



MAJOR PROVISIONS

2007



**FINDINGS AND
PURPOSES**

2007

Findings in IDEA 2004 (Section 1400(c)),

- IDEA 2004 found that “**implementation of the IDEA has been impeded by low expectations and an insufficient focus on applying replicable research and proven methods of teaching and learning for children with disabilities.**”
(Section 1400(c)(4))



Findings in IDEA 2004 (Section 1400(c)),

- “30 years of research and experience has demonstrated that **the education of children with disabilities can be made more effective by having high expectations for such children and ensuring their access to the general education curriculum in the regular classroom to the maximum extent possible in order to-** (Section 1400 (c)(5)(A)



- meet developmental goals and, to the maximum extent possible, **the challenging expectations that have been established for all children** and be prepared to lead productive and independent adult lives, to the maximum extent possible.” (Section 1400(c)(5)(A)(i)(ii)



The education of children with disabilities can be made more effective by supporting the development and use of assistive technology, including assistive technology devices and assistive technology services **to maximize accessibility for children with disabilities** (Section 1400(c)(5)(H))



Purposes” of IDEA 2004 (Section 1400(d))

- “The purposes of this title are to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services **designed to meet their unique needs and prepare them for further education, employment and independent living.**” (Section 1400(d)(1)(A))



The Special Education Process

- **Referral**
- **Notice of Rights**
- **Full Individual Evaluation**
- **The Admission Review and Dismissal Meeting**
- **The Individual Education Program**
- **Resolving Disagreements**





**Referral and Notice of
Rights**

2007

Referral

- Anyone can refer a child for special education services including parents, teachers, doctors, etc.
- There is no timeline for the referral process. Parents should put the referral in writing and request the consent forms for evaluation.
- Schools providing **Response to Intervention Services** (not a special education program) cannot refuse to provide parents with Special Education evaluation consent forms.



Notice of Rights

- Once a child is referred for special education services the school must provide the parents with Notice of Procedural Safeguards- Rights of Parents of Students with Disabilities, in the language the parents speak at home.
- Parents should also receive, A Guide to the Admission, Review and Dismissal Process.
- Parents must get specific notice whenever the school proposes or refuses to evaluate, change the IEP or change placement for a student.





EVALUATIONS

2007

Consent to Evaluate

Written parental consent is required before a school district can evaluate a student for special education.

If the parent refuses to give consent, the district **MAY** try to obtain consent by taking the parent to either mediation or a due process hearing. If the student is being home schooled or has been placed by the parent in a private school the district may **NOT** pursue consent.



Timelines for Initial Evaluation

The school district must conduct a full individual evaluation within 60 calendar days of receiving written parental consent.

Parents should request the consent forms in writing and the district must provide the parents with the consent forms in a timely manner.



Consent for Services

The parent is also required to give consent for their child to receive special education and related services. If the parent refuses to provide consent for services, the public school “shall not provide special education and related services...”



Reevaluation

- The school shall ensure that a reevaluation is conducted if:

the child's parents or teacher requests a reevaluation not more frequently than once a year, unless the parent and school agree otherwise; and

at least once every 3 years, unless the parent and the school agree a reevaluation is unnecessary.



Independent Evaluation

- If the parent disagrees with the schools evaluation they can request an **independent evaluation** paid for by the school district. The school must pay for the evaluation or request a due process hearing to show that their evaluation is appropriate.





