k) An English learner may not be reclassified as English proficient if the language proficiency assessment committee has recommended designated supports or accommodations on the state reading assessment instrument based on the student's second language acquisition needs.
- (l) For English learners who are also eligible for special education services, the standardized process for English learner reclassification is followed in accordance with applicable provisions of subsection (i) of this section. However, annual meetings to review student progress and make recommendations for reclassification must be made in all instances by the language proficiency assessment committee in conjunction with the ARD committee in accordance with §89.1230(b) of this title (relating to Eligible Students with Disabilities). Additionally, the language proficiency assessment committee in conjunction with the ARD committee shall implement assessment procedures that differentiate between language proficiency and disabling conditions in accordance with §89.1230(a) of this title.
- (m) For an English learner with a significant cognitive disability, the language proficiency assessment committee in conjunction with the ARD committee may determine that the state's English language proficiency assessment for reclassification is not appropriate because of the nature of the student's disabling condition. In these cases, the language proficiency assessment committee in conjunction with the ARD committee may recommend that the student take the state's alternate English language proficiency assessment, determine an appropriate performance standard requirement for reclassification by language domain under subsection (i)(1) of this section, and utilize the results of a subjective teacher evaluation using the state's standardized alternate rubric.
- (n) Notwithstanding §101.101 of this title (relating to Group-Administered Tests), all tests used for the purpose of identification, reclassification, and placement of students and approved by the TEA must be re-normed at least every eight years.

X. LANGUAGE PROFICIENCY ASSESSMENT COMMITTEE (LPAC).

<https://www.txel.org/lpac/>

<http://tea.texas.gov/student.assessment/ell/lpac/>

The special education department staff will collaborate with the LPAC representative in the ARD/IEP meeting to develop an appropriate IEP for the LEP special education student.

TAC § 89.1220. Language Proficiency Assessment Committee.

- (a) School districts shall by local board policy establish and operate a language proficiency assessment committee. The district shall have on file policy and procedures for the selection, appointment, and training of members of the language proficiency assessment committee(s).
- (b) The language proficiency assessment committee shall include an appropriately certified bilingual educator (for students served through a bilingual education program), an appropriately certified English as a second language (ESL) educator (for students served through an ESL program), a parent of an English learner participating in a bilingual or ESL program, and a campus administrator in accordance with Texas Education Code (TEC), §29.063.
- (c) In addition to the three required members of the language proficiency assessment committee, the school district may add other trained members to the committee.
- (d) No parent serving on the language proficiency assessment committee shall be an employee of the school district.
- (e) A school district shall establish and operate a sufficient number of language proficiency assessment committees to enable them to discharge their duties within four weeks of the enrollment of English learners.
- (f) All members of the language proficiency assessment committee, including parents, shall be acting for the school district and shall observe all laws and rules governing confidentiality of information concerning individual students. The district shall be responsible for the orientation and training of all members, including the parents, of the language proficiency assessment committee.
- (g) Upon their initial enrollment and at the end of each school year, the language proficiency assessment committee shall review all pertinent information on all English learners identified in accordance with §89.1225(f) of this title (relating to Testing and Classification of Students) or §89.1226 of this title (relating to Testing and Classification of Students, Beginning with School Year 2019-2020) and shall:
 - (1) designate the language proficiency level of each English learner in accordance with the guidelines issued pursuant to §89.1225(b)-(f) or §89.1226(b)-(f) of this title;
 - (2) designate the level of academic achievement of each English learner;
 - (3) designate, subject to parental approval, the initial instructional placement of each English learner in the required program;
 - (4) facilitate the participation of English learners in other special programs for which they are eligible while ensuring full access to the language program services required under the TEC, §29.053; and
 - (5) reclassify students, at the end of the school year only, as English proficient in accordance with the criteria described in §89.1225(i) or §89.1226(i) of this title.
- (h) The language proficiency assessment committee shall give written notice to the student's parent or guardian, advising that the student has been classified as an English learner and requesting approval to place the student in the required bilingual education or ESL program not later than the 10th calendar day after the date of the student's classification in accordance with TEC, §29.056. The notice shall include information about the benefits of the bilingual education or ESL program for which the student has been recommended and that it is an integral part of the school program.
- (i) Before the administration of the state criterion-referenced test each year, the language proficiency assessment committee shall determine the appropriate assessment option for each English learner as outlined in Chapter 101, Subchapter AA, of this title (relating to Commissioner's Rules Concerning the Participation of English Language Learners in State Assessments).
- (j) Pending parent approval of an English learner's entry into the bilingual education or ESL program recommended by the language proficiency assessment committee, the school district shall place the student in the recommended program. Only English learners with parent approval who are receiving services will

be included in the bilingual education allotment.

- (k) The language proficiency assessment committee shall monitor the academic progress of each student who has met criteria for exit in accordance with TEC, §29.056(g), for the first two years after reclassification. If the student earns a failing grade in a subject in the foundation curriculum under TEC, §28.002(a)(1), during any grading period in the first two school years after the student is reclassified, the language proficiency assessment committee shall determine, based on the student's second language acquisition needs, whether the student may require intensive instruction or should be reenrolled in a bilingual education or special language program. In accordance with TEC, §29.0561, the language proficiency assessment committee shall review the student's performance and consider:
 - (1) the total amount of time the student was enrolled in a bilingual education or special language program;
 - (2) the student's grades each grading period in each subject in the foundation curriculum under TEC, §28.002(a)(1);
 - (3) the student's performance on each assessment instrument administered under TEC, §39.023(a) or (c);
 - (4) the number of credits the student has earned toward high school graduation, if applicable; and
 - (5) any disciplinary actions taken against the student under TEC, Chapter 37, Subchapter A (Alternative Settings for Behavior Management).
- (l) The student's permanent record shall contain documentation of all actions impacting the English [language] learner.
 - (1) Documentation shall include:
 - (A) the identification of the student as an English learner;
 - (B) the designation of the student's level of language proficiency;
 - (C) the recommendation of program placement;
 - (D) parental approval of entry or placement into the program;
 - (E) the dates of entry into, and placement within, the program;
 - (F) assessment information as outlined in Chapter 101, Subchapter AA, of this title;
 - (G) additional instructional interventions provided to address the specific language needs of the student;
 - (H) the date of exit from the program and parental approval;
 - (I) the results of monitoring for academic success, including students formerly classified as English learners, as required under the TEC, §29.063(c)(4) ; and
 - (J) the home language survey.
 - (2) Current documentation as described in paragraph (1) of this subsection shall be forwarded in the same manner as other student records to another school district in which the student enrolls.
- (m) A school district may identify, exit, or place a student in a program without written approval of the student's parent or guardian if:
 - (1) the student is 18 years of age or has had the disabilities of minority removed;
 - (2) the parent or legal guardian provides approval through a phone conversation or e-mail that is documented in writing and retained; or
 - (3) an adult who the school district recognizes as standing in parental relation to the student provides written approval. This may include a foster parent or employee of a state or local governmental agency with temporary possession or control of the student.