**THE ARD/IEP
PROCESS**

2007

ARD AGENDA

- Introductions
- Purpose of Meeting
- Interpreters (if needed)
- Waivers (Notice/attendance at meeting)
- Review Evaluations and other information
- Determine Eligibility
- Review Present levels of Academic Achievement and Functional Performance



ARD AGENDA

- Individual Education Programs or Annual Goals
- BIP (Behavior Intervention Plan)
- Transition Planning
- Graduation (Scooter's Law)
- Additional Considerations for Autism (AU) and Visual Impairment (VI)
-



ARD AGENDA

- Modifications / Accommodations-*WHAT* is being taught and *HOW* is it taught, made accessible, or assessed
- **Consider Extended School Year (ESY)**
- **Determine Services to be Provided**
Classes-where provided , Coordination between Regular and Special Education Grading, Related Services (consultative and/or direct, how often, amount of time, where, and assistive technology needs)

- **Extracurricular Activities**
- **Transportation Needs**
- **Determine Placement**
- **Consider Least Restrictive Environment (LRE)**
- **Assurances or Effects of Removal from the General Education Classroom**
- **ARD Committee members sign in agreement or disagreement**



Eligibility

for Special Education

- Does the Student have a disability and do they need special education and related services
- Eligibility Categories- Autism, Deaf-blindness, Auditory impairment, Emotional disturbance, Mental retardation, Multiple disabilities, Orthopedic impairment, Other health impairment (includes ADHD, Tourette's Syndrome), Learning disability., Speech impairment, Traumatic brain injury, Visual impairment, Non-categorical.- for students between the ages of 3-5.



The Individual Education Program

- The child's IEP must include “a statement of the special education and related services and supplementary aids and services, **based on peer-reviewed research to the extent practicable**, to be provided to the child.

§ 1414(d)(1)(A)(i)(IV)



Admission Review and Dismissal Committee

The ARD Committee develops the student's annual IEP. Members include:-

- **Parents**
- **Adult Student**
- **Student when determined appropriate**
- **School Administrator (Principal or designee)**
- **Special Education Teacher**
- **Regular Education Teacher**
- **Assessment Personnel**
- **Related Services Personnel**
- **Others at the request of the parent or school who have specific knowledge or expertise about the student**



Attendance Not Necessary

A member of the ARD/IEP team is not required to attend an ARD/IEP meeting, in whole or part, if:

The parent and the school agree in writing, due to the fact that the member's area of the curriculum or related services is not being modified or discussed.



Excusal From ARD/IEP Meeting

A member of the ARD/IEP team may be excused from attending an ARD/IEP meeting, in whole or in part, if:

The parent and the school agree, even when the meeting involves a modification to or discussion of the member's area of the curriculum or related services if: the member submits in writing to the parent and team input into the development of the IEP **prior** to the meeting, **AND** the parent agrees in writing.



Changes to the IEP

In making changes to a child's IEP after the annual ARD/IEP meeting for a school year, the parent and the school district may agree not to convene an ARD/IEP meeting for the purposes of making such changes, and instead may develop a written document to amend or modify the child's current IEP.



Changes to the IEP

(Cont'd)

- Changes to the IEP may be made either by the entire ARD/IEP team or by amending rather than redrafting the entire IEP. Upon request, a parent **shall** be provided with a revised copy of the IEP with the amendments incorporated.
- The school must also assure that all members of the ARD are informed of the changes.



IEPs

IEPs must include:

- Present levels of **academic achievement and functional performance (PLAAFP)** and
- A statement of **measurable annual academic and functional goals**

and short-term objectives only for children who take alternate assessments aligned to alternate achievement standards



PLAAFP

- What is the student able to do now and how is that measured? Present Levels are linked to the IEP goals and curriculum. In Texas it is called TEKS, or [The Texas Essential Knowledge and Skills](#). Find the TEKS at <http://www.tea.state.tx.us/teks/>.
- Present Levels must include how the disability affects involvement and progress in the general curriculum.



SMART Goals

Goals must be

- Specific, what will your child be expected to do
- Measurable, Can it be counted or observed? Do you know what the target is?
- use Action words, “my child will spell”, “my child will read”, “my child will add 2-digit numbers
- be Relevant & Realistic , accomplished in a year, Will it make a difference in your child ‘s life
- Time-limited



Annual Goal

- Timeframe (*time limit*) **In 36 instructional weeks**
- Condition (*specific*) **Using decoding skills and oral practice within a 3rd grade passage**
- Behavior (*action*) **Joseph, a 3rd grade student, will read**
- Criteria(*measurement*) **70 words per minute with fewer than 10 errors**

Short term objective

- Timeframe (time limit) **By the end of the first 6 weeks**
- Condition (specific) **Using decodable texts**
- Behavior (action) **Joseph, a 3rd grade student, will read and pronounce 50 frequently used words**
- Criteria (measurement) **With 10 or fewer errors**

Related Services

Some of the most common related services:

- **Assistive Technology**
- **Speech Therapy**
- **Physical Therapy**
- **Occupational Therapy**
- **Psychological, Social Work or Counseling**
- **Transportation**
- **Audio logical Services, Orientation and Mobility**
- **School nursing and health services**
- **Interpreter Services**



Autism Supplement

TEA Rules - 11 areas to consider for students with Autism

- **extended educational programming**
- **daily schedules reflecting minimal unstructured time and active engagement in learning activities**
- **in-home and community-based training or viable alternatives**
- **positive behavior support strategies**
- **futures planning for integrated living, work, community, and educational environments**
- **parent/family training and support,**
- **suitable staff-to-student ratio**
- **communication interventions**
- **social skills supports and strategies**
- **professional educator/staff support**
- **teaching strategies based on peer reviewed, research-based practices for students with ASD**

19 TAC 89.1055



Participation in Assessments

All children with disabilities are included in all general state and district-wide assessment programs, including assessments described under NCLB with appropriate accommodations and alternate assessments where necessary and as indicated in their IEP.

§ 1412(a)(16)(A)



Accommodations and Alternate Assessments

- The child's IEP must include:
a statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on state and district-wide assessments:

or



Accommodations and Alternate Assessments (Cont'd)

If the IEP Team determines that the child shall take an alternate assessment on a particular state or district-wide assessment, a statement of why the child cannot participate in the regular assessment and how the particular alternate assessment selected is appropriate for the child.

§ 1414 (d)(1)(A)(i)(VI)(aa)(bb)



Texas Assessments Available for Special Education Students

- **TAKS** – General assessment in reading, math, writing, science & social studies.
- **TAKS- Accommodated** - General assessment with accommodations.
- **TAKS-M** - for students receiving special education services who have a disability that significantly affects academic progress in the grade level curriculum and precludes the achievement of grade level proficiency within a school year
- **TAKS-Alt** – for students receiving special education services who have the most significant cognitive disabilities and are unable to participate in the other statewide assessments even with substantial accommodations and/or modifications.



Behavior

If a child's behavior impedes learning, the ARD Committee must* consider the use of positive behavior interventions and supports and other strategies to address that behavior.

Behavior is one of several “special factors” that must be addressed in the initial IEP, as well as each time the IEP is reviewed and/or revised.



Transition

- Beginning not later than when the child turns 16 or younger if determined appropriate and then updated annually thereafter. The IEP must include:

Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment and independent living skills, where appropriate;



Transition (Cont'd)

Transition services needed to assist the child in reaching those goals, including courses of study; and

one year before the child reaches the age of majority (18), a statement that the child has been informed of the child's rights that will transfer to him or her on reaching the age of majority.



Post Graduation Services

- Many programs have long waiting lists, take action early to ensure your child's needs will be met
- www.imagineenterprises.com (Which Waiver Does What?)
- www.dads.state.tx.us
- www.dars.state.tx.us
- www.dshs.state.tx.us



Placement in the LRE

- Federal law requires students with disabilities be educated in the Least Restrictive Environment (LRE)
- Federal law requires that students with disabilities receive appropriate supplemental aids and services in the regular classroom before moving the student to a more restrictive setting.
- Federal law requires that students with disabilities participate in and make progress in the general curriculum



LRE Questions

1. Can the IEP goals be met in the regular classroom environment just like every other student? (As is)
2. Can the goals be met in the regular classroom environment with the help of adapted materials?
3. Can the goals be met in the regular classroom environment with the assistance of personal help (who?) and/or some form of equipment (what?)?

- 4. Can the goals be met in the regular classroom environment with adapted expectations?
- 5. Can the goals be met in the regular classroom environment using an alternative assignment?
- 6. Can the goals best be met in an alternative setting rather than the regular classroom environment?



Teacher Training

- A new Texas Law (SB 451)

Requires schools to provide research based training for regular education teachers who teach students with disabilities if the teacher needs knowledge and skills to implement the students IEP.

Parents and Teachers should discuss need for teacher training in the ARD meeting





**MISCELLANEOUS
PROVISIONS**

2007

Zero Tolerance

School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a change of placement for a student code of conduct violation.



Transition for 3-5 Year Olds

At the request of the parent of a child who is 3-5 years old, an invitation to the initial ARD meeting shall be sent to a representative of the ECI program to “assist with the smooth transition of services.”

§ 614(d)(1)(D)



Discipline

IDEA 2004 made many changes to the discipline process. For information on the legal requirements for discipline of a student with a disability in Texas, go to:

www.advocacyinc.org/guides/

A new Texas law (HB 171) requires schools to consider the students disability as a mitigating factor in making discipline decisions.



It's a New
DR**E****A**

**DISPUTE
RESOLUTION**

2007

Dispute Resolution

- Texas Education Agency (TEA) Parent Information Line 1-800-252-9668
- TEA Complaint
- USDE Office of Civil Rights Complaint
- Mediation – Mediators contracted by TEA
- Due Process Hearings – Hearing officers contracted by TEA
- Alternative Dispute Resolution – IEP Facilitation – not a statewide program



TEA and USDE

Complaint

- TEA must investigate any complaint that a school district is violating IDEA
- File complaint in writing
- TEA must investigate and resolve complaints in 60 days
- USDE complaints must allege violation of Section 504 of the Vocational Rehabilitation Act



Mediation

Mediation is an informal and voluntary process conducted by an impartial mediator.

No cost to the parent or school

May bring an attorney

Binding agreement

Discussions cannot be used in a Due Process Hearing



Timeline for Requesting A Due Process Hearing

A parent or agency shall request an impartial due process hearing within 2 years of the date the parent or agency knew or should have known about the alleged action that forms the basis of the complaint, or, if the State has an explicit time limitation for requesting such a hearing under this subchapter, in such time as the State law allows.

§ 1415(f)(3)(C)

Note: Current Texas rule only allows parents to go back 1 year.



Resolution Session

Before a due process hearing can be held, the parent who requested the hearing must attend a “resolution session” conducted by the school district at which the parent presents their complaint and the district is provided the opportunity to resolve it without a hearing,

UNLESS



Resolution Session (Cont'd)

Both parties agree in writing to waive such a meeting, OR agree to mediation instead.

§ 1415(f)(i)(B)(i)



Alternative Dispute Resolution

- Some school districts and Education Service Centers have provided training and/or provided IEP facilitation. IEP Facilitation is where an independent facilitator assists the school and parents to conduct the ARD meeting in a fair and equitable manner and resolve any possible disagreements at the lowest level.



Laws and Rules

- Individuals with Disabilities Education Act of 2004 - 20 USC 1400 et seq.- Part A- General Provisions, Part B- Assistance for Education of All Children with Disabilities, Part C – Infants and Toddlers with Disabilities
- Section 504 of the Rehabilitation Act of 1973- 29 U.S.C. 701 et seq.
- Code of Federal Regulations 34 CFR Part 300 and 301
- Texas Education Code TEC 29.
- Texas Administrative Code (TAC) Title 19, Chapter 89. Adaptations for Special Populations. Subchapter AA. Commissioner's Rules Concerning Special Education Services
- Texas Administrative Code (TAC) Title 19, [Chapter 89. Adaptations for Special Populations, Subchapter D: Special Education Services and Settings.](#)

